

154861

S. Hrg. 101-1231, Pt. 4

**REVIEW OF THE SECOND NATIONAL DRUG  
CONTROL STRATEGY**

---

**HEARINGS**

BEFORE THE

**COMMITTEE ON THE JUDICIARY**

**UNITED STATES SENATE**

**ONE HUNDRED FIRST CONGRESS**

FIRST AND SECOND SESSIONS

ON

**THE OVERSIGHT OF THE PRESIDENT'S NATIONAL DRUG CONTROL  
STRATEGY**

DECEMBER 12, 1989, AND FEBRUARY 2, 1990

**Serial No. J-101-54**

Printed for the use of the Committee on the Judiciary

**NCJRS**



**JUN 9 1995**

**ACQUISITIONS**

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1991

40-689

For sale by the Superintendent of Documents, Congressional Sales Office  
U.S. Government Printing Office, Washington, DC 20402

COMMITTEE ON THE JUDICIARY

JOSEPH R. BIDEN, Jr., Delaware, *Chairman*

EDWARD M. KENNEDY, Massachusetts  
HOWARD M. METZENBAUM, Ohio  
DENNIS DeCONCINI, Arizona  
PATRICK J. LEAHY, Vermont  
HOWELL HEFLIN, Alabama  
PAUL SIMON, Illinois  
HERBERT KOHL, Wisconsin

STROM THURMOND, South Carolina  
ORRIN G. HATCH, Utah  
ALAN K. SIMPSON, Wyoming  
CHARLES GRASSLEY, Iowa  
ARLEN SPECTER, Pennsylvania  
GORDON J. HUMPHREY, New Hampshire

RONALD A. KLAIN, *Chief Counsel*  
DIANA HUFFMAN, *Staff Director*  
JEFFREY J. PECK, *General Counsel*

TERRY L. WOOTEN, *Minority Chief Counsel and Staff Director*

(II)

154861

U.S. Department of Justice  
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this ~~copyrighted~~ material has been granted by

Public Domain

U.S. Senate

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the ~~copyright~~ owner.

# CONTENTS

<b>Hearings held:</b>		<b>Page</b>
Challenge of Drug Abuse in our Cities, Tuesday, December 12, 1989.....		1
Review of the Second National Drug Control Strategy, Friday, February 2, 1990.....		89

## STATEMENTS OF COMMITTEE MEMBERS

Biden, Hon. Joseph R., a U.S. Senator from the State of Delaware.....	1, 4, 89
Grassley, Hon. Charles E., a U.S. Senator from the State of Iowa.....	44, 47, 94, 97
Thurmond, Hon. Strom, a U.S. Senator from the State of South Carolina.....	91
Kennedy, Hon. Edward M., a U.S. Senator from the State of Massachusetts.....	93
DeConcini, Hon. Dennis, a U.S. Senator from the State of Arizona.....	99
Specter, Hon. Arlen, a U.S. Senator from the State of Pennsylvania.....	100
Simon, Hon. Paul, a U.S. Senator from the State of Illinois.....	164

## CHRONOLOGICAL LIST OF WITNESSES

### TUESDAY, DECEMBER 12, 1989

Daniel Patrick Moynihan, a U.S. Senator from the State of New York.....	9
Charles B. Rangel, a Representative in Congress from the State of New York..	20
David Dinkins, mayor-elect, New York, NY; and Richard Berkley, mayor and past president of the U.S. Conference of Mayors, Kansas City, MO.....	22
Robert Stutman, Special Agent in Charge, New York Division, Drug Enforcement Administration, New York, NY.....	53
Mack M. Vines, chief of police, Dallas, TX.....	55

### FRIDAY, FEBRUARY 2, 1990

William J. Bennett, Director, Office of National Drug Control Policy, accompanied by Herbert Kleber, Deputy Director for Demand Reduction; Stanley Morris, Deputy Director for Supply Reduction; Reggie Walton, Associate Director, State and Local Programs; Bruce Carnes, Budget Director; and John Walters, Chief of Staff.....	170
--	-----

## ALPHABETICAL LIST AND MATERIAL SUBMITTED

<b>Bennett, William J.:</b>	
Testimony .....	170
Prepared statement .....	214
Responses to questions submitted by:	
Senator Biden .....	225
Senator Heflin .....	236
Senator Kennedy .....	238
Senator Grassley .....	249
<b>Berkley, Richard:</b>	
Testimony .....	29
Prepared statement .....	32
<b>Biden, Hon. Joseph R.:</b>	
Letter to Hon. William Bennett, Director, National Drug Control Policy, Executive Office of the President, Washington, DC., with followup questions from Senator Leahy, March 9, 1990.....	166
<b>Dinkins, David:</b>	
Testimony .....	22
Prepared statement .....	25

	Page
Dinkins, David—Continued	
Prepared statement .....	25
Moynihan, Hon. Daniel Patrick:	
Testimony .....	9
Prepared statement .....	12
Rangel, Hon. Charles B.: Testimony .....	20
Specter, Hon. Arlen:	
"Preliminary Report: A Drug Cases Strategy for Philadelphia," Philadelphia Criminal Justice Task Force, December 14, 1989 .....	101
Appendix A: Felony Case Summary 1978-1989, chart .....	147
Appendix B: Escalation in the Backlog of Open Bench Cases, table .....	148
Appendix C: Preliminary Architectural Program and Budgetary Cost Estimates for the Proposed Drug Court Division of the Philadelphia Court of Common Pleas, report of the Space Management Consultants, Inc .....	149
Appendix D: Controlled Substances, excerpt from the "Crimes Code of Pennsylvania" .....	161
Stütman, Robert: Testimony .....	53
Vines, Mack M.:	
Testimony .....	55
Prepared statement .....	59
"Control of Drugs in Dallas, a Comprehensive Strategy for the 1990's," Dallas Police Department, November 1989 .....	64
Letter to Senator Biden in response to followup questions, January 18, 1990 .....	76

# CHALLENGE OF DRUG ABUSE IN OUR CITIES

TUESDAY, DECEMBER 12, 1989

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The committee met, pursuant to notice, at 1:12 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Present: Senators Biden and Grassley.

## OPENING STATEMENT OF CHAIRMAN BIDEN

The CHAIRMAN. Welcome, ladies and gentlemen. I want to thank you all for braving the Washington weather. Any time in this city when there's more than a half an inch of snow, it is a national disaster, but I am amazed that we have considerably more than that, now, and there are so many of you here.

And I particularly want to thank our witnesses, which I will do individually as they come up, for making the effort in this foul weather to come to what we hope and believe to be an important hearing.

Today is the 22d hearing of this nature that the committee has held this year on the issue of drug abuse, and the 19th that I have chaired concerning one of the most difficult aspects of the war on drugs, and that is the crisis of drug abuse in our major cities.

Last week, America observed its first Cities Fight Back Against Drugs Week. Many cities marked the week with events highlighting their antidrug efforts. But many more cities were forced to think only of how badly they are losing this vital battle.

Today, we will hear from the frontlines of this struggle, and we will hear from some of the most significant mayors representing significant cities in this country, and we will hear what is being done and what more must be done to combat the drug epidemic that is destroying our cities all across America.

Our hearing today comes at a critical juncture in this crisis. Next month, the President will submit his second drug control strategy to the U.S. Congress. And according to most reports, that strategy will include the designation of five high-intensity drug control areas: New York City, Miami, Los Angeles, Houston, and the Southwest border.

The same report suggests that the strategy will divide \$40 million among these five areas for law enforcement purposes primarily. The debate over this proposal will be one of the most important aspects of our consideration of the next drug strategy report.

For if the first strategy report provided a good plan for dealing with the problem of casual users—and as you will all recall, that was the primary focus—and it is debatable, in my view, how good a strategy it was, but if in fact the first strategy provided a good plan for dealing with the problem of casual users, then the test of the upcoming second drug strategy is to adequately address the challenges of hard-core addicts in our Nation's cities and towns.

It is these hardcore addicts who have been increasing in number in recent years and who are draining our social and treatment services, and most importantly are to blame for the soaring crime problems in our cities and our towns. We must do something about them—and not just suburban casual drug users—if we are going to have any successful national drug strategy.

Thus, when the President submits his Drug Strategy Report next month, this committee will be looking closely to see what it proposes to do about the problems of hardcore addicts, the problems of drug abuse in our cities. That is the subject of today's hearing.

And we will ask, when next year's strategy comes up, if the President's high intensity area plan is targeted to the right places, provides enough funds and spends those funds on the proper things.

We will ask if the Federal Government must do more for the cities, if those funds should go directly to the cities, and if so, which ones; and if those funds should go for only law enforcement, or should they also be used for other purposes, such as treatment.

As most of you know, for some time, Senators Kennedy, Cranston, and myself had had a proposal for addressing areas heavily impacted by drugs. This plan, to set up a so-called Drug Disaster Area Relief Program, provides a significant alternative to the President's plan. It provides more aid to more places for more purposes. And it sends the aid directly to the cities and the towns. And it permits those areas to spend the money on the needs they think most urgent, not just law enforcement.

Next year, we will debate at some length the choice between the President's high intensity area plan and our drug disaster area alternative. But today, we are gathered to hear about the focus of both plans, the Nation's cities.

I think our two distinguished mayors who are here are eminently qualified to speak to this issue. They come from large cities, and I want to thank them for taking the time to come and tell us about the drug problem their cities face, and the answers that they have pursued and will be pursuing. David Dinkins, the mayor-elect of New York, is a Democrat, and Richard Berkley, the mayor of Kansas City, a Republican.

I think we will learn today that the challenges they face and the help they need from us in Washington are matters that cross party lines. They are initiatives I hope we can all support.

Our second panel consists of two distinguished law enforcement officers: DEA Agent-in-Charge Robert Stutman, and Dallas police chief—who came up through the weather, as well—Mack Vines. They will tell us about the challenges they face and the measures they believe must be taken to battle drugs in our Nation's cities.

In closing, let me say again that the debate over what we should do about the drug problem in our Nation's large cities and small

towns is the No. 1 issue that will be debated in next year's strategy. Unless we take immediate steps to combat the crisis of hard-core users in these areas, all of our other efforts, in my view, will be wasted.

Today, we begin this debate with a report from the frontlines, and once again I want to thank our witnesses for coming. I look forward to hearing from them all this afternoon.

I will shortly—as a matter of fact, I will now invite my two distinguished colleagues, the senior Senator from New York, Daniel Patrick Moynihan, and our colleague and chief spokesman in the House on this drug issue, Charlie Rangel. Welcome, Charlie. And I want to assure you, Charlie, we were not going to start without you, as I promised. I would like to ask them to come forward, and I would also like to ask both mayors to come forward at this time.

While they are being seated, let me suggest the following. I know that our two New York colleagues are here to introduce Mayor Dinkins, but prior to these formal introductions, I have spoken with Senator Moynihan, and he has a brief statement that he would like to make. Then we will proceed to the introductions, and then get on with the statements and the questions.

I would like to welcome my colleague from Iowa, Senator Grassley. Gentlemen, I assure you the lack of attendance is not because of the lack of interest in the subject matter, but as you all well know, the Senate is in recess, and most of our colleagues are home holding these hearings in their home States as opposed to being here.

But, with that, let me turn the floor over to my colleague; Senator Moynihan. Welcome, Pat.

[The prepared statement of Senator Biden follows:]

STATEMENT OF SEN. JOSEPH R. BIDEN, JR.  
HEARING ON DRUGS ABUSE AND CITIES  
DECEMBER 12, 1989

TODAY'S HEARING -- THE TWENTY-SECOND THE COMMITTEE HAS HELD THIS YEAR ON THE DRUG ISSUE, AND THE NINETEENTH I HAVE CHAIRED ON IT -- CONCERNS ONE OF THE MOST DIFFICULT ASPECTS OF THE "WAR ON DRUGS:" THE CRISIS OF DRUG ABUSE IN OUR MAJOR CITIES.

LAST WEEK, AMERICA OBSERVED ITS FIRST "CITIES FIGHT BACK AGAINST DRUGS" WEEK. MANY CITIES MARKED THE WEEK WITH EVENTS HIGHLIGHTING THEIR ANTI-DRUG EFFORTS. BUT MANY MORE CITIES WERE FORCED TO THINK ONLY OF HOW BADLY THEY ARE LOSING THIS VITAL BATTLE.

TODAY WE WILL HEAR FROM THE FRONT LINES OF THIS STRUGGLE; WE WILL HEAR WHAT IS BEING DONE AND WHAT MORE WE MUST DO TO COMBAT THE DRUG EPIDEMIC THAT IS DESTROYING OUR CITIES.

OUR HEARING TODAY COMES AT A CRITICAL JUNCTURE

- 1 -



IN THIS CRISIS.

NEXT MONTH, THE PRESIDENT WILL SUBMIT HIS SECOND DRUG CONTROL STRATEGY TO THE CONGRESS. ACCORDING TO MOST REPORTS, THAT STRATEGY WILL INCLUDE THE DESIGNATION OF FIVE HIGH INTENSITY DRUG CONTROL AREAS: NEW YORK CITY, MIAMI, LOS ANGELES, HOUSTON, AND THE SOUTHWEST BORDER. THESE SAME REPORTS SUGGEST THAT THE STRATEGY WILL DIVIDE \$40 MILLION AMONG THESE FIVE AREAS, FOR LAW ENFORCEMENT PURPOSES PRIMARILY.

THE DEBATE OVER THIS PROPOSAL WILL BE ONE OF THE MOST IMPORTANT ASPECTS OF OUR CONSIDERATION OF THE NEXT DRUG STRATEGY REPORT.

FOR IF THE FIRST STRATEGY REPORT PROVIDED A GOOD PLAN FOR DEALING WITH THE PROBLEM OF CASUAL DRUG USERS -- AND THAT IS DEBATABLE -- THE TEST OF THE UPCOMING SECOND DRUG STRATEGY IS WHETHER IT ADEQUATELY ADDRESSES THE CHALLENGE OF HARD-CORE ADDICTS IN OUR NATION'S CITIES AND TOWNS.

IT IS THESE HARD-CORE ADDICTS WHO HAVE BEEN INCREASING IN NUMBER IN RECENT YEARS; WHO ARE DRAINING OUR SOCIAL AND TREATMENT SERVICES; AND WHO

-- MOST IMPORTANTLY -- ARE TO BLAME FOR THE SOARING CRIME PROBLEMS OF OUR CITIES AND TOWNS. WE MUST DO SOMETHING ABOUT THEM -- AND NOT JUST SUBURBAN CASUAL DRUG USERS -- IF WE ARE GOING TO HAVE A SUCCESSFUL NATIONAL DRUG STRATEGY.

THUS, WHEN THE PRESIDENT SUBMITS HIS DRUG STRATEGY REPORT NEXT MONTH, THIS COMMITTEE WILL BE LOOKING CLOSELY TO SEE WHAT IT PROPOSES TO DO ABOUT THE PROBLEMS OF HARD-CORE ADDICTS; THE PROBLEMS OF DRUG ABUSE IN OUR CITIES. WE WILL ASK IF THE PRESIDENT'S HIGH INTENSITY AREAS PLAN:

- \* IS TARGETED TO THE RIGHT PLACES;
- \* PROVIDES ENOUGH FUNDS; AND
- \* SPENDS THOSE FUNDS ON THE RIGHT THINGS?

WE WILL ASK IF THE FEDERAL GOVERNMENT MUST DO MORE, FOR MORE CITIES; IF THOSE FUNDS SHOULD GO DIRECTLY TO CITIES, AND IF SO, WHICH ONES; AND IF THOSE FUNDS SHOULD GO ONLY FOR LAW ENFORCEMENT, OR SHOULD ALSO BE USED FOR OTHER PURPOSES, TOO.

AS MOST OF YOU KNOW, FOR SOME TIME, SENATORS KENNEDY, CRANSTON AND I HAVE HAD A PROPOSAL FOR ADDRESSING AREAS HEAVILY IMPACTED BY DRUGS. THIS

PLAN -- TO SET UP A SO-CALLED "DRUG DISASTER AREA" RELIEF PROGRAM -- PROVIDES A SIGNIFICANT ALTERNATIVE TO THE PRESIDENT'S PLAN. IT PROVIDES MORE AID, TO MORE PLACES, FOR MORE PURPOSES. IT SENDS THE AID DIRECTLY TO CITIES AND TOWNS -- AND IT PERMITS THOSE AREAS TO SPEND THE MONEY ON THE NEEDS THEY THINK MOST URGENT -- NOT JUST LAW ENFORCEMENT.

NEXT YEAR, WE WILL DEBATE AT SOME LENGTH THE CHOICE BETWEEN THE PRESIDENT'S "HIGH INTENSITY AREA" PLAN, AND OUR "DRUG DISASTER AREA" ALTERNATIVE. TODAY, WE ARE GATHERED TO HEAR ABOUT THE FOCUS OF BOTH PLANS: OUR NATION'S CITIES.

I THANK OUR TWO DISTINGUISHED MAYORS FOR COMING TO TELL US ABOUT THE DRUG PROBLEMS THEIR CITIES FACE, AND THE ANSWERS THEY HAVE PURSUED, AND WILL BE PURSUING. DAVID DINKINS, THE MAYOR-ELECT OF NEW YORK, IS A DEMOCRAT; RICHARD BERKELY, THE MAYOR OF KANSAS CITY, IS A REPUBLICAN. I THINK WE WILL LEARN TODAY THAT THE CHALLENGES THEY FACE -- AND THE HELP THEY NEED FROM US IN WASHINGTON -- ARE MATTERS THAT CROSS PARTY LINES; THEY ARE INITIATIVES WE ALL CAN SUPPORT.

OUR SECOND PANEL CONSISTS OF TWO DISTINGUISHED LAW ENFORCEMENT OFFICERS: DEA-AGENT-IN-CHARGE ROBERT STUTTMAN, AND DALLAS POLICE CHIEF MACK VINES. THEY WILL TELL US ABOUT THE CHALLENGES THEY FACE, AND THE MEASURES THEY BELIEVE MUST BE TAKEN TO BATTLE DRUGS IN OUR NATION'S CITIES.

IN CLOSING, LET ME SAY AGAIN THAT THE DEBATE OVER WHAT WE SHOULD DO ABOUT THE DRUG PROBLEM IN OUR NATION'S LARGE CITIES AND SMALL TOWNS IS THE NUMBER ONE ISSUE IN THE NEXT DRUG STRATEGY. UNLESS WE TAKE IMMEDIATE STEPS TO COMBAT THE CRISIS OF HARD-CORE USERS IN THESE AREAS, ALL OF OUR OTHER EFFORTS WILL BE WASTED.

TODAY, WE BEGIN THIS DEBATE WITH A REPORT FROM ITS FRONT LINES. ONCE AGAIN, I THANK OUR WITNESSES FOR COMING, AND I LOOK FORWARD TO HEARING FROM THEM THIS AFTERNOON.

STATEMENT OF DANIEL PATRICK MOYNIHAN, A U.S. SENATOR  
FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Mr. Chairman, Senator Grassley, I would like to take just a moment of the committee's time to speak to the subject you raised in your opening statement, which is the issue of the epidemic that we are dealing with, the epidemic nature of this problem.

In the spring of 1988—it was May 15—the majority leader, Mr. Byrd, appointed Mr. Nunn, and the Senator from New York, to be cochairmen of the Democratic Working Group on Substance Abuse.

We had in mind a set of concepts that we hoped to see in legislation, which I think would be useful to just briefly review as the Judiciary Committee begins the formal review of the state of our national drug control strategy.

Could I offer, Mr. Chairman, the thought that the actual content of that strategy has never become sufficiently clear? There is no mystery on this score. The legislation was drafted completely outside of the normal committee structure. There were no hearings. There is no record, save a couple boxes of papers which I picked up after the interminable meetings ended.

The bill passed in the closing hours of the 100th Congress at about 3 on a Saturday morning, and for obvious reasons was sparsely reported. Allow me, then, not so much to correct the record as to reconstruct it.

The Working Group came about for one simple reason—the Working Group, sir, that created the National Office of Drug Control Policy that created the drug czar and deputy drug czars and so forth—that group came about for one single reason: Many Senators were concerned that our drug strategy was altogether too much directed toward issues of law enforcement.

We had no disagreement with law enforcement. We simply felt that it was inadequate to deal with what we saw as a public health emergency, specifically, epidemic free-base cocaine abuse.

That term is the title of a paper which appeared as the lead article in the British medical journal, *The Lancet*, on March 1, 1986—"Epidemic Free-Base Cocaine Abuse." And in the manner of such reports, there were six authors representing, among other institutions, the Department of Epidemiology and Public Health at Yale and the Sandilands Hospital Drug Clinic of Nassau.

The report was straightforward. Beginning in 1983, an epidemic—the term being used in a strict medical sense—this is, after all, *The Lancet*—an epidemic involving crack cocaine had broken out in the Bahamas. It would soon spread. Obviously, it could be expected to spread first to the mainland United States.

Indeed, one of the authors of *The Lancet* article, Dr. David Allen, who is a Bahamian, was quoted in the *Atlanta Journal* on December 21, 1985, saying,

What we have is the world's first free-basing epidemic which could be preceding an epidemic in the industrialized States.

As best I recollect, the New York Police Department made its first arrest for crack about 3 months later.

It is in this context that the Working Group conceived the notion of dividing the drug problem between demand issues on the one

hand and supply issues on the other. And in our view, demand came first. I quote Dr. Frank Gawin of Yale. He says, "The only changes that have made a dent in substance abuse in the last 15 years are advances in treatment."

Guided by the counsel of the late Norman Zinberg of Harvard and of Herbert Kleber of Yale, who is now the Deputy Director of the Office of National Drug Policy, we drafted legislation that we hoped would bring about research and advances in treatment that would follow.

And there is some progress being made; not much. For example, in a recent paper, "Outpatient treatment of crack cocaine smoking with flupenthixol decanoate," by Drs. Gawin and Allen, they report some success in the Bahamas. It is a small study, but it is one of the first.

Now, sir, to make my point, our national drug control strategy simply has not given the emphasis to treatment that the legislation requires. This has been so stated by administration officials, and I so attest.

The heart of the strategy we put in place in the statute was that drug abusers should be enabled to receive treatment on request. Section 2012(5) of the act states that one of its purposes is,

To increase to the greatest extent possible the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem.

Sir, I wrote those words. I wish now I had said, "Treatment on application," but there you are. Those words are a requirement. It is a law, and sir, the administration has done little to enforce this law.

Let me give one example, and my distinguished Mayor-Elect David Dinkins will later confirm this: The Medicaid Program will not reimburse a hospital for providing treatment to a pregnant welfare mother who is addicted to crack cocaine. A pregnant woman walks into a New York City hospital carrying a child, using crack cocaine in an addictive, compulsive manner, and if treatment is given, it is not reimbursed under Medicaid, I know of no conceivable grounds for such a policy.

With this in mind, and after discussing the matter with David Dinkins, on September 25, we introduced the Drug Abuse Treatment Act which makes such treatment reimbursable under Medicaid. The original draft made it reimbursable for both male and female drug abusers. The costs seemed too great. In the end, we confined eligibility to the traditional Medicaid groups, which is to say welfare mothers, children, and SSI recipients.

This measure received bipartisan support. Senator Biden, you took the lead on the Senate floor. Senator Dole, the minority leader, was with us completely. The measure passed the Senate without objection. It is now in the House, where it has the support of the redoubtable Charles B. Rangel.

But it's prospects are not certain because, sir, the administration is opposed. The administration does not feel that pregnant welfare mothers should be given treatment for crack cocaine abuse reimbursable by Medicaid.

I would like, then, to make this one suggestion to you: It is not too late for them to change their minds. A unanimous vote in the Senate, can have influence. But I would like to suggest, Mr. Chairman, that you ask Dr. Bennett to come before this committee and tell you whether or not the administration supports providing Medicaid reimbursement for drug treatment for pregnant welfare mothers.

And if, sir, he has to tell you that the administration is opposed, then I would say that the only honorable course for Dr. Bennett is to resign.

Thank you, sir. I am here, of course, to introduce my dear friend—we have been campaigning together since 1965—David Dinkins. I have talked long enough. I thank you for your courtesy. I thank Senator Grassley.

[Prepared statement follows:]

STATEMENT BY

DANIEL PATRICK MOYNIHAN

Before the

The Senate Judiciary Committee

Hearing re the National Drug Strategy

December 12, 1989



In the spring of 1988 (May 15) then-Majority Leader Robert C. Byrd established a Democratic Working Group on Substance Abuse that was to be chaired by our distinguished colleague Senator Sam Nunn of Georgia and by the Senator from New York.

As the Judiciary Committee begins a formal review of the state of our National Drug Control Strategy, may I offer the thought that the actual content of that strategy has never become sufficiently clear. There need be no mystery on this score. The legislation was drafted completely outside the committee structure. There were no hearings, there is no record. (Save, perhaps, the papers which I tried to collect at the end of our interminable meetings.) The bill passed in the closing hours of the 100th Congress, about three o'clock

of a Saturday morning, and for obvious reasons was sparsely reported.

Allow me, then, not so much to correct the record as to reconstruct it. The Working Group came about for one simple reason. Many Senators were concerned that our drug strategy was altogether too much directed toward issues of law enforcement. We had no disagreement with law enforcement; we simply felt it was inadequate to deal with what we say as a public health emergency; specifically epidemic free-base cocaine abuse.

That term is the precise title of a paper which appeared as the lead article of the British medical journal, The Lancet, on March 1, 1986. EPIDEMIC FREE-BASE COCAINE ABUSE. In the manner of such reports, there were six authors representing among other institutions the Department of Epidemiology and Public health at Yale University and the Sandilands Hospital Drug Clinic of Nassau.

The report was straightforward. Beginning in 1983 an epidemic, the term being used in strict medical sense, involving crack cocaine had broken out in the Bahamas. It would soon spread. Obviously, it could be expected to spread first to the mainland United States. Indeed, one of the authors, Dr. David Allen, a Bahamian, was reported in the Atlanta Journal of December 31, 1985, saying, "What we have is the world's first free-basing epidemic (which) could be preceeding an epidemic in the industrialized states." As best I recollect, the New York Police Department made its first arrest for crack about three months later.

It is in this context that the Working Group conceived the notion of "dividing" the drug problem between demand issues on the one hand, and supply issues on the other. In our view demand came first. I quote Dr. Frank Gawin of Yale:

The only changes that have made a dent in substance abuse in the past fifteen years are advances in treatment. Given that record, it's remarkable that research has not been better supported.

Guided by the wise counsel of the late Norman Zinberg of Harvard and Herbert Kleber of Yale (now, of course, the Deputy Director of the Office of National Drug Control Policy), we drafted legislation that we hoped would bring about such research, and the treatment that would follow.

And there is some coming along. Witness, for example, the recent paper, "Outpatient Treatment of 'Crack' Cocaine Smoking with Flupenthixol Decanoate", by Drs. Gawin and Allen, reporting some success in a Bahamian experiment. I could go on; I hope I have made the case.

Now to make my point. Our National Drug Control Strategy simply has not given the emphasis to treatment that the legislation requires. This has been so stated by administration officials.

The absolute heart of this strategy was that drug abusers should be enabled to receive treatment on request. Section 2012(5) of the Act states that one of its purposes is:

to increase, to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem....

I wrote those words. (I now wish I had written treatment on application, but there you are.) They are not a goal. They are a requirement. This is a law.

The administration has done nothing to enforce this law.

Let me give one example. Incredible as it may seem -- and I do hope I use the term incredible with care -- the Medicaid program will not reimburse a hospital for providing treatment to a welfare mother addicted to crack cocaine. Heroin, yes. Cocaine, no. In the midst of the worst public health epidemic since the influenza pandemic of 1919.

With this in mind, on September 26 I introduced the Drug Abuse Treatment Act which made such treatment reimbursable under Medicaid. The bill as drafted would have extended to all indigent individuals, male or female. This involved too great a potential cost. In the end we confined eligibility to

the traditional Medicaid groups, which is to say welfare mothers and children, and SSI recipients. There are nearly one million people in this category in New York State alone. This measure received bipartisan support. I would especially note the support of Senator Dole.

The bill passed the Senate on October 5, S. 1711, by the nice vote of 100 to 0.

It is now in the House where its prospects are difficult to assess, despite sponsorship by the redoubtable Charles B. Rangel.

For one simple reason.

The administration is opposed.

There is as yet no formal piece of paper stating this. All I can report to the Committee is that I was told this at the time by officials responsible.

But it is not too late. A 100 to 0 vote may yet influence administration thinking.

May I then make one request of you, Mr. Chairman. Would you ask Mr. Bennett to come before this committee and say where the administration stands? If he cannot report that the administration supports treatment on request for drug-addicted welfare mothers -- or their children -- surely the only honorable course is for him to resign as head of the Office of National Drug Control Policy.

The CHAIRMAN. Thank you. That is a forceful, if somewhat unusual introduction, but I thank the Senator.

The reason I asked the Senator to speak first is I knew what he wanted to say, and I felt it was very important that it be said, as only he could say it.

I will now yield to our friend from the House, who would like to—as I understand—introduce the mayor-elect.

**STATEMENT OF CHARLES B. RANGEL, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF NEW YORK**

Mr. RANGEL. Thank you, Mr. Chairman, for your leadership and your friendship and for the opportunity to join in the introduction. I know that you and Senator Grassley are very anxious to hear from Mayor Berkley as well as the mayor-elect, but I just wanted to say in the introduction of my friend and the next mayor of the city of New York that most of us in the House and Senate will hear a lot about the need for more money for law enforcement and more money for prisons, and of course, that is true.

But I think that when the Dinkins administration is over, that people would realize that he has been a mayor who has shown a definite compassion for people, and especially children.

So, we should not be shocked when we hear about this war on drugs that you would hear from Mr. Dinkins on those children who are being born—as Senators Moynihan and others are trying to prevent it—addicted to drugs, children who are forced out of homes because of addicted parents, and drop out of schools, who find themselves in the street, and ultimately without job skills, without homes, without hope, and without help. Ultimately, the only alternative, of course, is chemical dependency and drug trafficking.

And so, when we have a chance to talk about the challenge of drug abuse in our cities, which I think we all know is a challenge to our country, it is really great to see a warrior step up at bat who is going to carry more than his weight for the leadership that you and your committee has provided over the years, and I cannot thank you enough seriously for giving me this opportunity.

The CHAIRMAN. Thank you, Charlie, and I am going to yield to Senator Grassley, who has a brief opening statement, but to indicate, Mayor Berkley, both of our colleagues are from Kansas, who speak very highly of you—Missouri, excuse me. I make an eastern slip. You can refer to Delaware as Maryland, as it is often done. People say to me, "I've been there. I've been to Baltimore."

But, I wanted to extend a welcome to you, and let me now yield to Senator Grassley for an opening statement, and then I will be delighted to hear from both the mayors.

Senator GRASSLEY. Mr. Chairman, I appreciate this opportunity to continue the review of the national drug control strategy, which was submitted to Congress by the President, on September 5, 1989. And I also look forward to the followup strategy, which is due to be delivered to Congress by February 1.

Today's hearing is to focus on the drug problem in our country's urban centers. As the chairman of our committee knows, Congress has this very distressing aspect of the war on drugs in mind when it enacted section 1005 of the Omnibus Anti-Drug Abuse Act of



1988, which provides for the establishment of a high intensity drug trafficking areas.

The Office of the National Drug Control Policy will be implementing this provision upon its submission to Congress of a follow-up national drug control strategy, which I said is due February 1.

The Director of the Office, after consultation with the Attorney General, other National Drug Control Program Agency heads and appropriate State Governors, is to designate, and I quote, "Any specified areas of the United States," as a high intensity drug trafficking area.

In designating such areas, the Director of the Office shall consider the following: First, the extent to which the area is a center of illegal drug production, manufacturing, importation, or distribution; second, the extent to which the State and local law enforcement agencies have committed resources to respond to the drug trafficking problems in the area indicating a determination to respond aggressively to the problem; third, the extent to which the drug-related activities in the area are having a harmful effect on other areas of the country; and fourth, the extent to which a significant increase in the allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

The Director of the Office has the authority to provide Federal assistance to designated areas in the budget year in which the designation is made. Jurisdictions that receive a high-intensity drug trafficking area designation will be eligible for Federal support, including initiatives in such areas as criminal justice, drug treatment, prevention, and public housing.

The authority permits the Office Director to reassign Federal personnel on a temporary basis with the concurrence of the head of the relative department or agency. High-intensity drug trafficking areas are to be designated each February upon the annual summation of a national drug control strategy to Congress.

As I indicated earlier, Secretary Bennett is expected to make the first such high-intensity drug trafficking area designations when he submits the followup drug control strategy due on February 1, 1990.

I look forward to our witnesses' evaluation of this provision and the Congress' response to their views. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. Gentlemen, I know you are chief executive officers of your city. You seldom ever have to wait this long to speak. We want to thank you very, very much for your patience.

My colleagues, if you would like to join us on the panel, you are welcome to. I know you are not accustomed to waiting for anyone in New York City, nor is any mayor, but we would now like to hear from Mayor-elect David Dinkins, and then you, Mayor Berkley.

I might point out that you are the former head of the U.S. Conference of Mayors, a significant position that gives you a breadth of knowledge and feel for what your colleagues, your fellow mayors across the country feel about this issue. So, we are happy to have you.

Mayor Dinkins.

**STATEMENT OF DAVID DINKINS, MAYOR-ELECT, NEW YORK, NY;  
AND RICHARD BERKLEY, MAYOR AND PAST PRESIDENT OF  
THE U.S. CONFERENCE OF MAYORS, KANSAS CITY, MO**

Mayor DINKINS. Mr. Chairman, Senator Grassley, thank you very much. While I had to wait awhile to speak, I was not merely waiting. I was listening very carefully to the comments made by the four of you, and I am grateful to Senator Daniel Patrick Moynihan. It is always a pleasure. I am so pleased.

I cite often the provisions you just spoke of and the failure now of our government to permit the assistance of those who are addicted to cocaine when that is the need. And yet, methadone is available.

It is important to my friend, the distinguished representative from the 16th Congressional District, the village of Harlem, this distinguished chairman of the Select Subcommittee on Narcotics Abuse and Control, my brother, Charles Rangel. I thank you for your kind words and for being here.

Mayor Berkley, I look forward to your advice and counsel. I recognize that I can learn much from you, sir, and I am hope you are willing to share your knowledge. I am sure that you are.

I am delighted to have this opportunity, and I am so pleased to note in the audience Bob Stutman, someone on whom I have called for advice and counsel more than once. It is my misfortune that I will not be able to stay and hear his comments, but I know that we all can learn much from him.

I am David Dinkins, and 20 days from now I will be sworn in as the 106th mayor of the city of New York. I am here today, even before taking the oath of office, because drug abuse does not wait for the orderly transition of government power, because our city and cities across America are under seige, and because the Federal Government has evaded the emergency of urban America.

Mr. Chairman, the crisis of America's cities today is first and foremost a crisis of public safety, a crisis fueled by the crack and cocaine and heroin that now take a \$60 to \$100 billion toll from our society each year according to the latest research.

Some neighborhoods in New York and in other cities have become free fire zones. Little kids come to school wearing beepers that link them not to their teachers or their parents, but to the neighborhood drug dealers who command their highest loyalties. Some of our housing projects have become base camps for armies of drug dealers.

And high atop the gleaming sky scrapers that exemplify the economic predominance of New York and the Nation, young and not-so-young professionals remain foolishly drawn to the allure of cocaine and other illicit drugs.

The drug industry is national and international in scope, making this a Federal responsibility. Drugs flow in from around the world. Drug buyers from neighboring States roam our streets. Dealers use our city as a distribution point for their farflung networks. Yet, our city, like others around the Nation, provides a vast majority of resources and effort in our local fight against drugs.

Consider just a few facts that demonstrate both the burden that has been placed upon us in New York and the enormous efforts we

have made to shoulder that burden. Over the past 4 years, New York City has experienced a 76-percent increase in felony indictments. Since 83 percent of those pass through central booking test positive for illicit substances, we know that the severe pressure on our criminal justice system is due to drugs. In fact, one of three arrests in New York is for narcotics offenses.

New York is making extraordinary efforts in drug enforcement, treatment and prevention, and State and local officials are doing all we can to increase those efforts.

As you consider the amount of additional Federal aid to dedicate to high-intensity drug areas like New York, please remember that we are already committed at the local level to spending half a billion dollars a year on anti-drug law enforcement efforts in New York.

Our city is investing \$116 million 20 months on tactical narcotics teams to do street-level arrests, and we already have plans to spend \$1.2 billion in city, State, and Federal funds to treat 77,000 addicts over the next 5 years.

By comparison, the expected Federal funding for high-intensity drug zones—while welcomed—will only make a modest addition to preexisting local efforts. At a time when the Federal Government is spending \$513 million for each of 120 Stealth bombers, and an estimated—I am told—\$300 billion appropriated to bail out savings and loans, tens of millions or even \$100 million split between four or five drug-plagued regions would constitute a rather low level of intensity of Federal aid for the so-called high-intensity drug zones.

Chairman Biden, Senator Grassley, your call for \$300 million in Federal emergency funding for areas hit hard by the drug plague is an important and positive addition to the debate, one that I hope is heard loudly and clearly by the Federal drug directors, OMB, and the President.

As they formulate their plans for the high-intensity drug zones—and I don't think anyone doubts that by any set of criteria New York City ought to be designated to receive a share of this funding—I urge the administration to listen to and consult with the local authorities who know local enforcement needs the best.

New York has a long history of Federal, State, and local cooperation in drug enforcement. For 20 years, the DEA task force in New York has worked in tandem with State and local enforcement officials, recently seizing \$20 million in cash in one action alone in Queens. That tradition of cooperation must not be upset when the Federal Government channels additional law enforcement assistance to meet the growing crack crisis.

While the debate continues on the issue of whether the local portion of antidrug bloc grant funding ought to flow directly to municipalities—and New York has joined with the Conference of Mayors and others in support of direct funding—the case for direct funding is even stronger when it comes to high-intensity drug zones which require rapid and concerted attention.

New York has had relatively few problems receiving our share of bloc grant funds due to the commitment of government, Mario Cuomo, both to the city and to the fight against drugs. However, if New York is designated for special high-intensity anti-drug assist-

ance, there is no reason for that assistance to be channeled through State government.

While we in New York believe that direct Federal aid would be the most effective and efficient type of assistance, we urge the administration to consider the already existing pressures on our local criminal justice systems should they choose a different means of providing antidrug assistance.

For instance, if the administration insists upon using this funding to provide additional Federal Strike Force agents, then the additional case loads that result must be brought in Federal court, and convictions must be processed in Federal prisons.

Last year, the U.S. attorney for the Southern District of New York won only 385 felony drug convictions. During the same time, our local prosecutors chalked up 7,181 similar convictions.

Our criminal justice system is bursting at the seams, and if the Federal Government does not choose to provide us with direct and flexible funding we need, then at a minimum it ought not provide assistance in a fashion that will only add further pressure on our already overburdened prosecutors' courts and jails.

In sum, Mr. Chairman, we in New York appreciate your concern. We welcome your commitment, and we stand ready to work cooperatively with Federal officials to make the high-intensity drug zones an effective tool in the fight against drug abuse.

But, we urge in the strongest possible terms that any Federal emergency funding for high-intensity zones should be provided directly to local governments and planned and implemented in coordination with the existing local enforcement treatment in education efforts.

We will take any help we can get. But, since we are already far out front at the local level, and since we know our own needs best, we hope that whatever Federal assistance emerges from this process is provided in a flexible fashion tailored to local needs and implemented in cooperation with local authorities.

Mr. Chairman, I appreciate your gracious invitation to testify today. Your leadership on this issue is admirable, and I remain available whenever I can be helpful to assist your efforts to insure that the Federal Government owns up to its responsibilities to America's cities.

Thank you, sir.

[The prepared statement of Mayor Dinkins follows.]

TESTIMONY OF MAYOR-ELECT DAVID N. DINKINS  
"THE CHALLENGE OF DRUG ABUSE IN OUR CITIES"  
UNITED STATES SENATE COMMITTEE ON THE JUDICIARY  
DECEMBER 12, 1989

CHAIRMAN BIDEN AND MEMBERS OF THE COMMITTEE, I AM DAVID N. DINKINS AND TWENTY DAYS FROM NOW I WILL BE SWORN IN AS THE 106TH MAYOR OF THE CITY OF NEW YORK.

I AM HERE TODAY -EVEN BEFORE TAKING THE OATH OF OFFICE -BECAUSE DRUG ABUSE DOES NOT WAIT FOR THE ORDERLY TRANSITION OF GOVERNMENT POWER; BECAUSE OUR CITY -AND CITIES ACROSS AMERICA -ARE UNDER SEIGE; AND BECAUSE THE FEDERAL GOVERNMENT HAS EVADED THE EMERGENCY OF URBAN AMERICA.

MR. CHAIRMAN, THE CRISIS OF AMERICA'S CITIES TODAY IS FIRST AND FOREMOST A CRISIS OF PUBLIC SAFETY -A CRISIS FUELED BY THE CRACK AND COCAINE AND HEROIN THAT NOW TAKE A \$60 BILLION DOLLAR TOLL FROM OUR SOCIETY EACH YEAR, ACCORDING TO THE LATEST RESEARCH.

SOME NEIGHBORHOODS IN NEW YORK -AND IN OTHER CITIES -HAVE BECOME FREE-FIRE ZONES. LITTLE KIDS COME TO SCHOOL WEARING BEEPERS THAT LINK THEM NOT TO THEIR TEACHERS OR THEIR PARENTS BUT TO THE NEIGHBORHOOD DRUG DEALERS WHO COMMAND THEIR HIGHEST LOYALTIES. SOME OF OUR HOUSING PROJECTS HAVE BECOME BASE CAMPS FOR ARMIES OF DRUG DEALERS. AND HIGH ATOP THE GLEAMING SKYSCRAPERS THAT EXEMPLIFY THE ECONOMIC PREDOMINANCE OF NEW YORK AND THE NATION, YOUNG AND NOT-SO YOUNG PROFESSIONALS REMAIN FOOLISHLY DRAWN TO THE ALLURE OF COCAINE AND OTHER ILLICIT DRUGS.

THE DRUG INDUSTRY IS NATIONAL AND INTERNATIONAL IN SCOPE, MAKING THIS A FEDERAL RESPONSIBILITY. DRUGS FLOW IN FROM AROUND THE WORLD. DRUG BUYERS FROM NEIGHBORING STATES ROAM OUR STREETS. DEALERS USE OUR CITY AS A DISTRIBUTION POINT FOR THEIR FAR FLUNG NETWORKS. YET OUR CITY -LIKE OTHERS AROUND THE NATION -PROVIDES THE VAST MAJORITY OF RESOURCES AND EFFORT IN OUR LOCAL FIGHT AGAINST DRUGS.

CONSIDER JUST A FEW FACTS THAT DEMONSTRATE BOTH THE BURDEN THAT HAS BEEN PLACED UPON US IN NEW YORK AND THE ENORMOUS EFFORTS WE HAVE MADE TO SHOULDER THAT BURDEN. OVER THE PAST FOUR YEARS NEW YORK CITY HAS EXPERIENCED A 76 PERCENT INCREASE IN FELONY INDICTMENTS. SINCE 83 PERCENT OF THOSE WHO PASS THROUGH CENTRAL BOOKING TEST POSITIVE FOR ILLICIT SUBSTANCES, WE KNOW THAT THE SEVERE PRESSURE IN OUR CRIMINAL JUSTICE SYSTEM IS DUE TO DRUGS. IN FACT, ONE OF THREE ARRESTS IN NEW YORK IS FOR NARCOTICS OFFENSES

-2-

NEW YORK IS MAKING EXTRAORDINARY EFFORTS IN DRUG ENFORCEMENT, TREATMENT, AND PREVENTION -AND STATE AND LOCAL OFFICIALS ARE DOING ALL WE CAN TO INCREASE THOSE EFFORTS. AS YOU CONSIDER THE AMOUNT OF ADDITIONAL FEDERAL AID TO DEDICATE TO HIGH INTENSITY DRUG AREAS LIKE NEW YORK, PLEASE REMEMBER THAT WE ARE ALREADY COMMITTED AT THE LOCAL LEVEL TO SPENDING HALF A BILLION DOLLARS A YEAR ON ANTI-DRUG EFFORTS IN NEW YORK CITY.

OUR CITY IS INVESTING \$116 MILLION OVER TWENTY MONTHS ON TACTICAL NARCOTICS TEAMS TO DO STREET LEVEL ARRESTS, AND WE ALREADY HAVE PLANS TO SPEND \$1.2 BILLION IN CITY, STATE AND FEDERAL FUNDS TO TREAT 77,000 ADDICTS OVER THE NEXT FIVE YEARS.

BY COMPARISON, THE EXPECTED FEDERAL FUNDING FOR HIGH-INTENSITY DRUG ZONES -WHILE WELCOMED -WILL MAKE ONLY A MODEST ADDITION TO PRE-EXISTING LOCAL EFFORTS. AT A TIME WHEN THE FEDERAL GOVERNMENT IS SPENDING \$513 MILLION FOR EACH OF 120 STEALTH STEALTH BOMBERS AND AN ESTIMATED \$165 BILLION TO BAIL-OUT THE SAVINGS AND LOAN INDUSTRY, TENS OF MILLIONS OR EVEN A HUNDRED MILLION DOLLARS TO BE SPLIT BETWEEN FOUR OR FIVE DRUG-PLAGUED REGIONS WOULD CONSTITUTE A RATHER LOW LEVEL OF INTENSITY OF FEDERAL AID FOR THE SO-CALLED HIGH INTENSITY DRUG ZONES.

CHAIRMAN BIDEN, YOUR CALL FOR \$300 MILLION IN FEDERAL EMERGENCY FUNDING FOR AREAS HIT HARD BY DRUG PLAGUE IS AN IMPORTANT AND POSITIVE ADDITION TO THE DEBATE -ONE THAT I HOPE IS HEARD LOUDLY AND CLEARLY BY THE FEDERAL DRUG DIRECTORS, O.M.B. AND THE PRESIDENT.

AS THEY FORMULATE THEIR PLANS FOR THE HIGH INTENSITY DRUG ZONES -AND I DON'T THINK ANYONE DOUBTS THAT BY ANY SET OF CRITERIA NEW YORK CITY OUGHT TO BE DESIGNATED TO RECEIVE A SHARE OF THIS FUNDING -I URGE THE ADMINISTRATION TO LISTEN TO AND CONSULT WITH THE LOCAL AUTHORITIES WHO KNOW LOCAL ENFORCEMENT NEEDS THE BEST.

NEW YORK HAS A LONG HISTORY OF FEDERAL-STATE-LOCAL COOPERATION IN DRUG ENFORCEMENT. FOR TWENTY YEARS THE DEA TASK FORCE IN NEW YORK HAS WORKED IN TANDEM WITH STATE AND -LOCAL ENFORCEMENT OFFICIALS, RECENTLY SEIZING 20 MILLION IN CASH IN ONE ACTION ALONE IN QUEENS. THAT TRADITION OF COOPERATION MUST NOT BE UPSET WHEN THE FEDERAL GOVERNMENT CHANNELS ADDITIONAL ENFORCEMENT ASSISTANCE TO MEET THE GROWING CRACK CRISIS.

WHILE THE DEBATE CONTINUES ON THE ISSUE OF WHETHER THE LOCAL PORTION OF ANTI-DRUG BLOCK GRANT FUNDING OUGHT TO FLOW DIRECTLY TO MUNICIPALITIES--AND NEW YORK HAS JOINED WITH THE CONFERENCE OF MAYORS AND OTHERS IN SUPPORT OF DIRECT FUNDING--THE CASE FOR DIRECT FUNDING IS EVEN STRONGER WHEN IT COMES TO HIGH-INTENSITY DRUG ZONES WHICH REQUIRE RAPID AND CONCERTED ATTENTION.

NEW YORK HAS HAD RELATIVELY FEW PROBLEMS RECEIVING OUR SHARE OF BLOCK GRANT FUNDS DUE TO THE COMMITMENT OF GOVERNOR MARIO CUOMO BOTH TO THE CITY AND TO THE FIGHT AGAINST DRUGS. HOWEVER, IF NEW YORK IS DESIGNATED FOR SPECIAL HIGH INTENSITY ANTI-DRUG ASSISTANCE, THERE IS NO REASON FOR THAT ASSISTANCE TO BE CHANNELLED THROUGH STATE GOVERNMENT.

WHILE WE IN NEW YORK BELIEVE THAT DIRECT FEDERAL AID WOULD BE THE MOST EFFECTIVE AND EFFICIENT TYPE OF ASSISTANCE, WE URGE THE ADMINISTRATION TO CONSIDER THE ALREADY EXISTING PRESSURES ON OUR LOCAL CRIMINAL JUSTICE SYSTEM SHOULD THEY CHOOSE A DIFFERENT MEANS OF PROVIDING ANTI-DRUG ASSISTANCE.

FOR INSTANCE, IF THE ADMINISTRATION INSISTS UPON USING THIS FUNDING TO PROVIDE ADDITIONAL FEDERAL STRIKE FORCE AGENTS, THEN THE ADDITIONAL CASE LOADS THAT RESULT MUST BE BROUGHT IN FEDERAL COURT AND CONVICTIONS MUST BE PROCESSED IN THE FEDERAL PRISONS. LAST YEAR THE UNITED STATES ATTORNEY FOR THE SOUTHEEN DISTRICT OF NEW YORK WON ONLY 385 FELONY DRUG CONVICTIONS. DURING THE SAME TIME, OUR LOCAL PROSECUTORS CHALKED UP 7,181 SIMILAR CONVICTIONS.

OUR CRIMINAL JUSTICE SYSTEM IS BURSTING AT THE SEAMS, AND IF THE FEDERAL GOVERNMENT DOES NOT CHOOSE TO PROVIDE US WITH THE DIRECT AND FLEXIBLE FUNDING WE NEED, THEN AT A MINIMUM, IT OUGHT NOT PROVIDE ASSISTANCE IN A FASHION THAT WILL ONLY ADD FURTHER PRESSURE ON OUR ALREADY OVERBURDENED PROSECUTORS, COURTS AND JAILS.

IN SUM, MR. CHAIRMAN, WE IN NEW YORK APPRECIATE YOUR CONCERN, WE WELCOME YOUR COMMITMENT AND WE STAND READY TO WORK CO-OPERATIVELY WITH FEDERAL OFFICIALS TO MAKE THE HIGH-INTENSITY DRUG ZONES AN EFFECTIVE TOOL IN THE FIGHT AGAINST DRUG ABUSE. BUT WE URGE IN THE STRONGEST POSSIBLE TERMS THAT ANY FEDERAL EMERGENCY FUNDING FOR HIGH-INTENSITY ZONES SHOULD BE PROVIDED DIRECTLY TO LOCAL GOVERNMENTS AND PLANNED AND IMPLEMENTED IN COORDINATION WITH EXISTING LOCAL ENFORCEMENT, TREATMENT AND EDUCATION EFFORTS.

-4-

WE'LL TAKE ANY HELP WE CAN GET, BUT SINCE WE'RE ALREADY FAR OUT FRONT AT THE LOCAL LEVEL -- AND SINCE WE KNOW OUR OWN NEEDS BEST -- WE HOPE THAT WHATEVER FEDERAL ASSISTANCE EMERGES FROM THIS PROCESS IS PROVIDED IN A FLEXIBLE FASHION TAILORED TO LOCAL NEEDS AND IMPLEMENTED IN CO-OPERATION WITH LOCAL AUTHORITIES.

MR. CHAIRMAN, I APPRECIATE YOUR GRACIOUS INVITATION TO TESTIFY TODAY. YOUR LEADERSHIP ON THIS ISSUE IS ADMIRABLE. AND I REMAIN AVAILABLE WHENEVER I CAN BE HELPFUL TO ASSIST YOUR EFFORTS TO ENSURE THAT THE FEDERAL GOVERNMENT OWNS UP TO ITS RESPONSIBILITIES TO AMERICA'S CITIES.



The CHAIRMAN. Thank you very much, Mayor Berkley.

**STATEMENT OF RICHARD BERKLEY, MAYOR AND PAST PRESIDENT OF THE U.S. CONFERENCE OF MAYORS, KANSAS CITY, MO**

Mayor BERKLEY. Thank you. Senator Biden, members of the committee, I am Dick Berkley, mayor of Kansas City, Missouri, and—as mentioned—a past president of the U.S. Conference of Mayors.

I am very honored to appear before you this afternoon on behalf of the conference and to be seated with Mayor-elect David Dinkins of New York City. We look forward to our Conference of Mayors meeting here in Washington next month, when we hope we will have a chance to visit with David and to introduce him to our organization. We know that he is going to be an effective national spokesman for the people of the American cities, just as Ed Koch was previously.

I am sure that everyone in this room today understands that illegal drug use and drug trafficking and the resulting increase in crime are the most serious problems facing America's cities and America's citizens. Somehow, they are getting worse.

The FBI reported last month that crime was up 3 percent nationwide in the first half of 1989. Robbery was up 7 percent, murder 5 percent and aggravated assault 4 percent.

The crime index increased by significantly more in many of the Nation's major cities, however, with more than a 10-percent increase in 39 cities with a population above 100,000, and more than a 20-percent increase in 9 of those cities.

The General Accounting Office reported just last week that the Federal prison population has doubled since 1980, and that Federal prisons are now operating at 56 percent above capacity. In October, the Department of Justice reported that in the first half of this year, our Nation experienced the greatest increase in Federal and State prison population ever recorded: 7.3 percent.

A 19-city survey by the National Institute on Drug Abuse this fall showed record numbers of cocaine, marijuana, and heroin emergency room cases. Of the 19 cities surveyed, 16 had record numbers of cocaine hospital emergencies, 14 had record marijuana emergencies, and 11 had record heroin emergencies. Cocaine ranked first among emergency room drug cases in all but two of those cities.

Local resources alone cannot adequately respond to the spiraling drug and crime problems in our cities, and I believe all of the cities are seeking to use as much funding locally as possible. I might say that we obviously are willing to do our share, and I would add that in Kansas City, in Jackson County, we passed a half-cent sales tax just last month strictly for the drug war. That is how critical and how important it is.

With the Nation's police chiefs, mayors have worked hard to promote the Federal role in what for years has been a real war on our streets, a real war, in fact, for our streets. We worked hard to get a national antidrug bill that would make a difference, helping us on all fronts: Enforcement, treatment, and education.

Unfortunately, the promise of that antidrug bill has never fully been realized for most of the American cities because the antidrug funds must travel a circuitous route to the State capitol to reach the frontlines in the drug war.

We hope that you will work with us again in an effort to amend the enforcement grant programs so that funds will come more directly, more equitably and more quickly to our cities. Such changes, we feel, are necessary because of the pressing need for a funding source potentially available to all communities.

All cities of all sizes in all regions of the country must confront the drug problem on a daily basis. They must all be given an opportunity to receive Federal help.

Today, however, we will focus on the provision of help to those cities especially hard hit by the drug crisis. Such help, of course, can come in the form of Federal funding to expand local efforts, and it can also come in the form of increased Federal support through the provision of personnel, equipment or facilities. In providing such help, there are several principles which we feel should be followed.

The nature of the help should not be imposed upon local officials by the Federal Government. Local officials must actively be involved in developing and carrying out the strategies to address their community's particular problem. They should be involved in all aspects of the decisionmaking regarding what kind of help is provided, by whom and for what purpose.

There should be sufficient flexibility—David mentioned that a few moments ago—in the assistance provided to allow local officials to allocate the funds or other assistance provided to enforcement, prevention, or treatment activities in accordance with local needs.

Many cities have drug problems of such a serious nature that special help is desperately needed. Included are cities which have become drug distribution points and those which have a particularly severe local problem, one which available resources simply cannot address. Criteria for the identification of cities to be helped should recognize these different factors.

Funds must be provided directly to cities without a detour through the State capitol. State Governments certainly should be made aware of such grants, and certainly State Governments should receive funds. But, they should be encouraged to support them in all possible ways, but they must not slow the flow of the grant funds.

In 1988, anti-drug legislation enabled the Director of the Office of National Drug Control Policy to designate high-intensity drug trafficking areas, and to provide them with increased assistance: Both Federal funds and Federal personnel, equipment, and facilities.

Approximately \$40 million is expected to be available for assistance to high-intensity drug trafficking areas this year. Two of the four criteria specified in the statute for the Director to use in designating such areas relate to the roles such an area plays as a center for illegal drug production, manufacturing, importation, or distribution.

Recent press reports suggest that the Director, in preparing the revised national drug strategy due to be released early next year, is currently considering only areas which meet these two criteria.

Clearly, such areas need special Federal help. But, so do cities which, while they do not satisfy these two criteria, do satisfy the other criteria, and desperately need and deserve increased Federal assistance.

Senator Biden, your proposal to provide \$300 million in special relief for cities hardest hit by drug abuse problems would complement the existing authority extremely well, particularly if the administration chooses to designate only distribution centers as high-intensity drug trafficking areas.

Your proposal would provide increases resources which could be used to meet the particular needs of cities which, though hard hit by the drug problem, are not yet receiving an appropriate level of Federal assistance. Your proposal would provide more than funds to such areas since other forms, as mentioned, of support—such as Federal personnel, equipment and facilities—could be made available as well.

The U.S. Conference of Mayors supports your proposal in principle. There are some minor items we would modify, but we strongly support it. We stand ready to work with you and to see it become law because it recognizes the critical needs of many of our cities, and it provides a vehicle which we feel can address them.

We greatly appreciate the leadership you have shown in addressing this Nation's drug crisis. We also appreciate greatly your concern for the plight of the cities and your willingness to address our needs directly. The Nation's mayors look forward to working with you next year to improve the Federal Government's response to this crisis situation.

Thank you very much for allowing me to be here today.

[The prepared statement of Mayor Berkley follows:]



## THE UNITED STATES CONFERENCE OF MAYORS

1620 EYE STREET, NORTHWEST  
WASHINGTON, D.C. 20006  
TELEPHONE (202) 293-7330

**President:**

KATHYVN J. WHITMIRE  
Mayor of Houston

**Vice Presidents:**

ROBERT M. ISAAC  
Mayor of Colorado Springs

**Past Presidents:**

RICHARD L. BERKLEY  
Mayor of Kansas City, MO  
ARTHUR J. HOLLAND  
Mayor of Tension  
JOSEPH P. RILEY, JR.  
Mayor of Charleston, SC  
COLEMAN A. YOUNG  
Mayor of Detroit

**Trustees:**

JERRY ABRAMSON  
Mayor of Louisville  
WILLIAM J. ALTHAUS  
Mayor of York  
MARION S. BARRY, JR.  
Mayor of Washington, DC  
STEVEN S. CARLSON  
Mayor of Jamestown, NY  
JUANITA CRABB  
Mayor of Bangor  
W. WILSON GOODE  
Mayor of Phoenix  
WILLIAM H. HUBBARD III  
Mayor of Indianapolis  
THEODORE MANN  
Mayor of Newton  
JOSEPH R. PADLINO, JR.  
Mayor of Providence  
JESSIE M. BATTLE  
Mayor of Newport News  
JOHN P. ROUSAKIS  
Mayor of Syracuse

**Advisory Board:**

**Chair:**

RAYMOND L. FLYNN  
Mayor of Boston  
RICHARD ARRINGTON  
Mayor of Birmingham

**JOHN W. BARR:**

Mayor of Evanston  
SIDNEY BARTHELEMY  
Mayor of New Orleans  
TOM BRADLEY  
Mayor of Los Angeles

**J. E. BIRD CLARK:**

Mayor of Portland, OR  
JANICE R. COGGESHALL  
Mayor of Galveston

**YGNACIO GARZA:**

Mayor of Brownsville  
TERRY GODDARD  
Mayor of Phoenix

**SHARPE JAMES:**

Mayor of Newark, NJ  
DAVE KARP  
Mayor of San Leandro

**EDWARD KOCH:**

Mayor of New York  
SHEILA LODGE  
Mayor of Santa Barbara

**JOHN O. NORQUIST:**

Mayor of Milwaukee  
STE MYRICK  
Mayor of Chalione

**DONNA OWENS:**

Mayor of Toledo  
JAMES P. FEARON  
Mayor of Elkhart

**ELIZABETH D. RIEHA:**

Mayor of Rock Hill  
CHARLOTTE M. ROTHSTEIN  
Mayor of Oak Park, MI

**PEGGY RUBACH:**

Mayor of Mesa  
BRIAN J. SARALIT  
Mayor of Pawtucket

**PETE SFERAZZA:**

Mayor of Reno  
GREG SPARKS  
Mayor of DeKalb

**NAO TAKASUGI:**

Mayor of Oxnard  
**Executive Director:**  
J. THOMAS COCHRAN

STATEMENT BY

RICHARD L. BERKLEY

MAYOR OF KANSAS CITY (MO)

PAST PRESIDENT

THE UNITED STATES CONFERENCE OF MAYORS

BEFORE

THE COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE

DECEMBER 12, 1989

SENATOR BIDEN, MEMBERS OF THE COMMITTEE, I AM RICHARD BERKLEY, MAYOR OF KANSAS CITY AND A PAST PRESIDENT OF THE UNITED STATES CONFERENCE OF MAYORS. I AM HONORED TO APPEAR BEFORE YOU THIS MORNING ON BEHALF OF THE CONFERENCE, AND TO BE SEATED WITH THE MAYOR-ELECT OF NEW YORK CITY. WE LOOK FORWARD TO OUR CONFERENCE OF MAYORS' MEETING HERE IN WASHINGTON NEXT MONTH WHEN WE WILL ALL WELCOME DAVID DINKINS TO OUR ORGANIZATION. WE KNOW HE'S GOING TO BE AN EFFECTIVE NATIONAL SPOKESMAN FOR THE PEOPLE OF AMERICA'S CITIES.

I'M SURE THAT EVERYONE IN THIS ROOM TODAY UNDERSTANDS THAT ILLEGAL DRUG USE AND DRUG TRAFFICKING AND THE RESULTING INCREASE IN CRIME ARE THE MOST SERIOUS PROBLEMS FACING AMERICA'S CITIES AND AMERICA'S CITIZENS. SOMEHOW, THEY ARE GETTING WORSE:

O THE FBI REPORTED LAST MONTH THAT CRIME WAS UP THREE PERCENT NATIONWIDE IN THE FIRST HALF OF 1989. ROBBERY WAS UP SEVEN PERCENT, MURDER FIVE PERCENT AND AGGRAVATED ASSAULT FOUR PERCENT. THE CRIME INDEX INCREASED BY SIGNIFICANTLY MORE IN MANY OF THE NATION'S MAJOR CITIES, HOWEVER, WITH MORE THAN A 10 PERCENT INCREASE IN 39 CITIES WITH A POPULATION ABOVE 100,000, AND MORE THAN A 20 PERCENT INCREASE IN NINE OF THESE CITIES.

O THE GENERAL ACCOUNTING OFFICE REPORTED LAST WEEK THAT THE FEDERAL PRISON POPULATION HAS DOUBLED SINCE 1980, AND THAT FEDERAL PRISONS ARE NOW OPERATING AT 56 PERCENT ABOVE CAPACITY. IN OCTOBER THE DEPARTMENT OF JUSTICE REPORTED THAT IN THE FIRST HALF OF THIS YEAR, OUR NATION EXPERIENCED

THE GREATEST INCREASE IN FEDERAL AND STATE PRISON POPULATION EVER RECORDED, 7.3 PERCENT.

O A 19-CITY SURVEY BY THE NATIONAL INSTITUTE ON DRUG ABUSE THIS FALL SHOWED RECORD NUMBERS OF COCAINE, MARIJUANA AND HEROIN EMERGENCY ROOM CASES. OF THE 19 CITIES SURVEYED, 16 HAD RECORD NUMBERS OF COCAINE HOSPITAL EMERGENCIES, 14 HAD RECORD MARIJUANA EMERGENCIES, AND 11 HAD RECORD HEROIN EMERGENCIES. COCAINE RANKED FIRST AMONG EMERGENCY ROOM DRUG CASES IN ALL BUT TWO OF THE CITIES.

LOCAL RESOURCES ALONE CANNOT ADEQUATELY RESPOND TO THE SPIRALLING DRUG AND CRIME PROBLEMS IN OUR CITIES. WITH THE NATION'S POLICE CHIEFS, MAYORS HAVE WORKED HARD TO PROMOTE THE FEDERAL ROLE IN WHAT FOR YEARS HAS BEEN A REAL WAR ON OUR STREETS -- A REAL WAR FOR OUR STREETS. WE WORKED HARD TO GET A NATIONAL ANTI-DRUG BILL THAT WOULD MAKE A DIFFERENCE, HELPING US ON ALL FRONTS -- ENFORCEMENT, TREATMENT AND EDUCATION.

UNFORTUNATELY, THE PROMISE OF THAT ANTI-DRUG BILL HAS NEVER BEEN FULLY REALIZED FOR MOST OF AMERICA'S CITIES BECAUSE THE ANTI-DRUG FUNDS MUST TRAVEL A CIRCUITOUS ROUTE THROUGH THE STATE CAPITOL TO REACH THE FRONT LINES IN THE DRUG WAR.

WE HOPE THAT YOU WILL WORK WITH US AGAIN IN AN EFFORT TO AMEND THE ENFORCEMENT GRANTS PROGRAM SO THAT FUNDS WILL COME MORE DIRECTLY AND MORE EQUITABLY AND MORE QUICKLY TO OUR CITIES. SUCH CHANGES ARE NECESSARY BECAUSE OF THE PRESSING NEED FOR A FUNDING SOURCE POTENTIALLY AVAILABLE TO ALL CITIES. ALL CITIES OF ALL SIZES IN ALL REGIONS OF THE COUNTRY MUST CONFRONT THE DRUG

PROBLEM ON A DAILY BASIS. THEY MUST ALL BE GIVEN AN OPPORTUNITY TO RECEIVE FEDERAL HELP.

TODAY, HOWEVER, WE WILL FOCUS ON THE PROVISION OF HELP TO THOSE CITIES ESPECIALLY HARD HIT BY THE DRUG CRISIS. SUCH HELP, OF COURSE, CAN COME IN THE FORM OF FEDERAL FUNDING TO EXPAND LOCAL EFFORTS, AND IT CAN ALSO COME IN THE FORM OF INCREASED FEDERAL SUPPORT THROUGH THE PROVISION OF PERSONNEL, EQUIPMENT OR FACILITIES. IN PROVIDING SUCH HELP, THERE ARE SEVERAL PRINCIPLES WHICH SHOULD BE FOLLOWED:

1. THE NATURE OF THE HELP SHOULD NOT BE IMPOSED UPON LOCAL OFFICIALS BY THE FEDERAL GOVERNMENT. LOCAL OFFICIALS MUST BE ACTIVELY INVOLVED IN DEVELOPING AND CARRYING OUT THE STRATEGIES TO ADDRESS THEIR COMMUNITY'S PARTICULAR PROBLEM. THEY SHOULD BE INVOLVED IN ALL ASPECTS OF THE DECISION-MAKING REGARDING WHAT KIND OF HELP IS PROVIDED, BY WHOM AND FOR WHAT PURPOSE.
2. THERE SHOULD BE SUFFICIENT FLEXIBILITY IN THE ASSISTANCE PROVIDED TO ALLOW LOCAL OFFICIALS TO ALLOCATE THE FUNDS OR OTHER ASSISTANCE PROVIDED TO ENFORCEMENT, PREVENTION OR TREATMENT ACTIVITIES IN ACCORDANCE WITH LOCAL NEEDS.
3. MANY CITIES HAVE DRUG PROBLEMS OF SUCH A SERIOUS NATURE THAT SPECIAL HELP IS NEEDED. INCLUDED ARE CITIES WHICH HAVE BECOME DRUG DISTRIBUTION POINTS AND THOSE WHICH HAVE A PARTICULARLY SEVERE LOCAL PROBLEM -- ONE WHICH AVAILABLE RESOURCES CANNOT ADDRESS. CRITERIA FOR THE IDENTIFICATION OF CITIES TO BE HELPED SHOULD RECOGNIZE THESE DIFFERENT FACTORS.

3. FUNDS MUST BE PROVIDED DIRECTLY TO CITIES, WITHOUT A DETOUR THROUGH THE STATE CAPITOL. STATE GOVERNMENTS SHOULD CERTAINLY BE MADE AWARE OF ANY SUCH GRANTS, AND SHOULD BE ENCOURAGED TO SUPPORT THEM IN ALL POSSIBLE WAYS, BUT THEY MUST NOT SERVE TO SLOW THE FLOW OF THE GRANT FUNDS.

THE 1988 ANTI-DRUG LEGISLATION ENABLES THE DIRECTOR OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY TO DESIGNATE HIGH INTENSITY DRUG TRAFFICKING AREAS AND TO PROVIDE THEM WITH INCREASED ASSISTANCE, BOTH FEDERAL FUNDS AND FEDERAL PERSONNEL, EQUIPMENT OR FACILITIES. APPROXIMATELY \$40 MILLION IS EXPECTED TO BE AVAILABLE FOR ASSISTANCE TO HIGH INTENSITY DRUG TRAFFICKING AREAS THIS YEAR. TWO OF THE FOUR CRITERIA SPECIFIED IN THE STATUTE FOR THE DIRECTOR TO USE IN DESIGNATING SUCH AREAS RELATE TO THE ROLE SUCH AN AREA PLAYS AS A CENTER FOR ILLEGAL DRUG PRODUCTION, MANUFACTURING, IMPORTATION OR DISTRIBUTION.

RECENT PRESS REPORTS SUGGEST THAT THE DIRECTOR, IN PREPARING THE REVISED NATIONAL DRUG STRATEGY DUE TO BE RELEASED EARLY NEXT YEAR, IS CURRENTLY CONSIDERING ONLY AREAS WHICH MEET THESE TWO CRITERIA. CLEARLY, SUCH AREAS NEED SPECIAL FEDERAL HELP. BUT SO DO CITIES WHICH, WHILE THEY DO NOT SATISFY THESE TWO CRITERIA, DO SATISFY THE OTHER CRITERIA, AND DESPERATELY NEED AND DESERVE INCREASED FEDERAL ASSISTANCE.

SENATOR BIDEN, YOUR PROPOSAL TO PROVIDE \$300 MILLION IN SPECIAL RELIEF FOR CITIES HARDEST HIT BY DRUG ABUSE PROBLEMS WOULD COMPLEMENT THE EXISTING AUTHORITY VERY WELL, PARTICULARLY IF THE ADMINISTRATION CHOOSES TO DESIGNATE ONLY DISTRIBUTION CENTERS AS HIGH INTENSITY DRUG TRAFFICKING AREAS. YOUR PROPOSAL



WOULD PROVIDE INCREASED RESOURCES WHICH COULD BE USED TO MEET THE PARTICULAR NEEDS OF CITIES WHICH, THOUGH HARD HIT BY THE DRUG PROBLEM, ARE YET NOT RECEIVING AN APPROPRIATE LEVEL OF FEDERAL ASSISTANCE. YOUR PROPOSAL WOULD PROVIDE MORE THAN FUNDS TO SUCH AREAS, SINCE OTHER FORMS OF SUPPORT -- SUCH AS FEDERAL PERSONNEL, EQUIPMENT AND FACILITIES -- COULD BE MADE AVAILABLE AS WELL.

THE CONFERENCE OF MAYORS SUPPORTS YOUR PROPOSAL IN PRINCIPLE; THERE ARE JUST ONE OR TWO SMALL ITEMS WE WOULD LIKE TO SEE CHANGED. WE STAND READY TO WORK WITH YOU TO SEE IT BECOME LAW BECAUSE IT RECOGNIZES THE CRITICAL NEEDS OF MANY OF OUR CITIES, AND IT PROVIDES A VEHICLE WHICH WE FEEL CAN ADDRESS THEM.

WE APPRECIATE GREATLY THE LEADERSHIP WHICH YOU HAVE SHOWN IN ADDRESSING THIS NATION'S DRUG CRISIS. WE ALSO APPRECIATE GREATLY YOUR CONCERN FOR THE PLIGHT OF OUR CITIES AND YOUR WILLINGNESS TO ADDRESS OUR NEEDS DIRECTLY. THE NATION'S MAYORS LOOK FORWARD TO WORKING WITH YOU THIS YEAR TO IMPROVE THE FEDERAL GOVERNMENT'S RESPONSE IN THIS CRISIS SITUATION.

The CHAIRMAN. Thank you, Mr. Mayor, and thank you both for the kind words about the proposal.

With the permission of Senator Grassley—it is a bit unusual, but we have a small group—if you gentlemen would like to interject and ask a few questions, you are welcome to do that. Let me sort of lay out, gentlemen, what I see as the picture and where we are going.

We came up jointly—the House and the Senate—with the establishment of a national drug coordinator, Mr. Bennett—referred to often as the drug czar. In fairness to Dr. Bennett, he might be able to do a little better, and I think he is striving mightily, but he might do a little better if in fact he were a czar. His powers are not as extensive as some might believe.

There was a general consensus when the first strategy was put forward, although Dr. Bennett and I had some real disagreements on the strategy. Everyone basically believed that part of the necessary effort on the part of the Federal and State and local governments was to begin to reconstruct the criminal justice system so that it could effectively function.

And we went a good distance—the President and the Congress, Democrats and Republicans—in doing that. We added about \$200 million for prison construction. We added about \$450 million for State and local law enforcement. I have a proposal that I introduced before we left that passed the Senate. The proposal calls for additional \$600 million for State and local law enforcement.

So, the emphasis heretofore in the last 6 months has been primarily on the criminal justice side. But, I think almost everyone—if they did not agree then—agrees now that we did very little on the treatment, education, rehabilitation, or even for that matter research and development from the pharmacological side of the answer, not the problem.

And I suspect you are going to see—I know you will see, if the past is any evidence of what is about to come—more emphasis on treatment and education, rehabilitation without that emphasis coming at the expense of the recently increased law enforcement efforts.

I do not know anybody in the Senate or the House that says we should do less than we are doing in law enforcement. But, I know that a great number of people on both sides of the aisle believe we should do a good deal more on treatment and rehabilitation.

My discussions with Dr. Bennett indicate to me that there is at least some awareness or willingness to view the problem from that perspective as well from the administration's side.

That is a long introduction to a relatively short question. What is the first serious issue to be addressed—and we skirted the issue last year—is what is the proper role of the Federal Government relative to States and localities in dealing with the drug problem?

The administration, in its first drug strategy, made it very clear that they believed that the bulk of the responsibility lay at the doorstep of the cities and the States. The administration had several proposals that did not go forward, did not get the support of the Senate, that were meant to reinforce that division of labor, if you will.

I would like to ask you both this broad question: Without quantifying it in terms of dollars, how much responsibility does the Federal Government have for dealing with the drug problem in your streets, on your streets, in your city, and why does it have that responsibility?

It seems like an awfully elementary question, but I think it is the most elementary question we must answer first before we go much further.

Mayor DINKINS. Well, I think that the Federal Government has a very great responsibility, and I agree with you that from my friend, Robert Stutman, here to the special narcotics prosecutor for our city, Sterling Johnson, each of the five district attorneys in New York City all would argue that treatment in education is essential, and that is where we need to expend energy in resources.

I am not suggesting that we need to reduce our police presence, but clearly treatment and education is the way to go. And we need help for that because municipalities don't have the ability—certainly the city of New York does not—to provide the kind of treatment especially necessary.

We are working harder at education. I intend, as mayor of New York, to recruit a person, an individual or corporation for each of our schools—we have about 1,000 schools—to supplement the drug education. But, the treatment—we are in bad shape; we need a lot of help.

The reason the Federal Government should take the lion's share of the responsibility is that municipalities do not have the ability to patrol our borders, to keep the drugs from coming in. It seems to me that that is a Federal responsibility. And if one will accept that premise, then clearly the Federal Government has to assist us.

We need to do what we can in terms of education to try to hold down the demand, but we need that treatment to hold down the demand as well. And given that so much of our crime in New York is drug related, it is absolutely essential that we get this kind of assistance.

The CHAIRMAN. Mayor Berkley.

Mayor BERKLEY. Obviously, it is a partnership arrangement. We have to do our share at the local level. I think both cities are doing a very significant share. Obviously, we have police departments—always have had them—but when we recognize that roughly 65 to 75 percent of all crime is now drug related, there is a major effort done in that respect alone.

In addition, as I mentioned, locally we have added a half cent sales tax in our major county strictly for the drug war. But, I want to put it in a little perspective, if I might.

In recent years—and this is not pointing the finger at anyone, but it is just a reality of life—the cities have been under greater pressure financially because of the loss of revenue sharing money, which provided some flexibility, some significant cuts in community development bloc grant funds and other resources that has really put pressure particularly on the central cities of the metropolitan area. And the central cities also provide many of the facilities of a metropolitan area and have those obligations.

The drug problem is everywhere, as we know, but it does have a more significant impact, again, on the central cities. As a result,

the financial pressure on virtually every major urban area in the country, is very severe. We have raised taxes several times locally. We have proposals to raise them again in the future. But, at the same time, we have to have some sharing of that responsibility in rather significant proportions from the Federal Government, and we recognize the pressure the Federal Government is under, the restraints currently operating with regard to the budget deficit.

But, it does take that close working relationship. And I might say, again, the private sector can play a part here. David mentioned that with regard to the schools. There are many programs that are being devised by individuals in the private sector.

I might briefly mention a couple in Kansas City because I think they have some national significance. Ewing Kaufman, who was at Marion Laboratories, developed a program called the Star Program. It is considered one of the finer education programs in the country with regard to drug and alcohol abuse. It is proving to be effective, and they have a system of monitoring it. It has been in effect for 4½ years, and is making progress, but we need many more of those programs.

In addition, he has a program called Project Choice, in which he has adopted a couple of schools and will guarantee every single student a college education if they will stay away from drugs, not get in trouble with alcohol, and will not have become parents during the time that they are in high school.

They recently tested some 300 students in one of the high schools, and of the 300, less than 1 percent showed drug abuse. That is how significant that type of a private initiative is.

So, I do not want to divert away from the effort we need from the Federal Government, but I also want to mention it is a Federal, State, local, and private program, but we need tremendous amounts of help from the Federal Government.

The CHAIRMAN. Mayor Berkley, let me ask you one other question. I will be the devil's advocate for a moment, and I might preface it by saying, as you know, I share your view. I am the fellow that tried to get the money so that there would be no passthrough for you all to go straight to the cities, so I happen to share your view.

But, the question sometimes raised as follows: Many States are in better shape financially than the Federal Government. Why is it not the State's responsibility to see to it that the lion's share of the help comes from the State and not from the Federal Government to deal with treatment, for example, in your city?

Mayor BERKLEY. I am not saying that the State government should not be a participant. I think they should. I think it is a partnership arrangement all the way through. But, it does vary by State, as we know. Some States are more financially able to do assistance, and yet we have a drug problem that really permeates society in every part of the country.

In addition, you have situations where, for one reason or another, certain State governments may not allocate those resources in a manner that really helps to the magnitude that is needed in some of the larger urban areas. There is still a rivalry, you might say, in certain States between various geographic portions of the State as to where funding goes. I know that there are some States

where some of the larger cities have received a relatively small portion of the funds that have come from the Federal Government to the State, and I do not think that is fair and appropriate.

I personally have always felt that State government should get some of the Federal funds, but a significant portion of it also should go directly to the large urban areas.

The CHAIRMAN. In terms of commitment, Mayor Dinkins, the city of New York spent, I believe, last year half a billion dollars on this drug problem and I want to put into perspective that the Federal Government did the same. We would have to spend about \$17 billion next year just to sort of catch up with the proportion of the money spent.

But, how much help do you get from the State? Is the State stepping up to the plate in terms of their responsibility?

Mayor DINKINS. As a matter of fact, until very recently, the State was doing all of it with respect to law enforcement. Since the mid-1970's, when we had some fiscal difficulty in the city, the State undertook that.

I should point out also that the money of which you speak, the half billion dollars, is only law enforcement.

The CHAIRMAN. Yes. When I meant all, I meant all law enforcement. I beg your pardon.

Mayor DINKINS. Over the last 10 years or so, the State has had almost all of the responsibility or has taken all of the responsibility because the city just did not have the ability.

But, recognizing the need, indeed, one could argue that it is even cost effective in terms of the cost of incarceration and on and on and on. The city, this past budget year, put some funds in for treatment.

The CHAIRMAN. Again, to put this into perspective a little bit, it is rumored that the suggestion that will come forward from the administration on their second strategy for high-intensity areas would be \$40 million.

Mayor Berkley, if the Federal Government came along, and you were designated and allocated another \$5 million, what kind of impact would that have on your city? And I would ask you the same question, Mr. Mayor: If the Federal Government, in terms of that allocation allocated you \$10 million, what kind of impact would that have on your efforts?

Obviously, you might take what you can get. I know you are probably reluctant to. You may not wish to be critical in the sense that you may not get whatever was coming at all, but in terms of the impact on the drug problem, what kind of impact would it have?

Mayor BERKLEY. Well, it would certainly help. We have to be candid about that. But in comparison to the needs, it just is a beginning.

We have tremendous problems. Certainly, you touched on earlier about the need for treatment and rehabilitation. That is an area that I think, as you mentioned, we are going to see more and more focus on because if we do not get the various addicts off of drugs, get them rehabilitated, we have an ongoing problem.

In many cases, we are advised that the treatment programs are of too short a tenure. Someone may be put in a program, and they

are in it for 30 days or 60 days or whatever, and it does not get the job done, and that is because of a shortage of funds.

We definitely need significantly more money in the treatment area. We need more money in the education area. As you say, law enforcement has received the major thrust of efforts to date. We are seeing more and more people speaking out and saying—they are crying our literally for help in the treatment area.

The CHAIRMAN. How much difficulty would you have—I do not mean politically, but in terms of the response you would get—with the law enforcement community in your city if \$2 million or \$3 million or \$5 million came your way that was not expected, came from the program that I am proposing, and you proposed to the council that it all go into treatment?

Would the law enforcement community in your city find that reprehensible? Do you think they would support it? What do you think?

Mayor BERKLEY. I think they would understand the importance of the treatment. They see the reoccurrence of the problem. Obviously, they would probably want some share of it, if possible, but at the same time I would have to say because we did just pass this half cent sales tax, that means 30 additional police officers within the city limits, 30 in the county. So, they have had, in recent days, an addition.

But, I think in most communities, I find that there is a very good understanding, a grasp of the breadth and the magnitude of the problem, and there is not as much of a possessive position as you might expect, that there is an understanding it has to be education, it has to be law enforcement, it has to be treatment, it has to interdiction. All of those things are part of the program, and at the local level, those three factors are, in a way, equally important.

The CHAIRMAN. Mayor Dinkins.

Mayor DINKINS. I agree. I am sure that when you hear from Robert Stutman, I suspect that he will acknowledge, as I have heard him many times, speak of the need for treatment and education. We just cannot lock up enough people. The recidivism rate and cost is such that we just cannot lock up enough folks.

In New York, a residence drug-free program costs in the neighborhood of \$15,000, \$16,000 per person a year, and the cost of incarceration is many times that—in New York, at least.

I think that it is fair to say that the law enforcement people—obviously, they have their needs in any event, but I am confident that they would all argue that the lion's share of any money ought to go into treatment and education.

We need a greater police presence to deter crime in general, of course, and I am an advocate of the old-fashioned cop on the beat. We have what we refer to as a community patrol program in New York. This is drugs aside—just plain police presence.

I want us to get back to the days when the police officer knows the neighborhood, and the people in the community know the police officer, and says to the officer, "How's your wife," or "How's your husband," as the case may be. And the police officer, when he sees a child on the street says, "Go home, Johnny, or I'll tell your mother." It is back to those days.

We need the greater police presence, but there is this desperate need for treatment because otherwise they get incarcerated, and you come out and get back into the same habits and crime. And you get the situation where someone gets locked up, and they take crime 101, and when they come out they take crime 201 and then crime 301, and we just do not improve.

We spend more money whereas we know that 83 percent of those in New York that go through central booking test positive for substance abuse. It just cries out for some assistance in that area.

Mayor BERKLEY. I might make one additional comment, if I might, having to do with education.

I had the experience yesterday of Senator Jay Rockefeller was in Kansas City with the National Commission for Children. A session was held there—a very open discussion and dialog—with quite a number of students, and there it was quite obvious they were crying out in the area of education, and they wanted to be sure that their families understood the magnitude of the problem, that those who they looked up to had a clear recognition of the disaster that came from drugs.

Therefore, I would also add the element of education and how important it can be not only for the kids but education of the parents and others who, in fact, have a strong influence or could and should have a strong influence on the kids. It was quite a session, and it just came from virtually everyone of the students.

The CHAIRMAN. If the Senator would yield for just a moment, that is fascinating to hear because I visit an awful lot of high schools. In the past, I have tried to visit one a week in my State, where I go and speak to an assembly and answer questions.

And what I found was—whether it is in my State or neighboring States or any where I have been speaking to high school students—an interesting phenomenon. They want their parents to know more, and they want their teachers to know more. It took me a while to try to figure out why.

And you know why I think they do? Because they are looking for cover. They want to be able to be in the position where there is some counterpressure against the peer pressure that they are subjected to. And if the teachers do not know what is happening in the school—and most do—if the parents do not know what is happening—and most do not—then, in fact, their ability to say, “You know, I’d like to, but mom knows or the teacher is looking,” or some version or derivative of that diminishes.

It is interesting. Next time you go to one of the high schools in your city, gentlemen, ask the students how many think that there should be tougher sanctions for those who use drugs. You ask them how many in school use drugs, and you will find anywhere from 50 to 75 percent will raise their hand. Then you ask them how many would like to see us get tougher on those who use drugs, and 50 to 75 percent will raise their hands.

I think these children are looking for help. They are looking for some cover, if you will.

One last thing: Mayor Dinkins, you mentioned beepers. My wife is a schoolteacher. She teaches full time in a public school system in my State. You know the first thing they did this year?

Mayor DINKINS. Outlaw beepers?

The CHAIRMAN. Outlawed beepers. She came home and said, "We outlawed beepers." And I thought, "Why would you outlaw beepers for? I mean, what's the big deal?" She said, "It sounded like a convention of neurosurgeons midway through some of the assemblies."

Imagine how far we have fallen when you have to outlaw beepers. When I was in high school, I did not know what a beeper was, let alone have one outlawed. But, it is incredible.

Mayor DINKINS. When I was in high school, they did not have beepers.

The CHAIRMAN. I do not believe they had them when I was in high school, either. At any rate, I yield to my colleague from Iowa, Senator Grassley.

#### OPENING STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. First of all, I would like to set the groundwork for some questions I have. I want to emphasize that Congress and this committee agree that drug abuse is a national problem. In 1988, Congress created the Office of National Drug Control Policy to establish a national strategy to address this problem.

As to the concern expressed earlier in this meeting that the strategy's emphasis is on law enforcement—just from the table of contents of the strategy, there are 18 pages devoted to the criminal justice system and there are 26 pages devoted to drug treatment, education, community action, and the work place.

As mandated by Congress, the Drug Control Policy Office has submitted its first ever national strategy against illegal drug use. That strategy calls for a comprehensive, cooperative national plan to fight drug abuse in this country.

The extra moneys that Congress recently appropriated to fund this strategy will be given equitably to the States. Maybe because I am from a rural area, I say that is fair.

However, I hope that we are not setting the stage for reversing this policy and setting aside more money for urban centers of America over and above what they would receive under Federal bloc grants.

Are we saying that the drug problems in our rural areas aren't as serious or as important as those found in our cities?

Mayor BERKLEY. I would be glad to go ahead an answer that. First, let me say with regard to the urban/rural aspect that you mentioned, certainly I think we all recognize that this is not strictly an urban problem, by any means. It is a rural problem. It is, as I said earlier, everywhere. When we go to a meeting of mayors, whether they are from small cities, medium cities, or large cities, they all say it is the No. 1 problem they have.

So, that is not really an issue as far as I am concerned because tragically it has gone into every State, into every region, into every income area. But at the same time, as serious as it is in every area, I do think it is more serious in some urban areas. I think there is more of a concentration of usage in some urban areas, and consequently there does need to be some special help and special attention and more focus taking nothing away.

It is a little bit like Senator Eiden's comment a few minutes ago of recognizing that law enforcement is a very, very important area,



and there has been a lot of emphasis placed on it. There is also importance in the other strategies, as well. And the same is true that some areas need help, but some areas need somewhat more help.

Mayor DINKINS. I think the distinction is one of volume just like large cities have a greater problem than small cities because there are more people. This does not mean that one does not care about some town or village that has a handful of addicts. We care about them, too, but the greater problem, clearly, I think, is in the larger urban centers. It does not mean that we do not care about the others.

The city of New York, it could be argued, is a region. Four of our five burroughs—each borough is a county—would be among the top 8 or 10 municipalities in the country. We are that big. There is no doubt about the fact that our problems are big because there are so many of us.

The adjoining suburban, and even as we go upstate New York or into other States, in Connecticut or in New Jersey or Pennsylvania, there clearly are rural neighborhoods where they have the same kinds of problems, but they are smaller. So, I do not want to take anything from the suburban or rural communities. I recognize the problems that exist there.

I might add that it is my belief that the recognition, that problems of drug abuse exist in some very nice suburban neighborhoods is what has gotten the attention of some in our country. That is to say, when it was thought that it was just a problem of the urban centers, there were those who were less concerned than they might have been.

Senator GRASSLEY. Did you come here with a preconceived notion regarding the strategy's designation of high-intensity drug trafficking areas, because you feel that you will not receive the resources under such a designation that you might otherwise?

Mayor BERKLEY. Well, I am representing the Conference of Mayors, so I am talking for the cities as a whole, and certainly I am sure there are some cities that would feel very strongly that this additional help in resources is very much needed.

I have no idea whether our city would qualify or not qualify, and I am not here for that reason. But certainly, the additional effort and the additional dollars and the focusing on areas that have tremendous problems I think is very justified because those problems also spread from one major area to another. As we all know, the L.A. gangs are ones that have gone out to other cities around the country and spread their poison, frankly.

Senator GRASSLEY. Considering the fact that the Office of National Drug Control Policy (ONDCP) is presently making this determination, and considering the fact that it is part of a national plan, don't you think your concerns are a little premature until you see how your areas might come out under such a designation, as opposed to assuming that it might not fulfill your needs—that is, if we all agree we ought to have a national plan, and that Federal resources are going to be focussed toward that national plan?

I guess I think it is premature at this point.

Mayor DINKINS. If I may, I think it is far wiser to seek to influence the legislation in the plan you come up with than await its

determination and then seek to modify it. It is imminently, I think, better to seek to influence it in the first instance.

I would wish to demonstrate to the Congress the kinds of problems we have in this particular urban center of New York City. I am confident that by any formula one had, New York would have to be included.

Now, what New York's share would be is, of course, another subject.

Senator GRASSLEY. I have to ask the question as to whether or not we shouldn't wait and see how such a designation works.

If Congress were to shift some of the money on the war on drugs from bloc grants into a categorical program giving money directly to the cities, would you as the mayors of your respective cities like to compete directly with other cities, such as Los Angeles, Miami and Chicago for that money?

Mayor BERKLEY. Well again, it would depend on the guidelines that you established and you established a formula. It could be a matter, as we had programs in the past, where you get a certain level of funding, and then you can compete for additional funding. I personally think that would be the general approach I would advocate because all the areas have significant needs.

But, as I said earlier and has been said in other testimony, in fact there are some areas that have more serious problems, either because of the magnitude of their population or because of the intensity of the problem or their distribution centers or whatever the situation may be.

It is a serious, serious problem everywhere, but because of circumstances in certain areas, it is even more devastating, and consequently they need more help. And if all of us, as a Nation, pitch in to help those areas, I think in the long-run we all benefit from it.

Senator GRASSLEY. Does the National Conference support cities receiving funds directly from the Federal Government, as opposed to through the States?

Mayor BERKLEY. Yes. Again, we are not saying all money should be distributed directly, but we think they should not all be sent to the States first.

Senator GRASSLEY. If the Federal Government has problems getting money to the 50 States, do you think that it can do a better job of getting it to 2,500 cities?

Mayor BERKLEY. I think so. We have seen that in the past. We have seen it particularly under revenue sharing. We have seen it under other Federal programs like hunger programs and others where there has been direct distribution, and it has worked rather effectively.

[Prepared statement of Senator Grassley follows:]

STATEMENT OF SENATOR CHARLES E. GRASSLEY  
ON THE NATIONAL DRUG CONTROL STRATEGY:  
DESIGNATING HIGH INTENSITY DRUG TRAFFICKING AREAS  
SENATE JUDICIARY COMMITTEE  
DECEMBER 12, 1989

---

MR. CHAIRMAN, I APPRECIATE THIS OPPORTUNITY TO CONTINUE THE REVIEW OF THE NATIONAL DRUG CONTROL STRATEGY, SUBMITTED TO THE CONGRESS BY THE PRESIDENT ON SEPTEMBER 5, 1989, AND TO LOOK AHEAD TO THE FOLLOW-UP STRATEGY DUE TO BE DELIVERED TO THE CONGRESS BY FEBRUARY 1, 1990.

TODAY'S HEARING IS TO FOCUS ON THE DRUG PROBLEM IN OUR COUNTRY'S URBAN CENTERS. AS THE CHAIRMAN OF OUR COMMITTEE KNOWS, CONGRESS HAD THIS VERY DISTRESSING ASPECT OF THE WAR ON DRUGS IN MIND WHEN IT ENACTED SECTION 1005 OF THE OMNIBUS ANTI-DRUG ABUSE ACT OF 1988, WHICH PROVIDES FOR THE ESTABLISHMENT OF "HIGH INTENSITY DRUG TRAFFICKING" AREAS.

THE OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP) WILL BE IMPLEMENTING THIS PROVISION UPON ITS SUBMISSION TO CONGRESS OF A FOLLOW-UP NATIONAL DRUG CONTROL STRATEGY, DUE BY FEBRUARY 1st.

THE DIRECTOR OF THE ONDCP - AFTER CONSULTATION WITH THE ATTORNEY GENERAL, OTHER NATIONAL DRUG CONTROL PROGRAM AGENCY HEADS, AND APPROPRIATE STATE GOVERNORS - IS TO DESIGNATE "ANY SPECIFIED AREA OF THE UNITED STATES" AS A HIGH INTENSITY DRUG TRAFFICKING AREA.

IN DESIGNATING SUCH AREAS, THE DIRECTOR OF THE ONDCP SHALL CONSIDER THE FOLLOWING:

- (1) THE EXTENT TO WHICH THE AREA IS A CENTER OF ILLEGAL DRUG PRODUCTION, MANUFACTURING, IMPORTATION, OR DISTRIBUTION;
- (2) THE EXTENT TO WHICH STATE AND LOCAL LAW ENFORCEMENT AGENCIES HAVE COMMITTED RESOURCES TO RESPOND TO THE DRUG TRAFFICKING PROBLEM IN THE AREA, INDICATING A DETERMINATION TO RESPOND AGGRESSIVELY TO THE PROBLEM;
- (3) THE EXTENT TO WHICH DRUG-RELATED ACTIVITIES IN THE AREA ARE HAVING A HARMFUL IMPACT IN OTHER AREAS OF THE COUNTRY;
- AND (4) THE EXTENT TO WHICH A SIGNIFICANT INCREASE IN THE ALLOCATION OF FEDERAL RESOURCES IS NECESSARY TO RESPOND ADEQUATELY TO DRUG-RELATED ACTIVITIES IN THE AREA.

THE DIRECTOR OF THE ONDCP HAS THE AUTHORITY TO PROVIDE FEDERAL ASSISTANCE TO DESIGNATED AREAS IN THE BUDGET YEAR IN WHICH THE DESIGNATION IS MADE.

JURISDICTIONS THAT RECEIVE A HIGH INTENSITY DRUG TRAFFICKING AREA DESIGNATION WILL BE ELIGIBLE FOR FEDERAL SUPPORT INCLUDING INITIATIVES IN SUCH AREAS AS:  
CRIMINAL JUSTICE  
DRUG TREATMENT  
PREVENTION  
AND PUBLIC HOUSING.

THE AUTHORITY PERMITS THE ONDCP DIRECTOR TO RE-ASSIGN FEDERAL PERSONNEL ON A TEMPORARY BASIS - WITH THE CONCURRENCE OF THE HEAD OF THE RELEVANT DEPARTMENT OR AGENCY.

HIGH INTENSITY DRUG TRAFFICKING AREAS ARE TO BE DESIGNATED EACH FEBRUARY, UPON THE ANNUAL SUBMISSION OF A NATIONAL DRUG CONTROL STRATEGY TO THE CONGRESS.

AS I INDICATED EARLIER, SECRETARY BENNETT IS EXPECTED TO MAKE THE FIRST SUCH HIGH INTENSITY DRUG TRAFFICKING AREA DESIGNATIONS WHEN HE SUBMITS THE FOLLOW-UP DRUG CONTROL STRATEGY, DUE ON FEBRUARY 1, 1990.

I LOOK FORWARD TO OUR WITNESSES' EVALUATION OF THIS PROVISION OF THE OMNIBUS ANTI-DRUG ABUSE ACT OF 1988.

The CHAIRMAN. Thank you. Let me pursue a couple of the points that Senator Grassley has raised. I might add, and I am not being solicitous, he has been intensely and deeply involved in this subject, and has made as much of a contribution as anyone, assuming anyone thinks any of us made any contribution up here in the Senate, but you have gotten a little bit of the taste of the different point of view the Senator and I have based on our questions.

Senator Grassley represents a point of view that is strongly held by many members of the Congress and the Senate, and I believe it is a predominant view within the administration at this point on this issue, not that he has discussed that at this point—I am not suggesting that. But philosophically, it has been moved in that direction.

I would just like to make a couple of points and ask you to respond. In the bill that we passed—it passed the Senate; it did not pass the House—just a month ago or less, I added a provision, and I believe with the help of the Senator from Iowa—I do not want to get him in trouble if he did not support it; my recollection is he did—but we added \$20 million in bloc grants for rural drug enforcement. Now, we already passed that. The House did not. It is not law yet, but the Senate has spoken its will and said \$20 million should go above and beyond anything and everything that we passed already to rural law enforcement, rural drug enforcement efforts.

The proposal being discussed, if the press reports are correct, for the designated high-intensity areas for cities, is only \$40 million. And to the best of my knowledge, no one in the Senate has proposed shifting any money from anything else for this high-intensity drug effort.

The proposal that I have, which hopefully will be one that will be considered by and is being considered by the administration, and if not it will be one that will be in a legitimate sense in competition with the administration's proposal, is a \$300 million high-intensity plan, but we do not call it high intensity. It is a little bit like disaster relief. Any city in America, big or small, can apply. The decision will be made by the drug coordinator—the new czar, if you will—to decide who in fact will get what portions of this money.

So, to the best of my knowledge—and you correct me if I am wrong, gentlemen—what you are talking about and what you have been testifying to is not money that is in lieu of something else; it is money in addition to something else. Is that correct? Is that what you are assuming?

Mayor BERKLEY. Right.

Mayor DINKINS. Yes.

The CHAIRMAN. Now, the President's anticipated proposal will be that in those high-intensity drug areas, money—under his proposal—would go directly to cities, would bypass the State legislative bodies and the State executive as would money in the proposals that I am putting forward.

Why is it important to each of you that—to put it bluntly—the State legislature be bypassed and the Governor be bypassed and the money go directly to you—this additional money, not in lieu of,

but additional money. Why is it important, Mayor Berkley, that it go directly to you?

Mayor BERKLEY. I strongly believe and have testified previously to that extent that that should have happened with some of the money that was allocated earlier. Again, not all of it, but I think a reasonable portion of it should go to the large urban areas because of the magnitude of the problem in the cities.

The history of it has been that a relatively small percentage of the money that has gone to the States has in turn been turned around and passed directly on to the cities. It has been in some program of the State rather than passed through. I think about 15 percent of the money has actually been passed through directly to the cities, which is not adequate.

The States have some good ideas, but the cities are on the firing lines, and they have a real concept of what needs to be done in their individual cities, and it varies from location to location. For one reason, there may be access to a great deal more treatment in one community than another, by circumstance of the existing facilities, or somebody maybe even in the private sector that might be helping.

There are so many different circumstances that if those moneys can go directly to the cities—at least some of them—it is very, very important. Secondly, there has been a timeliness aspect to it.

The situation has improved significantly, I will say, but in the first year, a couple of years ago in the major drug legislation, it took an extensive time to get the money through the States and redistributed because they were developing their own plans and modifying them each year, and still it is true that even the money for the last fiscal year, I think there is still some 25 percent that has not been redistributed.

So, there is, in my estimation, two fundamental basic reasons. One is the timeliness, and two is its impacts, I think, better on the areas that have the greater need; again, taking nothing away from the other areas that also have a need.

Mayor DINKINS. I would agree. I think that timeliness is perhaps, in our case, the most important factor. Delays cost lives. There is an awful lot of violence attendant on drugs, and the more quickly we are able to get the resources where the resources are needed, the better off we all are.

The CHAIRMAN. Let me ask you to respond to two more points, and then depending on whether Senator Grassley has any more questions, I will not keep you any longer.

The vehicle that I understand the administration plans on using for the high-intensity drug areas is going to be DEA and FBI. It would not go directly to the city administration. It would go to DEA and FBI, but it would be focused on the cities as designated, and obviously it would be law enforcement, which is not bad, but it limits, in a sense, what you can do.

But, it is stated, Mayor Dinkins, by many that it would be a waste of dollars, treatment dollars right now because we do not have enough trained treatment personnel because of the cuts that took place from 1979 through 1985, and there is not enough of an infrastructure there to be able to wisely spend these dollars.

Now, I am told that New York City alone has about 50,000 drug treatment slots—New York State, I should say, has 50,000 slots to treat addicts from the entire State, not just the city. And I am also under the impression—I would like you to comment on this—that New York City alone could very easily fill those 50,000 slots and still have people knocking on the door for treatment.

Is that correct?

Mayor DINKINS. Yes, I think it is. Whether the numbers are precise or not, there is a tremendous number of people waiting, and you may get different answers as you go to various drug treatment facilities, and you ask them how long the waiting list is. In some cases, the numbers that I have been using of late are 8 months.

If one can envision a young addict who goes to a treatment facility and says:

Please take me in. I need help. Last night I struck my mother, knocked her down and took her money. But this morning, in a lucid moment, I recognized that I need help. Please, help me,

and this person is told to come back in 8 months. In that interim period, they will set upon you or me to get money to satisfy that habit, and there they are seeking help.

It is, I think, so important that we provide it, and there is just no way with which I am familiar that we can attack that aspect of the problem without providing the treatment.

And if one envisions that not very long ago, it was sort of the chic, in-thing to do to try a little cocaine at a swank party—these are intelligent, well-educated people who try a little cocaine. We know we now have millionaire athletes and other celebrity types who have great wealth who dabble in drugs.

Can we not then understand that the youngster caught in a cycle of poverty, seeing parents and perhaps a grandparent in tremendously difficult circumstances, at age 14 or 15, we ask that they have the ability to just say no to drugs and resist the peer pressures that come. Some of these people get addicted early on, and some can be saved. They can be saved, and not only do we save a life and give them an opportunity and ability to achieve the potential that is there, but society benefits. This person becomes a useful citizen and contributes to the tax base instead of being a drain on it.

I just think that we just have no option but to try to provide some assistance to some of these kinds of people.

The CHAIRMAN. Mayor Berkley, do you have any closing comment?

Mayor BERKLEY. Well again, we appreciate very much what has happened to date. I have to say that there has been a significant change, I think, on the national scene with regard to the recognition of the intensity and the severity of the drug problem in this country, and I think both the administration and both houses of Congress have taken a very strong action in recent years, but at the same time the problem is still as severe as it was. In some ways, it is growing. In some places, we are seeing some progress as far as lesser use. But, the magnitude of the problem is really hard to describe.

Consequently, it needs even more focus and more attention, and the fact that you are here today for that very purpose is something that should be applauded and something that we are appreciative of, and we hope that working together between the Federal and the State and the local governments, we can, in fact, continue to see modification and at this time increased financial support for the various programs that are needed because it is devastating the country.

Senator GRASSLEY. I will only make one comment in closing: As a basic concept that I think we all agree with—and I believe it was Drug Policy Director Bennett that said it—that if winning the war on drugs is dependent upon money from the Federal Treasury or from any public treasuries, then the war is already lost. We have got to be involved in the drug war on a much broader basis than just how much money is spent—meaning not only all levels of government, but all the other public and private institutions in American society, as well.

Mayor BERKLEY. Absolutely.

The CHAIRMAN. Thank you. I do not think anyone would disagree with that, but I hope that we have all learned that you just cannot just pick one piece of the problem and concentrate on it at the expense of the others. They all have to be acted on simultaneously or we are not going to make much progress. I think we can and will make much progress.

I thank you two gentlemen from being—how shall I phrase it—committed enough to wish to be mayors of large cities, a desire that I have never been plagued by, and an ability I am sure I lack. But, neither of you do. I thank you very, very much for you being here.

Mayor DINKINS. Thank you.

Senator GRASSLEY. Thank you both very much.

Mayor BERKLEY. Thank you.

The CHAIRMAN. Now, our next panel of witnesses will be two very important gentlemen with a great deal of experience. Mr. Robert Stutman is a 25-year DEA veteran, who has been in charge of DEA's New York Office for the past 4½ years. He is a normally frank and outspoken person. He testified before this committee at a hearing in New York City last summer. He has been the agent-in-charge for New York for, as I said, 4½ years.

Also, the chief of police of the Dallas Police Force, Mack Vines, he is also president of the Police Executive Research Forum, which includes major city police chiefs from all around the country.

I know I said to you gentlemen earlier I thank you for being willing to come today. I know the weather did not accommodate you very well. Hopefully, though, we can get you out of here before the flights that you are on are canceled, if that is to be the case.

Gentlemen, thank you very much. Why don't we begin with you, Mr. Stutman, and hear what you have to say, and then we will move to questions.



**STATEMENT OF ROBERT STUTMAN, SPECIAL AGENT-IN-CHARGE,  
NEW YORK DIVISION, DRUG ENFORCEMENT ADMINISTRATION,  
NEW YORK, NY**

Mr. STUTMAN. Thank you, Mr. Chairman. As always, it is a pleasure to appear before you, this time in Washington, as opposed to New York. I think Mayor Dinkins, the newly elected mayor, very aptly summed up the problem in New York. If I could just take 2 or 3 minutes, because I do not have any—

The CHAIRMAN. Take as much time as you have.

Mr. STUTMAN. I do not have a prepared statement, but let me just very quickly, if I could, from my own personal point of view sum up the problem that I see in New York, and what the results are right now.

First of all, I believe New York City probably suffers from the worst drug problem of any city in the United States. According to their own figures, there are about 250,000 heroin addicts in New York, and between 400,000 and 600,000 cocaine addicts in New York City.

The CHAIRMAN. Is that two distinct categories?

Mr. STUTMAN. Yes, sir; two completely separate categories. According to a very highly respected, recently completed study done by a nonprofit private foundation, there may be as many as 125,000 addicts in New York City between the ages of 12 and 17. That is where we are as far as addiction goes.

The problems that are caused I think the mayor very aptly summed up: Violence on the streets. I have lived in New York for 4½ years, as you said in your statement, sir, and I can tell you in the 4½ years I have lived there I have seen a change in the tone, the texture and the face of New York, and all of that change is due, in my opinion, to drugs, specifically cocaine and crack. It has changed the feel of the city.

There is no where in New York where you cannot buy drugs, whether it be on Wall Street, Madison Avenue, Fashion Avenue, or the Upper East Side or the Upper West Side. And there are very few places in New York where you can feel safe from the effects of drugs. I think the mayor very aptly summed that up.

There are two problems, however, that I would very quickly like to point out that I do not believe have received the proper public scrutiny that I believe are a direct result of the drug problem.

One is, I think, the ultimate victims of the drug problem that you and I are talking about today—it may not even be you and I—I think, are kids, and I believe they are kids for two reasons, one of which Mayor Dinkins, I believe, or maybe yourself, commented on: According to Dr. Bennett, there will be about 300,000 cocaine-addicted babies born in the United States this year, a significant percentage of those in New York, and also a very high percentage of AIDS babies—

The CHAIRMAN. Bob, did you say 300,000?

Mr. STUTMAN. Yes, sir; that is what I said. Also, approximately a significant number of HIV-positive babies are born in New York City.

Now, what is interesting—although we often argue about needle sharing and the problems of addiction in HIV-positive babies—

what we are now finding in New York City, I believe, is a significant percentage of those babies are not the children of heroin-using mothers, but crack-using mothers, and that is tied directly to the promiscuous sex that is involved with crack use, specifically around crack houses.

We are also looking at kids. I think the one area that we tend to overlook is the area of child abuse. I believe the horrendous child abuse numbers we are seeing in New York City, again, are directly tied to the use of cocaine and crack.

Last year in New York City, 73 percent of the children who were beaten to death were the children of substance-abusing parents, and according to the people who keep those figures, the majority of those parents were cocaine users.

The number of battered kids, who were reported to the authorities in New York City, went from 1986 to 1988 from about 2,500 to about 8,600. Most of those kids are the children of substance abusing parents, and most of that substance abuse happened to be cocaine.

There was a case that I know you have heard of in New York called the *Lisa Steinberg* case. It was played, frankly, by the media as a horrible example of child abuse. I think the media completely misplayed that case. I think that was a classic textbook example of what happens to otherwise bright, upper-middle class people who start smoking cocaine, and how that smoking cocaine so changes them emotionally and psychologically that over a period of time they beat a child to death.

I think that is one of the end results of cocaine that we are not seeing quite as publicly. We do not see people beaten on the streets. We do not see the muggings, but those kids, I believe, are the ultimate sufferers of the problem we are dealing with.

The second issue that has to do with cocaine and drugs in New York that I think is a vast change and one that we have not talked about very much, but I believe if one were to prognosticate 2 to 3 years from now is going to make the biggest difference, and that is very simply we are seeing in New York the femalization of drug addiction. That is a complete change from what we have seen in the past.

For the past 20 years in New York, drug addiction has been basically a male-dominated problem. Almost 80 percent of our heroin addicts were male. What we are now finding is at least 50 percent of our cocaine and crack addicts are female. Now, that means unfortunately, in the inner city—which is what the subject is of this hearing today—are urban areas. As you know better than I do, Mr. Chairman, most families in inner cities are matriarchal in nature.

Because a significant percentage of those heads of families are now becoming drug addicts, we are losing the last vestiges of family life in the inner city. And in fact, the *New York Times*, about 4 months ago, did an excellent piece on how grandmothers are now taking over families in the inner cities because the mothers are the addicts.

I believe that 2 or 3 years from now, Mr. Chairman, that femalization of drug addiction is going to have a more significant long-term effect on the cities we are talking about than even the vio-

lence on the streets today, and I believe that is an issue we must look at.

The bottom line is a city like New York, which I am here talking about today, is suffering tremendously. I believe the prognosis is nothing but bad for the future unless we are ready to bite the bullet and look for some serious long-term answers to a very, very complex problem, and get working on it very quickly.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Chief.

#### STATEMENT OF MACK M. VINES, CHIEF OF POLICE, DALLAS, TX

Mr. VINES. Mr. Chairman, it is indeed a pleasure to be here in this inclement weather, as you discussed before. It is an honor, of course, to be president of the Police Executive Research Forum, which is made up of a number of police departments of significant size in a 100,000 population and more. And also, of course, it is an honor and a challenge to be the chief of police of Dallas.

Let me say a bit of my background. I have had almost 30 years of law enforcement, and I was interested in the number of your questions in the discussion prior to this second panel convening in regards to small cities, rural cities, and large urban environments.

I have had the opportunity to be a police chief in a city of about 62,000 people, where we had 143 people on the police department, where they had a murder one year, and they had some drugs. They had a lot of children burglarizing, as an example, and stealing.

I also am chief of police in the city of 375,000 people, and also 250,000 people, where we had obviously more numbers and larger numbers, and now I am chief of police of a city of approximately 1 million people or a bit more and a metroplex of Dallas and Fort Worth of 3.4 million people, and we have a budget of \$176 million, and a total of authorized positions of almost 4,000 people.

All this is to say that based on some of the questions you asked before of the other learned individuals here, that drugs and crime exist in varying degrees, wherever we are. But from my experience and my travels in almost 30 years, as I stated, we have the numbers in the larger areas, and we have problems there. We have crime. We have numbers. We have bodies.

As an example, I said the smallest city had a murder one year. We had 367 murders last year. And also, 131 to 135 of those were definitely drug related—60 to 70 of those 130 drug-related murders were Jamaican drug-related murders committed by a small portion of our Jamaican population in the city of Dallas.

So therefore, my background tells me that funding must exist, but it must exist in varying degrees, and the demands are definitely different. I have some prepared remarks, if you would allow me to continue.

Allow me to begin by stating as chief of a major American city, our resources are restricted and encumbered. However, if we were to receive new and enhanced funding, we would address the issue of drug proliferation in our arena in possibly an atypical fashion.

Unlike some law enforcement agencies, we would not attempt to take such funding and try to spend it in traditional areas. While it is true that we never seem to have enough resources, more police

officers and more police cruisers and sometimes "toys"—as I call them—are not the sole answer for drugs and crime.

The more appropriate and ultimately effective approach encompasses a multiagency strategy. Our department cannot enact legislation, provide treatment, educate all citizens about the dangers of drug abuse, nor authorize funds for more courts and prisons. These issues must be addressed by each citizen and organization at all levels of government. A total community commitment is essential.

In Dallas, we have written "Control of Drugs in Dallas—a Comprehensive Strategy for the 1990's," and I have had the honor of supplying this to your staff. It contains comprehensive recommendations to guide Dallas through the upcoming decade, and helps—to some extent—answer what we would do with additional funding. In this discussion, we should focus on some of the strategy's major tenets.

The first, local and State and Federal criminal justice: Only through cooperation and unified efforts by all members of the criminal justice system will we be able to reduce the drug problem.

We recommend creating interjurisdictional drug task forces; providing overtime funding for police officers; teaching structured drug-abuse resistance curriculums in schools; centralizing an intelligence gathering network on drug offenders, not only locally within the metroplex area, Mr. Chairman, but throughout the country. Our intelligence gathering and dissemination efforts are not to the degree that they should be, from my experience and this learned individual to my right, here.

We recommend coordination of drug enforcement with prosecutors to prioritize cases and increase prosecution of major drug dealers; organizing drug prosecution units; creating special drug courts; strengthening drug rehabilitation programs for prisoners, including those in county jails.

The second major tenet, the community involvement in drug education: Here we propose increasing efforts to educate young people through drug education programs in private and public schools, beginning at the day-care level and continuing through junior high; enlisting the support and active participation of parent/teacher groups, civic/service organizations and churches; encouraging, and even funding enlightened community activism and citizen participation.

The third, interdiction efforts by local and regional agencies: These efforts would include, due to limited personnel, increasing again overtime initiatives for budgets to enhance successful follow-up to lengthy drug investigations and other specialized law enforcement programs, such as the Dallas 'Operation CLEAN, which is an acronym for community and law enforcement against narcotics; providing additional narcotics personnel at local airports for interdiction efforts.

We have one of the major airports that is in constant competition with, I believe, Atlanta, Chicago, Dallas/Fort Worth airport, and they are continually saying soon we will be the No. 1 port in the country. That particular locale brings in more activities in the central part of the State of Texas, and continues the cartels into the New York, Kansas City and New Jersey and other areas or points of destination.

These efforts would also include purchasing of additional sophisticated equipment such as body microphones, mobile telephones, portable radios and night scopes; increasing training for narcotic officers, and including supplemental training for all officers.

Now, you asked the honorable mayors that were present here these specific questions—I obviously am not a mayor—and I am becoming very specific as to what law enforcement uses in these particular issues in the event that we were funded.

The fourth area, drug treatment needs and goals: This initiative is an area of demand reduction that has been sadly unfinanced. In Dallas, there are very few opportunities for indigent addicts to receive rehabilitation treatment. Mr. Chairman, I understand there is approximately 16 beds that exist in the Dallas area for indigent drug users.

The CHAIRMAN. Sixteen?

Mr. VINES. Sixteen beds. We had one organization that was predominantly for housing of indigent individuals. However, it received financial difficulties, and is no longer in existence. There is discussion in that area about increasing rehabilitation, but the funding has not been generated yet.

We would recommend increasing funding to support drug treatment programs for the indigent, as I just mentioned. This effort would include providing meaningful rehabilitation facilities for the poor, both on a residential- and an outpatient-basis; expanding coordination and networking between local treatment facilities and referring agencies.

We would propose emphasizing treatment rehabilitation of drug abusers through the criminal justice system. This treatment might take the form of alternatives to incarceration, whereby the offenders must successfully complete rehabilitation in lieu of prison sentencing. This concept might also include literacy and basic job skills training as alternatives to prison and parole.

We also would recommend establishing local jail bed space for temporary incarceration of addicts toward small quantity users. This activity is practiced in the city of Phoenix right now, where they arrest users, and are going after the demand or toward the demand direction as opposed to just interdicting the supply.

Of course, in closing, illegal drug activities are basically local problems with national ramifications. Proper funding to address these issues, especially in major cities and high-intensity areas, of course, is essential due to the numbers I have mentioned before. The drug problem has reached intolerable extremes and threatens the basic security and stability of our country.

If I might quote a couple of statistics that tie directly into your conversations, I believe, prior, then I will close real quick, if it is all right. It has been stated that approximately 60 percent of the illegal drugs are consumed—that exist on this globe—are consumed in the United States.

In 1988, last year, our police department arrested almost 6,000 people for narcotic violations. We ran almost 1,000 warrants for drugs, seized over \$22 million in illegal drugs, and \$5.6 million in assets.

In Dallas, 53 percent of the males, 51 percent of the females tested positive for cocaine at the time of their arrest. Nationally, 53

percent to 79 percent of the men arrested for serious offenses tested positive for illegal drugs. That is from the U.S. Department of Justice figures, and they go on and on and on.

These numbers, as I have stated and you are very familiar with, tell us that crime is driven by drugs in our particular areas. We have major areas of our criminal justice system, and the final statement is we have education, and it is our first responsibility. Then, we have the enforcement initiative.

In all fairness, law enforcement, from the Federal, State, county, and local agencies throughout the country, are doing a very effective job. With the amount of people that I have the responsibility for in Dallas, I really do not have to encourage police officers to enforce the law. I more or less have to harness them and direct them in the right direction so they have meaningful numbers, as an example, and we have something at the end to show for our efforts.

So, by putting more people on the street, by creating more law enforcement initiatives, we inundate the rest of the system. There is no way the prosecutorial area can handle my workload that I can generate, or the judges in the judicial area can handle what the prosecutor might want to prosecute. Of course, the corrections can handle what the judges want to incarcerate, and the rehabilitation area for those people coming out.

So, what I am saying is from my experience, not only the 30 years of law enforcement, Mr. Chairman, but also serving for almost 2 years as the Director of the Bureau of Justice Assistance—where these moneys are usually funnelled through—I have found the almost 2 years that I was there, that the lion's share of those moneys were directed toward law enforcement issues.

And again, as I sit back as a law enforcement individual, what are the answers? The more we put in jail, the more problems we seem to have. I am saying my atypical type of approach is paralleling yours, and that is not wrong. I am looking at the fact of what can we do as law enforcement executives to answer some of the problems we have in our communities, and that is not just law enforcement—we continually need to have our funding for law enforcement—but we need to touch the other elements of the judicial system, or we are not going to succeed.

Thank you.

[Mr. Vines submitted the following material:]

**Mack M. Vines  
Chief, Dallas Police Department  
President, Police Executive Research Forum**

**for**

**Senator Joseph Biden, Jr.  
Chairman  
Committee on the Judiciary**

**Allow me to begin by stating as chief of a major American city, our resources are restricted and encumbered. However, if we were to receive new and enhanced funding we would address the issue of drug proliferation in our arena in possibly an atypical fashion.**

**Unlike some law enforcement agencies, we would not attempt to take such funding and try to spend it in traditional areas. While it's true that we never seem to have enough resources, more police officers and more police cruisers are not the sole answer.**

**The more appropriate and ultimately effective approach encompasses a multi-agency strategy. Our department cannot enact legislation, provide treatment, educate all citizens about the dangers of drug**

abuse, nor authorize funds for more courts and prisons. These issues must be addressed by each citizen and organization and all levels of government. A total community commitment is essential.

In Dallas, we have written "Control of Drugs in Dallas -- A Comprehensive Strategy for the 1990s." It contains comprehensive recommendations to guide Dallas through the upcoming decade, and helps, to some extent, answer what we'd do with additional funding.

In this discussion, we should focus on some of the strategy's major tenets.

1. Local and State and Federal Criminal Justice: Only through cooperation and unified efforts by all members of the criminal justice system will we be able to reduce the drug problem. We recommend:

>Creating inter-jurisdictional drug task forces.

>Providing overtime funding for police officers teaching structured drug abuse resistance curricula in schools.

>Centralizing an intelligence-gathering network on drug offenders.

>Coordination of drug enforcement with prosecutors to prioritize cases and increase prosecu-



tion of major drug dealers.

>Organizing drug prosecution units .

>Creating special drug courts.

>Strengthening drug rehabilitation programs for prisoners, including those in county jails.

2. Community Involvement in Drug Education. Here, we propose:

>Increasing efforts to educate young people through drug education programs in both private and public schools, beginning at the day-care level and continuing through junior high.

Enlisting the support and active participation of Parent-Teacher groups, civic/service organizations and churches.

>Encouraging--and even funding--enlightened community activism and citizen participation.

3. Interdiction Efforts by Local and Regional Agencies. These efforts would include:

>Due to limited personnel, increasing overtime budgets to enhance successful followup to lengthy drug investigations and other specialized law enforcement programs such as Dallas' Operation CLEAN (Community and Law Enforcement Against Narcotics).

>Providing additional narcotics personnel at

local airports for interdiction efforts.

>Purchasing of additional sophisticated equipment such as body microphones, mobile telephones, portable radios and night scopes.

>Increasing training for narcotics officers and include supplemental training for all officers.

4. Drug Treatment Needs and Goals. This initiative is an area of demand reduction that has been sadly underfinanced. In Dallas, there are very few opportunities for indigent addicts to receive rehabilitation treatment. We would propose:

>Increasing funding to support drug treatment programs for the indigent. This effort would include providing meaningful rehabilitation facilities for the poor, both on a residential and out-patient basis.

>Expanding coordination and networking between local treatment facilities and referring agencies.

>Emphasizing treatment and rehabilitation of drug abusers through the criminal justice system. This treatment might take the form of alternatives to incarceration whereby offenders must successfully complete rehabilitation in lieu of prison sentencing. This concept might also include literacy and basic job skills training as alternatives to prison and parole.

>Establishing local jail bed space for temporary incarceration of addicts directed toward small

quantity users.

Illegal drug activities are basically local problems with national ramifications. Proper funding to address these issues, especially in major cities and high-intensity areas, is essential. The drug problem has reached intolerable extremes and threatens the basic security and stability of our country.

# Control of Drugs in Dallas



A Comprehensive Strategy for the 1990's

---

## Executive Summary

Dallas Police Department  
Mack M. Vines  
Chief of Police

November, 1989

# Control of Drugs in Dallas

**A Comprehensive Strategy for the 1990's**

## Executive Summary

---

Over sixty percent of the illegal drugs in the world are consumed in the United States. As Mr. Jerald R. Vaughn, the former Executive Director of the International Association of Chiefs of Police, stated, "Drugs have become the most serious threat to the domestic security of our nation". The citizens of our nation and city are besieged by the problems created by illegal drugs. The suffering and misery affect the lives of everyone. Our institutions, including schools and work places, are tainted by the scourge of drug abuse. To combat this problem, the citizens and the police of our city must increase their efforts and cooperation to reduce this threat to our society. Police resources must be increased and focused on the drug problem while the citizens must become involved through programs emphasizing prevention of drug use and the incarceration and rehabilitation of drug users.

On January 21, 1988, the United States Department of Justice released a report on the new Drug Use Forecasting (DUF) program. The purpose of the program was to track drug use trends among urban defendants suspected of dangerous crimes. The results have confirmed what many law enforcement personnel have suspected for years - drug use is overwhelmingly linked to crime. Officials in Washington reported that from 53 to 79 percent of the men arrested for serious offenses in major cities tested positive for illegal drugs.

The Dallas Sheriff's Department began using the Drug Use Forecasting System in June, 1988. The results were as disturbing as the national studies. Fifty-three percent of the males and 51 percent of the females tested positive for

cocaine at the time of their arrests. This percentage made cocaine the most frequently detected drug in the prison population.

In an effort to establish a link between drugs and murder, the Crimes Against Persons Division of the Dallas Police Department studied 292 homicides in Dallas from January to October, 1988. The study indicated that 36 percent of the murders involved drugs. The Drug Enforcement Agency estimates that approximately 600 murders involving Jamaican drug organizations occurred in the U. S. last year with 46 of these murders being committed in Dallas. If the 36 percent drug-related murders alone are considered, 131 murders were drug-related. The murder rate would have declined 36 percent in 1988 if the drug-related homicides had been prevented. If alcohol is included, 67 percent of the murders are drug-related. Twenty percent of the murders were robbery-related, and if the Dallas Sheriff's Department DUF study is considered, possibly 62 percent of these suspects would have tested positive for cocaine usage. The Police Department study confirms that illegal drug usage is a major factor in murders. These murders go beyond one "drug dealer" killing another. They affect every citizen who may be robbed or may face a drug-influenced suspect committing a burglary or a theft.

Dallas Police Officers arrested over 5,800 persons for narcotics violations in 1988. Over 1,000 warrants were executed, and the street value of seized illegal drugs was \$22 million. National studies indicate that most arrested persons were repeat offenders and/or violent criminals. Predictably, 95 percent of those arrested are recidivists or will have been convicted of violent crimes. More national studies report that one-half of men and women serving prison sentences state that they were under the influence of drugs and/or alcohol when they committed their crimes.

Dallas, like many other large cities, has initiated anti-drug efforts such as drug task forces, neighborhood "surveys", specialized enforcement efforts aimed at "crack houses", and various undercover strategies.

This year, Operation CLEAN (Community and Law Enforcement Against Narcotics) was begun by all city departments to reclaim neighborhoods from drug dealers. Residents cheered as large numbers of police officers arrested known drug dealers, and city maintenance crews cleared streets and alleys of rubbish and debris. Other city departments followed up with code enforcement and social services.

Control of Drugs in Dallas - A Comprehensive Strategy for the 1990's consists of an introduction and eleven initiatives: The Local and State Criminal Justice System; Community Involvement in Drug Education; Interdiction Efforts by the Dallas Police Department and Regional Agencies; Operation CLEAN; Drug Treatment Needs and Goals in Dallas; Legislative Efforts at the State Level; Weapons and Illicit Drug Trade; Intelligence and Research; Dallas and International Drug Commerce; Chemical Precursor Drugs; and Information and Technology Management. Also included are three appendices outlining drug treatment programs available in Dallas County.

This report describes the efforts of the Dallas Police Department in the fight against illegal drugs. The Department coordinates interdiction initiatives with regional, state, and federal agencies. It also coordinates the efforts of individual citizens and citizens' groups who wish to join with the Department to improve our community.

Although the Department's role in the fight against drugs cannot be understated, it remains but one part of the fight against illegal drugs. The Department cannot enact legislation, provide treatment, educate all citizens about the dangers of drug abuse, or authorize funds for more courts or prisons. These duties must be performed by each citizen and organization in our city and state. Control of illegal drugs can be accomplished but only at a great cost in money and time. The Department stands ready to make the effort, but a total community commitment is essential. We must all strive to reach a consensus of priorities, be willing to cooperate with each other, coordinate our efforts, form coalitions and have the courage to face this insidious scourge called drug abuse. With this kind of commitment, Dallas will continue into the future as a vibrant and safe city for all citizens.

The following is a summary of the Dallas initiatives of the Control of Drugs in Dallas - A Comprehensive Strategy for the 1990's.

## **I. The Local and State Criminal Justice System**

No single branch of the criminal justice system can expect to significantly reduce drug usage. Only through cooperation and a unified effort by all members of the criminal justice system can the drug problem be reduced. Law enforcement must work closely with prosecutors and courts to ensure maximum sentences for drug dealers. The Legislature must provide the financial support for the prison system to keep these criminals away from society, thus preventing more crime and discouraging other potential criminals.

Although cooperation between members of the criminal justice system is vital, these efforts are diminished unless every citizen is willing to join in the effort. Sacrifices in terms of time and money are needed if more courts are to be created, more police officers are to be hired, and more prisons are to be built.

### **Recommendations**

- Create an interjurisdictional drug task force.
- Centralize an intelligence-gathering network on drug offenders.
- Coordinate drug enforcement with prosecutors to prioritize cases and increase prosecution of major drug dealers.

- Organize drug prosecution units.
- Increase cooperation between the prosecutors and law enforcement personnel.
- Start a pre-sentencing investigation program by the courts.
- Establish a drug coordinator between the prosecution, the defense and the court.
- Conduct pretrial drug detection.
- Create special drug courts.
- Perform extensive criminal history checks of drug offenders.
- Expand prison facilities.
- Utilize drug testing programs in prisons.
- Strengthen drug rehabilitation programs for prisoners.

## **II. Community Involvement in Drug Education**

The traditional role of law enforcement in combatting drug abuse is seen as making arrests. This limited scope is no longer adequate when the enormity of the illegal drug problem is considered. The community looks to the Dallas Police Department to actively work in other areas including drug abuse education, prevention, and mobilization of community resources.

The Police Department has accepted this responsibility and provides drug abuse prevention education to thousands of school children through its Law Enforcement Training Students (LETS) program. Additionally, the Department works to support community organizations who provide counselling services and funds for drug abuse prevention and treatment. Departmental programs now range far beyond traditional law enforcement to help improve neighborhood conditions and the lives of all citizens.

### **Recommendations**

- Increase efforts to educate young people through programs such as LETS and through a commitment from institutes of higher learning.
- Continue community access to police resources to help educate the public.



- Increase local funding to support drug treatment programs for the indigent.
- Encourage enlightened community activism and citizen participation.

### **III. Interdiction Efforts by the Dallas Police Department and Regional Agencies**

The Dallas Police Department is the largest agency in the regional area and has assumed a vital role in the interdiction efforts against drugs. Task forces aimed at specific problems, such as drug smuggling into airports, have been formed. Other efforts include Operation CLEAN to rid the neighborhoods of drug dealers and undercover operations which target both dealers and users of illegal drugs.

#### **Recommendations**

- Increase overtime budget to enhance successful follow-up to lengthy drug investigations.
- Add additional narcotics personnel at Love Field to cope with increasing passenger traffic.
- Purchase equipment such as body microphones, mobile telephones, portable radios, and night scopes.
- Increase training for narcotics officers to include supplemental training for all officers.

### **IV. Operation CLEAN**

Operation CLEAN (Community and Law Enforcement Against Narcotics) is a city-wide initiative to coordinate City Departments in a concentrated effort to rid specific neighborhoods of drug dealers. In a three phase operation, drug dealers are identified and arrested. Concurrently, other City Departments vigorously enforce codes and ordinances and city crews clean streets and alleys. Four of these operations have been conducted as cheering citizens stood by to watch their neighborhoods returned to peaceful and orderly places to live.

#### **Recommendation**

- Money has been committed in the 1989/90 budget to fund up to six Operation CLEAN programs. This program should be expanded in the next budget year.

## V. Drug Treatment Needs and Goals in Dallas

The traditional approach toward drug abuse by law enforcement is to actively arrest drug dealers and users. Considering the pervasiveness of the drug problem, this approach is now only one aspect of the community and departmental response. No one can ignore the importance of providing treatment for drug abusers. In the past, treatment often has not been available to indigent drug abusers who sought help. If the drug problem is to be controlled, more treatment programs must be developed and drug abusers must receive the help needed to become productive citizens.

Programs for drug abuse treatment exist within corporations and some governmental agencies. These programs must be expanded and others must be created to provide treatment for drug abusers. Many of these people will never become productive citizens without help.

### Recommendations

- Increased funding for treatment facilities for indigent and low income drug abusers.
- Expanded coordination and networking between local treatment facilities and referring agencies.
- Increased public awareness of the dangers and costs of drug abuse and of available resources.
- Evaluation and assessment of treatment facilities to determine treatment effectiveness and fiscal needs.
- Emphasis on treatment and rehabilitation of drug abusers through the criminal justice system (civil commitment).
- Expansion of in-house assessment, counseling, and referral options for Dallas Police Officers.

## VI. Legislative Efforts at the State Level

Law-making and the development of policy at the state level is an integral part of the criminal justice system. Coordination with the Legislature is essential if a unified effort against illegal drug usage is to be made. The Dallas Police Department must be diligent in its duty to inform the Legislature of what types of laws are needed and where state funds could be most effectively spent.

## Recommendations

- Additional prison capacity. Early release and light sentencing for drug dealers undermines the entire legal system. State prison capacity must be increased to handle the increases in prison population resulting from drug usage.
- Minimum mandatory sentences for serious crime. Offenders convicted of criminal offenses such as selling drugs, repeated narcotics offenses, or selling drugs to children, are deserving of long and mandatory jail sentences.
- Mandatory jail sentences for habitual criminals that are known drug users who test positive for drugs. This will reduce the impact of drugs on future criminal activity.
- Mandatory drug testing and treatment as a condition of parole/probation. This will also reduce the impact of drugs on future criminal activity.
- Alternative sentencing statutes. Alternatives to prison should be available for first time, non-violent offenders. Innovations in this area would make it possible to ease overcrowding in jail facilities while retaining accountability for criminal behavior.
- Demand reduction legislation. It is vital that laws are structured to provide a complete set of prohibitions for drug usage as well as distribution. Demand reduction statutes that address the act of buying or attempting to buy drugs. They are, in some aspects, as necessary as the laws which prohibit drug selling. An example of such legislation would be the criminalization of offers, attempts, and solicitations to buy or sell illegal drugs. An enforcement tool of this type would allow the arrest of persons violating these statutes. Additionally, this would eliminate the evidentiary problems of drug custody, chain of custody, and drug testing.
- Schoolyard laws. This legislation establishes "drug-free" zones around locations frequented by minors.
- Keeping a drug house legislation. This would sanction owners of premises where drug activity is occurring.
- Procedural changes for reversals. Some restrictions should be lifted.
- Enhance legislative awareness through intense efforts by the Legislative Lobbyist and through correspondence to legislators from the Chief of Police.
- Develop a coordination of effort for legislative goals between the City Legislative Lobbyist, Department Legislative Coordinator, and the Legal/Detention Division.

- Continue to support appropriate legislative programs from groups with complimentary goals, such as the Greater Dallas Crime Commission, and assist these groups whenever possible.
- Institute a system to track the progress of law enforcement related bills; to include, an index of proposed legislation, establishment of a position on items, and a record of final disposition of important bills.
- Increased input from Division Commanders on needed legislation in the development stage.

## VII. Weapons and Illicit Drug Trade

The desire to protect assets such as drugs, money, and specific areas of operation has caused drug dealers at all levels to increase the number and quality of firearms they use. As a result of the large sums of money they have available to them, dealers are able to purchase unlimited numbers of state-of-the-art weaponry, such as the assault rifle.

Unfortunately, Dallas is a large supplier of weapons to the illegal drug trade at the regional, national and international levels. The availability and ease of purchase of firearms under current Texas laws, as well as the size and location of Dallas, are contributing factors to the City being a popular source of weapons supply. Also, the large number of airports, rental vehicles available and number of express mail carriers add to Dallas' attractiveness to drug dealers on both a national and international level.

Steps need to be taken by the criminal justice system in Texas to lessen the illegal weapon trade that originates in Dallas, as well as the remainder of the State.

### Recommendations

- Enact legislation to require:

A ten to fourteen day waiting period and a complete record check of a buyer by County personnel before delivery of a weapon is made.

Creation of a Statewide computerized network for cross reference of information on retail purchases.

County employees, conducting the buyer's check, to enter the cross reference information into the computer system.

Firearms dealers obtain the previously listed buyer information and become subject of criminal sanctions for non-compliance.

- Provide funding source for enacted legislation through imposition of a state tax on weapons purchased.
- Institute a statewide policy that calls for a unified effort to aggressively prosecute those arrested and seek higher sentences for those convicted of weapons violations.
- Increase jail space to house larger numbers of inmates serving longer prison terms (on approval of voting taxpayers).
- Expand computer and information systems both internally and nationwide.

## **VIII. Intelligence and Research**

As the numbers of drug-related crimes increase, so must the accumulation of current narcotics intelligence information. Collection, analysis and dissemination of the intelligence data must be accomplished through a combination of traditional and innovative methods.

Research is a vital source of drug abuse information. More data collection, especially through social research, is needed to develop anti-drug measures. Drug use surveys as well as technological innovations are examples of the tools we need to utilize to obtain our goals.

### **Recommendations**

- Creation of a Narcotics Intelligence Unit that will assist other divisions within the Department and outside agencies.
- Establish a Drug Control Research position with the Narcotics Intelligence Unit.

## **IX. Dallas and International Drug Commerce**

Dallas' diversity of population, attractiveness to business, and increased attention to the arts are a few of the characteristics contributing to the international flavor of the city. Unfortunately, as Dallas has gained more worldwide attention, it has become an attractive target for illegal drug trade.

### **Recommendations**

- Extend international influence into Mexico by establishing rapport with officials of the Mexican Federal Judicial Police.

- Establish a liaison officer position to share information with various cities included in Dallas' drug pipelines.
- Increase patrol manpower to provide adequate time for officers to immediately investigate drug-related activity.

## **X. Chemical Precursor Drugs**

The production of synthetic drugs, such as "speed", requires the use of legally obtainable chemicals known as precursor and essential chemicals. In the past, Dallas distributors were a major nationwide source of precursor chemicals. However, legislation recently passed by Texas and the federal government severely regulated the sale and purchase of chemicals needed for the illicit manufacture of drugs. Although the restrictions have greatly reduced the availability of the chemicals and reduced the number of clandestine drug labs in the area, there are still local concerns about the chemicals.

### **Recommendations**

- Utilize chemical - sniffing dogs to uncover stores of illegal chemicals warehoused in public storage facilities.
- Law enforcement should remain cognizant of new production techniques, continue to develop informants, and remain watchful for growth of organized networks.

## **XI. Information and Technology Management**

The Dallas Police Department is a technology leader in the use of mobile digital terminals and cellular telephones. Although this technology leads to efficient delivery of service, it will not satisfy the demands on law enforcement in the future. Sophisticated international drug organizations feed illegal drugs and dealers into the city. To cope with these organizations, the Department must seek out and utilize the latest technology. An array of microcomputers designed to manage information is necessary now and will become critical in the future.

### **Recommendations**

- Perform a needs assessment survey to determine the best possible technical environment for future development of the Police Department information management survey.
- Develop a comprehensive plan for development of the Police Department's computer system. Issues such as the mainframe, microcomputers, and limited area networks must be developed from a systems approach.

- Gain immediate access to files located on the City of Dallas' mainframe computer which would directly benefit the Police Department.
- Where possible, software applications should be standardized.
- Establish an interface with the Dallas County mainframe computer.
- Develop internal guidelines and policies addressing the use and security of computer equipment within the city.
- Increase the Department's ability to share information and intelligence with other local agencies.
- Modify the existing Crime Analysis Data Base to provide and receive Department-wide criminal intelligence information.
- Secure computer equipment and software needed by the Narcotics Division.
- Establish a new unit which specializes in the investigation of technological crimes as well as critical investigative expertise in cases involving the use of computers and/or telecommunications systems.
- Expand the use of alternative communications methods such as FAX machines and computer telecommunications networks.
- Create a new position within the Police Department which would be responsible for conducting comprehensive evaluation and reviews of available technology for possible police use.
- Provide more training in the use and operation of computer equipment and appropriate software packages.
- Efforts should be made by management to encourage information sharing between the various divisions within the Department.



MACK M. VINES • CHIEF OF POLICE • DALLAS POLICE DEPARTMENT

January 18, 1990

Hon. Joseph R. Biden, Jr.  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D. C. 20510-6275

Dear Senator Biden,

This is in response to your letter of December 20 wherein you pose two follow-up questions to my earlier testimony before the Committee:

*1. Do you believe that the Bureau of Justice Assistance receives the support of the Justice Department, particularly when policy and budget matters are being considered?*

You realize, of course, that I am not privy to internal communications between the Justice Department and BJA. However, from public pronouncements and informal feedback I receive from Police Executive Research Forum meetings with Department of Justice officials, I do believe that this Administration supports the broad objectives of the BJA program.

What does concern me is the recent degree of Justice Department involvement in determining BJA funding priorities for the discretionary program, and especially, the closed (non-public) nature of that review. Although the Justice Department has the authority to influence BJA funding priorities, I believe it is only fair that the higher level officials who pass on the program annually do so after they have consulted with representatives of affected criminal justice organizations. That was not the case this year, and it is too early to tell whether the lack of constituency group involvement will have negative consequences for affected agencies and national organizations.

BJA staff members have met with PERF staff and representatives from other organizations annually over the past several years in order to solicit their views and feedback on the discretionary program. These meetings have been extremely helpful to us. This year's BJA meeting occurred early in the annual planning process for FY 1990. It is my understanding that after BJA completed its draft of the 1990 plan--with input from criminal justice organizations--the plan was



Hon. Joseph R. Biden, Jr.  
Page Two  
January 18, 1990

then reviewed and in some cases may have been altered substantially by Justice Department officials. I feel that it would be unfortunate if major programmatic changes and budgetary shifts occurred as a result of that Justice Department review--but until we see the final plan, which has been kept very secret, we will not know.

I feel that the enterprise of planning a nationwide discretionary program should be a consultative one, and that Justice Department officials should understand that national organizations have but one goal on this issue, which is to facilitate the most effective anti-drug program possible.

*2. Are there any changes you would recommend to improve the Bureau's effectiveness in working with state and local law enforcement?*

In order to improve the effectiveness of the BJA program, there are two improvements I recommend. First, it would be helpful for high level Justice Department personnel to meet with my colleagues and BJA staff, either at the annual BJA conference on the discretionary program plan, or after the Justice Department has had a chance to formulate its recommendations on programmatic initiatives.

My recommendation is that Justice Department personnel from at least the Office of Liaison Services, Justice Management Division, and Executive Office of Asset Forfeiture, attend any meetings with criminal justice organization leaders. In this way, my colleagues can express their concerns openly to both BJA and Justice Department officials.

Second, the history of OMB hold-ups on release of annual Anti-Drug Abuse funds has hampered comprehensive planning at the state and local level and made it difficult for those responsible for ongoing projects to predict when they will receive their funds. Although OMB may have its own legitimate reasons for holding up release of BJA funds, the program is designed to assist state and local criminal justice agencies. Interruptions in the funding of agency projects is very difficult for such agencies to deal with. There must be some way to ensure the timely release of funds that Congress has clearly designated for this vital national program.

In brief summary, allow me to refer to a portion of my testimony before your committee in December. It is my sincere belief that drugs are a local problem with national ramifications. As such, it is only logical that the most effective strategies emanate at the local level and are tailored to specific problems in individual communities.

Hon. Joseph R. Biden, Jr.  
Page Three  
January 18, 1990

This basic philosophy underscores the need for those in Washington to stay in close touch with local-level officials when establishing priorities and strategies for federal funding.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mack M. Vines". The signature is written in dark ink and is positioned above the typed name.

Mack M. Vines  
Chief of Police

The CHAIRMAN. Thank you very much, gentlemen. You know, one of the things that always gets lost in these hearings, it seems to me at least, is that we understandably conduct the hearings to focus on a particular area. Then we even further focus within that announced focus, and it makes it sound, I suspect, sometimes to people who may be listening that we think that the answer lies in the one specific area that we are pursuing, that we are questioning.

One thing that comes clear from both your testimony and the testimony of almost everyone who comes before us with law enforcement experience is that none of this is viewed in a vacuum. As a matter of fact, there are about 20 generalities, all of which are true that can be made; for example, that law enforcement alone will not do the job. If we expect law enforcement to do it, then we are going to fail. Or, as Senator Grassley said, the answer is not money. We have to change our attitudes.

All those things are true, but within the subset within each of those generalizations or a subset of requirements, it seems to me that the reverse is also true. You cannot solve this problem if you spend no money on the problem. You cannot solve this problem if we are not going to have any treatment or any education. You cannot solve the problem if we do not have sufficient law enforcement.

So, the real question here is how do we, with the resources we have, do a good deal—not just in terms of dollars, but in overall effort and focus—more in every one of the areas simultaneously. We cannot forget education while we are talking about treatment. You cannot forget law enforcement when you are talking about education. You cannot forget changing public attitudes and home values being taught at home—family values—if you are going to deal with it, and so on and so forth.

I state that only because sometimes we lose the focus of the particular hearing, and the questions I am about to ask may lead someone to the conclusion that you or I think the answer lies totally in doing more in one area.

Now, having said that, you, Chief, were in charge for 2 years of the agency through which most of those moneys that I and others have fought to increase to get out the local enforcement agencies flow. And as the former director, what role do you believe the Federal Government has in assisting State and local law enforcement?

What do you think the role is? You hear, as someone suggests on this committee, that local law enforcement is a local problem, and local taxpayers should pay for it, and Federal law enforcement is a Federal law enforcement problem, and Federal money should be spent for it.

How do you view that?

Mr. VINES. I see that as a sharing initiative. And to the degree of breaking it down in various types of percentages, I do not think I would be able to do that. I will reiterate what I said before.

Narcotic problems, themselves, are a local problem with national ramifications, and it is necessary that we have the Federal Government assist us. But, we in the various cities throughout this country must get a hold of the types of mores and standards that we demand and bring them back.

Mayor Dinkins got a bit melodramatical, and I have to agree with him, about he would like to see the cop on the beat again, know everybody, who is married and who is not married and things. That is a utopian environment; there is no doubt about it. But yet, we in law enforcement, that I have seen, are the leaders, and we are the front line of government in our respective areas that seem to be exerting more effort or the amount of effort that exists now toward ameliorating some of the problems that we have with drugs.

There is a lot of apathy and complacency. It is a black problem; it is a hispanic problem; it is a young problem; it is a school's problem; it is not ours. It is almost like some elderly people who do not want to pay school taxes anymore because they have been through that already, and they do not deserve it, they say.

The problem is that the country now, I feel, is getting sick and tired of drugs—sick and tired of drugs—and we need to do something about it.

In our area, they are starting to turn, Senator. Not just the cop shops are doing it, but I think the Federal Government must share its efforts with us. But, I do not think the whole responsibility is on the Federal Government. Without a doubt, it is a local problem with national ramifications.

The CHAIRMAN. When you were the Director, what was your sense of the amount of support that the Justice Department had during budget considerations for the State and local assistance?

Mr. VINES. It was trying at the time, without a doubt, and I do not know what the extent of it is now. Our major problem was funding. The act itself provided me, the Director, with the wherewithal and authority an almost unyielding power—for the lack of any other description—to fund most anything within the 20 types of dictates of the act, whether it be through research and development or law enforcement or what have you.

The CHAIRMAN. That is once you got the money.

Mr. VINES. That is when we got the money.

The CHAIRMAN. How about the Justice Department? What kind of emphasis do you think they put on the need for the money during the funding process within the administration—any administration, Democratic or Republican—I do not imagine it is that different? What kind of priority does the Justice Department put on since they are the organization that in fact is the umbrella organization for this money?

Mr. VINES. The emphasis was placed more on enforcement, and it went to agencies such as enforcement of DEA and FBI, customs and these types of initiatives. There was not that much emphasis placed on it.

This is one of the reasons we had difficulty with money situations within the Bureau of Justice Assistance, where we break the different types of grants, either discretionary grants or block grants based on population.

The CHAIRMAN. You may not want to answer this now, because you may want to reflect on it, and you can submit it in writing, if you would like, but based on your experience both as the director and as a police chief of a major city, how would you change the Bureau of Justice Assistance to better help local law enforcement?

And again, you may want to think about that. You are welcome to speak to it now, but it is something we would like your considered opinion on because you have been both places.

Mr. VINES. I would identify better discretionary initiatives with direct funding to the recipients, which would be the States, or the departments, or whatever it might be.

I would hope that there would be standardization of funding so that you can do the short- and long-range planning for different types of funding. I would hope that there would not be any sequestering of funds, as an example, to prevent me or whoever the director might be for moving in the proper direction.

And I would continue to pick the brains of the local initiatives throughout the country to get their ideas as to really what the crime problems are or what the initiatives might be because true America, from my experience, is just a bit outside the 495-Beltway, and the issue is that they have a different perspective and a more true perspective as to really what the needs are.

And I probably could answer it in more detail after I reflected on it a little bit more, as you just stated, and I am willing to do that later.

The CHAIRMAN. Thank you. Bob, they tell me you are going to retire pretty soon; is that right?

Mr. STUTMAN. Yes.

The CHAIRMAN. When?

Mr. STUTMAN. Probably the end of February, sir.

The CHAIRMAN. After how many years?

Mr. STUTMAN. Twenty-five years; a long time—not as long as Mack, but a long time.

The CHAIRMAN. And you have seen a lot, and particularly recently from a perspective of the DEA as this problem has mushroomed all across America.

Give me a sense of what you think of the value of a D.C.-type emergency aid program. Remember we came in last year, and the administration said we need, I believe it was \$80 million—I forget the amount, to tell you the truth, now—\$80 million, and that money is going to go straight to the District of Columbia, and it is going to go to primarily law enforcement, if not exclusively? What do you think of that kind of approach?

Mr. STUTMAN. I have not retired, yet, sir.

The CHAIRMAN. Well, you may want to wait until you retire, and then we will call you back in January.

Mr. STUTMAN. We have had—

The CHAIRMAN. I do not mean that to be critical because quite frankly a lot of us supported it, and in reflection I am not sure it was such a good idea. It sounded good.

Mr. STUTMAN. We have had similar programs, as you know and your staff knows, in New York—as Mayor Dinkins said—since 1972, in which we took the three primary law enforcement agencies in New York that touch with drugs—State police, city police, and DEA—put them together in a task force, and sent them out together with joint prosecution and joint investigations.

In addition, as Mr. Dinkins said, in New York City, they now have 2,000 police officers assigned full time to drugs—2,000 police officers. The problem that we have seen in New York is a very

simple one with that approach. What we have really done is not solved the drug problem. What we have done is overload the rest of the criminal justice system to the point that the criminal justice system has become almost a joke in New York City, and at least as far as drugs go.

The CHAIRMAN. Because you have done your job, because you have gone out and identified, arrested and/or convicted, a large number of people; is that what you mean?

Mr. STUTMAN. That is correct, sir. I can almost make an argument to you that the New York City Police Department is too efficient. They have messed up the rest of the system. The numbers speak for themselves, Mr. Chairman.

In 1987 or 1988, I believe, the New York City Police Department arrested 90,000 people for drug violations. Now, for those who say, "Yeah, but most of them were little cases," 45,000 were felony cases. Those are major cases. That is good news.

The bad news is of those 90,000 drug violations, only 5,000 people went to jail for a year or more, not because the other 85,000 people were innocent, but because there were no room at the Inn. It was that simple.

The CHAIRMAN. No prison space?

Mr. STUTMAN. No prison space. In New York City, it is a general rule of thumb—and there are exceptions, but it is a general rule of thumb you get two free bites of the apple if you are drug violator; meaning, the first two times you are arrested for drug violations, the case gets plea bargained out so you do not see any serious jail time—a few days—because again there is no room at the inn. It is not until your third violation that you begin to see drug violations.

Now, when I took criminology 101—

The CHAIRMAN. I am sorry to interrupt you, but I see Chief Vines kind of shaking his head. Is it similar the situation in Dallas?

Mr. VINES. Identical, just smaller numbers.

Mr. STUTMAN. I took criminology 101, and one of the first things I learned is drug trafficking is a white-collar crime. It is not a crime of passion. White-color crimes do respond to meaningful deterrents, but you have got to have meaningful.

Right now—and again, I speak for New York City, and the chief can of course talk of the other cities—there is no meaningful deterrents in the criminal justice system to drug traffickers. That has to change if law enforcement is going to have a truly meaningful effect of drug availability and the drug problem in this country today. That has to change very quickly.

We must change the attitude in New York City that exists amongst dope peddlers, and unfortunately it is an attitude because it is generally true that you do not go to jail for selling dope, and if you look at the infinitesimally small number of people who end up going to jail versus the total universe who are selling drugs, it means that very few go to jail.

We must change that attitude to one of after all of the constitutional guarantees are given to a person, once they are convicted for a drug violation, there is a swift and sure punishment. Frankly, I am less concerned whether that swift and sure punishment is 10 years or 1 year, but at least there is a certainty that when you are

convicted, there will be punishment for you, and right now we do not have that system.

I believe that if law enforcement is to mean more than it does today, then we must give the rest of the system—meaning the prosecutors, the judges and the jail space—the backing that we have given the police department.

The CHAIRMAN. Now, if you move beyond that, Bob, from allowing the back end of the system to in a sense consume what the front end brings in, from arrest to incarceration, as you point out after all constitutional guarantees have been made available to an individual, beyond that where in the scope of things does money or effort for treatment in education come, because we are really down to prioritizing a relatively small amount of money?

Mr. STUTMAN. That is a very excellent and very difficult question. I think it best that those of us who carry a badge, whether it be the chief's city badge or State police badge or Federal badge—at best, what we can do is fight a holding action until the other two legs of what I call the tripod of the drug problem—meaning enforcement and treatment and prevention—start to do their job, and in the long run truly make a long term difference. At best, we are a holding action.

I have been in Federal Drug Enforcement, as you mentioned, 25 years. I have never seen anything like what is happening in this country in the past few months. I believe between October 1 and November 10—I believe those are generally the dates—we—meaning law enforcement—in the United States seized almost 45 tons of cocaine—in the United States or the immediate outside area of the United States.

That is probably more than we estimated was used in the entire country 6 or 7 years ago, and it is about one quarter of what estimate was used in the country this year.

If you ask me if that seizure of 45 tons has made any difference as far as availability or price in the largest consumer market in the United States—New York City—I would have to tell you it has not.

Therefore, if you are a rational person and, as the chief very rightfully said, not so wed to one ideology that you have got to look at the entire problem, you have got to say, "My God, the best we can do is do a holding action."

I believe the long-term answer, as you have heard me say before, is No. 1, most importantly, prevention. It is a heck of a lot easier to get a kid opt not to use drugs, as difficult as that it, especially in the inner city, than it is to get him or her off of drugs once they have got on.

But, unless we start taking those meaningful first steps on that admittedly long road, then 10 years from now, you are going to have my successor in front of this panel asking him the same question: Why haven't we done any good for the past 10 years?

Unfortunately, and I have got to very quickly point out, that this is not necessarily an entirely Federal issue. The States and the cities do hold a big piece of the action. I have been chastised for having taken on the New York City school system publicly. And the city, I believe, suffers worse from drugs than any other major city in the United States. According to the president of their own

school board, Robert Wagner, less than one-third of the kids in New York City receive any substance education.

That, I think, is shameful and wrong. If we are to give money to cities and States, I think we have to make sure that we set very strong criteria to see that that money is spent appropriately.

Mr. VINES. I think the cities and the States—but predominantly the cities—must identify in the event that they are earmarked to receive any types of funding the type of drug problems that they have in that community, the contributing factors to it, the extent of it, and to develop some strategies as to what they intend to do about, and I mean the entire community, not just the law enforcement.

As we both stated, and I think you would agree with that, we do a pretty good job in our particular function.

The CHAIRMAN. I am not being solicitous. I think you are doing an incredible job. As a matter of fact, when you think about what you are faced with on the street, when you think about how drastically the world has changed for a cop who checks in and punches out, gets into that squad car and goes out in any neighborhood in your community, how different it is for that cop than it was 10 years ago, 5 years ago, I mean it is night and day.

And in light of what you are facing, I think you have done a phenomenal job, and that is why I think what we have to do is convince people that we can get a handle on this problem, and I think the reason so many people turn to looking at the police agencies for answers is because of your success. I think they are accustomed to the police agencies doing something.

So, they look to you, and they say,

Well, if we give you an extra dollar, you will put an extra police officer in an extra squad car, and that squad car will apprehend an extra felon, who is involved in the drug traffic.

Obviously, it would be more than \$1.

I recently had a long and productive meeting with the Drug Director, and I indicated that although we know, as at least a comment attributed to John Wannamaker—and I am careful to attribute everything to whomever it might be attributable to—allegedly said, "I know that 50 percent of my advertising budget is a waste. My problem is I don't know which 50 percent."

And I think we are going to have to deal a little bit that way at that outset with education and treatment. If we wait around to find out, and only spend money on only that which we know for certain works—since we have very little experience with education programs nationwide or even districtwide—it seems to me we are going to sit here twiddling our thumbs while we lose a generation.

So, my statement is this: It seems that we are going to have to— notwithstanding the law enforcement need—direct more moneys now, beginning next fiscal year, toward education and treatment while encouraging the community to become involved. We are going to have to put more emphasis on treatment and education moneys, and encourage the States and localities to do the same.

Do you agree or disagree with that statement without tying you to any figure, number or percentage, just to do more than we are doing now?



Mr. VINES. I would agree 100 percent, as long as we maintain a course—the law enforcement initiative, and you have already said that. You said that none of the members from the House or the Senate are against the law enforcement to commitment.

The CHAIRMAN. None that I am aware of, nor is the administration, at this point, that I am aware of.

The experience in New York City, with regard to focusing the attention and coordinating the relative law enforcement agencies on the drug problem, as you indicated, has almost worked too well. It has produced a glut on the system, that the system has not been able to handle, therefore bringing about other problems.

What should we be doing instead of that approach? What is the better approach?

Mr. STUTMAN. Well, I think we clearly need a law enforcement presence on the street because very frankly, in a city like New York, if that law enforcement presence does nothing else, it deals with the symptoms of drugs that have to be dealt with on a daily basis.

And in a city like New York, one of the major symptoms of drugs is the violence that the citizens see. So, I am in no way denigrating doing that, or as the chief had said, let's stop doing that.

But, if I were to be able to make a change in New York City, the first change I would make would be mandate meaningful substance abuse education in every grade starting at kindergarten tomorrow so that we can give those kids a choice—and in New York City, it happens between 11 and 13—at least a fighting chance. When they have to make that decision, "Do I or don't I use drugs," to at least give them a fighting chance to make that appropriate decision.

The second thing I would do would be to change the treatment system. You are absolutely right, Mr. Chairman. In New York City, which has somewhere like three quarters of a million regular drugs, between cocaine and heroin, there are 47,000 treatment slots available.

The CHAIRMAN. I thought it was the State. Is it the city?

Mr. STUTMAN. I think it is the city, but the problem is the following: New York City, for instance, which is being torn up by cocaine—crack, as you know—is tearing up the city. Of the 47,000 treatment slots—until very recently—35,000 were mandated for heroin treatment, and only 12,000 for cocaine. I think the city has to look at its own priorities.

In a city which has about 120,000 regular drug users under age 17, to use the chief's number from before, there are out of 120,000 regular drug users under age 17, there are 165 inpatient slots available for kids in New York under age 17. We have to look at that type of thing.

The CHAIRMAN. You realize there are more heroin and cocaine addicts in New York City than there are close in total population to 10 States in America?

Mr. STUTMAN. I haven't worked out the numbers, but that is probably right.

The CHAIRMAN. To my recollection, there are 10 States under a population of a million, and I think quite frankly there are 10 States under population of 800,000—in that range—but it is either more than or as close to as many people as clearly more than there

are in the State of Delaware, in Vermont, in Montana, New Hampshire.

Mr. STUTMAN. It is an incredible problem, and you almost have to live there to appreciate how it has affected the city, affected the nondrug users, certainly, as well as the drug user.

I often think of the analogy very frankly, Mr. Chairman, and you said it, and I think Senator Moynihan said it very eloquently before, the drug user is a carrier of a disease, and he spreads that disease to other people. Peer pressure is what causes drug use amongst our kids today.

Imagine if I had active cholera, and I walked into a city public health hospital in New York City, and I said, "Excuse me, doc, I've got cholera," and the doctor said, "We've got a problem. We're filled up. Come back in 7 months," it would be a scandal beyond anything you and I could imagine in New York City, and yet that is exactly what we do every day of the week when we turn that drug addict away and say, "Come back in 7 or 8 months."

We are telling him to: First, go out and bang people over the head to get money to support his own habit, but maybe just as bad, we are telling him to go out and create other addicts.

The CHAIRMAN. Gentlemen, I have a number of other questions, but I have had the chance to ask you many of them before, and I know your positions, and there are many of them that are on the record. Is there anything else you would like to state in closing? In fairness to the administration, they had to come up with a drug strategy within several months after the creation of the Office of a Drug Director, and so most of us are looking forward to this strategy that must be put forward early next year really as the first genuine opportunity of the administration to have put forward their first full strategy on this issue.

So, the purpose of this hearing is to try to draw the vague outlines and make them not so vague as to what the major elements of that strategy should be. But having said that, is there anything that you either of you would like to add to what has been asked or stated by you or any of the other witnesses today before we close?

Mr. VINES. Well, I would like to say that I have had the opportunity to work with Dr. Bennett on a number of issues when he has come to Dallas to honor reconnaissance, and he studied a number of issues around the country, and I am certain he has compiled all the different and various and sundry things that are working or not working so good or that could be working, and I think it all centers around—we all have an interest in the drug initiative. As you say, there are varying opinions.

I just hope as a citizen of this country, and strictly that, that the decision makers in this environment do come up with a conclusion that is going to have meaningful results and is not going to be couched with rhetoric or things of this nature, which we in the States hearsay, "Well, the Federal Government has done it again," type of thing.

I think we are on the right direction. Just having you allow me to come here today to speak about what we are doing locally really impresses me, and I will take that message back. And I would like to commend you with your efforts, and certainly with your proposal also.

The CHAIRMAN. Bob.

Mr. STUTMAN. This is the last time I will testify in front you are as DEA employee, and having testified in front of you a number of times and had the pleasure of working with your staff, I would like to first thank you for the opportunity and thank your staff for being such gentlemen and having had great relations.

Let me, if I could, do something very stupid, which is make a prediction. In this business, you do not make predictions, and you may have heard me say it before, and I say this—as Mack said—as a citizen. In 1986, when crack was first becoming a problem in New York, and everybody else in the rest of the country said,

You crazies have it in New York, and we will never have the problem out here. It's just you people who live in New York.

I made a statement in front of a group of people, and I said—it was a very smart and stupid statement—I said,

In my opinion, crack was such a deleterious drug it was either going to have to pull us together as a country, and we are going to stop looking for short, quick fixes to a very complex, long-term problem, or we are going to look back on the good ole days of 1986, and in 1986,

we thought the sky was falling in, as you well know, having testified in front you.

I would very honestly make the same statement to you today. Unless we, as a nation, States, cities—not pointing the finger at any one government structure—all of us—unless we are ready to finally look for meaningful, long-term salient, complex answers to a very complex problem, people are going to appear in front of your committee in 1992, and all of you are going to look back on the good old days of 1989, and we do think the sky is falling in today in New York.

Thank you.

The CHAIRMAN. I think hopefully a lot of Americans have reached the conclusion that if the sky is not falling, it is sure gotten a great deal more darker out there than it was. But, I think there are real signs of hope.

Quite frankly, the reason I fought so hard to create the Office of a National Drug Director was not merely to get the priorities set and have one person propose those for us to dispose of them as we do in the defense budget or in any other budget that is proposed, but quite frankly to take this issue—which as you will remember, Bob, back in the 1970's—we had trouble getting anyone to pay attention to it. Even in the early 1980's, the State Department did not want to talk about drugs, and it still does not very much. Parts of the Justice Department did not want to focus on it that much. Everybody kind of wanted to see it go away.

And the one thing I think that has happened, and I compliment the first Director of the new Department, is that it has gained overwhelming national attention. But, I believe, and you should never make predictions when you hold public office, I suspect, and clearly if you are going to make them, you should make them in the first year of your 6-year term and not your last year, but I am going to make one anyway.

My prediction is that we are going to run the risk—unless we understand that we must do everything simultaneously—of creating

such pessimism, such cynicism in the public about the Federal Government's ability or State government's ability to deal with problems that are of consequence to them, that we will have done great damage to the political institutions of this country.

But, I do not think the folks are there yet. I think we are all starting to wake up a little bit. I hope, and I think, we are going to see a lot more support this year for not merely law enforcement, but for the other pieces, the other two legs on the stool, and it is going to take a long time. It is not going to be done in a year. You cannot expect the answers to come in a year.

But, I am certain of one thing: Unless we start with those children in kindergarten now, we are going to reap the whirlwind, and I think people are beginning to figure that out.

I thank you for your input, and I look forward to being able to continue to consult with both of you, and this hearing is adjourned.

[Whereupon, at 3:39 p.m., the hearing was adjourned, subject to the call of the Chair.]

# REVIEW OF THE SECOND NATIONAL DRUG CONTROL STRATEGY

FRIDAY, FEBRUARY 2, 1990

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The committee met, pursuant to notice, at 10 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Joseph R. Biden, Jr. (chairman of the committee) presiding.

Present: Senators Biden, Kennedy, DeConcini, Simon, Thurmond, Grassley, and Specter.

## OPENING STATEMENT OF CHAIRMAN BIDEN

The CHAIRMAN. The hearing will please come to order, and the photographers will stop taking a picture of my basketball that I just gave him, all right? [Laughter.]

No; you can leave the ball. I am only teasing, I am only teasing.

Dr. BENNETT. I am trying to see if there is anybody on my staff competent to catch it. There we go.

The CHAIRMAN. I tried to get Bradley to show up to throw it to you—

Dr. BENNETT. Yes.

The CHAIRMAN [continuing]. But he was busy doing other things.

Welcome, Director Bennett. It is good to have you up here, and it is particularly good that we are in for the second time, and I think things are moving closer. As you indicated, I thought, in your usual insightful and pithy way, you suggested that we were up here, kidding, for a game of budget ball. That is why I gave you the budget ball.

But I think it is more than budget ball. I think what I was going to put on the ball was "priority ball," and really that is what we are talking about. We also are talking about the budget, and we are going to go into some detail about that, and I am sure my colleagues are interested as well.

But last week, the New York Times lead editorial hailed what it called, quote, "An initial victory in the drug war, victory over confusion." And the Times was comparing two documents, the administration's drug strategy, which you are the architect of, and an alternative drug strategy that I released earlier that week.

And it noted that there were two differences between these two strategies, these two documents, and that there were some fundamental differences. These differences go to three essential roots of

the drug epidemic in this country, and I would only suggest that they really go to priorities, timing.

None of us are here suggesting that we shouldn't do something about treatment, we shouldn't do something about law enforcement. It is really a question of priorities and timing and, I suspect—and one thing we are going to get into here—absorption and finances. All of those factors figure into how and why I came up with the strategy I did and why the administration has the one that it has.

But I would like to focus in this opening statement on three differences in emphasis. One is that, first, there are the hardcore users versus casual users in terms of emphasis. We, I believe, have to do more to get these people off the streets earlier in the process and give them one of only two choices: go into drug treatment or go to jail into drug treatment.

My drug strategy makes this a first priority by expanding our drug treatment facilities, building new drug treatment prisons, increasing State and local law enforcement, and launching a special drug emergency area program for hardest hit areas with more resources.

The second difference that I am going to ask that we discuss a little bit, again, in priorities is how we approach the economic dependence of the Andean nations on coca. You and the administration have been very kind in indicating that they would consider the proposal that I have put forward about swapping drug for debt as, in my view, basically a one-time effort rather than the emphasis the administration puts, not one that I think is not worthy of consideration. I do, but I would like to discuss those two approaches, which are different.

And the third is how we prevent our children, as you badly want to do, as well as us, from becoming the next generation of drug users. My strategy aims at this goal by providing funds for comprehensive drug education in every school in America, all 83,000 of them, and much more rapid timeframe, and, admittedly, more costly, than the timeframe put forward by the administration.

These differences go the fundamentals of how we understand the drug problem and how we intend to fight it, and there are areas for debate and hopefully for compromise in the months ahead, because we do, in fact, at least you and I, speaking not for the Democratic Party, not for this committee, speaking only for me, we are much, much closer than we have been before, and I think there is room for a genuine compromise.

As last week's New York Times editorial recognized, more important than our differences over particular policies is the widespread agreement in one overriding fact: the mechanism established by the 1988 drug bill is working. The law created the drug director's post and required the President to submit an annual strategy each year to Congress, and it is doing what it is supposed to do. You are doing what you are supposed to do, and you are forcing us to debate and decide upon a comprehensive national drug strategy for the first time in our history.

This is your first opportunity to have a full-year crack at it. Last year, you came along midway in the year because of the nature of

the confirmation process and the time frame within which you had to get your report in.

The President and Dr. Bennett and his staff and the Congress all share, in my view, credit for making this law work last September when we began the implementation of the first national drug strategy, and we are going to work like the devil to make it work again this time.

This is, as the Times says, an initial victory for the drug war. Now, the question is how we get a long-term victory and make a strategy that has overwhelming support of the American people and a consensus among all those who wish to deal with this issue.

I want to raise two points, and one that you will be able to comment on, but I am not asking you to comment on. I think the elevation—my colleague, Senator Roth's, idea—I believe it was his idea, among others, of elevating the EPA to a Cabinet level post made sense. I support that.

I thought all the reasons why the President set out to have the Director of EPA at the Cabinet table are overwhelming reasons why you should still be at the Cabinet table and have a Cabinet office. That is not your fight. That is my fight. I want to just make it clear, that I think you would even be in a better position because, as you said—and I have to admit you are awful good at this—when, I guess, it was National Journal asked you about Biden's proposal, you said we agree on 90 percent of it.

Paraphrasing, you said something to the effect, but I wonder—it is 10; I wonder if the Appropriations Committee knows where Joe Biden is. I would only suggest that it is budget time. I wonder if OMB knows who Bill Bennett is, and that is really why I want you at the Cabinet table.

Dr. BENNETT. OK. They know, they know.

The CHAIRMAN. At any rate, I look forward to this hearing. Again, I want to emphasize that I think we all agree with the President's proposal. We were sent here, we were sent to the Congress, and he was sent to the White House not to bicker, but to solve problems. I think we are on our way to doing that.

I look forward to, in the first round of this year's strategy, working out over the period of this next year a strategy for fiscal year 1991 that makes sense and that continues to help us make progress in this drug war.

I yield to my distinguished colleague, Senator Thurmond, the ranking member of this committee.

#### OPENING STATEMENT OF SENATOR THURMOND

Senator THURMOND. Thank you, Mr. Chairman. Mr. Chairman, I am pleased to be here today for this very important hearing. We are assembled to hear testimony from Dr. William Bennett, Director of the Office of National Drug Control Policy, on the second volume of the administration's national drug control strategy. This second strategy has been submitted as a followup to the administration's September strategy, as is required by law.

The scourge of drug abuse and its associated violence has hit virtually every street corner in the country. Past legislative efforts to

eradicate the drug problem have proven effective as major first steps. However, there is still much more to be done.

Congress recognized the need for a coordinated national effort in the war on drugs when, as part of the Anti-Drug Abuse Act of 1988, it created the Office of National Drug Control Policy.

Last September, under the leadership of drug czar William Bennett, the Office of National Drug Control Policy provided President Bush with a comprehensive national strategy to combat drugs. This ambitious and comprehensive blueprint for action has been overwhelmingly supported by the American people.

It provides the Nation with an integrated, unified, and truly national policy aimed at the numerous problems posed by illicit narcotics. It has stressed not only the role of the Federal Government, but also the roles of our State and local governments. It also calls for swift prosecution and punishment of narcotics dealers, increased efforts against cocaine production in source countries, and improved drug treatment programs by making them more accountable and result-oriented.

By implementing these proposals, we will accomplish the goals of the strategy and we will restore order to our drug-plagued neighborhoods, dismantle trafficking organizations, and send a clear signal to the Nation that drug use will not be tolerated.

The President has made clear his intention to aggressively fight the war on drugs and to win it. I have pledged my strong support to the President and to Dr. Bennett to see that this strategy continues to be effectively implemented.

Since the first strategy was presented in September, Congress has passed legislation to implement many of the policies proposed therein, and appropriated \$9.5 billion to begin implementation of the strategy. This funding level was reached after several weeks and many hours of intense negotiations, in which both Senator Biden and I participated.

In addition, the Bush administration has enjoyed some recent successes in the war on drugs. Federal agents in Los Angeles seized 21 metric tons of cocaine, the largest single haul in U.S. history, from an unguarded warehouse. In fact, during a 6-week period this past fall, 42 metric tons of cocaine were seized by U.S. authorities.

In addition, the United States has provided assistance to the Government of Colombia which has resulted in the extradition of 11 major drug violators and the seizure of millions of dollars in illicit assets. Finally, and perhaps most importantly, the President's commitment to win this war has resulted in daily displays of civic courage which are being played out in many of our Nation's most drug-infested neighborhoods.

The second volume of the national drug control strategy is a companion to the first strategy. It lays out the administration's drug policy in considerable detail. The fundamental principles of the strategy remain unchanged. Yet, it builds upon the original strategy in many areas. It calls for \$10.6 billion in drug-related funding for fiscal year 1991. This figure is a \$4.3 billion, or 69 percent increase since President Bush took office.

Some highlights from this volume of the strategy include increased grants to State and local law enforcement, \$1.5 billion for improved drug treatment services, more school-based education



programs, increased international initiatives, and \$151 million for additional DEA and FBI agents. Finally, the strategy calls for the enactment of legislation to provide the death penalty for drug kingpins.

In closing, our Nation is currently facing the major task of winning the drug war. The national drug strategy is a solid, well-thought-out plan for action. It represents a tough, direct, and effective measure aimed squarely at the drug epidemic which is undermining our communities, young people, and threatening our society. As Congress continues to fund and implement the war on drugs, we must work to ensure that effective proposals are put in place which will enable us to win it.

Finally, I believe that this war can and must be won. The consequences of losing the war on drugs are simply too critical to ignore. One just has to witness the crime and suffering drugs cause to realize we cannot give up. Our efforts to eradicate this scourge of drugs must be relentless. Mr. Chairman, I look forward to today's testimony and compliment you on your leadership in this matter. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Kennedy and we are going to have opening statements from everyone who would wish to have one. The shorter we can keep them, the better chance we will have to get to the questions as quickly as we can.

Senator Kennedy.

#### OPENING STATEMENT OF SENATOR KENNEDY

Senator KENNEDY. Thank you very much, Mr. Chairman. I, too, want to join in welcoming Director Bennett to our hearing this morning. I believe that both President Bush and Dr. Bennett deserve credit for bringing a new sense of urgency to the drug issue.

We have begun to make some progress, but this is no time for curtain calls or complacency. Drug abuse in America remains a disease of epidemic size. Its symptoms have spread to every corner of this society and beyond. The epidemic manifests itself in overburdened court rooms, class rooms, and emergency rooms throughout the United States.

Five months after the release of the administration's first anti-drug strategy, it is too soon to say whether any significant measure of success has been achieved. But I continue to be deeply concerned that the administration underestimates the importance of treatment and education.

Every grade school pupil in the country should be receiving drug education to resist the destructive appeal of drugs. At the current level of funding favored by the administration, that goal cannot be met.

We know that education can inoculate children against drug abuse. As Mayor Flynn of Boston recently said, we would not tolerate an antipolio strategy that inoculated only 50 percent of the Nation's children, and we must not tolerate an antidrug strategy that falls short of reaching every child. And an effective education program is not only the education in the classroom, but the kind of

support that the communities, families, churches, the business community, and sports community can also supplement.

Similarly, the administration refuses to endorse the goal of making treatment available to every addict who seeks it. Well over 1 million addicts who would benefit from treatment will not get it under the administration's strategy. Nor can the treatment needs of the growing Federal prison population be addressed by adding only \$2 million to the Bureau of Prisons treatment budget.

We know that about 80 percent of those that are involved in crime have some kind of association with substance abuse. A great percent of those who are in prisons are addicts. With a \$2 million budget, we are talking about treating an additional 68,000 of the total 1 million prisoners in this country, and if we don't catch them in prison, the chances of them going out and continuing the rampage of crime continues.

Law enforcement is being overwhelmed and cannot do the job alone. Every student we do not educate, every addict we do not treat is a potential criminal who may need to be incarcerated in the future. We can pay for education and treatment now or pay vastly more for law enforcement later. This strategy is flawed. Unless and until we repair it, we will continue to lose this battle.

I want to raise another critical issue with Dr. Bennett—the need to take assault weapons out of the hands of drug dealers. Dr. Bennett deserves credit for initiating the action by the administration last year to ban importation of certain automatic rifles. We need to expand that ban to automatic pistols. We also need to ban the export of these weapons to drug traffickers in Colombia and other source countries.

We have made an effort to limit the export of various chemicals that can be used in the production of these drugs to those countries. We should make a similar effort, I believe, in exporting automatic weapons from the United States to those countries which are being used by the drug kingpins.

In addition, we need to stop another aspect of the senseless arms race in our neighborhoods—the easy access to handguns. We all know the realities of this situation. A powerful lobby has stymied action by Congress on gun control for a generation while the problem festers in every community. Dr. Bennett deserves credit for standing up to that lobby in 1989, and with his help it is possible that Congress will stand up to that lobby in 1990.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much. I didn't realize, by the way, Dr. Bennett, how interesting that lobby was. When I included the DeConcini assault weapon bill in the crime bill, I saw a three-page letter go all over America, stating that I wanted to take every hunter's shotgun. It startled me. I didn't know I said that.

Senator Grassley from Iowa.

#### OPENING STATEMENT OF SENATOR GRASSLEY

Senator GRASSLEY. Thank you. Secretary Bennett, it is surely good to see you here again.

We appreciate your appearance here today to further discuss the national drug control strategy, including the new plan just announced.

First, Mr. Chairman, if I may, I want to take a moment to welcome and recognize several Iowans who are in the audience. They are here representing the Greater Des Moines Drug Task Force, a voluntary organization formed to fight drugs in central Iowa. Their presence is evidence of the commitment of the people of the heartland in the war on drugs. I am very proud of their efforts.

I also want to recognize an Iowan who isn't here, Margaret Toomey, who heads up the Homes of Oak Ridge neighborhood housing operation in Des Moines, IA. As Secretary Bennett well knows from his visit to the Homes of Oak Ridge in October when he came at my invitation, Margaret Toomey is fighting on the frontlines of the drug war.

In recognition of her efforts, Mr. Bennett's office selected Margaret Toomey as one of the first recipients of its "Fighting Back" Award. Margaret Toomey understands that one way to improve the lot of the folks that she works for is for them to live in a drug-free environment.

In cooperation with local law enforcement, she has organized the residents against drug dealers and the tyranny that they foster.

This past year, Project HOPE—for Homes of Oak Ridge Prevention Effort—was implemented to make youth more aware of the dangers of drug use and gang behavior.

Adult programs are also expanding, with a strong emphasis upon educational, vocational, and career choice through the Inner City Single Parent Vocational Program, which assists low-income single parents living at or below the poverty level to become economically self-sufficient.

Now, why dwell on these local efforts? Because they are the kinds of efforts actually contemplated by the national drug control strategy; and with increasing frequency, they are underway all across America.

Margaret Toomey believes, as many of us do, that the war against drugs actually can be won.

And we will win—not because politicians in Washington spend a lot of the taxpayers' money, but because local people take charge of their future—one block, one neighborhood, one community at a time.

There has been debate, and there should be debate and even criticism, not unexpected, of the President's strategy. I know the Chairman has spent a great deal of time and thought developing an alternative.

But make no mistake: that even while we reorder and increase Federal resources, as the President's second plan does, we are certain to lose the war if the only measurement is how much money Washington sends out or spends. Because there is really no such thing as Federal money; it is all taxpayers' money.

These taxpayers live in Iowa and Delaware and California and New York. And as I talk with them, I find them willing to spend money to solve problems, especially local problems. But they rightly demand that those who are the trustees of their moneys not

squander it. That is true, by the way, whether you are talking about defense expenditures or spending for the war on drugs.

So, by all means, if something is proven to work and no one else will fund it, let us spend the money. But if we are simply going to get into a bidding war, it is best to get out of the trenches now before the taxpayers are the casualty.

Mr. Chairman, I ask that a complete statement that I have prepared be made a part of the record. And I would also ask to have some questions submitted in writing just in case I can't be here the full time.

The CHAIRMAN. Without objection, the statement will be put in. [The prepared statement of Senator Grassley follows:]

-----  
**WRITTEN STATEMENT OF SENATOR CHARLES E. GRASSLEY  
ON THE PRESENTATION OF THE FIRST COMPANION TO  
THE NATIONAL DRUG CONTROL STRATEGY  
BY WILLIAM J. BENNETT, DIRECTOR  
OFFICE OF NATIONAL DRUG CONTROL POLICY  
SENATE JUDICIARY COMMITTEE  
FEBRUARY 2, 1990**  
-----

OUR DRUG EPIDEMIC IS LARGELY THE RESULT OF INDIVIDUAL CHOICES TO USE DRUGS. TAKING ILLEGAL DRUGS IS NOT A MORALLY NEUTRAL ACT. AND NO AMOUNT OF LAMENTING SO-CALLED "ROOT CAUSES" CAN CHANGE THAT.

THE USE OF ILLEGAL DRUGS IS LINKED ARM-AND-ARM WITH A BREAKDOWN OF SHARED VALUES AND TRADITIONAL INSTITUTIONS SUCH AS FAMILIES, SCHOOLS, CHURCHES, AND COMMUNITY ORGANIZATIONS.

OUR FIRST-EVER NATIONAL DRUG CONTROL STRATEGY HAS PROVIDED A COMPREHENSIVE, COORDINATED, AND BALANCED PLAN OF ATTACK AT ALL LEVELS OF GOVERNMENT, AS WELL AS PRIVATE ENTERPRISE, AND THE INDIVIDUAL CITIZEN.

THE STRATEGY EMBODIES SEVERAL PRINCIPLES:

\*\*\* BY EMPHASIZING THAT IT IS THE USE OF ILLEGAL SUBSTANCES THAT HAS BROUGHT ABOUT THE DRUG CRISIS, THE ULTIMATE GOAL IS TO REDUCE THE NUMBER OF AMERICANS WHO CHOOSE TO USE DRUGS AND TO PREVENT THOSE WHO HAVE NEVER USED THEM FROM DOING SO..

THE INDIVIDUAL CITIZEN IS HELD RESPONSIBLE FOR THE CONSEQUENCES OF HIS OR HER ACTIONS WHOMEVER THEY ARE.

FOR, IN THE WAR AGAINST ILLEGAL DRUG USE, THE REAL HEROES ARE NOT THOSE WHO USE DRUGS AND QUIT. THE REAL HEROES ARE THOSE WHO NEVER USE DRUGS IN THE FIRST PLACE.

\*\*\* THE CRIMINAL JUSTICE SYSTEM - WHICH, CONTRARY TO THE BELIEF OF SOME, TRULY DOES HAVE AN EFFECT UPON DEMAND - HAS BEEN RE-INVIGORATED TO "TAKE BACK THE STREETS" AND TO RESTORE ORDER AND CIVILITY IN OUR NEIGHBORHOODS - BOTH IN OUR COUNTRY'S URBAN CENTERS AND RURAL COMMUNITIES - BY WEEDING-OUT ANY ILLEGITIMATE AUTHORITY THAT HAS TAKEN ROOT IN THEM.

\*\*\* LOCAL COMMUNITIES HAVE BEEN MOBILIZED, CREATING AN ATMOSPHERE IN WHICH DRUG USE AND ABUSE WILL NO LONGER BE TOLERATED.

\*\*\* DRUG TESTING, AND NEW AND INNOVATIVE ANTI-DRUG ABUSE EDUCATION, TREATMENT, AND REHABILITATION PROGRAMS HAVE MADE SOME PROMISING STEPS IN THE DIRECTION OF REDUCING DRUG USAGE BY INDIVIDUAL AMERICANS. AND

\*\*\* A RE-NEWED FOCUS AND COMMITMENT BY THE NATIONS OF THIS HEMISPHERE HAVE BEGUN TO HAVE AN IMPACT UPON THE QUALITY AND QUANTITY OF DRUGS PRODUCED IN THIS HEMISPHERE.

WE ALL ARE SUPPORTIVE AND HOPEFUL OF THE ADMINISTRATION'S ONGOING ANTI-DRUG DIPLOMATIC EFFORTS, ESPECIALLY THOSE DURING THE UP-COMING DRUG SUMMIT IN COLOMBIA.

I KNOW WE ALL WISH PRESIDENT BUSH AND THE ANDEAN PRESIDENTS MUCH SUCCESS.

I THINK WE CAN WIN THIS WAR. IF WE STICK TOGETHER AND COOPERATE, WE WILL WIN THIS WAR.

THE PRESIDENT AND SECRETARY BENNETT HAVE ANNOUNCED FURTHER REFINEMENTS TO THE STRATEGY. BUILDING UPON ELEMENTS ANNOUNCED LAST SEPTEMBER, THESE INCLUDE THE FIRST-EVER DESIGNATION OF "HIGH-INTENSITY DRUG TRAFFICKING AREAS"; ENHANCED CRIMINAL PENALTIES FOR CERTAIN DRUG-RELATED CRIMES; INCREASED RESOURCE SUPPORT FOR LAW ENFORCEMENT, THE CRIMINAL JUSTICE SYSTEM, DRUG TREATMENT, EDUCATION, AND COMMUNITY ACTION; INCREASED EFFORTS - INCLUDING A GREATER ROLE FOR THE DEFENSE DEPARTMENT - AGAINST INTERDICTION AND ERADICATION; STRENGTHENED COOPERATION AMONG THE AFFECTED NATIONS OF THE HEMISPHERE; AND THE CREATION OF A NATIONAL DRUG INTELLIGENCE CENTER.

WE ARE HERE TODAY TO ENGAGE IN A DISCUSSION REGARDING THESE REFINEMENTS.

I LOOK FORWARD TO THAT DISCUSSION.

The CHAIRMAN. We will be able to have questions in writing, and I thank you for your statement and staying within the 4 minutes. Thank you very, very much.

Senator DeConcini.

#### OPENING STATEMENT OF SENATOR DeCONCINI

Senator DeCONCINI. Mr. Chairman, thank you. I first want to thank you for the tireless effort in keeping the issue of illegal drugs in the forefront of the Nation's agenda. I also want to thank Director Bennett for his doing the same.

Like both of you, I know that we cannot let up on this issue until we have victory, and victory is not near at hand. But I must say, Dr. Bennett, I am very satisfied that you and your organization have indeed put some thoughtful effort in putting together a strategy.

Though I can offer, and will offer, as I have in the past, areas that it can be moved in different directions and emphasis, as Senator Kennedy has pointed out, on education and treatment, I think you have indeed done a service to move us in the right direction.

As I have said to you before, you have the most difficult job in the Federal Government. All eyes are on you. When you came before this committee last September, you had just released your first drug policy strategy, which I personally found to be a positive base on which to build our national response to the scourge of illegal drugs. You and I discussed that strategy both privately and at hearings and, as I have said, it was a fine start.

Today, you are here to discuss and answer questions about this Nation's second drug strategy, and I am pleased to find that it does contain many more of the specifics that I was looking for. The designation of high-intensity areas and the expansion of drug treatment slots, though, to me, is not enough, at least is a recognition that you know that we must do more in both those areas.

Recently, I have referred to you as the general responsible for leading the troops into war on drugs. However, every general needs a staff of advisers to assist him in the formulation of that battle. I would like to be part of that, and I think Congress wants to also help you.

Chairman Biden has offered a strategy which proposes more emphasis on funding for drug education. I believe that the President's strategy falls short here in this particular area. There is no reason that we cannot provide a drug education curriculum for every child in every classroom. I look forward to working with you to achieve this goal.

President Bush has designated you as the point man. For you to succeed, however, the President must tell all agencies—OMB, Treasury, everyone—that you are the point man; that things must go through your office; that you must be able to say "yes" or "no" or it be overruled.

And I am concerned, and some of the questions I ask you today will be in the area that there appears to be some lack, or at least someone is missing or falling through the cracks on who is approving what when you try to lay out and implement your strategy.

Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator SPECTER.

Senator SPECTER. Thank you, Mr. Chairman.

The CHAIRMAN. Before you begin, Senator, on the way down on the train today I met the Chancellor of the Bar of Philadelphia, who told me that he was coming down to the Specter hearing today. [Laughter.]

And I just want to compliment you on the loyalty you have in Pennsylvania, and I will turn the gavel over to you shortly after you make your opening statement. [Laughter.]

Senator GRASSLEY. Just remember how fast things changed in Eastern Europe. [Laughter.]

Senator SPECTER. Well, Mr. Chairman, I don't mind speaking sixth in line as long as those from Pennsylvania understand the relative priorities; I will be glad to share some of Philadelphia's media with you, since you haven't yet stolen any of our stations like New Jersey has.

You are right that the chancellor of the Bar Association, Arthur Raines, is in the second row, and I am going to tabulate this part of my introduction to your time.

The CHAIRMAN. Yes, please do.

#### OPENING STATEMENT OF SENATOR SPECTER

Senator SPECTER. I congratulate you, Dr. Bennett, and your staff for a good first year's work. I agree with the chairman, Senator Biden, about the desirability of having Cabinet status to give you more clout on this very difficult issue.

I thank you for coming to Pennsylvania, and as a result of your visit and the activities on the day you spent there—in part, as a result of that, a task force has been convened in Philadelphia which has submitted a comprehensive report. I met with that task force in late December and, on the same day, sent you a copy of the report.

I am pleased to note that your staff has worked on it and has had a preliminarily favorable response as to what may be created on a drug court there, which will have facilities for detention and also for rehabilitation.

I will discuss that with you when the question and answer time comes, but I think that this local response has been a good one for a pilot project, realizing that it is not the Federal obligation to fund a court, but part of the funding would be appropriate as a test project.

Mr. Chairman, I would ask that a copy of that task force report be included in the record.

The CHAIRMAN. It will be so included.

[The information referred to follows:]



PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:

A Drug Cases Strategy for Philadelphia

Thursday, December 14, 1989

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:

A Drug Cases Strategy for Philadelphia

Professor A. Leo Levin  
University of Pennsylvania  
Law School  
Chair

Arthur G. Raynes, Esq.  
Chancellor-Elect,  
Philadelphia Bar Association  
Vice-Chair

Honorable Arlin M. Adams  
Schnader, Harrison, Segal & Lewis

William H. Brown, III, Esq.  
Schnader, Harrison, Segal & Lewis

M. Todd Cooke  
Chairman and CEO (Retired)  
PSFS/Meritor Financial Group

Patricia Cooney  
Catholic Charities of Philadelphia

Harold Cramer, Esq.  
Chairman and CEO  
Graduate Health Systems

William V. Donaldson  
President  
Zoological Society of Philadelphia

Mildred Ellerson  
Weapons System Designer,  
Keystone Computer Associates

Honorable Chaka Fattah,  
State Senator  
Commonwealth of Pennsylvania

Bruce A. Franzel, Esq.  
Oxenburg & Franzel

Rosemarie Greco  
President,  
Fidelity Bank

Robert C. Heim, Esq.  
Vice-Chancellor  
Philadelphia Bar Association

Ian Lennox  
President,  
Citizen's Crime Commission

Charisse R. Lillie, Esq.  
General Counsel  
Redevelopment Authority of the  
City of Philadelphia

Bernard C. Watson, Ph.D.  
President and CEO,  
William Penn Foundation

John R. Padova, Esq.  
Counsel

Craig Snyder, Esq.  
Dechert, Price & Rhoads  
Staff Director

---

Affiliations listed for identification only.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 1

TABLE OF CONTENTS

	<u>Page</u>
I. Executive Summary . . . . .	1
II. Introduction . . . . .	6
III. Findings and Recommendations . . . . .	7
A. Background: The Drug Cases Crisis . . . . .	7
1. The Magnitude of the Problem . . . . .	8
2. Crime Addicts . . . . .	9
3. The Coming Age of "Ice"? . . . . .	9
4. Drug Cases and the Need for New Resources . . . . .	10
B. A Drug Cases Strategy For Philadelphia . . . . .	12
1. A "Drug Court" . . . . .	12
a. Structure . . . . .	12
b. Jurisdiction . . . . .	14
c. Longevity . . . . .	15
d. Administration . . . . .	15
e. Judicial Selection . . . . .	18
f. Rotation of Judges . . . . .	18
g. Site . . . . .	19
h. Funding . . . . .	20
i. Results . . . . .	22
2. A "Mandatory Drug Treatment Initiative" . . . . .	22
a. Screening . . . . .	24
b. Pre-Trial Diversion . . . . .	24
c. Probationers and Non-Custodial Pre-Trial Defendants . . . . .	26
d. Treatment Behind The Walls . . . . .	26
e. Funding . . . . .	27
f. Longevity . . . . .	27

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page ii

C.	Implementing The Drug Cases Strategy . . . . .	27
1.	A Short-Term Physical Facilities Recommendation . . . . .	27
2.	An Implementation Task Advisory Body . . . . .	27
IV.	Cost Analysis . . . . .	29
V.	Conclusion: An Agenda for Continuing Work . . . . .	36
VI.	Appendices	
A.	Felony Cases Summary	
B.	Fugitive Data	
C.	Drug Court Preliminary Architectural Program	
D.	Sections 17 and 18 of the Drug Act	

I.

**Executive Summary**

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 1

I. Executive Summary.

A. Background: The Problems

There is a large and growing backlog of cases awaiting disposition in the Common Pleas Court of Philadelphia -- some 12,500 cases "in inventory" by the end of 1989 -- reportedly resulting in an average of over one year between a defendant's arrest and trial. Furthermore, the Philadelphia prison system, operating under an inmate population cap of 3750, is in fact housing some 5000 inmates. Two-thirds of those are presently pre-trial detainees, individuals who are incarcerated while awaiting trial. It is generally estimated that the average annual cost of incarceration in Philadelphia is \$25,000.

A crucial factor in this crisis of clogged courts and overflowing prisons is the burden on the system of drug cases. Drug felonies, direct drug sales and possession with intent to sell cases, constitute approximately one quarter of the cases disposed of in 1989 and one-third of the cases filed in Common Pleas Court in 1989, up from one-fifth of the dispositions in 1988. Drug-related cases, mostly those in which a drug-dependent defendant is charged with a non-drug offense (such as a robbery committed to obtain cash for drugs) represent approximately another half of the court's workload. Stated another way, drug cases, direct and related, constitute approximately three quarters of the docket. And all evidence suggests more and more of these cases in the years ahead, especially if the latest drug craze, heading east from the Pacific, "Ice" (a smokeable form of "speed") hits Philadelphia with the force of the current epidemic of crack cocaine.

Moreover, drug cases pose the most serious challenge to the system not just by virtue of their quantity, but of their quality as well. It is in the area of the drug-dependent offender that the greatest likelihood of recidivism exists.

Against this background, the preliminary recommendations of this task force focus on drug cases. This report presents a comprehensive proposal for a Drug Cases Strategy for Philadelphia. We believe this strategy is not only correct on its merits -- indeed, essential if real improvement in the system is to obtain -- but it is also pragmatically addressed to the political context in which this system must function. The present institutions of the criminal law in Philadelphia are in need of improvement (and we will address the details of these needs in a subsequent report) but reform will not happen overnight. Even more significantly, it is our firm, though unhappy, conclusion that even with efficiencies, the system will still need additional resources and that the great bulk of those resources, to meet the present emergency, must and should come from Harrisburg and Washington.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 2

Our design of a Drug Cases Strategy reflects these political facts of life. It is also intended to incorporate aspects of both the traditional "liberal" and "conservative" approaches to the issue of drug crime, to forge consensus based on the potential interaction between carrot and stick.

B. Findings and Recommendations

1. A Drug Court

Both because it would bring immediate relief to the congestion of the Philadelphia Criminal Court System and because it would serve as a model of court reform for the whole of the system, we recommend that:

a. Structure and Jurisdiction

The Pennsylvania Supreme Court and legislature collaborate to create a 13 judge "Drug Court Division" of the Philadelphia Court of Common Pleas. This Court should have jurisdiction over all felony cases in which a Drug Act charge is the most serious charge.

b. Administration

The Supreme Court should appoint a professional administrator to manage the Drug Court. Among the task force's other suggestions for the efficient operation of the Drug Court are a reduction in the number of chambers weeks (compared with the present number in the Trial Division of the Common Pleas Court), a mixed case scheduling system combining use of individual judge calendars and a "feeder" calendar room, and specific caseload management standards (including an average time-to-trial goal of 120 days).

c. Judicial Selection and Rotation

After the 13 judges are appointed by the Governor, the judicial positions for the Drug Court should be filled from the entirety of the (expanded) Common Pleas Court bench. Judges should spend no more than one year at a time in the Drug Court Division before rotation to other tasks.

PENNSYLVANIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 3

d. Site

The Drug Court should be housed in its own facility. This report is accompanied by a preliminary architectural program for such a location:

e. Funding and Longevity

Beyond whatever city contribution may be possible, the budget for the Drug Court -- the judgeships, court personnel, Assistant District Attorneys and Public Defenders, Sheriff's deputies, overhead and physical facilities -- should be funded by the Commonwealth for the duration of its existence. So funded, the court should operate for not less than five and not more than ten years. Much of the funds from Harrisburg may, however, actually originate in Washington because prompt adoption of these recommendations will give Pennsylvania a model initiative for the use of new federal resources available to the states beginning in 1990 as a part of the President's National Drug Control Strategy.

We believe that the adoption of this proposal would, together with reforms to existing criminal justice institutions, reduce the backlog by three-quarters within 3-5 years, enabling time-to-trial throughout the Philadelphia system to be brought within the 120-day national standard. Cutting average pre-trial detention time would be, in turn, the greatest contribution the courts can make towards resolving the county prison overcrowding problem.

2. A "Mandatory Drug Treatment Initiative"

To break the cycle of drug-dependency and crime, for as many offenders as possible, a commitment must be made to expand the current inadequate and highly fragmented "system" of drug treatment for criminal defendants and convicts into a comprehensive network of treatment options and access points so as to make available treatment for every treatable drug-dependent offender. We therefore recommend that the following treatment system be implemented:

a. Screening

Every arrestee should be screened so as to determine which are drug-dependent and



PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 4

treatable and what mode of treatment (out-patient counseling or in-patient, therapeutic community approaches) appears indicated for each.

b. Pretrial Diversion

Current diversion programs should be amended, expedited and consolidated such that, except in extraordinary circumstances, all first-time drug-dependent non-violent offenders who consent and who are charged with crimes not subjecting them to mandatory sentences are diverted, promptly after arrest, from trial to treatment.

c. Probationers and Non-Custodial Pre-Trial Defendants

All treatable drug-dependent probationers should have treatment made a condition of their probation and all drug-dependent defendants on bail should be offered basic treatment services.

d. Treatment Behind the Walls

All treatable drug-dependent convicts sentenced to prison (in the county or the state systems) should receive treatment during their incarceration. Basic treatment services should also be available to pre-trial detainees.

e. Funding

As with the Drug Court, the predominant funding sources must be Harrisburg and Washington.

3. A Short-Term Physical Facilities Recommendation

While the Mayor's Criminal Justice "Strategy" team is at work on an architectural program, evaluating long-term prison needs for Philadelphia, the city should contract immediately for 500 minimum security, drug-treatment-oriented beds. We believe that this may prove the most economical of all the alternatives available to the city on a short-term basis.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 5

4. An Implementation Advisory Body

We recommend the creation of a widely representative working group to develop an action plan and oversee implementation of these proposals.

C. Cost Analysis

Our best estimates are that the Drug Court would require approximately an average of 13.1 million dollars in each of the five years we recommend as its minimum longevity. For implementation of the drug treatment initiative for defendants who come through the Common Pleas Court, we estimate an annual budget of approximately 12.7 million.

D. Conclusion. An Agenda for Continuing Work

Between the release of this preliminary report and the March 31, 1990 deadline for the work of this task force set by the Chief Justice, we will concentrate on three areas:

1. Justice reform issues such as practices and attitudes among bench and bar that may be factors in the present pattern of delay, information systems, and the need for better communication and coordination among the stakeholders in the Philadelphia Criminal Justice System, including the importance of avoiding a structure of fragmented leadership.

2. Physical facilities and financial resource questions including courthouse, technological support and county prison space needs.

3. Problems growing out of the Juvenile Justice System.

II.

**Introduction**

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 6

II. Introduction.

The Philadelphia Criminal Justice Task Force was appointed by the Chief Justice of Pennsylvania, Robert N. C. Nix, Jr., on June 29, 1989 and charged to "identify needs and recommend changes designed to move cases more quickly and more efficiently through the Philadelphia adult and juvenile criminal courts" towards the goal of a criminal justice system "committed to swift, fair adjudication of cases." The task force, consisting of 16 members of the civic, legal and corporate communities of Philadelphia, was instructed by the Chief Justice to apply "expertise and imagination" from outside the criminal justice system in an effort to solve a problem "which poses a fundamental challenge to our ideal of a fair, efficient and responsible system of criminal justice."

Saying that Philadelphia's criminal justice problems do not permit the "luxury of extended study", and noting that there has already been a number of studies of the system, the Chief Justice urged the task force to work expeditiously and issue recommendations as they become available. This preliminary report reflects the conclusions reached in the initial phase of our deliberations. A final report will issue about March 31, 1990. With this interim statement we wish to record a number of concrete proposals which, if implemented, would clearly improve the system and to indicate some of the areas on which the remainder of our work will focus.

The mandate of this task force should not be viewed as narrowly focused on efficiency. Nor is it fundamentally about the manifestations of inadequacy which currently plague the administration of the criminal law in Philadelphia, including court backlog and prison overcrowding. Our work is about justice. It is about the twin reasons-for-being of the American criminal bench and bar -- protecting public safety and preserving the rights of those who become subject to the system, including both the right to a speedy trial and the right to humane conditions of incarceration. This group is at work because, despite the efforts of many who serve with dedication, Philadelphia's Criminal Justice System is failing to protect and preserve these values as well as it should and as it can. All the rest -- dealing with problems of management and problems of resources -- matter only as they contribute to justice.

III.

**Findings and Recommendations.**

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 7

III. Findings and Recommendations.

Background: The Drug Cases Crisis.

Philadelphia's courts are clogged and our prisons are overcrowded. The number of cases filed in the Common Pleas Court has more than doubled in the last ten years, growing from 7,138 in 1979 to an estimated 16,474 in 1989. Projections for felony arrests in 1990 and the years beyond indicate that these numbers will continue to grow quickly, rising perhaps by 1000-2000 each year. The number of cases disposed of by the court has also risen during this past decade, as has the number of judges hearing criminal cases in Common Pleas Court. In 1979 the court disposed of 7,167 cases, moving to a projected 14,966 in 1989, but in eight of the eleven years ending on December 31, 1989 more cases have come into the court than have been adjudicated, creating a backlog that has gone from 4,367 cases available on December 31, 1979 to at least 12,516 which will stand on the court docket at the beginning of business in 1990. (See the Felony Case Summary 1978-1989 attached as Appendix A).

Moreover, the above figure understates the number of unresolved cases because it does not include cases involving the more than 5,000 felony fugitives, defendants who have failed to appear for trial and against whom bench warrants are outstanding. These are viewed as not available for trial, hence not in the inventory. This number is also growing (see Appendix B). Furthermore, our present system is so heavily burdened that no affirmative steps to apprehend fugitives are regularly taken.

As the court's workload has increased the system has slowed. Today, the average time between felony arrest and trial in Philadelphia is approximately one year -- reliably estimated at 370 days -- far higher than the 120 day national standard urged by the ABA's National Conference of State Trial Court Judges. Because two-thirds of the inmates in the Philadelphia County Prison System are pre-trial detainees, these delays in the processing of cases contribute significantly to the overcrowding of our jails. The Philadelphia prisons are presently operating under a consent decree entered in the federal lawsuit by prisoners against the city, Harris v. Reeves, with a population cap of 3750. Despite a partial moratorium on admissions intended to keep the city in compliance with the cap, today there are approximately 5000 prisoners. There is also state court prison overcrowding litigation on-going, the Jackson v. Hendericks case. This situation too promises to get worse if action is not taken.

We do not hesitate, and we will not hesitate, to criticize those aspects of the Philadelphia Criminal Justice System that should be improved from within. In Section Five of this

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 8

report, we identify some of the key problems areas within the system that we will take up in detail in future reports. However, it should be emphasized that much of the system's present problem would be beyond the control of even the most efficient criminal justice bureaucracy.

As to this "external" component of Philadelphia's criminal justice crisis -- the component born not in official offices but on the streets -- it is only a slight, if any, exaggeration to describe it in this way: the court and prison problems are the crime problem and the crime problem is the drug problem. Because the great and increasing burden being placed on the Philadelphia Criminal Justice System by drug and drug-related cases is a crucial factor in the crisis facing that system, this preliminary statement of the task force focuses on a plan of action to more effectively deal with drug cases.

1. The Magnitude of the Problem.

It may surprise many to learn that the number of arrests in Philadelphia is declining. Though demographic and economic trends are important, the single most significant variable for the aggregate number of arrests in a given year and jurisdiction is not the amount of crime but the number of police officers. As the number of Philadelphia police officers has declined substantially in recent years, it was inevitable that the number of arrests would fall.

The police response to this reality is likewise predictable, and appropriate; officers are concentrating on more serious crime. And the drug epidemic has ensured no shortage. Thus, while the total of all arrests and of misdemeanor arrests have declined, the number of felony arrests -- those cases which must be tried in the clogged Common Pleas Court -- have grown. Further, it is drug and drug-related crime that accounts for the overwhelming majority of the burgeoning docket of felony cases. More specifically, our best estimates are that one quarter of the cases actually disposed of in 1989 and approximately one-third of

---

We are using the term "drug" cases to mean charges of violation of the Controlled Substances, Drug, Device and Cosmetic Act, (the "Drug Act") 35 Pa.C.S. 780 (1972). These are the cases against drug users and dealers as such. We are using the term "drug-related" cases to mean those cases in which a drug-dependent offender is charged with some non-Drug Act offense (e.g., robbery, assault, etc.) and the relatively few (but serious) cases in which a non-drug user commits a non-Drug Act offense because of drugs or drug money (e.g., drug-gang murders).

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 9

the new filings in the Trial Division in 1989 will have been drug cases, about 5,000 drug case filings by year's end, and that the remainder of at least three-quarters of the dispositions and new filings will have been drug-related. This means that drug cases alone are both the single largest group of cases and the fastest growing (in 1988 they were only one fifth of the dispositions) and, taken together with the drug-related cases, that the drug problem simply has become the court's workload.

2. Crime Addicts.

Many drug-dependent offenders are as much dependent on crime as they are on their preferred illicit substance of abuse. The need for drugs can create an enormous need for money and destroy the ability to come by it honestly. To support a drug habit many addicts commit some crime -- purse snatching, auto theft, something -- everyday. Perhaps more than once a day.

Presently, 13% of the pre-trial detainees in the Philadelphia prison system have pending against them 35% of the cases in the backlog. Most of these defendants are drug-dependent and most of the cases against them are drug or drug-related.

3. The Coming Age of "Ice"?

In a recent column on this subject, Inquirer Editorial Board Member Claude Lewis wrote, ". . . the longer people experiment in labs, the greater the chances that they will discover some new fad . . . that will enslave the weak and create a permanent population of drug dependent personalities." The latest entry on the already crowded field of chemical alternatives to real life is "Ice," a powerful, crystalline, smokeable form of methamphetamine or "speed."

Heading east from California (where it came from Hawaii and the Pacific Rim), Ice is said to produce a high as intense as crack cocaine but far longer lasting. It is also odorless, making its use more difficult to detect.

Ice is highly addictive, leaves its initially euphoric users depressed, violent and, in some cases, psychotic. It can destroy the lungs, the circulatory system and the kidneys. It also is believed by law enforcement officials to be on its way to the streets of Philadelphia, threatening not only more drug and drug-related crime of the sort associated in recent years with crack, but threatening to make Philadelphia frighteningly like a Colombian drug-cartel city.

Testifying before Congress on this last point, Philadelphia's "Drug Czar," former Deputy Police Commissioner



PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 10

Robert Armstrong, explained that, before the advent of crack, Philadelphia was one of the country's major production and distribution points for speed. He argued that, "as bad as it is being a consumption and distribution center for crack, serving again as a production and distribution site for methamphetamines, would be manifestly worse." Armstrong stated, ". . .the stakes are greater, the profits steeper and the criminal element more ruthless when direct production is involved."

Armstrong's warning about things getting much worse in coming years if Ice descends upon Philadelphia came shortly before the news event that signalled for many how bad things already are -- in late November, the year 1989 became the bloodiest in Philadelphia history when the 445th murder was committed. In 1988 there were 371.

4. Drug Cases and the Need for New Resources.

For the foregoing reasons, the focus of this report is on a bold new set of proposals constituting an effort to develop a comprehensive drug cases strategy for Philadelphia. Aside, however, from what we believe to be the enormous importance and potential value of this strategy on its merits, our focus on drug cases also reflects an appreciation of certain political realities about which we think it best to be explicit.

As we have already noted, the Philadelphia Criminal Justice System is not operating in optimal fashion. There is near unanimity on this point. Every citizen in the city, and in the state as well, has a right to demand that Philadelphia's criminal courts and correctional institutions get more results out of the money being spent. In no way do we disregard the crucial need for administrative reform of the present system. Nonetheless, it is our conclusion that such improvements, often referred to by participants in the system as "fine tuning", cannot alone solve the existing dual dilemmas of court backlog and prison overcrowding and certainly cannot solve them with anything like the rapidity we believe is required by the consequences of proceeding with "business as usual", in terms both of public safety and the rights of the accused.

More specifically, many diverse actors in the system -- ranging from the District Attorney to prominent members of the private defense bar -- have told this task force that they believe no more than an increase of 10 - 15% in case dispositions in the Common Pleas Court can be "squeezed out" of existing resources by means of improved administrative procedures. If this is correct, then a "reformed" Common Pleas Court might do no better than "run in place," disposing of all the new cases coming in each year, because, as detailed above, this year the Court is going to

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 11

dispose of approximately 15,000 of the 16,500 new filings before it. A court that merely keeps current, however, cannot reduce the backlog or cut time-to-trial. This means, in turn, that the pre-trial detainee portion of the prison overcrowding problem would go essentially unaddressed. Moreover, as already noted, all indicators are that the number of filings will continue to increase, thus exacerbating the problem.

Let us assume, however, that those who posit 15% as the ceiling on the results of reform are unduly pessimistic. Even if they are wrong by a very substantial margin, it would take unacceptably long to reduce the backlog sufficiently at the present rate of new cases and longer if, as is expected, the number of new Common Pleas cases continues to quickly rise.<sup>2</sup>

This is manifestly unacceptable. Philadelphia cannot wait until nearly the next century for a Criminal Justice Center and System that works effectively, a system in which individuals accused of crime are tried fairly and expeditiously.

What, then, must be done? If doing better with what we have is a necessary but not sufficient answer to the Philadelphia criminal justice crisis then the complete answer must include more resources -- more judges, courtrooms, assistant district attorneys, public defenders, sheriff's deputies and all else that it takes to make courts function. Seeking such resources in the area of drug cases is not only justified by the reality of drug crime as the center-of-gravity of the Philadelphia criminal justice crisis but also reflects a political judgment concerning what sort of request for additional resources is most likely to be favorably received.

The proposal made here is, of course, a part of a criminal justice approach to drug policy. The members of this task force are fully aware and in unanimous agreement that the social pathology of drug abuse cannot be cured by any criminal justice strategy alone.

Still, an appropriate criminal justice strategy must be a major part of any plan for a society safe from drug-related crime. Indeed, the notion that we must select either social welfare or criminal justice efforts in fighting drugs is itself

---

<sup>2</sup> For example, if they are wrong by 100% it would almost certainly still take seven years or more to reduce inventory to an acceptable level. Whether or not an increase of dispositions of more than 30% is possible by means of administrative reform, we believe it would be irresponsible of us at this juncture to assume that such results can be rapidly achieved.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
 A Drug Cases Strategy for Philadelphia  
 Page 12

part of the problem. The needed approach -- and we have tried to follow our own advice in designing the proposal for a Drug Cases Strategy for the Philadelphia Criminal Justice System -- "combines" compassion and compulsion, punishment and control, rehabilitation and treatment, each as appropriate. Rather than a tension between carrot and stick, we see an opening for mutual reinforcement.

B. A Drug Cases Strategy For Philadelphia.

4. A "Drug Court".

In view of the burden of drug cases on the Philadelphia Criminal Justice System and of the need of that system for additional resources in order to quickly and significantly reduce the crowding of Philadelphia's court docket and prisons and in view of the efficiency of specialization in case processing, we recommend the creation of a new court entity to adjudicate drug cases. The details of this proposal follow:<sup>3</sup>

a. Structure.

The "Drug Court" should be a new division of the Common Pleas Court of Philadelphia County created through a collaboration of the Supreme Court and General Assembly of Pennsylvania.<sup>4</sup> Any possible separation of powers problems are avoided if these two branches act in cooperation with each other.<sup>5</sup>

---

<sup>3</sup> In the development of the Drug Court section of this report, the task force has had the invaluable assistance of Judge Eugene Maier of the Trial Division of the Philadelphia Common Pleas Court. Judge Maier is widely known for his long-time advocacy of a Drug Court.

<sup>4</sup> Historical precedent for such a collaboration is provided by the federal system at the time certiorari jurisdiction of the United States Supreme Court was substantially expanded by the Congress.

<sup>5</sup> Article 5, Section 1 of the Constitution of Pennsylvania reads, in relevant part, "The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal and traffic courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace .... Article 5, Section 5 provides: "There shall be one court of common pleas for each judicial district (a) having such divisions and

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 13

Thus, we recommend that the Supreme Court ask the legislature to create a Drug Court Division of the Philadelphia Court of Common Pleas, pursuant to Article 5, Sections 1, 5, and 8 of the Pennsylvania Constitution, and to provide for 13 new judicial positions for the Philadelphia Court of Common Pleas so that the new division can be staffed.<sup>6</sup> Along

consisting of such number of judges as shall be provided by law .... Article 5, Section 8 states: "The General Assembly may establish additional courts or divisions of existing courts, as needed, or abolish any statutory court or division thereof."

<sup>6</sup> We recommend a complement of 12 judges who would hear cases in the Drug Court full-time and an administrative judge who would be available to hear cases part-time. This number of judges would be needed to dispose of 5000 - 6000 cases per year, our best estimate of the caseload to be anticipated to come before the court over the next several years. This caseload estimate is based, in turn, on projections of arrests and the jurisdiction of the Drug Court as defined below. Key assumptions underlying this conclusion can be summarized as follows: with 12 judges hearing cases in the Drug Court full-time, 9 - 10 would be available for duty on any given working day. This allows for five weeks vacation for each judge, sick time, attendance at conferences and other professionally related absences, and five chambers weeks during which the judges attend to various aspects of their work off the bench (this permits fewer chambers weeks than are currently scheduled for Trial Division judges and our rationale for this change is explained fully later in this report).

The number of cases which a judge can dispose of in a year depends on an enormous number of factors, including the complexity of the cases before him or her and the ratio of jury trials to waiver trials and guilty pleas. Judges hearing criminal cases in the Common Pleas Court today are divided into three "programs", handling different kinds of cases and therefore having different rates of "productivity". The 13 judges currently hearing homicide cases now average approximately 40 dispositions per year. The 17-21 judges in the "calendar" or "major cases" program now average approximately 300 dispositions per year and the 9 judges in the "list" or "waiver" group have a current average disposition rate of 900 cases per year. Taking an average of the court as a whole,

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 14

with this request should go an expression of willingness by the Supreme Court to act pursuant to its rule-making and supervisory authority over the whole of Pennsylvania's unified court system and to take specific steps -- our suggestions for these are enumerated below -- to ensure optimal efficiency in the new division.

b. Jurisdiction.

The Drug Court should hear all Common Pleas Court cases<sup>7</sup> and appeals from Municipal Court trials in which, among the charges pending against the defendant in a given case, a charge of violation of the Controlled Substances, Drug, Device and Cosmetic Act, 35 Pa. C.S. § 780 et seq., (the "Drug Act") is the charge carrying the highest possible penalty.

This grant of jurisdiction to the Drug Court carries with it three crucial implications. First, the new court would hear the vast majority of Drug Act felony cases, cases involving the street level pushers who are terrorizing our communities and whose arrests in the thousands are helping clog the existing court and prison systems. Second, because defendants frequently face multiple charges in the same case, the Drug Court would adjudicate some non-Drug Act charges and the Trial Division of the Common Pleas Court would continue to hear some Drug

---

approximately 375 cases per year are being disposed of in each of the approximately 40 courtrooms in which criminal cases are heard. Because of the nature of the cases involved -- mostly small quantity "direct sales" or "possession with intent to sell" cases -- and because of the efficiencies recommended here for court administration, we believe it is reasonable to conclude that in each of the 9-10 Drug Court courtrooms to be in operation on any given day, 500-700 cases per year could be processed, more than a homicide or major case courtroom but less than a waiver room.

<sup>7</sup> Common Pleas cases are those in which there is a charge against the defendant carrying with it a possible sentence of more than five years incarceration -- lesser charges are tried, in the first instance without a jury, in the Municipal Court with a seldom used right of appeal to the Common Pleas Court.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 15

Act charges when they were joined in a case with a more serious non-Drug Act charge. Finally, cases which are "drug-related" but not including any charge of violation of the Drug Act -- a robbery by an addict in need of cash to support his habit or a drive-by shooting by one drug selling gang against another, as examples -- would remain in the Trial Division of the Common Pleas Court.

c. Longevity.

We view the Drug Court as an "emergency" response both to the drug/crime problem and the Criminal Justice System problems in Philadelphia. As such, and in the spirit generally of "sunset" provisions in legislation, the Drug Court should operate for not less than five and not more than ten years, after which time it would cease to exist, with the judgeships then being "folded into" the pool of the overall Common Pleas Court bench (hopefully available for civil work if the criminal problem has become manageable). In the period between five and ten years, the Supreme Court should monitor the situation and evaluate whether the Drug Court should be continued or disbanded as an entity. State funding for the Drug Court would be tied to its existence as an entity and, assuming that, at the end of the suggested life of the Drug Court, the counties are still otherwise generally responsible for court costs, the expenses of the former Drug Court staff and facilities would transfer to Philadelphia in the same percentages as currently exist with respect to the rest of the court system.

d. Administration.

To ensure that the new Drug Court Division of the Philadelphia Common Pleas Court functions at optimal efficiency -- and to persuade the budgetary authorities that it is, for this reason, a sound investment of public funds -- the Supreme Court's commitment concurrent with the creation of the needed judgeships and funding for the Drug Court should include a clear and comprehensive statement of the mode of operation of the new court.

We recommend that the Supreme Court order that the Drug Court Division operate on the "strong professional administrator" model of court management. The Administrative Judge would, in

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 16

addition to performing ceremonial functions for the Drug Court, act as liaison to the other Divisions of the Common Pleas Court and, together with the President Judge of the Common Pleas Court and the Administrative judges of the other Divisions, deal with assignment of Common Pleas judges to the Drug Court. Appointed by the Supreme Court, the lay administrator, however, should have responsibility over all other aspects of court operations -- including the institution of professional personnel practices -- and should report directly to the Court Administrator of Pennsylvania.

We also offer the following list of suggestions for the operation of Drug Court which we believe are likely to be helpful in achieving court efficiency:<sup>8</sup>

- Judges should be scheduled for a chambers week once in every ten weeks instead of the present rule in the Trial Division of one per seven weeks. Because judges currently need frequent chambers weeks to draft opinions, we recommend that the reduction in the number of chambers weeks be accompanied by a change in the Rules of Appellate Procedure so that judges are not required to write opinions when their decisions are appealed. As in other states and in federal court, opinions should be at the option of the trial judge. There are also alternatives to full-blown opinions by which a court can state the rationale for its decisions, including brief statements accompanying orders.
- Cases in the Drug Court should be scheduled on a mixed basis, utilizing the individual judge calendar system whenever possible, with an auxiliary "feeder" calendar system to schedule cases more appropriately heard on a "list" basis. The individual calendar promotes judicial productivity and accountability and

---

<sup>8</sup> While these suggestions are cast in mandatory terms, we recognize that the shaping and reshaping of detailed procedures is an ongoing process. However, taken together, these suggestions express a philosophy of judicial administration which we believe worthy of implementation.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

**Preliminary Report:**  
**A Drug Cases Strategy for Philadelphia**  
Page 17

the feeder system will go far to ensuring that all Drug Court courtrooms are in use fully during the regular court hours of 9:00 A.M. to 5:00 P.M. "Down-time," which may occur in the schedule of a judge with an individual calendar, must, and can, be reduced to a minimum with work sent out of the feeder room. To implement an effective individual calendar system, the court should promulgate specific caseload management/time performance and judicial productivity standards, (such as those developed by the ABA National Conference of State Trial Court Judges which call for 90% of the cases on a court's docket to be disposed of within 120 days of filing) and strict guidelines for the granting of continuances.

- The Drug Court Administrator should collect time-on-the-bench and case disposition information on a weekly basis from all Drug Court courtrooms and circulate such data to all judges in the Division as well as to the President Judge of the Court of Common Pleas, the Administrative Judges of the other Divisions, and the District Attorney's and Public Defender's offices.
- The preliminary stages of jury selection for all jury panels needed in the Drug Court on any given day should be conducted in a single courtroom by a single judge.
- Consistent with the financial and physical facilities resources described in this report, the Drug Court should utilize modern technological innovations available to speed the processing of cases. Specifically, data processing and court reporting systems for the Drug Court should conform to national model standards for efficient court management.
- The Drug Court Division should seek authority to maintain its own working files rather than having these in the control of the Clerk of Quarter Sessions. It is inefficient to have in the hands of one institution the essential records with which another institution must daily work.



PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 18

- It should be the rule of the Drug Court Division that each judge make available his or her personal aide (the "tipstaff") to court administration for assignment to courtroom duties.
- Finally, the Supreme Court should amend the Rules of Procedure so as to allow for sentencing of convicted offenders as soon as pre-sentencing reports have been prepared rather than, as presently, only after post-trial motions have been disposed of, thus conforming Pennsylvania practice to federal practice in this regard. Of course, the trial court would retain the option to defer sentencing until the disposition of motions.

By incorporating all of these court reform mechanisms into the operation of the Drug Court Division, the task force hopes not only that this new court could achieve marked efficiencies in the handling of cases but also that it would serve as a model for the exploration and implementation of improved procedures in the Trial Division.

e. Judicial Selection.

The 13 new judgeships for the Court of Common Pleas as a whole should be filled, in the first instance, by gubernatorial appointees who then stand for election. The 13 individuals who would staff the Drug Court Division, however, should not be the same as the new individuals appointed to the court as a whole. The Drug Court's judges should not be all "rookies." The staffing of the Drug Court itself should be accomplished through the existing process by which judges are assigned to various Common Pleas Court Divisions.

f. Rotation of Judges.

In the Supreme Court's orders controlling the Drug Court it should be specified that judges serve no more than one year at a time in that Division and must then be rotated to some other Division of the Common Pleas Court (including the civil section of the Trial Division) and be replaced by other Common Pleas judges. While basic similarities among the cases in the Drug Court would help permit the efficient disposition of the docket there remains

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 19

the risk that "sameness" might at some point militate against vigilant concern that the facts of each and every case in the Drug Court are fairly judged on their individual merits. No court, however, must ever become an assembly-line. Rotation is designed to address this vital concern.

g. Site.

It is not physically possible to house the Drug Court Division in City Hall without resort to a split shift/night court operating schedule. Such a schedule has been unanimously rejected as unworkable by the many actors within the system with whom we have consulted. Among the objections cited are the unavailability of police witnesses during the afternoon and evening (the period of peak need for officers on the street) and the loss of productivity in the first-half of a split-shift day because business must be closed at a time certain. The task force's review of data concerning night courts, one form of split shift, in other cities confirms these reservations. Moreover, and we are of course aware of the irony in this, many questioned about a court schedule running much after dark expressed fear for the safety of witnesses and jurors obligated to be in City Hall beyond the hours of a normal day. We therefore recommend that a new site be made available for the Drug Court Division.

Using funds granted to the task force by the William Penn Foundation, we have commissioned a preliminary architectural program for a Drug Court facility from Michael Wong of Space Management Consultants in Seattle, Washington. Mr. Wong is among the nation's leading courthouse architects whose projects include Foley Square in New York City and, presently, the new Commonwealth Court Building in Harrisburg. (Mr. Wong's Report to the Task Force is attached as Appendix C).

As even this initial architectural study makes clear, improved physical facilities and fundamental court reform are highly complementary. Starting from the task force's conception of how the Drug Court would operate, the architect has conceived a space of maximum flexibility and efficiency. Unlike City Hall, the Drug Court facility would be safe for its staff and the public, would appropriately accommodate the movement of custodial defendants to

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 20

the building and in it, would break the link between individual judges and courtrooms (allowing maximum utilization of the fixed resource of courtroom space) and would invite rather than retard the use of modern technology in such areas as data processing, communications and court reporting. It would, in short, not merely improve the atmosphere in which the weighty business of criminal justice goes on but would actually provide the judges, court staff, and everyone else involved in that business with the tools to do it better.

Based upon this architectural program, the task force has worked with the Hemsley-Greenfield Real Estate firm to analyze site options, searching (between the Rivers and between Girard and Washington Avenues) for structurally sound shells of proper size and specifications for renovation in accordance with the architect's plans, subject to conversion in less than one year from acquisition and situated so as to be accessible to public transportation and adequate parking facilities.

"Worst case" cost estimates for the purchase, renovation and equipment of a Drug Court facility are included in the budget prepared for this report. The task force wishes to note, however, that there may well be City or School District of Philadelphia-owned buildings available at no cost, thus reducing the Drug Court budget by 6 million dollars, or 1.2 million for each of the five budgeted years. Furthermore, if and when a comprehensive criminal justice center is built for Philadelphia, the Drug Court building may well be profitably resold, particularly if the site chosen turns out to be a favorable one for office space five to ten years hence.

h. Funding.

We believe that the City of Philadelphia lacks the wherewithal to fund more than perhaps a small percentage of these recommendations at this time.

---

The burden on Philadelphia government is clearly demonstrable. Philadelphia is today receiving \$188 per capita in state support while Baltimore gets \$464 and Boston \$616. Even those figures understate Philadelphia's competitive disadvantage because neither

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 21

If the problem is to be solved, therefore, in realistic terms the funding must come from the State of Pennsylvania and from the federal government through the state. We hope and believe that a request for funds for the Drug Cases Strategy proposed here will elicit a more favorable response than a generic request for more money for the Philadelphia Criminal Justice System. First, in this time of devastating effects from drugs throughout the Commonwealth, we do not believe the legislature would hand a victory to the forces of lawlessness by denying a plea for vital ammunition needed to meaningfully wage a war on drugs. Second, while the mandate of this task force went only to the problems of Philadelphia, the general principles of the proposed Drug Cases Strategy could be applied statewide. As the drug problem is not limited by any borders, this need not be seen as a special request benefitting only Philadelphia. Third, and most significant, this proposal is designed to assure any who might otherwise doubt that safeguards of the sort already enumerated can ensure that drug strategy money will be well and effectively spent.

This task force takes no position with respect to the ongoing constitutional and political controversy as to whether the state or the counties should have responsibility to fund the state court system in its entirety. With respect to the Drug Court, however, an emergency response, to a grave public crisis simply beyond the means of Philadelphia, we recommend a request that all costs, beyond whatever contribution is possible by the City of Philadelphia, associated with this initiative - the judicial positions themselves, all court personnel, the requisite number (as specified in the accompanying costs analysis) of additional Assistant District Attorneys and Public Defenders, sheriff's deputies, overhead and physical facilities -- be provided by the Commonwealth for the duration of the existence of the Drug Court. Much of the funds from Harrisburg may, however, actually originate in Washington. Prompt adoption of these recommendations will give Pennsylvania a model initiative for the

---

Baltimore nor Boston is responsible for funding courts and human services. These items will cost Philadelphia approximately 160 million dollars this year, nearly 8% of the city's budget.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 22

use of new federal resources available to the states beginning in 1990 as a part of the President's National Drug Control Strategy.

i. Results.

Together with improvements in the existing institutions in the criminal justice system (even assuming for this estimate only a promise of no more than a 10 - 15% increase in dispositions), the Drug Court promises to reduce the case backlog in the system as a whole, within 3 - 5 years, by perhaps 75%, even allowing for current projections of continued increases in new cases each year. This should enable the Common Pleas Court to bring cases to trial within the 120 day standard set by the ABA National Conference of State Trial Court Judges. Moreover, there is nothing better the courts can do to help the county prison overcrowding problem than to cut the time-to-trial.

2. A "Mandatory Drug Treatment Initiative."

Starting from premises we have already stated -- that drug-related crime simply is the Philadelphia Criminal Justice problem because many drug-dependent offenders commit crime repeatedly to support their habits -- no approach to the problem is serious that does not attempt to combat recidivism by drug-dependent offenders. The creation of a Drug Court, to expedite the processing of drug cases (and, by improving the system as a whole, to speed the disposition of all cases) will not accomplish enough if it is not linked with a profound commitment to make available drug treatment to the widest possible group of drug-dependent offenders in an effort to halt the spiral of drugs, crime and incarceration for as many offenders as possible.

We believe the case for this broad scale drug treatment initiative is clear despite the reality that such treatment is not a "magic-bullet" cure. On general principles the case is that we must use all weapons available to fight the war on drugs, especially that weapon that is aimed at dealing with recidivism. An economic rationale, however, is readily set forth: If the treatment initiative removes from a lifetime of crime, or a significant period of criminal behavior, only 10% of those treated, the savings to society (considering only dollars, although many other costs are, of course, avoided as well) is greater than the outlay for the entire program. One relatively petty drug-dependent criminal can, in a lifetime of lawlessness, easily cost our society \$500,00 in property losses and criminal justice system costs. If this initiative is only 10% effective it will annually

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 23

put more than 700 former felony defendants on the road to non-criminal lives, thus saving as much as \$350 million in the long-term. Moreover, even if "cured" offenders return to crime as non-addicts, there are savings to be gained as both the quantity and quality of crime are greater among drug users. To get these savings -- focusing first on accused and convicted felons -- it is our best estimate (detailed in our Cost Analysis Section) that we must spend some 12.7 million per year.

While this sum is a significant increase in funding for drug treatment in Philadelphia over the present total from all sources, public and private, of approximately 28 million per year, the clear cost-effectiveness of the additional investment simply proves how dramatically underfunded the treatment system is today. And we repeat our view that, in absolute dollars, out of a state General Fund of 12 billion, this initiative (together with the Drug Court) should not be ruled out on grounds of cost. 12.7 million dollars for a full year's expanded program of drug treatment for felony offenders, involving more than 7000 individuals should be compared, for example, to the 15 million dollars recently "spent" by the inmates of Camp Hill during one evening in the form of the damage they did to that facility.

Furthermore, the full spending for the comprehensive treatment initiative proposed here would not be required immediately or all at once. We have, for example, only budgeted for expansion of treatment to meet the needs in the defendant population handled by the Common Pleas Court, the felony population. It would take time to gear up the treatment system to accommodate the full number of new referrals. In the interim, costs would be lower and experience gained in what works best. Indeed, a pilot stage for an expanded treatment system, reducing costs in the initial period, should be seen as a prudent and a useful, indeed a necessary, step which we endorse.

Philadelphia currently has a drug treatment system which is significantly tied into the criminal justice system. This system, however, and its relationship to the criminal justice system, is piecemeal and ill defined, delivering services to only a small percentage of the drug-dependent offenders who pass through our courts and jails. For example, of the approximately 19,000 persons admitted to the Philadelphia prisons this year, at least three quarters of whom are believed to be drug abusers, only approximately 1300 received any sort of drug treatment at all. What follows, therefore, is a new conception of an appropriate order of magnitude of something available on a totally inadequate level.

In the crucial area of drug treatment, the task force recommends the expansion and consolidation of existing treatment access routes within the criminal justice system so that,

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:

A Drug Cases Strategy for Philadelphia

Page 24

ultimately, treatment is available to every "treatable" drug-dependent offender<sup>10</sup>. The details of this proposal follow:

a. Screening.

Before we can treat the drug-dependent offenders, we must know who they are. We seldom do today. We also must know (as best we can) what kind of treatment is most likely to help each individual. Treatment modes range, of course, from short-term out-patient approaches to long-term, intensive, residential programs. We therefore recommend that a comprehensive screening procedure be put in place, involving both urinalysis, as appropriate, and a professionally designed diagnostic interview to determine which arrestees in Philadelphia are drug-dependent, among them, which appear treatable, and what mode of treatment appears indicated.

b. Pre-trial Diversion.

Two drug-treatment-oriented pre-trial diversion programs currently exist under Pennsylvania law, the Drug Act's "Section 17" and "Section 18" provisions (See Appendix D for the full text of these provisions). Essentially, Section 17 offers treatment, and ultimately the disposition of the case, in lieu of trial to first-time defendants charged with violating the Drug Act itself (so long as the case involved does not subject the person to a mandatory minimum prison sentence). Section 18 offers the same, with the consent of the District Attorney, to first-time drug-dependent offenders charged with committing any non-drug crime so long as the crime was non-violent and also not subject to any mandatory minimum penalties.

Consistent with the goal of this treatment initiative that all treatable drug-dependent offenders receive treatment, these provisions should be amended and their utilization revised as follows:

<sup>10</sup>

This means those offenders who possess sufficient internal discipline or on whom a sufficient level of discipline can be imposed without abuse so as to make their participation in a treatment program possible. A "treatable" offender is not necessarily one who will be "cured" by treatment.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 25

- The findings of the general screening of arrestees as to which are drug-dependent and treatable should replace the individual physician report presently required on these questions. Together with the type of charge and the defendant's first-time status and consent to diversion, the screening results should automatically trigger eligibility for diversion from trial to treatment (in whatever court the defendant's case properly rests -- Municipal Court, Trial Division of the Common Pleas Court or the Drug Court). The nature of the treatment program for each diverted defendant should be based on the results of the screening.
  
- The veto over treatment in lieu of trial currently provided to the District Attorney in Section 18 should be removed. The District Attorney represents one side in an adversarial system. It is improper for such a protagonist to hold final authority over the outcome. Sentencing discretion, and decisions about eligibility for a treatment-oriented pre-trial diversion program, appropriately rests with the Court, not the District Attorney.<sup>11</sup> As to the judges' exercise of that discretion, the Supreme Court should amend the Rules of Criminal Procedure to provide that all first-time, non-violent, treatable drug-dependent offenders who consent and who are charged with non-mandatory-sentence crimes be diverted into treatment unless the judge hearing the case explains in writing what extraordinary circumstances caused him or her to act to the contrary.
  
- The pilot project tested in the fall and slated to resume in January 1990 (using, in part, federal grant funds) in which, among other things, diversion hearings are expedited, getting the drug-dependent offender diverted into treatment promptly after arrest rather than on the regularly scheduled trial date long after arrest, should become permanent and this

---

<sup>11</sup> Obviously, we also oppose, for the same reasons, proposed legislation to add a District Attorney veto to Section 17.



PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 26

same approach should be applied, again, in all three courts.

c. Probationers and Non-Custodial Pre-Trial Defendants.

In those cases where the nature of the defendant or the charge disqualifies a drug-dependent offender from diversion, treatment must still remain available. Therefore, we recommend that it be the rule of the three relevant court entities that all convicted offenders on probation determined at initial screening to be drug-dependent and treatable be required to undergo such treatment as a condition of their probation unless the sentencing judge states in writing some extraordinary reason to do otherwise. The nature of the treatment regime for each drug-dependent probationer, as above, should conform to the recommendations of the post-arrest diagnostic work-up.

Likewise, we recommend that those non-custodial pre-trial defendants ineligible for diversion and determined at screening to be drug-dependent and treatable be offered basic detoxification and diagnostic and counseling services while awaiting trial.

d. Treatment Behind the Walls.

To ensure adequate treatment access points, in-jail treatment programs must exist to accommodate all treatable drug-dependent incarcerated convicts whether serving county or state sentences and whether convicted of drug or non-drug offenses. This is of growing importance because the number of persons being incarcerated is climbing as a result of the various mandatory sentences enacted in recent years.

Presently, there is very little treatment going on in the Philadelphia County prisons, with only six drug counselors (out of some 23 ordered to be hired by the Common Pleas Court) and little programmatic space in the entire four prison system. It is even questionable as to whether the Philadelphia prisons always serve as temporary detoxification centers given the reality of their porousness to drugs from the streets. The state system is somewhat better

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

**Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 27**

and funds from the Pennfree program promise greater availability of services. Until, however, the comprehensive goal we have stated here -- treatment for every treatable offender who needs it without interminable waiting lists -- becomes the clear public policy of this Commonwealth, all other anti-drug efforts are simply "band-aid" measures inadequate to the illness.

e. Funding.

As with the Drug Court, new funds for the Mandatory Drug Treatment Initiative must come from Harrisburg and Washington.

f. Longevity.

Unlike the Drug Court we do not believe the Drug Treatment Initiative can be short-lived. A commitment to significant new resources for drug treatment in the criminal justice system must last as long as crime and drug abuse rates remain so high and so linked. It is our belief that at least the added dollars for treatment specified in our accompanying cost analysis must remain a budget priority for the entire decade of the 1990s and possibly well into the first decade of the new century.

C. Implementing The Drug Cases Strategy.

6. A Short-term Physical Facilities Recommendation.

As a first step towards the implementation of the Drug Treatment Initiative proposed here and a necessary interim step towards relieving the present crisis of Philadelphia prison overcrowding, we urge the city, while the Justice Facilities and Improvement Strategy team is at work on a professional architectural program evaluating long-term prison needs, to bring on-line, as soon as possible, 500 minimum security, drug-treatment-oriented beds, obtained by contract with private providers.

7. A Implementation Advisory Body.

To facilitate implementation of the Drug Cases Strategy recommended here, beyond the March 31, 1990 expiration date for the life of this task force, we recommend that an implementation advisory body be created to help develop the details of an action plan and, hopefully, assist with the actual implementation of this report during 1990. It is our

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 28

recommendation that the follow-on body finish its work by New Year's Day, 1991, because the strategy could be operational by then. This implementation body should embody both a state and local partnership (involving all three branches of government at both levels) and a private and public partnership and should incorporate representation from the various components of the justice system. We further recommend that, following the model of this task force, staff and other support for the working group be solicited from private sources.

IV.

**Cost Analysis**

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 29

IV. Cost Analysis

For the purposes of this proposal we have developed the following as a possible budget. A number of the assumptions clearly invite public debate and these have been identified as such. As will be obvious on analysis, others also involve policy decisions and may engender similar debate. Taken as a whole, we believe the following is a reasonable projection.

A. The Drug Court

1. Personnel (annual figures in thousands based on current average annual salaries)

a. A "Judicial Unit"

Judge	80
Secretary	25
Law Clerk	25
Aide	25
Subtotal	155
Benefits (30%)	46.5
<u>Per Unit Total</u>	<u>201.5</u>

TOTAL FOR 13 UNITS

2,619,500

b. A "Courtroom Unit"

D.A.	40
P.D.	40
Crier <sup>12</sup>	25
Sheriff's Deputy	30
<u>Jury<sup>13</sup></u>	<u>31.5</u>

<sup>12</sup>

We have budgeted for one court officer per courtroom rather than the two presently allocated in the Trial Division. We have also reduced personnel by eliminating the court clerk position and providing for one sheriff's deputy per courtroom. If the cost of each courtroom unit is calculated to include these positions, as per the present staffing in the Trial Division, the cost per unit increases by \$104,000, or \$1,144,000 for the 11 units.

<sup>13</sup>

Jury, with two alternates @ \$10/day for an average of 4.5 days per week for 50 weeks.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 30

Subtotal	166.5	
Benefits (30%)	49.95	
<u>Per Unit Total</u>	<u>216.45</u>	
TOTAL FOR 11 UNITS <sup>14</sup>		2,380,950

c. Court Reporting

Court Reporters & Supervisor	700	
(14 @ 50)		
Transcribers/typists	175	
(7 @ 25)		
<u>Subtotal</u>	<u>875</u>	
<u>Benefits (30%)</u>	<u>262.50</u>	
TOTAL		1,137,500

d. Court Administration and Operations

Additional Sheriff's	600	
Deputies for Building		
Security and Prisoner		
Transportation & Holding		
(20 @ 30)		
Benefits (30%)	180	
Jury Assembly &	75	
Administration (3 @ 25)		
Benefits (30%)	22.5	
Interpreter's Office	75	
(3 @ 25)		
Benefits (30%)	22.5	
Court Administrator's office	200	
(5 @ average of 40)		
Benefits (30%)	60	

<sup>14</sup>

Estimated number needed to operate 9-10 courtrooms each week day. Fewer of these positions are required than judges and their personal staff because these individuals are not removed from court for chambers weeks.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
 A Drug Cases Strategy for Philadelphia  
 Page 31

Court Clerk's Office <sup>15</sup>	750	
(25 @ average of 30)		
Benefits (30%)	225	
Building Maintenance	135	
(3 @ 35 and 2 @ 15)		
<u>Benefits (30%)</u>	<u>40.5</u>	
TOTAL FOR ADMINISTRATION AND OPERATIONS		\$2,385,500
TOTAL PERSONNEL COSTS		\$8,523,450
2. <u>Physical Facilities (one-time costs)</u>		
a. Purchase of 120,000 sq. ft. building of appropriate location and specifications	6,000	
b. <u>Renovation, furniture, fixtures &amp; equipment</u>	<u>13,904</u>	
TOTAL	19,904	
TOTAL DIVIDED BY 5 YEARS		3,980,800
3. <u>Purchase of Services</u>		
Utilities (\$2.50 x 120,00 sq. ft.)	300	
Janitorial Services (\$1.35 x 120,000 sq. ft.)	162	
<u>Miscellaneous Repairs</u>	<u>50</u>	
TOTAL		512,000

15

Staff responsible for non-courtroom duties including case processing and record keeping.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 32

4. Materials & Supplies

TOTAL	100,000
DRUG COURT TOTAL (AVERAGE ANNUAL BUDGET FOR FIVE YEARS)	\$13,116,250

B. The Treatment Initiative<sup>16</sup>1. Screening (A Diagnostic Intake System)

Intake Interviewers	255
(15 @ 17)	
Benefits (30%)	76.5
Clerical Support, data processing, additional urinalysis laboratory capacity	200
TOTAL	\$531,500

2. Treatment (Operating Expenses for Expanded Treatment Programs)<sup>17</sup>

<sup>16</sup> As has already been made clear, the task force urges that drug treatment be made available to the widest possible group of drug-dependent offenders, whatever the court in which their cases are heard. Indeed, philosophically, this task force believes treatment-on-demand should likewise be made available for those addicted to drugs but not then in the criminal justice system. Because our mandate is limited to the problems confronting the Philadelphia Common Pleas Court, however, this budget calculates only the additional costs, above current spending on treatment, for implementing our treatment proposals with respect to the cases filed in Common Pleas Court. Our best estimate, however, of the costs of implementing the initiative in the Municipal Court is \$17 million annually. We have made no effort to estimate costs for expanded treatment outside the criminal justice system.

<sup>17</sup> It is not possible at this stage in the development of this initiative to estimate the "start-up" costs, especially with respect to physical facilities for residential treatment of diverted and probationary



PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 33

a. Pre-trial Diversion

-	Estimated average annual number of persons to be diverted in each of the next five years, less estimate of drug-treatment diversions under existing programs	700
-	Estimated drug-dependent population within the above number (80%)	560
-	Net treatable drug-dependent population (discounting by 15%)	476
-	Unit costs for treatment:	
o	Out-patient, per person (4 month program)	\$1200
o	In-patient, per person (3 month program)	\$9000
-	Assumed split between in-patient and out-patient treatment for the diversion population	90% out-patient 10% in-patient
	<b>TOTAL DIVERSION TREATMENT COSTS</b>	<b>\$942,480</b>

b. Probationers

-	Estimated average annual probation population in each of the next five years, less estimate of those receiving drug-treatment under existing programs	3000
---	---	------

---

offenders. Those would, however, obviously be over and above the treatment operating expenses detailed here and, unless existing facilities such as at the Pennsylvania State Hospital or the Naval Shipyard Hospital, are made available, these costs could be quite large.

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 34

-	Estimated drug-dependent population within the above number (80%)	2400
-	Net treatable drug-dependent population (discounting by 15%)	2040
-	Unit costs for treatment:	
o	Out-patient, per person (4 month program)	\$1200
o	In-patient, per person (3 month program)	\$9000
-	Assumed split between in-patient and out-patient treatment for the population on probation	75% out-patient 25% in-patient
	<b>TOTAL TREATMENT COSTS FOR PROBATIONERS</b>	<b>\$ 6,426,000</b>

**c. Incarcerated Offenders**

-	Estimated average annual number of persons sentenced to prison from Philadelphia in each of the next five years, less estimate of the number treated under existing programs	3000 state <u>4000 county</u> 7000 total
-	Estimated drug-dependent population within the above-number (80%)	5600
-	Net treatable drug-dependent population (discounting by 15%)	4760

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 35

Unit Costs for treatment:

o	"Out-patient", per person <sup>18</sup>	\$200
o	"In-patient", per person	\$900
-	Assumed split between "in-patient" and "out-patient" treatment for the jail population	60% out-patient 40% in-patient
	<b>TOTAL COSTS FOR TREATMENT FOR INCARCERATED OFFENDERS</b>	<b>\$2,284,800</b>

d. Basic Services for the Pre-trial population

- Because it is not possible to determine with acceptable confidence the number of pre-trial, treatable drug-dependent defendants who would accept treatment services, whether on bail or in custody pending trial, we offer only an order of magnitude estimate concerning these costs, developed in consultation with many drug treatment specialists:      \$2,500,000

TOTAL ANNUAL TREATMENT COSTS      \$12,153,280

TOTAL ANNUAL TREATMENT INITIATIVE COSTS      \$12,684,780

TOTAL AVERAGE ANNUAL BUDGET FOR THE DRUG COURT AND DRUG TREATMENT INITIATIVE IN THE COMMON PLEAS COURT      \$25,801,030

<sup>18</sup> With respect to drug treatment of incarcerated offenders, the terms "in-patient" and "out-patient" refer to more and less intensive treatment approaches behind the prison walls. The unit costs for both approaches appear substantially lower than those for non-prison treatment because all expenses and overhead not directly related to treatment are costs which must be budgeted for every prisoner whether or not he or she is receiving treatment.

V.

**Conclusion:  
An Agenda For Continuing Work**

PHILADELPHIA  
CRIMINAL JUSTICE TASK FORCE

Preliminary Report:  
A Drug Cases Strategy for Philadelphia  
Page 36

V. Conclusion: An Agenda For Continuing Work.

Between now and the March 31, 1990 deadline for the work of this Task Force set by the Chief Justice, much remains to be done. At this point we wish only to indicate the areas in which our investigations will proceed and concerning which we anticipate recommendations. These areas are three:

1. Justice Reform Issues: Getting the most from the resources currently available to the criminal section of the Court of Common Pleas. We intend to analyze the existing system and to recommend responses to a number of issues including:
  - a. Information Systems
  - b. Practices and attitudes among bench and bar that may be factors in the present pattern of delay.
  - c. Remaining problems arising from the overcrowded county prison conditions.
  - d. The need for better communication and coordination among stakeholders in the Philadelphia Criminal Justice System, including the importance of avoiding a structure of fragmented leadership.
2. Physical Facilities and Financial Resources: issues regarding courthouse, technological support and county prison space needs for Philadelphia. We will detail the manifest inadequacy of City Hall as a courthouse and make recommendations concerning both the need for a new criminal justice center and for county prison facilities.
9. The Juvenile Justice System.

In the meantime, we urge in the strongest possible terms that efforts commence towards the implementation of the recommendations made in this preliminary report.

VI.

**Appendices**

PHILADELPHIA, PENNSYLVANIA  
 COURT OF COMMON PLEAS  
 TRIAL DIVISION

FELONY CASE SUMMARY 1978-1989

<u>YEAR</u>	<u>CASES AVAILABLE JANUARY 1</u>	<u>NEW CASES FILED</u>	<u>CASES DISPOSED</u>	<u>CASES AVAILABLE DECEMBER 31</u>
1978	2,975	7,621	7,167	3,429
1979	3,429	7,138	6,200	4,367
1980	4,367	8,715	7,498	5,584
1981	5,584	10,888	9,475	6,997
1982	6,997	11,189	11,953	6,233
1983	6,233	11,117	9,789	7,563
1984	7,563	10,970	10,987	7,546
1985	7,546	11,205	10,844	7,907
1986	7,907	12,154	10,267	9,794
1987	9,794	13,204	13,157	9,841
1988	9,841	14,676	13,505	11,010
1989*	11,010	16,207	14,628	12,582

7-1

APPENDIX A

147

\*Projected based on January through September.

## APPENDIX B

ESCALATION IN THE BACKLOG OF OPEN BENCH WARRANTS

The following chart provides the number of outstanding bench warrants needing execution at the end of each month as indicated.

<u>1987</u>	<u>CP</u>	<u>MC</u>	<u>TOTAL</u>
January	2,857	10,950	13,807
December	3,368	13,227	16,595
Actual No.	+ 511	+ 2277	+ 2788
%	+ 17.8%	+ 20.7%	+ 20.1%
 <u>1988</u>	 <u>CP</u>	 <u>MC</u>	 <u>TOTAL</u>
January	3,368	13,227	16,595
December	5,003	18,357	23,360
Actual No.	+ 1635	+ 5130	+ 6765
%	+ 48.5%	+ 38.7%	+ 40.7%

Hence, the rate of increase in number of fugitives from the courts of Philadelphia has increased 102% or two fold from 1987 to 1988.

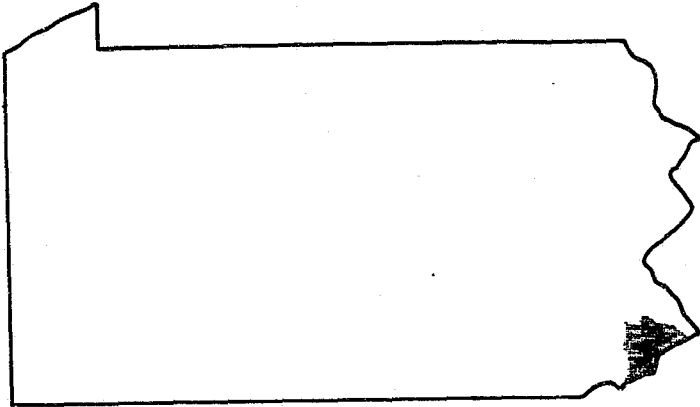
As of the end of February 1989 there were 5165 felony fugitives and 18,808 misdemeanor fugitives.



APPENDIX C

Report on SMC's  
**Preliminary Architectural Program  
and Budgetary Cost Estimates  
for the Proposed Drug Court Division of  
the Philadelphia Court of Common Pleas**

---



---

**Space Management Consultants, Inc.**  
418 Vine Street, Seattle, Washington 98121  
Phone: (206) 448-1775 Fax: (206) 448-5045

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

## TABLE OF CONTENTS

Project Background . . . . .	1
Project Approach . . . . .	1
Planning Assumptions . . . . .	1
Preliminary Facility Program . . . . .	4
Preliminary Budgetary Cost Estimates . . . . .	6
General Considerations Regarding Selection of a Structure to House This Facility . . . . .	9

SNC Project ID: PA/EHI 8914-I

---

SPACE MANAGEMENT CONSULTANTS, INC.

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

#### PROJECT BACKGROUND

Because it is not physically possible to house the proposed Drug Court division of the Philadelphia Court of Common Pleas within the current court facilities housed in City Hall -- without resorting to the unanimously rejected concept of a split shift/night court operating schedule -- it has been recommended by the Philadelphia Criminal Justice Task Force that a new site be made available for the Drug Court Division. Since the Drug Court is considered to be a five-to-ten-year "emergency" response, the facility solution points toward a "temporary" structure rather than a new permanent building. As it would be less costly and less time-consuming to renovate an existing structure with high, wide structural bays (e.g., warehouse, school building, etc.) rather than to construct a new court building, it is likely that the Drug Court will be accommodated within an existing structure renovated to accommodate the special facility needs of the Court.

The Task Force contracted with Space Management Consultants, Inc. (SMC) early in October, 1989 regarding SMC's participation in developing a preliminary program of facility needs and in preparing a preliminary budgetary cost estimate for this project by December 1, 1989, with a revised final report completed by December 10, 1989. This report presents the planning assumptions used by SMC, summarizes the preliminary architectural facility program and budgetary cost estimates developed and SMC, and provides a brief discussion of a number of factors to be considered during the process to select a structure in which the proposed Drug Court may be housed.

#### PROJECT APPROACH

Due to the severe time constraints imposed on this phase of the project, SMC had to quickly review very sketchy information available from the Task Force regarding the anticipated organization and structure of the proposed new Drug Court Division; discuss in great detail by telephone with the Staff Director of the Task Force on the operational and facility aspects of this new court system; and to make certain significant assumptions that could have major impact on the operational efficiency and effectiveness of the Drug Court Division. Absent specific information and data, much of the programmatic information and cost estimates contained in this report are based on SMC's extensive courthouse planning and design experience over that past 19 years, and on educated guesses regarding the operational, personnel, equipment and facility requirements derived from such experience in the planning and design of court facilities located in other cities and states.

#### PLANNING ASSUMPTIONS

1. The Drug Court will have 13 judges, with 12 sitting judges and a ceremonial "administrative" judge. There will be ten jury courtrooms used by 9-10 judges at any one time. The other two to three judges would serve as swing personnel to accommodate vacations, chambers weeks, and so on.

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

2. Of the ten courtrooms, eight should be regular 12-member jury trial courtrooms with public seating capacity of 40 to 50 spectators, while the remaining two should be larger jury trial courtrooms with public seating capacity of 100 to 120 spectators. The regular trial courtrooms should have a jury box capacity of 14 jurors (12 regular jurors and two alternates), whereas the jury box capacity for the larger courtrooms should be up to 18 jurors (12 regular jurors and up to six alternates).
3. The ratio of jury deliberation suites to jury trial courtrooms in this facility will be programmed at 8:10. For general trial courts, the ratio normally used is six or seven jury deliberation suites to ten jury trial courtrooms. This ratio has been derived from the observation that no more than six or seven out of ten jury courtrooms would require the simultaneous use of jury deliberation suites, and reduction of the number of jury deliberation suites from ten to six or seven generally will result in a corresponding reduction in construction costs for the project. Due to the relatively large number of jury trials (i.e., jury trials at the anticipated rate of four per courtroom per week) expected to occur in the proposed Drug Court, a somewhat higher ratio of eight jury deliberation suites to ten jury trial courtrooms has been assumed for this program.
4. For optimal courthouse security, separation of public, restricted (e.g., judges and staff), and secured prisoner circulation patterns within criminal court facilities, and in particular, facilities handling serious drug cases, is an essential design element. It is anticipated that detained defendants will be checked in at the central holding facilities (building lock-up) located on the main vehicular entry level (ground or basement floor). They will subsequently be transferred via secure prisoner elevators (or staircases in a low rise building) to holding cells located between pairs of trial courtrooms on each courtroom floor to await court appearances. Private or restricted entry to courtrooms will occur from the rear where access for judges and staff will be provided. Public (attorneys, litigants, witnesses, spectators, etc.) entry to courtrooms is usually from the front where attorneys' conference and witness waiting rooms are located. By this means, there will be no conflicts between public, private and secure circulation patterns.
5. It is assumed that the Clerk's Office, which will probably be a newly created branch office of the Clerk of Quarter Sessions in Philadelphia, will consist of three sections: administrative, case processing, and courtroom assistance. The total projected number of clerks (35), is equivalent to about three clerks for each of the 12 sitting judges. Due to the high public traffic volume, it is important to locate the Clerk's Office on the main public entry level of the courthouse. Since most of attorneys' staff and people filing documents or transacting business with the Clerk's Office throughout the day do not usually have to also attend court appearances in courtrooms located on the upper floors, the location of the Clerk's Office on the main entry floor would minimize the traffic load on the public elevators. Should the Clerk's Office be located on a floor above or below the main public entry level, consideration should be given to the

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

- installation of escalators, which can provide much greater capacity for moving large numbers of people between two or more floors.
6. Because of the high volume of movement in the transfer of paper and supplies between the loading dock and the equipment, supplies and exhibits storage facilities of the Clerk's Office, it would be advantageous and convenient for the loading dock, mail room and related storage facilities to be located in close proximity to the Clerk's Office on the main public entry floor.
  7. It is assumed that court reporters for this court division will be pooled and located in a central office in close proximity to the courtrooms. While each of the 12 sitting judges will be assigned a court reporter when his/her courtroom is in session, it is considered more efficient, both in operation and management, to centralize the court reporters at one location rather than permanently assigning a court reporter to each judge or each courtroom. Since there will be ten trial courtrooms, additional court reporters beyond the ten required should be programmed to cover for vacation, sickness, etc., as well as to provide quick-turn-around coverage for the type of fast-moving proceedings expected to occur on a regular basis in this proposed court. A centralized court reporter's office will also be more efficient and convenient for the use of transcriber/typists hired specifically to aid court reporters in the preparation of transcriptions of trial proceedings.
  8. Because of the temporary nature of this court building, functional areas that will not full capacity utilization, such as the jury assembly facility, are not provided with the full range of facilities generally associated with those functions. For example, other than the jury clerks office, jury assembly functions will be accommodated in a single large assembly room which may also house several vending machines, coat closets and television viewing areas. Separate spaces for smokers and non-smokers would be created by the use of movable partitions or other means within the assembly room. Separate lounges or work rooms will not be provided.
  9. The Sheriff's Court Services unit will consist of two major sections: building security and prisoner security. The building security section will be responsible for weapons screening at the public entry and for building patrol. The prisoner security section will be responsible for the central lock-up, prisoner movement within the courthouse, and prisoner security in holding cells and courtrooms. Secure prisoner circulation must be entirely and completely separated from staff and public circulation. The Sheriff's central lock-up facilities should be adjacent to the vehicular sallyport either on the ground floor or in a basement level. Secure connections are required between the central lockup and the prisoner elevators used to move prisoners to and from the holding cells serving the trial courtrooms on the upper floors.
  10. Because all the support agencies such the District Attorney's Office, Public Defender's Office, Probation Department, Pre-Trial Services, and Police liaison have their main offices outside of this court building, only limited landing spaces are programmed for staff use when they appear at hearings or trials in the courtrooms or have business with the clerk's office. These

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

landing spaces could be located anywhere in the building, although the lower floors in close proximity to the main public entry level would be preferred. It is assumed that the landing spaces for the District Attorney's Office, the Public Defender's Office and the Probation Department will each be permanently staffed by a receptionist/clerical support position; it is also assumed that the Pre-Trial Services agency will provide up to four staff at this proposed court facility.

11. Shared building amenities in this temporary structure have been assumed to be minimal, and will include staff conference/break rooms (at a ratio of one per floor), staff restrooms on each floor, a snack bar concession, and a media/press room.

PRELIMINARY FACILITY PROGRAM

Table 1 summarizes SMC's preliminary facility program for the proposed Philadelphia Drug Court. Several similar tables were developed earlier for extensive discussions with Mr. Craig Snyder, Staff Director of the Task Force, and many revisions were made based on those telephone discussions. Table 1 shows that the judicial function of the court will require a net programmed area, including internal circulation space, of 47,610 net square feet (NSF) which is approximately 67 percent of the total net programmed area proposed for this building. Together with the essential court ancillary services including court administration, clerk's office, court reporter's office, interpreters' office, jury assembly and administration, sheriff's court services and shared building amenities, the Drug Court will occupy 67,450 NSF which is equivalent to 95.2 percent of the total net programmed area of the building. The remaining 3,390 NSF, or 4.8 percent of the total area will provide landing spaces for the various support departments, including the District Attorney's Office, the Public Defender's Office, the Probation Department, the Pre-Trial Agency, and the Police liaison, the main offices of which are located elsewhere.

It is anticipated that the total number of personnel housed in the building required to operate the 13-judge Drug Court will be 156, of which 149 or 95.5 percent are part of the court structure and 7 or 4.5 percent are employees of the support agencies. Total space assigned to personnel is calculated to be 15,415 NSF, and to departmental or shared space is 43,590 NSF, for a total of 70,840 NSF of net programmed area for the building.

Since the most likely approach for implementing this course of action would be to find a suitable existing structure, and to renovate it to suit the needs of the court system, the net usable area to be derived from such a building (as a ratio to the overall gross building area) will be lower than the design of a new building without the constraints of the existing structure, building service core and environmental systems. For a new court building, the net to gross ratio in floor area is normally around 0.7. For renovation of an existing structure, such as a warehouse, school building, etc., the net to gross ratio is more likely to be between 0.6 and 0.65. By dividing the 70,840 NSF by 0.6 and 0.65, the total gross programmed areas for this court building are 118,070 GSF and 108,980 GSF, respectively. At this stage of the project, SMC would recommend that a building

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

2 File: C:\VPLAN\09147BL.1, Last Edited: 12.05.89

3 TABLE 1

4 PRELIMINARY FACILITY PROGRAM

5 PHILADELPHIA DRUG COURT

6

7	1	2	3	4	5
8	-----				
9					TOTAL NET
10		NO. OF	PERSONNEL	DEPARTMENTAL	PROGRAMMED
11	COURT/DEPARTMENT/AGENCY	PERSONNEL	SPACE	SPACE	AREA (NSF)
12	-----				
13	DRUG COURT JUDICIAL FUNCTION	52.00	9,935	29,740	47,610
14	DRUG COURT ADMINISTRATION	5.00	580	250	1,000
15	DRUG COURT CLERK'S OFFICE	35.00	1,660	2,190	4,620
16	OFFICIAL COURT REPORTERS OFFICE	21.00	2,190	840	3,640
17	OFFICIAL INTERPRETERS OFFICE	3.00	120	35	190
18	JURY ASSEMBLY & ADMINISTRATION	3.00	150	3,440	4,310
19	SHERIFF'S COURT SERVICES	30.00	290	2,095	2,860
20	DISTRICT ATTORNEY'S OFFICE	1.00	70	610	820
21	PUBLIC DEFENDER'S OFFICE	1.00	70	610	820
22	PRETRIAL SERVICES AGENCY	4.00	280	325	750
23	PROBATION DEPARTMENT	1.00	70	445	620
24	POLICE LIAISONS & WAITING	0.00	0	330	400
25	SHARED BUILDING AMENITIES	0.00	0	2,680	3,220
26	-----				
27	TOTAL:	156.00	15,415	43,590	70,840
28	-----				
29	TOTAL GROSS PROGRAMMED AREA, GSF (NET:GROSS = 0.6):				118,070
30	-----				
31	TOTAL GROSS PROGRAMMED AREA, GSF (NET:GROSS = 0.65):				108,980
32	-----				

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

with a gross area of about 120,000 GSF be obtained for this project. A four story building with 31,500 GSF per floor, a three story building with 40,500 GSF per floor, or a two story building with 61,000 GSF per floor can all be made to adequately accommodate the facility program for the Drug Court.

#### PRELIMINARY BUDGETARY COST ESTIMATES

Tables 2 and 3 summarize preliminary facility program broken down by functional space types grouped according to their various estimated unit costs of construction. Each table breaks down the net and gross area under each category into courtroom and ancillary, office and detention groups of spaces. Table 2 figures are based on a net-to-gross ratio of 0.6 and Table 3 on a net-to-gross ratio of 0.65.

On Table 2, the spaces occupied by the courtrooms and ancillary, office and detention categories are 87,120 GSF, 23,800 GSF and 7,160 GSF, respectively; a total of 118,080 GSF for the building. Assuming the retention of the structural systems but gutting all interiors of the existing building, SMC estimates that the unit construction costs for courtrooms and ancillary facilities to be around \$85 per GSF; for office space, \$55 per GSF; and for detention facilities, \$105 per GSF. By applying these unit construction costs to the gross area under each category, the estimated construction costs for courtroom and ancillary facilities are calculated to be \$7,405,200; for office space, \$1,309,000; and for detention facilities, \$751,800, a total construction cost of \$9,466,000.

Estimated project costs include estimated construction costs plus; estimated site development (excluding site purchase) costs; furniture, fixtures and equipment (FF&E) costs; professional A/E and consulting fees; contingency costs; and escalation costs to a projected mid-point of construction. These additional costs account for the 40 to 50 percent additional cost over the construction costs, but does not include site and building acquisition costs, nor do they include financing costs, if applicable. By increasing the estimated court construction costs by a factor to arrive at the estimated unit project cost, the unit project costs for those three categories, are \$125 per GSF, \$80 per GSF and \$155 per GSF, respectively. By applying these unit project costs to the gross areas of the three categories, the estimated project costs for the courtroom and ancillary facilities are calculated to be \$10,890,000; for office space, \$1,904,000; and for detention facilities, \$1,109,800, a total project cost of \$13,903,800.

On Table 3, by using the net-to-gross ratio of 0.65, the spaces occupied by the three categories are 80,410 GSF, 21,950 GSF and 6,620 GSF, respectively, for a total of 108,980 GSF for the building. Based on the same assumptions used for Table 2 in regard to the extent of building renovation, the construction costs of the building can be broken down into \$6,834,850 for courtrooms and ancillary facilities (at \$85 per GSF); \$1,207,250 for office space (at \$55 per GSF); and \$695,100 for detention facilities (at \$105 per GSF), a total construction cost of \$8,737,200. The project costs estimates, using the same unit project costs for the three spatial categories, are \$10,051,250 for courtrooms and ancillary



PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

2	FILE: C:\PLAN\ADMIN\1.2, Last Edited: 12.05.99											
3	TABLE 2											
4	PRELIMINARY BUDGETARY COST ESTIMATES (NET-GROSS BATIO OF 0.6)											
5	PHILADELPHIA DRUG COURT											
6												
7		1	2	3	4	5	6	7	8	9	10	11
8												
9	COURT/DEPARTMENT/AGENCY	BLOG. TYPE: X1.2	BLOG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2	BLDG. TYPE: X1.2
10		BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF
11		BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF	BSF
12	DRUG COURT JUDICIAL FUNCTION	37,050	44,440	74,070	0	0	0	0	0	2,640	3,170	5,280
13	DRUG COURT ADMINISTRATION	0	0	0	0	830	1,000	0	0	1,470	0	0
14	DRUG COURT CLERK'S OFFICE	0	0	0	0	3,850	4,620	7,700	0	0	0	0
15	OFFICIAL COURT REPORTERS OFFICE	0	0	0	0	3,030	3,640	6,070	0	0	0	0
16	OFFICIAL INTERPRETERS OFFICE	0	0	0	0	155	190	320	0	0	0	0
17	DRY ASSEMBLY & ADMINISTRATION	3,590	4,310	7,180	0	0	0	0	0	0	0	0
18	SHERIFF'S COURT SERVICES	250	300	500	1,195	1,530	2,386	940	1,130	1,880	0	0
19	DISTRICT ATTORNEY'S OFFICE	0	0	0	680	820	1,370	0	0	0	0	0
20	PUBLIC DEFENDER'S OFFICE	0	0	0	680	820	1,370	0	0	0	0	0
21	PROBATION SERVICES AGENCY	0	0	0	605	730	1,220	0	0	0	0	0
22	PROBATION DEPARTMENT	0	0	0	515	620	1,030	0	0	0	0	0
23	POLICE LIAISONS & WAITING	0	0	0	330	400	670	0	0	0	0	0
24	EMERGED BUILDING AMENITIES	2,680	3,220	5,370	0	0	0	0	0	0	0	0
25	TOTAL	43,550	52,270	87,120	11,870	14,270	23,860	3,580	4,300	7,160		
26												
27												
28	Component Construction Cost Estimate:											
29	Total Construction Cost Estimate:											
30												
31	Component Project Cost Estimate:											
32	Total Project Cost Estimate:											
33												
28	Component Construction Cost Estimate:											
29	Total Construction Cost Estimate:											
30												
31	Component Project Cost Estimate:											
32	Total Project Cost Estimate:											
28	Component Construction Cost Estimate:											
29	Total Construction Cost Estimate:											
30												
31	Component Project Cost Estimate:											
32	Total Project Cost Estimate:											

SPACE MANAGEMENT CONSULTANTS, INC.

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

2 File: C:\MPL\MP191\TM.3, Last Edited: 12.05.89  
 3 TABLE 3  
 4 PRELIMINARY BUDGETARY COST ESTIMATES (NET:GROSS RATIO OF 0.65)  
 5 PHILADELPHIA DRUG COURT

	1	2	3	4	5	6	7	8	9	10	11	
	ESTIMATE TOTALS											
	BUDG. TYPE: DETENTION											
	BUDG. TYPE: OFFICE											
	BUDG. TYPE: COURTRM & ANCILLARY											
	BUDG. TYPE: DEFEENSE											
	BUDG. TYPE: JURY											
	BUDG. TYPE: ASSEMBLY & ADMINISTRATION											
	BUDG. TYPE: DISTRICT ATTORNEY'S OFFICE											
	BUDG. TYPE: PUBLIC DEFENDER'S OFFICE											
	BUDG. TYPE: PROBATION DEPARTMENT											
	BUDG. TYPE: POLICE LIABILITIES & WAITING											
	BUDG. TYPE: BARRACKS BUILDING AGREEMENTS											
	BUDG. TYPE: TOTALS											
12 DRUG COURT JUDICIAL FUNCTION	37,030	44,410	46,370	0	0	1,000	1,240	0	0	2,640	3,170	4,080
13 DRUG COURT ADMINISTRATION	0	0	0	830	3,850	4,620	7,110	0	0	0	0	0
14 DRUG COURT CLIENT'S OFFICE	0	0	0	3,030	3,640	5,600	0	0	0	0	0	0
15 OFFICIAL COURT REPORTERS OFFICE	0	0	0	135	190	290	0	0	0	0	0	0
16 OFFICIAL INTERPRETERS OFFICE	0	0	0	6,630	0	0	0	0	0	0	0	0
17 JURY ASSEMBLY & ADMINISTRATION	3,590	4,310	0	0	0	0	0	0	0	0	0	0
18 SHERIFF'S COURT SERVICES	250	300	480	1,195	1,430	1,430	2,200	940	1,130	1,740	0	0
19 DISTRICT ATTORNEY'S OFFICE	0	0	0	600	820	1,260	0	0	0	0	0	0
20 PUBLIC DEFENDER'S OFFICE	0	0	0	680	820	1,260	0	0	0	0	0	0
21 PROBATION SERVICES AGENCY	0	0	0	605	730	1,120	0	0	0	0	0	0
22 PROBATION DEPARTMENT	0	0	0	515	620	950	0	0	0	0	0	0
23 POLICE LIABILITIES & WAITING	0	0	0	330	400	620	0	0	0	0	0	0
24 BARRACKS BUILDING AGREEMENTS	2,680	3,220	4,950	0	0	0	0	0	0	0	0	0
25 Totals:	43,550	52,270	80,410	11,870	14,270	21,990	3,360	4,300	6,620	0	0	0
26 Comment Construction Cost Estimates:												
27 Total Construction Cost Estimates:				84,034,850		81,207,259		84,695,100				84,695,100
28 Total Construction Cost Estimates:				(85 9/63F)		(85 9/63F)		(105 9/63F)				(105 9/63F)
29 Total Project Cost Estimates:				810,051,250		81,754,000		81,026,100				812,833,350
30 Total Project Cost Estimates:				(125 9/63F)		(80 9/63F)		(155 9/63F)				(155 9/63F)

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COUNTY OF COMMON PLEAS

---

facilities (at \$125 per GSF), \$1,756,000 for office space (at \$80 per GSF), and \$1,026,100 (at \$155 per GSF), a total estimated project cost of \$12,833,350.

**GENERAL CONSIDERATIONS REGARDING SELECTION OF A STRUCTURE TO HOUSE THIS FACILITY**

A number of factors must be considered during the process for selection of an existing structure in which the Drug Court may be accommodated. One of the primary considerations will be the ability of the selected building to accommodate the structural requirements of a court facility. Typically, a court building will provide relatively high and wide structural bays, with columns spaced at 32'-0" O.C. (on center) or greater and floor-to-floor heights capable of accommodating finished ceiling heights of about 12'-0" in courtroom arenas; it is thought that these criteria may be met by buildings originally designed to function as warehouses, factories or schools, as those uses have similar structural requirements. Although it is possible to create a workable courts environment in structures that do not meet these dimensions, there are generally costs in the efficiency of court operations and space use as well as in the effectiveness of security measures; e.g., if the spacing of structural columns is less than 32'-0" O.C., one or more columns will encroach upon the courtroom space, interrupting sightlines (compromising security of the room) and requiring the use of more floor area to accommodate optimal spatial relationships.

Another of the chief considerations will be the availability of sufficient contiguous floor space to create an efficient arrangement of spaces on each floor and in the building as a whole; this factor is determined largely by the footprint of the selected building. SMC has performed a preliminary study of a number of stacking alternates that would create effective functional and spatial relationships while optimizing the distribution of programmed spaces within buildings with a varying number of floors, assuming the programmed spaces to be distributed more-or-less equally among all of the floors in each model<sup>1</sup>:

- Four floors:

A building of four floors would be required to have a footprint of about 31,500 gross square feet (GSF), providing about 18,600 useable net square feet (UNSF) per floor. Within this scheme, the first floor would house the Clerk's Office, the court reporters, the jury assembly functions, and the Sheriff's facilities; the second floor would accommodate the two large trial courtrooms and their ancillary facilities, the court administrator and associated staff, the interpreters, and basic facilities for the Probation Department and the Pre-Trial Services Agency; the third floor would have four of the regular trial courtrooms and their ancillary facilities, and the Public Defender's space; and the fourth floor would house the remaining four regular trial courtrooms and ancillary facilities, landing space for the District Attorney's Office, and the police liaison/waiting facility.

---

<sup>1</sup> For the purposes of this discussion, a net-to-gross ratio of 0.60 has been assumed; this assumption incorporates a further assumption that the selected building meets structural criteria to allow the development of a moderately efficient design solution.

PRELIMINARY ARCHITECTURAL PROGRAM AND BUDGETARY COST ESTIMATES FOR  
THE PROPOSED DRUG COURT DIVISION OF THE PHILADELPHIA COURT OF COMMON PLEAS

---

- Three floors:

The three-floor scheme would require a building footprint of about 40,500 GSF providing about 24,400 UNSF per floor. The second and third floors would each accommodate four regular trial courtrooms and one large trial courtroom and all of the associated ancillary facilities, while the first floor would house the programmed spaces for the remaining functions to be housed in the court building.

- Two floors:

A two-story building scheme would require a footprint of about 61,000 GSF rendering about 36,500 UNSF per floor. The second floor would house all eight of the regular trial courtrooms and their ancillary facilities, and the first floor would accommodate the two large trial courtrooms and all of the other programmed functions.

Schemes involving more than four stories have not been included in this discussion, due to the small (and, therefore, inefficient) size of the required floorplate when the programmed spaces are equally distributed among all floors. A single-story scheme has not been considered because the extremely large area of the required floorplate would also create inefficiencies and because it would not be feasible to maintain proper separation of circulation patterns.

Because maintaining separation of the three primary circulation patterns (i.e., public, staff, and prisoner) is basic to the security of any criminal court facility, the cost of providing proper vertical circulation in a multi-story building can be an important concern. For example, in a two-story building it may be possible to provide for the secure movement of prisoners with the use of staircases, but secure prisoner elevators are a practical necessity in a criminal courthouse of more than two stories; therefore, the cost of providing dedicated prisoner elevators in a three- or four-story structure must be weighed against the greater land cost of a two-story structure.

The location of the selected structure is also of major concern, and must be considered from many points of view, including but not limited to:

- prominence of the site and its contribution to the image of the courts;
- proximity to offices of both the public and private bar;
- proximity to services that may be used by persons coming to the courts, including public transportation, parking, eating establishments, bail bondsmen, etc.;
- length of travel required for the transportation of prisoners to and from the court building;
- siting of the building from the point of view of being able to create a secure perimeter; and
- relative character of the neighborhood as regards the safety of court staff and other persons frequenting the building.

These are but a few of the factors that must be considered during the site selection process for this important and timely facility and should be included as only a portion of any coordinated approach to such selection.

## APPENDIX D

185

## Controlled Substances

§17

(2) For purposes of this section, any conviction under any Federal or State law relating to any controlled substance or other drug, other than a juvenile violation, shall constitute a prior offense if it related to the type of conduct against which a subsequent offense is directed.

(3) Any penalty relating to license or registration suspension or revocation shall be executed by the appropriate licensing or registration agency upon receipt of a court order setting forth the penalty.

(4) The probation or parole or other conditional release or discharge of any person convicted of an offense under this act or of any other offense may be conditioned on the person's agreement to periodic urinalyses or other reasonable means of detection. A relapse into drug abuse one or more times or the failure to conform to a set schedule for rehabilitation, or both, in themselves shall not require that his status be revoked or treatment denied.

**§17. Probation Without Verdict.**

A person may be entitled to probation without verdict under the following circumstances:

(1) A person who has not previously been convicted of an offense under this act or under a similar act of the United States, or any other state, is eligible for probation without verdict if he pleads nolo contendere or guilty to, or if found guilty of, any nonviolent offense under this act. The court may, without entering a judgment, and with the consent of such person, defer further proceedings and place him on probation for a specific time period not to exceed the maximum for the offense upon such reasonable terms and conditions as it may require.

Probation without verdict shall not be available to any person who is charged with violating clause (30) of subsection (a) of section 13 of this act and who is not himself a drug abuser and who does not prove the fact of such drug abuse to the satisfaction of the court.

(2) Upon violation of a term or condition of probation, the court may enter a judgment and proceed as in any criminal case, or may continue the probation without verdict.

(3) Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against him. Discharge and dismissal shall be without adjudication of guilt and shall not constitute a conviction for any purpose whatever, including the penalties imposed for second or subsequent convictions: Provided, That probation without verdict shall be available to any person only once: And further provided, That notwithstanding any other provision of this act, the prosecuting

attorney or the court and the council shall keep a list of those persons placed on probation without verdict, which list may only be used to determine the eligibility of persons for probation without verdict and the names on such lists may be used for no other purpose whatsoever.

**§18. Disposition in Lieu of Trial or Criminal Punishment.**

(a) If a person charged with a nonviolent crime claims to be drug dependent or a drug abuser and prior to trial he requests appropriate treatment, including but not limited to, admission or commitment under the Mental Health and Mental Retardation Act of 1966 in lieu of criminal prosecution, a physician experienced or trained in the field of drug dependency or drug abuse shall be appointed by the court to examine, if necessary, and to review the accused's record and advise the government attorney, the accused and the court in writing setting forth that for the treatment and rehabilitation of the accused it would be preferable for the criminal charges to be held in abeyance or withdrawn in order to institute treatment for drug dependence, or for the criminal charges to be prosecuted. The government attorney shall exercise his discretion whether or not to accept the physician's recommendation.

(b) In the event that he does not accept the physician's recommendation he shall state in writing and furnish the defendant a copy of his decision and the reasons therefor.

(c) If the government attorney accepts the physician's advice to hold in abeyance, he shall arrange for a hearing before the appropriate court to hold in abeyance the criminal prosecution. The court, upon its approval, shall proceed to make appropriate arrangements for treatment.

(d) The government attorney, upon his own application, may institute proceedings for appropriate treatment, including but not limited to, commitment pursuant to the Mental Health and Mental Retardation Act of 1966.

(e) A criminal charge may be held in abeyance pursuant to this section for no longer than the lesser of either (i) the appropriate statute of limitations or (ii) the maximum term that could be imposed for the offense charged. At the expiration of such period, the criminal charge shall be automatically dismissed. A criminal charge may not be prosecuted except by order of court so long as the medical director of the treatment facility certifies that the accused is cooperating in a prescribed treatment program and is benefiting from treatment.

(f) If, after conviction, the defendant requests probation with treatment or civil commitment for treatment in lieu of criminal punishment, the court may appoint a qualified physician to advise the court in writing whether it would be preferable for the purposes of treatment and rehabilitation for him to receive a suspended sentence and probation on the condition that he undergo education and treatment for drug abuse and drug dependency, or to be committed pursuant to the Mental Health and Mental Retardation Act of 1966 for treatment in lieu of criminal punishment, or to receive criminal incarceration. A copy of the physician's report shall be furnished the court, the defendant and the government attorney. The court shall exercise its discretion whether to accept the physician's advice.

(g) Disposition in lieu of trial as provided in this section shall be available to any person only once.

#### §19. Expunging Criminal Records.

(a) Any records of arrest or prosecution or both for a criminal offense under this act, except for persons indicted for violations of clause (30) of subsection (a) of section 13, or under the provisions previously governing controlled substances in the Commonwealth of Pennsylvania or any political subdivision thereof shall be promptly expunged from the official and unofficial arrest and other criminal records pertaining to that individual when the charges are withdrawn or dismissed or the person is acquitted of the charges: Provided, That such expungement shall be available as a matter of right to any person only once. Within five days after such withdrawal, dismissal or acquittal the court, in writing, shall order the appropriate keepers of criminal records (i) to expunge and destroy the official and unofficial arrest and other criminal records of that individual, to request in so far as they are able the return of such records as they have made available to Federal and other State agencies, and to destroy such records on receipt thereof; and (ii) to file with the court within thirty days an affidavit that such records have been expunged and destroyed, together with the court's expunction order and to retain no copies thereof. Upon receipt of such affidavit, the court shall seal the same together with the original and all copies of its expunction order and shall not permit any person or agency to examine such sealed documents.

Senator SPECTER. I want to discuss with you the issue of our international efforts and the multinational strike force, which we discussed last year. Since your last presence before the committee, the Senate has voted 95 to 5 to use Department of Defense funds for a multinational strike force, and that bears on our recent Panama action and the responses of Latin America. I would be interested to see what might be doable by the executive branch to carry forward the stated concerns on that line by the Congress.

We face, after getting organized, the multitiered approaches on the drug problem as we are emerging them and starting to study them, with the interrelationship between drug abuse, the homeless, the jobless, the need for detoxification, and for job training.

We now find that many of the areas which have hundreds of thousands of unemployed, and many of them using drugs, are now labor shortage areas. So that places a greater opportunity to find answers, and a big part of that, I think, has to come from your particular line.

I concur with what Senator DeConcini has said on the greater need for emphasis on education. In the course of the past year on my visits to schools I have noted an increased awareness of the drug problem, and I think that is a result of what many of us have done in elevating public awareness. I think the field is ripe for moving in and really capitalizing on that awareness by telling the youngsters and the oldsters of this country what has to be done along that line.

My time is almost up, so I will reserve the balance of my comments until the first round, and I thank the chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Simon.

#### OPENING STATEMENT OF SENATOR SIMON

Senator SIMON. Thank you, Mr. Chairman. First, I would like to commend you for a vigorous, decisive response to this temporary thing that has emerged that has some respectable names to it; that is, legalization. It has a superficial attraction that would be a disastrous course for this Nation, and your vigorous response is something I really do appreciate.

I think we are searching for how we can find the right answers here, and I agree with Senator Kennedy when he said there needs to be greater emphasis on the treatment and education side.

Eleanor Holmes Norton had a good line that I wish I had come up with. She said the war on drugs is great at taking prisoners; it is weak on treating the wounded. I think she is correct. Treatment has to be given much greater priority if we are really to tackle this problem properly.

Second, education. It is very interesting. I spent a day in Chicago, part of it just going around with two Chicago patrolmen on the drug rounds, but I started off the day meeting with Tony Valukas and his staff. He is the U.S. attorney, and he said the most important thing we can do by far is education. He said, "I am short-staffed, but I am devoting one member of my staff to doing nothing but working on the education side of things."



And then finally, in addition to greater emphasis on treatment and education, the drug problem is obviously tied in with other social problems. The Director of the National Institute of Drug Abuse testified before Senator Kennedy here about 8 weeks ago, and what was really striking and, what I thought, would make the front pages of every newspaper—he broke down those who are consumers of drugs by ethnic group, by age group, and the group that is the largest by far are the unemployed.

And I said to him, you mean when we work on the problems of unemployment we are working on the problems of drug abuse, and he said no question about it. So while we have a more narrow focus right now in this legislation, this whole problem of drug abuse is tied in with education problems, tied in with unemployment problems, and with other basic problems in our society, and I think we all have to keep that in mind.

Mr. Chairman, I thank you.

The CHAIRMAN. Thank you very much.

Before we yield to Dr. Bennett, I want the record to note that Senator Leahy, a very active member of this committee, is unable to be here and asked me to express his regrets because as chairman of the subcommittee that deals with appropriations for foreign aid, he is right now traveling to Panama and El Salvador to discuss with folks down there and make judgments about the significant increase in aid requested for both those areas.

And I would ask unanimous consent that the questions that Senator Leahy has prepared be submitted in writing to Dr. Bennett. Without objection, they will be.

[The questions of Senator Leahy follow:]

JOSEPH R. BIDEN, JR., DELAWARE, CHAIRMAN  
 EDWARD M. KENNEDY, MASSACHUSETTS  
 HOWARD M. METZENBAUM, OHIO  
 DENNIS DECONINO, ARIZONA  
 PATRICK J. LEAHY, VERMONT  
 HOWELL HEFLIN, ALABAMA  
 PAUL SIMON, ILLINOIS  
 HERBERT KOHL, WISCONSIN

STROM THURMOND, SOUTH CAROLINA  
 ORRIN G. HATCH, UTAH  
 ALAN K. SIMPSON, WYOMING  
 CHARLES E. GRASSLEY, IOWA  
 ARLEN SPECTER, PENNSYLVANIA  
 GORDON J. HUMPHREY, NEW HAMPSHIRE

RONALD A. KLAHN, CHIEF COUNSEL  
 DIANA HUFFMAN, STAFF DIRECTOR  
 JEFFREY S. PECK, GENERAL COUNSEL  
 TERRY L. WOOTEK, MINORITY CHIEF COUNSEL  
 AND STAFF DIRECTOR

## United States Senate

COMMITTEE ON THE JUDICIARY  
 WASHINGTON, DC 20510-6275

March 9, 1990

The Honorable William Bennett  
 Director  
 National Drug Control Policy  
 Executive Office of the President  
 Washington, D.C. 20500

Dear Bill:

Enclosed are several follow-up questions from Senator Leahy regarding the February 2 Judiciary Committee hearing on the National Drug Control Strategy. Your prompt response would be greatly appreciated.

Thank you for your assistance.

Sincerely,

*Joe*  
 Joseph R. Biden, Jr.  
 Chairman

Enclosure

SUBMITTED QUESTIONS FOR DIRECTOR BENNETT  
FROM SENATOR PATRICK LEAHY  
JUDICIARY COMMITTEE HEARING ON NATIONAL DRUG CONTROL STRATEGY

FEBRUARY 2, 1990

Question (1): Last September, the Secretary of Defense issued a guidance document for implementation of the National Drug Control Strategy, stating that:

"Effective implementation of the National Drug Control Strategy requires that the Department of Defense be prepared to provide counternarcotics operational support to the forces of cooperating countries."

Would that "operational support" include US troops engaging in activities beyond secured areas in the field?

Would US troops be permitted to go to drug processing sites?

Would US troops be in areas where they would likely come under fire from drug traffickers?

Will our military personnel be transporting foreign troops on their drug control operations?

What have the Andean countries actually agreed to let our troops do down there?

How long do you see our troops staying in those countries?

Question (2): The guidance document says "the Department of Defense will assist in the attack on production of illegal drugs at the source."

What does it mean to say that DOD will assist in the "attack"? Does this give authority for US troops to join with host country forces in operations against drug traffickers?

Question (3): The guidance document also says US intelligence will be essential not only to assist governments of source countries, but also for "US actions in the second line of defense -- the attack on drugs in transit to the United States."

Does this mean US forces will "attack" drugs in transit to the US? What does "attack" mean in this context -- will US air and naval forces attack planes and ships suspected of transporting drugs to the US?

Question (4): Last year, the focus of your new Andean drug strategy was a big increase in military aid to Bolivia, Peru and Columbia. Military aid to those countries went from under \$20 million in fiscal year 89 to about \$125 million.

How much military aid are you proposing to give those countries in fiscal 91?

Question (5): In the past, our military aid and eradication efforts have just caused the coca growers to move to another valley. Bolivia is a prime example, where in 1988 we helped eradicate 5 percent of the crop but new planting led to a 7 percent increase. Why will our new efforts be any different?

Question (6): I understand wanting to help those countries fight the drug traffickers by providing military aid, but what about the human rights record of the army in places like Peru? A recent Amnesty International report on Peru stated:

"In their campaign against terrorism, government forces have adopted the same methods they attribute to their opponents -- and torture, mutilation, disappearance, murder and rape have become their hallmark."

"Over 3,000 people have been taken into custody (sic) have disappeared in the past seven years and at least another 3,000 are estimated to have been killed by security forces in mass executions and individual killings."

"Targets for human rights abuse by government forces are being drawn from increasingly broad sectors of society. Local government officers, community leaders, trade unionists, journalists, lawyers, academics and critics of the government have been threatened, killed, had their homes and offices bombed."

Can we be sure that our aid is not being used for these kinds of abuses? Is the aid conditioned on specific improvements on human rights? Was any of our military aid to Peru used for those kinds of abuses in the past?

Question (7): A year ago the Administration suspended our drug control program in Peru because Drug Enforcement Agency agents were not adequately protected. What has changed?

Question (8): You propose similar increases in military aid for Columbia. Does this aid include such things as Huey helicopters, machine guns, grenade launchers, mortars and anti-tank weapons?

Question (9): In August, 1989, there was a New York Times article entitled "In Columbia, the Military is Part of the Problem," describing complicity between the local police, the military, and the drug gangs. The article said that "military aid sent by the US will be wasted if this unholy link is not broken."

Another article in the Christian Science Monitor last September, entitled "Columbia Military's Link with Drug Dealers," says there are "more than 140 paramilitary groups financed by the drug traffickers." The article also says that human rights groups and Columbia government investigators have linked the military and police in paramilitary activities.

If this complicity exists, are you not concerned that our aid will be used for the wrong reasons? Is the aid provided only on the condition that it be used to combat drugs? Is it conditioned on specific improvements on human rights?

Question (10): I understand you have proposed a \$1 billion economic aid package for the Andean countries over the next five years.

What will these funds be used for? How much is cash for balance of payments support and how much is for development projects in health care, nutrition and education?

Will the funds be linked to specific, measurable accomplishments by these governments in controlling drugs?

\$1 billion sounds like a lot of money, but in fact it averages out to about \$80 million per country per year. Given the terrible poverty in these countries, what will these funds actually accomplish toward getting people to stop producing drugs?

How does this amount of aid compare to the foreign debt these countries owe?

Is this aid coordinated with other donors? Would that not make sense?

The CHAIRMAN. Dr. Bennett, again, welcome. We are anxious to hear your statement and get into a discussion with you about the differences in the strategies, or any others, not necessarily these two vehicles. There may be others as well.

Welcome.

**STATEMENT OF WILLIAM J. BENNETT, DIRECTOR, OFFICE OF NATIONAL DRUG CONTROL POLICY, ACCOMPANIED BY HERBERT KLEBER, DEPUTY DIRECTOR FOR DEMAND REDUCTION; STANLEY MORRIS, DEPUTY DIRECTOR FOR SUPPLY REDUCTION; REGGIE WALTON, ASSOCIATE DIRECTOR, STATE AND LOCAL PROGRAMS; BRUCE CARNES, BUDGET DIRECTOR; AND JOHN WALTERS, CHIEF OF STAFF**

Dr. BENNETT. Thank you very much, Mr. Chairman, gentlemen. First, if I might, may I request that we have our strategy and the budget volume inserted in the record, please?

The CHAIRMAN. Yes, they will be.

Dr. BENNETT. Thank you.

[In order to reduce cost of printing, the national drug control strategy was placed in committee files.]

Dr. BENNETT. I believe you know my colleagues. To my left—we now have a full slate. Thank you for your support in the confirmation process. Stanley Morris, the deputy to my left; Herbert Kleber, further to the left; and Judge Reggie Walton at the end; on this side, my chief of staff, John Walters, who is continuing to have an important role in our work in the Andean effort; and Bruce Carnes, who is the master of the budget.

Mr. Chairman, I will be brief, but I would like to make this statement.

The CHAIRMAN. Please, take your time.

Dr. BENNETT. When I took up my duties less than a year ago, about 10 months ago, I said that although America had to win this war, it was by no means certain that we would win it. My view has changed. The war is by no means over, but it is clearly winnable and the momentum, I think, is shifting our way.

Indeed, while there is still too much bad news, there are scattered but very clear signs that we are beginning to win. The scourge is beginning to pass. If we keep up our efforts—indeed, intensify our efforts—we are going to win. We are making progress every day. Drug use is down, drug arrests are up, drug seizures are up, drug treatment is up, seizures of traffickers' and dealers' assets are up.

There is something else going on as well. A year ago—and you referred to this earlier, Mr. Chairman—a year ago, if you had asked for a comprehensive picture of national drug policy, you had to go to over 30 different agencies. Not anymore. The President has encouraged and supported me as I have worked to fashion the efforts of thousands of dedicated people into what we believe is a complementary and comprehensive whole, and there are large areas of agreement, as you mentioned, between us and the Congress.

Mostly, our decisions have been easily reached, but when we failed to agree, the President has stepped forward to make the

tough calls. Not only are we working more smoothly internally, but occasional misunderstandings notwithstanding—and there will always be those—we now have an army of something like 50,000 Federal employees in this drug effort, or at least have proposed that for fiscal 1991. So there is bound to be some friction and some rubbing, some problems, with that large a group. We have nevertheless found more common ground there and more common ground abroad than we have ever had before.

And I should mention, in light of that basketball you threw me, we are putting more money behind all this. If the Congress enacts this strategy as is, total Federal spending on antidrug efforts will have increased by 69 percent since George Bush took office 1 year and 13 days ago—69 percent.

We did a runthrough and we found that that increase is the largest increase of any major Federal program since the President took office. If this is what lack of clout means, so be it, but we can't find any other Federal agency that the President has smiled on so generously in the entire Federal Government.

Let me just comment, despite how it may appear to some that we are a weak, whispering, asthenic, stumbling petitioner at the bar of the administration whom no one will listen to, my experience is quite otherwise. We have the attention of the President, that is all we need.

The Cabinet chair matters not. The only difference I can really find is I drive around in a Ford and the others drive around in a Lincoln. These are not matters over which much should be made.

I would mention as well, there are reasons, I think, of public policy why you don't want to make this a Cabinet position. This should not be a permanent position because it should not be a permanent job. We should have this thing over with in a few years.

If we elevate the department of drugs or drug abuse to the status of Cabinet, it is almost an admission that we are never going to get rid of this damned thing, and I think we will. So the bill creating me, I think, and our office has a 5-year time limit on it, and I think that makes sense. After 5 years, maybe we won't need ONDCP because things will be going as they should be.

In any case, I don't have any complaints about access or power. Aristotle says power is the ability to be or to make things be, and I think we have made some things be and I am very pleased with that.

For fiscal 1991, as you know, the President is seeking \$10.6 billion in drug-related budget authority, a \$1.1 billion increase over fiscal year 1990—again, since 1989, a 69-percent increase. Actual spending, budget outlays, for fiscal 1991 will increase by \$2.8 billion over fiscal 1990.

Perhaps the most important progress is in an area more difficult to quantify—the attitudes of our citizens, the kind of thing Senator Grassley was talking about, but it is real. I have been there and I have seen it.

In the past 4 months, I have visited more than 35 cities and towns and I can assure you that all across this country Americans are saying that they will no longer tolerate the use of illegal drugs, not at home, not at work, not in their neighborhoods. They are banding together with their neighbors and working with the police.

They are standing up to the dealers and users and telling them to move on.

Attitudes are hardest and, consequently, progress is most impressive in some of the toughest places in America, in north Tulsa, in south Dallas, in south Seattle, and in scores of cities across the country. These neighborhoods are the front lines in the drug war, and I can tell that it is in these neighborhoods which are no longer giving up ground to the enemy that one finds some encouragement.

The line has been drawn and I believe the worst is over. We aren't there yet. In some places, we are still years away, but we know where we are going and we know how to get there.

The President's second national drug control strategy elaborates and builds upon the philosophy set forth in the first. We will educate and dissuade our citizens away from using drugs. We will get more drug addicts into more effective treatment programs. We will reduce the supply and availability of drugs on our streets and dismantle the trafficking organizations through tough law enforcement and interdiction measures. And we will strengthen the efforts of source countries to stem violence and economic dislocation caused by the international drug trade.

There are several new initiatives in this strategy I would like to highlight very briefly. In the criminal justice system, we will seek to expand the resources of Federal agencies, such as the Drug Enforcement Administration, the DEA, to conduct investigations to disrupt and dismantle those drug-trafficking organizations.

We will seek to broaden the death penalty for certain drug crimes, not simply to deter other drug criminals, but to administer just punishment upon those who are wreaking havoc upon our society.

We will seek funding increases and launch several new initiatives in treatment, prevention, and education. We will create a national drug intelligence center within the Department of Justice to provide a comprehensive intelligence picture of the drug trafficking organizations.

Finally, we will seek to strengthen the efforts of courageous leaders like President Barco in Colombia through a \$206 million increase in our assistance to the Andean nations. As you know, Mr. Chairman, we will be going to Cartagena in 12 days, 13 days, to talk about the Andean initiative.

Nothing we have learned in the last 12 months has led us to change our view that a comprehensive effort, putting pressure on every point of the spectrum, is what is called for. As we said last September, there is no magic bullet, no one simple solution to the drug problem. We must continue to press on all fronts. If we do, we will continue to see real progress in a war that just 12 months ago was seen as unwinnable.

And I agree with Senator Simon's comments about those who have urged us to surrender by suggesting legalization. It is wrong; it would be wrong, I think, under any circumstances. It is especially wrong now when we are seeing some encouraging signs of people fighting back.

Mr. Chairman, I have read your recent response to our strategy, and I was struck by the similarities and the degree to which our Nation's political leaders are moving in the same direction on this



problem. And, again, I think this is a very important thing. We must emphasize, whatever differences arise here—and there are differences—that in large measure, in the largest measure, this country and its leadership has reached consensus on the things we must do.

We all agree that legalization would be a wholesale disaster. We agree that we must push on all sides of the problem at the same time because our treatment system will not survive without law enforcement, and our criminal justice system will be overwhelmed without education and prevention and treatment. We agree that courageous foreign leaders must be assisted. We agree that our borders should not be fair game for smugglers.

Moreover, you, Mr. Chairman, have put forward several initiatives which appear interesting to us. Although we have not had time to review them in detail, these include your proposals to encourage private sector companies to include drug treatment in their benefits package, to improve treatment quality by increasing Federal quality requirements, to modify the Orphan Drug Act to expedite the FDA approval process, to reform immigration policy to permit aggressive deportation of criminal aliens, to improve our drug intelligence, to seek tougher penalties for drug-related child abuse, and to improve our research. As I said, we find these proposals interesting and we look forward to working with you and talking with you about them.

Mr. Chairman, our concurrence is a hopeful sign; it is a hopeful sign for the United States. The American people's intolerance for this problem has solidified several years now. It now appears that our Nation's leaders have finally caught up with them.

To paraphrase the President's remarks from his State of the Union Address the other night, we are not here to bicker, we are here to get the job done. I look forward to having our talk so that we can all go back to work.

Thank you very much.

The CHAIRMAN. Thank you very much, and thank you for your kind remarks about the ideas I have put forward. I made it clear in this strategy, and I want to make it clear now, those ideas, whether they come to fruition or not, are not all my ideas. A number of those ideas are ideas that have been put forward by my colleagues that I have incorporated into this proposed strategy.

But, nonetheless, here we are and we are talking, and that is helpful. I would like to begin my questioning period by making a brief comment relating to legalization. Bill, I have now been in several debates and been on five or six forums around the country in the last 3 weeks arguing the case against legalization.

One of the things that I find is the most compelling argument to make—and it is only in the last month-and-a-half I have educated myself to this degree—is that I have gone back and read most of what I could find about the first epidemic.

This is not the first epidemic we have had in this country. We had a genuine drug epidemic in this country at the turn of the century and well into the teens. As a matter of fact, even after Prohibition was in place, prohibition against use of alcohol, you could go into some States, go up and order a soft drink and, for a little extra, have a gram of pure cocaine dropped in that legally.

So this is not the first epidemic, and once people understand that this is not the first epidemic, the frustration about being able to do something about this epidemic is dissipated some. And, in turn, I think the call for legalization is downgraded some because I believe the call for legalization is borne, first and foremost, out of frustration—those who believe we can't do anything about it.

And one other point I would like to make—a statement you made last year, that is the single most significant weapon we have, in this drug war, to paraphrase the Senator from Iowa as well, is the moral approbation of society. That is the single most significant weapon we have.

And as Dr. Kleber has—and I don't mean to quote you, doctor. I may be wrong, but you have made reference to the following; that is, using drugs initially may be a moral question. Once someone is addicted, it becomes a medical question. And so moral approbation plays a great role in the first decision whether or not someone uses, and casual users, which leads me into why I believe a greater proportion should be placed upon the hardcore user, because I think you are right; we have turned the corner, in my view, and that is not a very wise thing for a politician up for reelection to say when I am sure the public doesn't believe we have.

But we have turned the corner, in my view, not we, the Government; the American public has turned the corner on at least casual drug consumption. It is way down; it will continue to go further down even if we disbanded the Government tomorrow because the moral approbation of society has raised its head and is now being felt throughout our society.

But that takes me, as I said, to the notion of dealing with hardcore treatment, hardcore users, and I would like you to comment on why you think I am putting too much or too little emphasis on this area, and let me explain how I believe hardcore use should be dealt with.

One is that I propose a significant increase in the drug enforcement side of this. You have proposed an increase from last year of almost \$100 million, from 4.2 to 4.3 in the enforcement areas, and I propose an increase to 5.4. And the main reason I do that is I put a good deal more emphasis on the enforcement piece and a larger number on the drug trafficking areas, which were Senator Kennedy's idea years ago and are now law.

And I also put more emphasis on research and treatment, and the treatment says—we should be treating these hardcore users who find themselves within the criminal justice system, captured by it—that they should be treated while in prison.

Now, the criticism of my approach is that the best way to treat someone is when they want treatment. That is the best shot you have of having that person throwing the habit. Now, Dr. Kleber may be the one, or you, Dr. Bennett—what do you think about the notion of significantly increasing the amount of treatment capability available for prison systems and forcing prisoners who have drug problems who are in the prison system into that treatment mode? Does that make sense or is it not a very wise application of our dollars?

Dr. BENNETT. I think to intensify our treatment efforts, to increase our treatment efforts, to address the problem of the hard-

core user is very important. All of those things are very important. But we do not—and I don't know if we have a difference here or not, Mr. Chairman. We do not have to do that in contradistinction from doing something about the casual user. We ought to be able to do both. Do we agree on that?

The CHAIRMAN. Yes, we do. I don't suggest we reduce the effort with the casual users. I suggest we greatly increase the effort on the hardcore user.

Dr. BENNETT. OK, because addictive users come from someplace, and they usually come from casual users. And I think, you know, we are, as you have commented a number of times, talking to the same people. I think one of them is Dr. Musto, one of Dr. Kleber's colleagues at Yale.

And what Dr. Musto tells us about that first epidemic—I find this very interesting, by the way—so many people who are pushing the legalization line have looked for a precedent and have found it in alcohol prohibition. That is not a very good precedent. Why not go to the cocaine epidemic, which we won? I think that is the reason many of them avoid it because we did win it, and therefore they don't like it as a precedent.

But what Musto and other scholars point out is if you want to get control of this thing, you have got to control entry into it. You have got to begin to shrink the size of the relevant pool, and the relevant pool is drug users, a percentage of which will become addicted.

So the last thing I would want to do is to suggest that a former Governor Keane of New Jersey or Governor Schaefer, who has made a lot of headlines in Maryland saying, look, we need to bear down on the casual user—that these aren't sensible efforts, because I think they are. So we can do both. It is not either/or; it is both. We agree. I agree—more effort on the hardcore addict, more treatment, more treatment money and, yes, more efforts in prison.

Dr. Kleber, would you comment further, please?

Dr. KLEBER. Yes. We agree there needs to be more treatment in prisons for the hardened addict. There are two systems, though. There is the Federal system, and we have asked for additional funds to increase treatment in the Federal system, and then there is the State and local, which is traditionally a responsibility of State and local rather than a Federal responsibility to provide treatment in State prisons.

However, we are encouraging States to use some of the money through the block grant to treat individuals in the State prisons. Now, I didn't know whether you wanted that question to get into the larger aspects of treatment or whether you just wanted to focus it on treatment in prisons.

The CHAIRMAN. So what you are saying, as I understand it, is that it makes good sense, but based upon the relative obligations of the Federal Government and the State and local government, that is the reason why you are not proposing more because the State and local governments should pick up more of that. Is that right?

Dr. KLEBER. We are talking about just the prison system?

The CHAIRMAN. I am talking just about the prison system.

Dr. KLEBER. Yes.

The CHAIRMAN. OK. One of the things your colleague at Yale points out, and others beyond him, which surprised me, was that one of the reasons why we ultimately won the war and, by the way, one of the reasons which turned public attitudes, was the introduction of cocaine into the mix of the mainstream of America, which caused great violence and thereby brought about public opinion that didn't exist before.

There was a fairly comprehensive drug education program within our public school systems back in the 1920's, and your colleague argues that the abandonment of that system by what he refers to as really the first drug czar, who had the notion that if, in fact, you mentioned drugs, children may use them—therefore, eliminating the programs that are in place was one of the reasons why we got ourselves ultimately into the trouble we have gotten into now.

But having said that, why are we—if we don't want children to get into the drug stream in the first place, why then, Director Bennett, is there not a considerably greater emphasis on drug education, because if you look at—and I know charts drive you crazy, so that is why I am not going to have my staff put it up because I don't want to get in an argument about whether it is misleading or not misleading.

But if you look at the percentage increase—

Dr. BENNETT. Not all charts drive me crazy. I have done some myself.

The CHAIRMAN. All of my charts drive you crazy. [Laughter.]

Dr. BENNETT. Well, I am partial to my charts.

The CHAIRMAN. Where is the chart with regard to education? But at any rate, the comprehensive drug education available in our schools under the Bush 1991 drug proposal which is in here is about a 10 percent increase over current funding.

The proposal that I have put forward is an increase that would, in fact, bring it from 40 percent of the children being exposed to drug education to 100 percent of the children being exposed to drug education over the next 2 years.

And the question then gets to—also, we provide money for training for folks who are going to be the ones in the system. You don't increase that very much at all either. Is this going to be a long-term program you have in mind, or why, if we agree we have got to keep them from getting into the system in the first place—do you, A, think we don't have the infrastructure to do it? Or, B, is it because we don't have the money to do it or it is not a workable thing to do? What are the reasons why there isn't much more emphasis on the drug education, K through 12?

Dr. BENNETT. Well, this may engage a debate. I have very strong feelings on this, and I do because I believe I know something about it. Education is still my first love. I used to have that other job, you know, and we spent a lot of time on this issue at the Department of Education, and I have spent a fair amount of time on it here.

Spending is up since 1989 from whatever—Bruce could tell us; Bruce Carnes could tell us.

The CHAIRMAN. It is up significantly.

Dr. BENNETT. It is up significantly. We believe in it. We believe it makes a difference. We believe, second, that almost every school in the country now has some kind of drug education program.

Mr. CARNES. According to the study done by the Education Department, every school in the United States receives money from the drug education program. They are doing an evaluation that will determine exactly the reach of those programs within each school, but at least each school is receiving them now. We are proposing a 10-percent increase in that to broaden the reach of it further within those schools.

If I could just add one point, Senator Biden, I think education is not just in the Education Department. As we read your strategy, your education prevention figure comes out to about \$1.5 billion. Our prevention—

The CHAIRMAN. 1.13, but anyway—

Mr. CARNES. Our figure comes out to \$1,242 million, but it involves prevention efforts not just through the schools, but also through a whole host of other areas.

The CHAIRMAN. Let me make sure I understand. Is your understanding from the Department of Education's figures that children in grades K through 12, every year, from kindergarten through 12th grade—every year, simultaneously, all children in each of those grades is receiving instruction on the dangers of drugs in our public school system?

Mr. CARNES. The Education Department has not commented on that because their evaluation isn't in, won't be in for several months. What they do know is that every school is receiving that money. The question is whether every institution is giving it to every student in every particular discipline. I don't think that is happening. I am not sure the administration would think that is a good idea.

The CHAIRMAN. Well, I would be happy—and my time is up; I want you to continue. But I would be happy to share our figures with you on that.

Dr. BENNETT. OK.

The CHAIRMAN. And it comes down to simply, as we see it, based on the distribution of dollars in the public school system now, Federal and local, that only 40 percent of the children are exposed to anything resembling a program that is designed to demonstrate to them the physical dangers and/or the moral inhibition that should attach to the consumption of drugs.

Dr. BENNETT. Well, all right. But apart from the debate on the figures—and, again, I would like to—we might stipulate some differences.

The CHAIRMAN. Right, right.

Dr. BENNETT. I think there is a difference of principle. I don't know if we can get our views closer together on this. We regard education programs as a helpful auxiliary. We do not regard—and I do not agree with Senator Kennedy's statement that you can inoculate children against drug abuse by education. I think that that statement is refuted every day of the week.

If there were a seminar or course which could inoculate, we would have put it in long ago and would have seen this effect. You

have drug education programs in schools all over this country where drug use is rampant.

The Wall Street Journal did a long story last fall on a school in Bainbridge, WA, which has model drug curricula. They spend tons of money on it. It gets awards for its drug programs, and 70 percent of the kids use illegal drugs and alcohol on the weekend and they laugh at the program. Do you know what the problem is there? They don't have any enforcement; they don't have any policy. They are talking a good game.

Now, if you ask me what should we do, should we have drug education programs or should we have tough policy, and if I have the choice of only one, I will take policy every time because I know children. And you might say this is not a very utopian view of children, not a very romantic view of children, not a very rosy view of children, and I would say you are right.

I know children, and I think most educators and most—no, not most educators—most human beings would agree with me, probably not most professional educators. They will stop—kids will stop not only if they have been given the reasons, but if they have some palpable reasons in front of them that something will happen if they take drugs.

Look, if ignorance is the problem, knowledge is the cure. I don't believe that for a large number of kids out there who use drugs that ignorance is the problem. I think there are other problems.

The CHAIRMAN. Let me make it clear. There is no disagreement that you need to do both, at least on my part. But if you look at the figures that you have submitted here and the chart, you are asking for \$617.7 million in drug education money. And I want to make it clear, the other chart is the Biden plan. I am not saying anybody here agrees with it.

I am talking about \$1.135 billion in the education plan. As we have gone out and looked at 83,000 schools in the United States of America, based on what we know is available from the State programs for education and what we know is available from the Federal proposal that has been put forward here, there is no conceivable way, none, you can reach more than 40 percent of the students on a yearly basis in each of the grades in drug education.

And by the way, in terms of sanctions, if you notice, the sanctions that I call for are even, quite frankly, broader than the ones you are calling for on the enforcement side. So this isn't an argument about whether we should have the sanctions side. It is a question of whether education works at all and whether it makes sense to expose children, in addition to the sanctions, in grades K through 12 to the dangers related to drug consumption.

Dr. BENNETT. Yes, it works some.

The CHAIRMAN. Now, the figures, as we show—and I will yield; I am taking too much time. And, again, there are people on this committee who know more about this area than me, one of whom is sitting to my right, Senator Kennedy.

We will be able to show statistics that a significant number of children will still consume drugs even though they are, in fact, in a program, a model drug treatment program. But I would be surprised if your adviser, Dr. Kleber, would tell you that the percentage of the children who will consume after being exposed to those

programs will not be measurably lower than the percentage of children who will consume who have not been exposed to such a program.

And even if you only were to reduce by 10, 12, 15 percent the number of children that get into the stream, as you pointed out earlier in your statement, you will reduce by a long shot the enforcement dollars that are needed at the other end. But I guess this is a debate for later. We have pointed out a real difference here.

Yes?

Mr. CARNES. Mr. Chairman, if I could just clarify one point, last fall the administration proposed, and the Congress enacted and it became law, that all schools will be required, in order to receive any Federal funding, to implement a K through 12 drug-free schools policy, with sanctions. So it is the law of the land that K through 12 will now be what is required in each school.

The CHAIRMAN. That is true, but there is nothing there. The sanctions are there. We have emphasized it, just like we say that we are going to complete the highway system where we are going to rebuild, you know, the airports. I mean, it requires some wherewithal to be able to get that done. And I guess that goes back to Dr. Kleber's point that maybe that is the States' job and not the Federal Government's job.

Dr. KLEBER. I would like to just add a few more points, if I could. You are correct that there have been a few programs that have shown that kind of drop, such as Project Star in Kansas City. However, unfortunately, most of the school education programs out there are unevaluated. We don't know how well they work.

I would be delighted if I could believe that most of them out there are producing that drop. My fear is that they are not, and we are trying to improve the quality of that prevention. And at the same time, I think we can't stress enough the need for the comprehensive nature. I mean, if there is anything we also learned from Kansas City, it is that what worked best is when you have the schools, the parents, the media, and the community working together in that comprehensive approach.

And one of the things we are trying to do with that is building on to that Robert Wood Johnson Fighting Back Program by funding a number of the communities to develop those kinds of comprehensive approaches. That, I think, is much more the answer than simply education.

The CHAIRMAN. The last point I will make is this: What we have done in a whole range of other programs, whether it was law enforcement with forfeiture or whether it is in the research and development, and whether it is in the drug area or any other area—when the Federal Government has observed that there are programs out there, in whatever area it is, that aren't working, we have in the past tried to put together model and pilot programs that aren't forced upon that constituency, but are made available after we have some hard data on whether or not it works.

And one of the things that I don't see—and correct me if I am wrong—is whether that is one of the major initiatives that you are putting forward here.

Dr. KLEBER. Yes. There should be a model education curriculum that will come out by the end of March from the Department of Education.

The CHAIRMAN. Now, let us assume that model is there. Will you then suggest, if you have faith in the model, that we should move immediately to institute that model throughout the country by providing, as we do in all other Federal programs, the carrot?

We say to States if you keep your speed limit under such and such a number, we will come forward with money to build your highway. We do that with every single thing we do. Is that your intention, once we find out what the model is, if it works, or are you going to continue that it is the State's responsibility totally or that it doesn't work very well anyway and that shouldn't be our emphasis?

Dr. BENNETT. Well, I think, again, back to what I said earlier, we are proposing increases. We are not proposing the increases that you propose, and I would say the reason we make the distribution that we do is that we think, relatively speaking, the contributions the Federal Government needs to make on one side of the problem are greater than on another side of the problem, given relative function and responsibility, yes, sir; that is, the criminal justice system in State and local government and in the Federal system is much more in need of resources than the educational system.

The CHAIRMAN. Well, we have significantly increased that. I call for an even more significant increase, but to quote the mayor of Boston, we wouldn't think of inoculating half of the students. Coincidentally, I made that statement in my response to the President last year, and I just want the State of Massachusetts to know I am delighted to give back one of the things that I have done because it worked the other way last time. I said something someone else said and someone from Massachusetts pointed it out. But anyone can have my statement. [Laughter.]

Anyone at all can have it, and it is really not even my statement originally. My staff thought it up.

Dr. BENNETT. They want your statement, they want your gavel, they want—

[Laughter.]

The CHAIRMAN. They can have it all, I can tell you now it will be one of the areas where we are going to have some disagreement and it is worth us fleshing out in detail our differences and see if we can reach some compromise.

I have taken more time than I should have. It is one of the rate prerogatives of a chairman. I will yield now to my colleague from the State of South Carolina.

Senator THURMOND. Dr. Bennett, in the updated strategy your office prepared for President Bush, you note that our Nation is beginning to make a difference in our efforts to win the war on drugs. Could you please discuss some of the advances we have made since you last appeared before this committee in September without going into too much detail?

Dr. BENNETT. Yes, sir, well, just very briefly, we want to be very clear that when we talk about some very good things that are going on, we agree with Chairman Biden that it is the moral disap-



probation of the American people that we think has probably had the greatest effect. We don't take any credit for that.

I think in terms of the numbers—and, again, this is something the American people have done for themselves—we see a decline in overall drug use in America from 1985 to 1988, and we believe that is continuing up to the present.

We see a hardening of attitudes among people all across the board. The decline in drug use and the hardening of attitudes against drug use is occurring in rich America, poor America, white America, black America, urban America, rural America, and that is a very encouraging thing.

Even college freshmen—and I say even college freshmen who are known, I think at least not entirely unfairly, for their latitudinarian views on lots of things, are very conservative on the issue of drug use, and I think that is a very interesting thing.

People, when they go to college and become freshmen and are released from that supervision of their parents for the first year, often tend to adopt a very laissez-faire attitude toward things, toward life and conduct, but they don't toward drugs. That is very interesting, and that has happened, I think, principally because there has been a shift in the culture. We are seeing the decline in drug use among students, which is a very encouraging thing, and that, too, is part of it. The American public continues to identify this issue as the No. 1 concern, and that augers well for the future.

Those, I think, are the principal ones. In terms of the Federal Government, I think the best thing that we have done is, as has been said several times this morning, acknowledging differences and shadings here on various issues, we have basically gotten our act together. We have a plan, we have a program, we have a strategy. We know where we are going.

There are very few people, I think, who dissent from the major lines of the strategy in terms of our efforts offshore, at the border, in prevention and education, and in treatment. Even here while we are talking about a difference in the schools in terms of a particular curriculum, our numbers for prevention, I think, that we call for are even larger than what Chairman Biden calls for. So there is enormous agreement and consensus.

Senator THURMOND. Dr. Bennett, the updated strategy calls for expanded use of the death penalty for three additional categories of drug offenders. Please discuss why you believe the death penalty is needed for these offenses. In addition, opponents believe that the death penalty for these offenses will not really make a difference. How do you feel about that?

Dr. BENNETT. Right. Well, the proposals of the administration for enlarging the death penalty—

Senator THURMOND. Dr. Bennett, I want the chairman to hear this, too, because he is interested in this particular point.

The CHAIRMAN. I beg your pardon.

Dr. BENNETT. Right. You are going to switch seats, okay, all right. [Laughter.]

Senator THURMOND. On the death penalty question, Mr. Chairman—

The CHAIRMAN. The former chairman is still the chairman, and I will get back in my seat. [Laughter.]

Dr. BENNETT. OK. I was going to say while I talk about the death penalty, I want to go over and sit next to my friend, the judge, while you are sitting next to Senator Specter.

It is a very serious matter, and the notion behind the administration's policy is this: to put it squarely, we believe that the category of individuals who would be eligible for the death penalty under the administration's proposal should be eligible because if they commit the crimes that we describe, and do so under aggravated circumstances, the penalty of death is what they deserve.

We believe that drug kingpins who run major drug organizations, distributing drugs all over a particular area, dealing in 5 or 10 million dollars' worth of profits, thus leading to the chaos, death, and suffering that we have seen all over this country, deserve, under certain circumstances, the penalty of death.

We believe that people who interfere with the judicial process by attempting, and sometimes succeeding, in murdering a witness—we saw this case here recently closeby where a mother was taking her son down to testify in a case against an alleged drug dealer, and a car pulled up alongside and, with a rifle, blew away the witness, the young man. This, we think—this interference in the system of justice, this gross interference in the system of justice, under certain circumstances, again, deserves the ultimate sanction.

And, finally, we think individuals who peddle this poison, peddle drugs, knowing that in their selling drugs that it could result in the death of the individual who buys it, or selling it to a pregnant addict knowing that it may result in the death of the child, that that person as well deserves the ultimate sanction.

It is very important that we respond—as we have said, Senator, a number of times, it is very important that we respond in a number of ways to this problem. It is important that we have good education and prevention programs. It is important that we work offshore with countries that are serious about it. It is important that we continue our advertising campaign. It is important that we increase arrests and help our law enforcement.

But it is also clear that we send a very strong and unambiguous signal that we are deadly serious about this issue; that we do not believe those who peddle death by way of drugs should be treated easily. We believe, in fact, that in a way of symmetry, in a kind of symmetry, these people have themselves asked for this penalty by the very business in which they are engaged.

The CHAIRMAN. Will the Senator yield for 30 seconds?

Senator THURMOND. Yes.

The CHAIRMAN. We are all in agreement that there is a death penalty for drug kingpins in the law now, and has been in the law, and not a single case has been brought under it in the law.

Dr. BENNETT. Right.

The CHAIRMAN. And, second, the example you gave, Director, you don't need a new law for. The law that is on the books now of—a drug dealer running up behind a car with a witness and shooting and killing that person is covered by the present law. So if you arrest that person, under the law passed by this committee and this Congress, you can put that person to death if you catch them.

What you are asking for, as I understand it, is the second point you made—someone who trafficks in drugs, but where a murder

does not result, but death may result down the road or may not result. Senator Thurmond and I passed a bill 3 years ago that says that person must get minimum mandatory life imprisonment, no probation, no parole.

Maybe we should change that to death, but let the record show that in the last 3 years all of the cases that would be able to be brought where death would have resulted by the change in the law were 4 in 1988, 21 in 1989, and 6 so far this year—important, but I just think it is important we keep this in perspective as we have the debate.

That person that gets run up alongside and gets shot dead—you can put them to death now under the law that Congress passed. It wasn't asked for by a President, it was passed by the Congress. And we can debate the other, but I just want to make sure that we don't get confused like we did last year.

Dr. BENNETT. But the addition, as I understand it, is that under our proposal, that person pulling up alongside the car and pulling the trigger and shooting the person, but the person does not die, only ends up paralyzed for life—under our proposal, that person is still eligible.

The CHAIRMAN. That is correct, that is correct. Right now, he gets minimum mandatory life, no probation, no parole.

Dr. BENNETT. Right.

The CHAIRMAN. Maybe it should change to death. I am prepared to entertain that.

Dr. BENNETT. Good, good.

Senator THURMOND. Dr. Bennett, no one has expected our nation to win the war on drugs in the 5 months since you first released the strategy. Yet, judging from the response to the strategy and the successes the Bush administration has seen over the past months, where do you see our Nation 2 years from now?

Dr. BENNETT. Well, I would hope, Senator, that the trends that we describe will continue. We put in the back of the national drug control strategy our goals and objectives for 2 years from now, exactly 2 years from now, and we can provide that for you, of course, and it is in the appendix.

We hope to see a continuing decline in drug use overall. We hope to see a continuing decline in attitudes that are permissive of drug use, and much greater inroads and knowledge about effective treatment, many more treatment facilities, more prison space, more efforts at law enforcement.

We hope that in 2 years we will be able to say that we have some record of agreement and bilateral understanding with some of our neighbors to the south which will help us to do things. I hope that extradition list of drug traffickers is longer, and I believe that we will be able to point to a greater record of achievement on the part of the Colombian Government and others in that regard. So I hope we keep pressing on this.

Senator THURMOND. Dr. Bennett, a major component of the strategy is the designation of high-intensity drug trafficking areas. These areas are New York, Los Angeles, Miami, Houston, and the Southwest border. Would you discuss briefly how the \$50 million devoted to these areas will be used?

Dr. BENNETT. I will ask Mr. Morris to do that, Senator.

Mr. MORRIS. Senator Thurmond, there is quite a bit of misunderstanding regarding what this designation is. Indeed, we received a letter just, I think, yesterday from Senator DeConcini and some other Senators in the Southwest border, and I appreciate the opportunity to explain more accurately and more clearly than perhaps the media have covered what, in fact, this designation really is.

First of all, these are designations for high-intensity drug trafficking areas. There is a lot of confusion that somehow we are identifying areas that have drug problems. Under the law, the determination of the Director is, and I quote,

The extent to which the area is a center of illegal drug production, manufacturing, importation, or distribution, the extent to which State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond to the problem aggressively, and the extent to which drug-related activities in the area are having a harmful impact in other areas—

Senator THURMOND. Speak in your machine a little closer so they can hear you in the back of the room.

Mr. MORRIS [continuing].

In other areas of the country.

There is no basis for us to make a determination about the drug problem. This is why this caused us some degree of consternation because, quite candidly, the problem of drugs in this country is not in Houston, Miami, Los Angeles, New York, and the Southwest border alone. It is in Columbia and Des Moines, in Wilmington, in Boston and Philadelphia, and in cities and towns all across America.

The designation process here, by confusing the public, is, I think, undermining the central thrust of the President's strategy, which is to put pressure across the board on all aspects of our society. So that is the reason why many of us were concerned about this designation, not what we were doing—that is, trying to deal with drug trafficking organizations, the center points.

We were concerned here because it was going to cause other communities in America who have serious, serious drug problems to feel somehow that they were going to be left out of our strategy, and that was the reason—I think the quote in Senator DeConcini's comment about holding our nose was why some of us felt that way.

Let me just finish here very quickly. The purpose of the designations is these are law enforcement areas where greater Federal resources can be concentrated to deal with the drug trafficking entry points. If we can squeeze down in these five areas, it will affect positively the supply of drugs—or negatively the supply of drugs in the United States and elsewhere; that is, if we are effective in Miami and Los Angeles, there will be fewer drugs in Denver and in Washington, DC. That is the concept.

We are increasing in 1990 and 1991, by allocating resources, by nearly a third the number of Federal law enforcement officers from the funds that the Congress appropriated in 1990 and the President would ask for in 1991.

In addition, getting to your question, \$25 million has been appropriated in this fiscal year. The President is asking to double that in

fiscal year 1991. Those funds will be used to simply fill in the gaps unrelated to that fairly significant increase in personnel that I mentioned, almost 700 on the southwest border.

In addition to those increases, we have \$25 million this year and \$50 million next to fill in gaps and to help in coordination. That is the purpose. We think that this has been done now and we will not need to do this again.

Senator THURMOND. Thank you.

Senator DeCONCINI. Would the Senator from South Carolina just let me ask one question relating to that?

Senator THURMOND. Go ahead.

Senator DeCONCINI. Mr. Morris, did you read section (d) there. It reads,

the extent to which a significant increase in allocation of Federal resources as necessary to respond adequately to drug-related activities in the area.

What is your interpretation of that? Is that totally enforcement and not education or treatment, and if so, why.

Mr. MORRIS. Well, that—and the reason I missed it is it had a gap on my page here. We read that as part of the enforcement, yes. The extent to which a significant increase in allocation of Federal resources—

Senator DeCONCINI. Some of us might quarrel with that one, giving the authority to the Director, if he wants to, to go beyond the enforcement and education, because it says “resources as necessary to respond adequately to drug-related activities,” which means the high-intensity areas might very well have big problems on treatment and you could do it if you wanted to.

I thank the Senator from South Carolina.

Senator THURMOND. Thank you. Dr. Bennett, I just have four more questions here. I will ask them fast. Time is passing, and if you will just answer them as briefly as you can.

Dr. BENNETT. Yes, sure, you bet.

Senator THURMOND. The updated strategy calls for \$206 million in increased assistance to the Andean nations of Colombia, Bolivia, and Peru. Recently, this committee heard testimony from the Ambassadors of these three nations, who applauded the Andean aspect of the strategy, but endorsed a proposal that the United States forgive them of their debt. Could you please discuss your feelings on this proposal and how the Andean strategy addresses their call for economic assistance?

Mr. WALTERS. If I might, Senator, we have been talking to those countries, as you know, in preparation both for the summit and the implementation of the Andean strategy. We are now preparing a variety of measures, including various kinds of economic proposals that will reach some kind of conclusion before the summit meeting on February 15.

All I would say about that at this point in time is it is important to remember that dollar for dollar, if we take dollars and put them into debt, for some of these countries, if they had a free choice of where those dollars come from—and for our purposes of Federal budgeting, they come totally from the Federal Government. But dollar for dollar, they can take some of those dollars and put them into programs in development aid in addition to debt, so that the

immediate liquidity they would receive dollar for dollar is greater if you would mix it with—if you provide programmatic money than if you provide debt relief, because what they will get from the debt relief is either the ability to borrow more money or relief from debt payments, whatever those payments are, which are usually not equal to the total value of the debt.

Some of these countries, as you know, have different levels of debt. Some have relatively small official debt to the United States, and some have larger debt. Some of them are in better shape to muster that debt. We are not opposed to looking at the program, but if you want to talk about actual program resources for the Federal Government's dollar invested, it is our view that programmatic resources of various kinds for development and others might be more efficient and more usable to them.

Senator THURMOND. Dr. Bennett, casual drug use in our Nation's schools is on the decrease, yet according to the Department of Justice, 17 percent of our high school students have used cocaine. Please discuss very briefly how the strategy addresses a need to educate our children about the evils of drug abuse.

I think you have covered part of that already in your statement.

Dr. BENNETT. Yes, sir; I think good education programs, combined with good policy, will get the job done. We are very encouraged by the fact of the change in attitude among young people. Catch the wind here, catch the change in the ethos of adolescent culture, combine it with essential information if it is needed, and make clear that there are penalties for using drugs, and we can get this number down further.

Senator THURMOND. Dr. Bennett, certainly there are several agencies that have jurisdiction over drug matters.

Dr. BENNETT. Right.

Senator THURMOND. In an effort to draw upon the expertise of these various agencies, the Organized Crime Drug Enforcement Task Force was established. Would you discuss very briefly the effectiveness of the task force and whether you see its role in enforcement efforts growing?

Dr. BENNETT. I think it is very effective. This is why we intend to bolster our efforts in OCDETF. We think it has made very good inroads, it has a good track record, and we want it to do more.

As I have said a couple times, we now have something resembling a medium-sized army out there of very able Federal personnel going after the drug organizations. I am very encouraged by it.

Senator THURMOND. Incidentally, in South Carolina, we have a drug task force that has done a very fine job. I guess you are familiar with it.

Dr. BENNETT. Yes, sir.

Senator THURMOND. Now, as a last question, Dr. Bennett, could you please give us some timetable regarding just how long in your judgment it will take to win the drug war?

Dr. BENNETT. Well, it depends what you describe winning as. If you want to use World War II as an analogy, the Battle of Midway people say was the turning point. I think we are at Midway, maybe a little beyond Midway. There is still a long way to go. There will still be more casualties. To a lot of people, it won't feel like winning for some time, people in the worst-afflicted areas. But I think

the best thing to do, Senator, is to refer you to our goals and objectives in the back of the report. We talk about a 55-percent reduction overall in use and in addictive use by the year 2000.

The CHAIRMAN. I thank the indulgence of the rest of my colleagues for letting this go over, but obviously you people have great interest in this.

Senator Kennedy.

Senator KENNEDY. Thank you very much, Mr. Chairman.

I welcome the emphasis and stress that you placed on the whole issue of education and treatment. As you remember as the principal architect of the legislation, the Congress basically indicated that it wanted about a 50-50 division in terms of resources on the demand side and on the supply side. And one of the aspects of the administration's proposal is heavy on the supply side, about three quarters on the supply side rather than the demand side. I know we can get into debating the semantics on it, but if you break this down in terms of education and treatment, research, I think a fair evaluation would so include that as a matter of concern and perhaps the basic difference that I have with the administration's policy.

I want to commend Dr. Kleber for his understanding of the real importance of an education program. As we have seen in our Human Resource Committee, just having education is a pretty weak reed in terms of the school. Professor Pentz of UCLA has done an evaluation of all the education programs and found really the only ones that work are the kind of programs represented in the Kansas City model, where you have the education, you have the churches, you have the family, you have the sports, you have community involvement. And that has really been reflected in the legislation that we accepted last year, which was bipartisan and which was supported by the administration. So, hopefully, that will be more of the pattern, and that is why we take some exception with the Director's description of the education program as ethos, education and penalties. Penalties certainly ought to be there, but the kind of programs that ought to be developed I think have to be broadly based.

I always shake my head when we realize with the enormous problems we have here in the district that I believe this is the only city in the country that doesn't have a Little League. I mean, as we are out there on the street corners, you know, it might be worthwhile to start thinking about a Little League for some of these kids.

But let me go to a different issue.

Dr. BENNETT. Could I comment briefly, Senator, just because it is a point of agreement? Again, one of my concerns in all this—and it was something we expressed while at the Department of Education—was that we don't view our education or prevention effort primarily or exclusively as being in the schools. It is got to involve other agencies of the community.

That is why, again, I don't think I made the point. When you look at our whole prevention budget, Mr. Chairman, you will see that that prevention budget is pretty substantial. I think it is as big as the budget you proposed. We distribute it a little differently. We have more money in HUD; we have more money in HHS for

community grants. But we don't think a school program acting in isolation is going to have much effect. You have got to have those links and connections.

Senator KENNEDY. Well, I appreciate that. Kansas City is \$25 per student. You have got 40 million students in this country. It works. That is \$1 billion. And I think if we were able—a lot of voluntary activity, a lot of participation in the private sector. And it isn't easy to find out those various ingredients in a community. Some communities are active and involved, and it is easy to find the levers in a community to try and get that kind of activity.

And yet as you fashion the legislation, you could say who is going to be the recipient. It doesn't lend itself into easy solutions. So we understand that. We want to work with the administration. But it is this kind of formulation that I think in reviewing various education programs that we have found sufficiently, both anecdotal and also reviews, that offer the best opportunity. But let me move on.

Director Bennett, I pointed out the very valuable service and the courageous leadership you provided with regard to the automatic weapons issue earlier in the administration, and I think you deserve credit for the partial step that was taken by the administration in terms of the prohibition of the semiautomatic weapons into our society. Now we have the automatic pistols, semi-automatic pistols. We find the Uzi carbine banned but not the pistol, and now it is being imported. The HK-49 is banned, but the HK-49 pistol now imported.

Now, if these are the weapons of choice for the drug dealers, the kingpins, the others, and they present a very, very important hazard to our law enforcement officials, why have you and why has the White House been silent on this issue?

Dr. BENNETT. The President, as you know, Senator, has a great interest in this topic. We know that ATF, the Bureau of Alcohol, Tobacco, and Firearms, is reviewing it. The Attorney General is I think still reviewing the whole question of criminal identification of people buying weapons and so on.

For my own, you will recall the recommendations made and the action I took when the President asked me early on in this job to take a look at it and give him my advice. I did so, and since that time I have not been spending a lot of time thinking about the general question of guns, though I know many Americans are.

I will tell you one of the things that has frustrated me. There is one answer to this question which is easy and obvious, which is people who use guns in the commission of drug crimes ought to go to prison, and a lot of them are not going to prison. And I think everyone will admit—and I am glad to see some of the periodicals recently—magazines, TV shows—pointing out the complexity of America's relationship with the gun, a complexity that I think we all know arises from the fact that you want to protect legitimate interests, but you do want to listen to what law enforcement people are saying.

Apart from that—

Senator KENNEDY. On this point—

Dr. BENNETT [continuing]. As a matter of public policy—let me just make it squarely easily or quickly. As a matter of public



policy, it is very difficult to talk about getting rid of guns because you are then talking about people who have a very good reason to have guns as opposed to people who don't. It is an easy issue of public policy to say that people who use guns in the drug wars, who are shooting cops, who are terrorizing neighborhoods, ought to go to prison. As a society, we have not addressed that problem yet because we haven't put the resources in it.

Senator KENNEDY. Well, let me ask you, has the White House told you to be quiet with regards to these semiautomatic pistols?

Dr. BENNETT. No.

Senator KENNEDY. Have you met with the NRA? Have they asked you to be quiet.

Dr. BENNETT. Oh, sure. The NRA is—

Senator KENNEDY. Did you meet with the NRA.

Dr. BENNETT. No, no, they haven't—well, yes, I guess I did have a meeting with the NRA officials back when, and our relationship has not been particularly amicable.

Senator KENNEDY. Well, why are you quiet, then, with regards to these semi-automatic weapons that have all of the fire capability that those which are being banned at the present time? You don't need another administration study to know that they are spewing forth death to our police officers. Why are you silent? Why are you quiet.

Dr. BENNETT. Because I have given my advice to the President, Senator, and that is where it should lie. That is the—

Senator KENNEDY. Well, what is the—you mean that is good enough for the—are you going to support us if we make that effort on the floor? We are talking about the guns of choice. You have banned them with regards to when they are longer. They have got the shorter barrel—

Dr. BENNETT. I think the problem is that the gun of choice—

Senator KENNEDY [continuing]. Now. They are as dangerous—

Dr. BENNETT [continuing]. Is the handgun, and that creates a lot of problems.

Senator KENNEDY. We are talking about these weapons which have all the killing characteristics of the longer barrel. They now are the weapons of choice. Why won't you tell us.

Dr. BENNETT. I have been told, Senator, over and over again—Mr. Morris may correct me, but I believe overwhelmingly the gun of choice is the handgun. The simple handgun.

Senator KENNEDY. That is exactly right. These are the Uzi pistols now. That is the handgun right there. The longer gun is banned but not the handgun. Now, why are you quiet on it? Why won't you support us.

Dr. BENNETT. Because I think it is a complicated issue, Senator. I know you don't—

Senator KENNEDY. Well, how complicated is it—

Dr. BENNETT [continuing]. I know you don't.

Senator KENNEDY [continuing]. For the law enforcement people that are facing these drug dealers—

Dr. BENNETT. I think that—

Senator KENNEDY [continuing]. In every street in the country. Do you think it is complicated for them, too.

Dr. BENNETT. For many of them, it is complicated—

Senator KENNEDY. Do you think we need another study—

Dr. BENNETT [continuing]. Yes, sir.

Senator KENNEDY [continuing]. To try and find out how dangerous these are?

Dr. BENNETT. Look, the long American history here of the American people's interest—

Senator KENNEDY. Do you think there is any sporting justification—

Dr. BENNETT [continuing]. In guns complicates this issue.

Senator KENNEDY [continuing]. For these weapons? Any sporting justification.

Dr. BENNETT. Most sportsmen tell me there is not a sporting justification.

Senator KENNEDY. Well, what do you think.

Dr. BENNETT. I don't know a damn thing about guns.

Senator KENNEDY. Being in this position now for the last year, and you can't tell us after your meetings with law enforcement personnel and people that they don't feel that this is a real danger to them on the streets.

Dr. BENNETT. Many of them do. Many of them do, yes, they do.

Senator KENNEDY. Have you found one that doesn't. That doesn't think that these automatic pistols don't present a danger.

Dr. BENNETT. Oh, there are many law enforcement people and—

Senator KENNEDY. Automatic pistols, Mr. Bennett.

Dr. BENNETT [continuing]. Your friends in the NRA, or your people you know in the NRA, not your friends in the NRA certainly—can tell you that there are lots of law enforcement people that will stand up and say that they shouldn't outlaw those weapons either. But, again, the central problem I have in what I am trying to do is that people who are using long guns, short guns, automatic, semi-automatic, in the commission of drug crimes aren't paying any penalty. Shouldn't we start there? That is the obvious place to start.

Senator KENNEDY. President Barco, who all of us admire as one of the courageous statesmen in the world today, has pleaded with this administration on this issue.

Dr. BENNETT. Right.

Senator KENNEDY. Pleased. Am I correct.

Dr. BENNETT. Yes, and we are working—

Senator KENNEDY. Then why are we silent.

Dr. BENNETT. We are not silent. We—

Senator KENNEDY. Well, what is your proposal.

Dr. BENNETT. Immediately after meeting with President Barco and his officials, I went back to my office and called Steve Higgins at ATF and said we have got to get a handle on this business of these guns leaving this country and going to Colombia. And work has been done on—

Senator KENNEDY. Where is your proposal.

Dr. BENNETT [continuing]. That. There has been action. I didn't think we needed a proposal on that.

Mr. WALTERS. Senator, there already are laws in this country, as you know, to prevent the export of weapons for use in criminal en-

terprises. What we are trying to do is trace those weapons and get the people who are transiting them.

Senator KENNEDY. Well, you have got a mandatory five-year Federal penalty for the use of a gun. And to hear now with this dramatic increase in the automatic weapons that you are going to have another study, I wonder what you tell that family of that police officer that was shot up in New Jersey just recently, what you are telling them, what the administration's position is, what you are telling the law enforcement people as they are out there on the streets all across this country, what you have got to tell people—

Dr. BENNETT. What you have got to tell people—

Senator KENNEDY [continuing]. In the number of instances that they are being outgunned, and you are telling me the administration says we are going to have another study.

Dr. BENNETT. This has great effect, Senator, but what you have got to tell people is that these guys are going to go get those guns anyway. And until we start locking them up and throwing away the key, we are going to continue to see it.

Senator KENNEDY. Well, why not stop it—

Dr. BENNETT. If you don't think—

Senator KENNEDY. Why don't you do both—

Dr. BENNETT [continuing]. That drug criminals cannot get their hands—

Senator KENNEDY. Why don't you do both?

Dr. BENNETT [continuing]. Can't get their hands on guns—

Senator KENNEDY. Why don't you do both.

Dr. BENNETT [continuing]. The world is awash in guns, Senator. This is a cheap, symbolic victory you are interested in. It has nothing to do with the real world.

Senator KENNEDY. I reject that. Then why did you go ahead with the ban? Why did you advocate the ban yourself.

Dr. BENNETT. I gave my reasons—

Senator KENNEDY. You did—

Dr. BENNETT [continuing]. To the President. I didn't think that with the world awash—

Senator KENNEDY. You advocated the ban, and now you are saying it is a cheap trick.

Dr. BENNETT. No, no. I wasn't—

Senator KENNEDY. You advocated—

Dr. BENNETT. No, no.

Senator KENNEDY [continuing]. The ban in the previous—when you came into the administration—

Dr. BENNETT. That is right.

Senator KENNEDY [continuing]. Didn't you.

Dr. BENNETT. That is right.

Senator KENNEDY. Was it a cheap trick then?

Dr. BENNETT. No, it wasn't a cheap trick.

Senator KENNEDY. All right. Well, it is not a cheap trick now.

Dr. BENNETT. Well, it is not the same thing. You are talking about a much more complicated and much more far-reaching issue.

Senator KENNEDY. Let me ask you, you have been a steadfast support of drug testing in the workplace. What about doing drug testing for illegal substances before you buy a firearm?

Dr. BENNETT. That is something we could think about.

Senator KENNEDY. Why does it take you any time to think about it? If you are talking about putting men and women in the work force through it, then why not do it before purchasing a gun?

Dr. BENNETT. I don't know if any of my colleagues have thoughts on that. Let me think about it. Let me think about it.

Senator KENNEDY. Well, do you have any visceral reaction?

Mr. MORRIS. I think it is impractical.

Senator KENNEDY. Well, this will be an issue that we will have the chance to address on the floor. Hopefully, we will have your support on it.

Let me just go very, very briefly into one other area, into the area of treatment and the number of slots that we have out there in terms of the treatment. As I basically understand, we can differ whether we have four or six million in terms of the addicts. I believe you have used six; you have used four as well. It is difficult to get an exact number, but it is in that area. And I think there is a general sense that 25 percent will not benefit evidently from treatment, 25 percent of the addicts can overcome the addiction without treatment, which leaves approximately three million.

Now, as I understand it, the current treatment system serves about 834,000 according to the strategy, but only 515 according to NASADAD, which is the State agencies which are the ones I think you would have to give some legitimacy to in terms of the numbers. So with the new funding, the administration claims U.S. capacity from 384 to 600 treatment slots. And even assuming the high estimate for local and State funding, which I think is somewhat unrealistic, we only have capacity to treat about a million-and-a-half patients, well short of the three million addicts who could benefit from the treatment.

Given the fact that we know that treatment does have some value, I am not prepared to get into the debate about total recovery, but at least in reducing the crimes of violence and being able to hold a job and being able to function in life, are we doing too little in this area, Dr. Kleber?

Dr. KLEBER. I don't think we disagree, Senator, in terms of the need to expand treatment. Our figures are that the slots that would be able to be created by the Federal money—and if there is appropriate State and local contribution—would be about 1.7 million by the end of fiscal year 1991.

The problem, again, is not do we need increased treatment. The answer is yes. The problem is: How fast can we do it. We have a major problem out there with treatment sites. We have a major problem with treatment staff. It was in a time not too long ago that in the last 5 years New York State has increased their drug treatment budget by 100 percent and only been able to increase the number of slots by 20 percent. So there are major structural problems out there, and I think that is the issue: how fast we are going to get there, how much water do you push through that hose without simply having a lot leak out because the system is not built up yet. The infrastructure is not there yet to deal with it.

Senator KENNEDY. Well, we will look forward to working with you. My time is up.

Let me mention, you have increased your research budget in the areas of the substance abuse.

Dr. BENNETT. Right.

Senator KENNEDY. I would hope that you would give some special attention to the analysis of research on infants and children and expectant mothers. As you well know, Doctor, the physiology is entirely different than in the areas of grown individuals, and I don't believe that we are really doing the kind of research in terms of infants.

For example, we have 370,000 addicted babies born a year now. In hepatitis, if a mother has hepatitis, the recent discoveries in medicine have been able to block that from actually infecting a child, a baby. So they are getting at least well babies. That kind of research in terms of this substance abuse I think is critical. I don't think we have encouraged enough here in our committees, and we would like to work with you. I think it is an enormously important area. You have seen a modest increase, and I have read through the report that draws some attention to that. But I would just hope that you would give some further focus and attention to it.

Dr. KLEBER. We will. It is an area we are very, very concerned about. I have been told by the people from NIDA who are working with the medication development program there that they are working, for example, on drugs that might be able to treat the addicted pregnant woman that would not pass through the placenta, so that they could be, indeed, used to treat the woman and increase the likelihood that she can get off drugs without harming the fetus.

I should also add there is some dispute about the number of addicted babies, and, again, as in many areas, we don't have as good a grasp. I have heard anywhere from 50,000 up to 375,000. My guess is the truth is somewhere in between those two figures.

Senator KENNEDY. My time is up, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you very much.

Senator SPECTER.

Senator SPECTER. Thank you, Mr. Chairman.

Dr. Bennett, preliminarily, I would like to pick up on what you said about the death penalty and what Senator Biden said. There is an important addition on holding major drug dealers responsible for their activities, even where death does not result.

Dr. BENNETT. Right.

Senator SPECTER. And that has created a debate as to whether it is constitutional, which is the central issue here. Last year, when Assistant Attorney General Ed Dennis testified before this committee, I raised that question with him to get an administration position. And at that time, the administration did not have a position. That was in his testimony on September 19. He then wrote on October 2 saying—and agreeing with what I had suggested to him—that where the conduct is sufficiently harmful to society that there would be an appropriate constitutional basis for the imposition of the death penalty, even though a specific death does not result.

There are Supreme Court decisions, *Coker v. Georgia* in 1984, for example, which prohibit the death penalty for the offense of rape. And there is a Supreme Court decision in a Florida case precluding the death penalty for an accomplice in a robbery-murder where there is remote conduct related to the specific death. But the Su-

preme Court has upheld the imposition of the death penalty in treason and in espionage, which are examples of situations where a death does not result, but the death penalty has been upheld. So the standard is whether the conduct is sufficiently reprehensible and injurious to society to call for the maximum penalty, the death penalty.

I introduced legislation back in October on this subject, and as Senator Biden suggests, there will be a debate on this matter. I am glad to see the administration come behind this concept, but I would suggest that it has to be very carefully crafted.

I have a doubt, for example, on the circumstance you cite where someone shoots a witness. We have laws on the books now to deal with obstructing justice and hindering a witness. And you can postulate lots of conduct which may result in paralysis which is awful. But if you aren't dealing with a result in death, then my suggestion is that we be very careful on where we call for the death penalty; and that if we limit it to major traffickers who sell large quantities of drugs, then I think we will be successful.

I would advance that word of caution that we be very careful on how we craft this because otherwise we are going to lose it. Just as I think on the death penalty generally that we are apt to lose the death penalty, which I think is a deterrent against crime, if we do not limit it to the most egregious kinds of cases. Because there is a delicate balance in this country today, notwithstanding the public opinion polls, if we go too far.

Dr. BENNETT. Fair enough.

Senator SPECTER. Let me turn to the subject of implementation of our drug policy and pick a big city, Philadelphia, and again express my thanks to you and your staff for working on this issue. I would say that there was some disappointment, although not unexpected, in Philadelphia not being designated a high intensive drug area. And I know that that isn't the end of the ball game as to where Federal resources are allocated. But I noticed in a chart which appears on page 36 in your national drug strategy that Philadelphia has the dubious distinction of ranking first on arrestees who have heroin or drugs in their systems, that 84 percent of the arrestees tested positive for drugs. That is substantially higher than other cities in the high intensity area: Miami at 70 percent; Houston at 64 percent; Los Angeles not even figuring on the chart, which is very substantial evidence for the contention that I have been advancing to you about the seriousness of the problem in Philadelphia and its unique problem because of its being a port and its being a major crossroad for drug trafficking.

It may be that Philadelphia can get appropriate recognition on this drug court which has been proposed. As a result of a great many activities, including your visit to Philadelphia which focused a lot of activity, a task force was appointed, chaired by Prof. Leo Levin of the University of Pennsylvania Law School, with a very distinguished panel, a very comprehensive report. And I sent you a copy of that report late last year after meeting with the task force. They filed their report very promptly on December 14, which shows a lot of very intense work, a comprehensive report, which would establish a special drug court which would be independent of

the existing court structure which has been very much bogged down with hundreds of years of complicated bureaucracy.

This court will have an individual judge calendar. There are many factors on accountability, on specialization, expertise, and hard judicial work, combined with rehabilitation, with detention facilities, and Philadelphia being, I think, first in line to come forward in this timeframe where we are attacking drugs on a nationwide basis. I have already discussed this preliminarily with Mr. Morris, who talked to Judge Walton, and others on your staff about it, and there were some pretty good preliminary comments made over the phone. I would be very interested in your more formal response today as to the merit that you see in this kind of an initiative and the possibility of some Federal assistance from a variety of funding sources.

Dr. BENNETT. Well, as always, we appreciate your interest, your detailed and knowledgeable recommendations on this issue. I can't give you, I think, in return a very detailed response to it. I would like to continue to look at it and perhaps talk to you about it later or correspond in writing.

I have heard from several people various views of it. I heard this early on, this recommendation. One of the questions that people continue to ask about it is: Is the problem that you need drug court, or is the problem that you need more judges? Whether you have a drug court or not, don't we continue to need the judges? Are the efficiencies that are assumed to take place because of the establishment of a drug court really going to make a difference? Or isn't it just, again, a question of how many resources we are putting into the judicial system?

I don't know what you think of that. But I want to get back to you better, Senator, after I have had more time to study it.

Senator SPECTER. Well, the answers are mixed. If you set the scene for a special drug court with the appointment of additional judicial resources, then you are going to tackle the drug problem head on specifically.

Dr. BENNETT. Right.

Senator SPECTER. If you do nothing, then you are going to leave a court system in a city like Philadelphia tangling with drug problems on the overall mix of criminal issues, so that the drug matter is not going to be separately attacked. You simply cannot segment out of the existing Philadelphia court structure this kind of an apparatus.

Dr. BENNETT. Right.

Senator SPECTER. But if there is encouragement for this kind of a proposal, which has more than just judges—it has, in addition, detention facilities, rehabilitation facilities, followup after probation—it is the kind of a comprehensive approach in this very extensive study which would be a model for other cities.

Dr. BENNETT. Right, right.

Senator SPECTER. I do not think it is a matter of the Federal Government assuming what is State and local responsibility. It is a matter of the Federal Government in a partnership with other funds coming to the State, but some additional assistance or encouragement. Perhaps that is more of the word today that might come from this hearing that we can carry back to those who are

working on it and saying this is a matter of interest, and there is support and encouragement.

Dr. BENNETT. Right, yes sir, we certainly will. And let me get back to you in a better fashion.

Senator SPECTER. All right. I will take that answer as an adoption of my question.

Dr. BENNETT. Sure. Certainly encouragement, and gratitude for your thoughtfulness on it. But I am just not in a position to give you a smart enough answer on that today. Let me see what I can do. But, yes, encouragement, let's explore your idea.

Senator SPECTER. All right. We shall revisit the issue soon.

Dr. BENNETT. Good.

Senator SPECTER. Sooner rather than later.

Let me turn to the subject of a multinational strike force, Director Bennett, a subject which you and I have talked about both on and off the record, but which we have not discussed since November 21, 1989, when the Congress enacted, and the President signed, the Department of Defense appropriations bill for last year where the Congress called for the use of Department of Defense funds in a multinational strike force. This topic is especially relevant—well, it is always relevant. We talked about it before, to get a number of nations together, and this is an idea which was first proposed by Prime Minister Manley of Jamaica, who thought that if such a force were to be in existence, that it would be less intrusive on national sovereignty, that it might go into an area like—well, I don't want to be specific, but perhaps like Colombia. It is an issue which I have discussed with President Barco when he made a trip here last fall, and he has certain reluctances to make any commitments, but he is categorically opposed—was categorically opposed, and I think still is—to unilateral action by the United States. He looks much more favorably, I think it fair to say, on a multinational strike force.

We had the experience in Panama where there were mixed reactions, but, for the record, many of the Latin American leaders had certain reservations, to put it mildly, about our action there. Had we had a multinational strike force to do what was done in Panama, it is my thinking that there would have been much less resentment.

We face a tough situation in Colombia at the present time as to the ability of the Colombian Government to continue their successful war on drugs, but they have been very successful up to the present time. But were we to have such a multinational strike force, it would be a good thing to have in reserve, a good thing to have on the bench to use if, as, and when it is needed.

I would like to ask you what has happened within your range of activities on this subject.

Dr. BENNETT. Well, we have looked at it and thought about it, and I think we should continue to discuss it. I confess to somewhat less enthusiasm for it after reflection than I think you still have.

I have to say I would find it, just picking up on your last example, I think it would be very difficult to improve militarily on the action of the U.S. military in Panama. If we had a multinational strike force down there, they would still be there. We probably wouldn't be anywhere yet. I mean, we may not be anywhere yet.



That operation was about as good as it can get, and, you know, when you talk to the military people—not just our military people but others—they will tell you these multinational strike forces are a good idea in terms of making clear the international mind-set that we are together to symbolize, as the United Nations symbolizes, some interested international comity. But in terms of field efficiency, I think there are problems.

My reading of President Barco and others is that, yes, they would be very resistant to the presence of U.S. military. But at this point, I think they would be quite resistant—again, my reading—to any foreign military involvement, even if it was multinational. They might, under dire circumstances, prefer the multinational to the one nation. But let's recognize the good thing that's happened in Colombia, that they themselves have taken on this effort.

I will confess, Senator, that in talking as well with some of our U.S. military people, in military policy as well as in command, the reluctance of sharing command is there. There isn't any doubt about it. I'm sympathetic to that.

Senator SPECTER. Well, I'm going to return to this more in my next round because the red light has gone on. But, in conclusion, I just would want to say this: There is an evolution of thinking. We talk about a drug czar. It was legislated in 1982, and Senator Biden, Senator Thurmond and I were at a meeting with the President in 1983 when he vetoed the idea.

Dr. BENNETT. Right.

Senator SPECTER. The military was very reluctant for a long time to get into the war on drugs.

Dr. BENNETT. Yes.

Senator SPECTER. Now they are there. We debated this multinational strike force in the Senate, and there was opposition to it. But it carried by a vote of 95 to 5.

It is not discussed in your very comprehensive report, but I would suggest to you, Dr. Bennett, that there is more involved than field efficiency. And when you say that the Latin American countries would prefer a multinational force to unilateral action, I think you are right. And we have had substantial problems with Peru. You know all about that, and there are problems in Colombia. So this isn't an easy matter.

Dr. BENNETT. Yes.

Senator SPECTER. But I think we can accomplish the military objectives and have a structure and framework where we will not have the very bitter aftertaste. I agree with you that it was very efficient in Panama, and perhaps had it been slightly less efficient with a multinational force, it perhaps would have promoted a long-range interest of drug enforcement better because it is not over in Panama. You have got Colombia and Peru, and there are major problems which result from our unilateral action. But I will await the next round for further discussion.

Mr. WALTERS. Senator, if I might just clarify. In fact, we do mention a multinational strike force on page 56. The reason I raise that is to note that we haven't stopped talking about it, as it indicates there this is to be a topic at the U.N. special session later this month on narcotics. So we are not refusing to talk about it. We are

going to work with other nations about how the plan might develop or might be used.

Senator SPECTER. Thank you.

The CHAIRMAN. Thank you. Senator DeConcini.

Senator DECONCINI. Mr. Chairman, I have questions. The Senator from Illinois has to catch an airplane, and I would yield to him if I can ask that I would follow that. I understand the Secretary can stay until no later than 12:30. Would that be agreeable?

The CHAIRMAN. Yes. Is your cadre able to stay a little longer, or would you prefer that when the boss leaves that they leave?

Dr. BENNETT. Oh, no. They can stay. [Laughter.]

Well, no, it is not that. You guys haven't been exactly overworked, have you? [Laughter.]

Senator DECONCINI. Mr. Chairman, I think the Senator from Illinois is only going to take 10 minutes, and that is all I would take.

The CHAIRMAN. Yes.

Senator DECONCINI. I yield to the Senator from Illinois as long as I follow that. Thank you.

The CHAIRMAN. Gracious of you, and then you will be recognized.

Senator SIMON. I thank you, Mr. Chairman, and I particularly thank my colleague, Senator DeConcini, who is typically generous here, and I appreciate it.

Just a few quick comments, Dr. Bennett. One is two items that are in the Biden bill that are not in your bill that I hope you and your staff will keep in mind that I think are important. One is that those who are convicted of drug trafficking should not be able to post bond and walk the streets. Once you are convicted of drug trafficking, you should have a right to appeal, but you ought to stay in prison while you appeal. We have had far too many who post bond and then just disappear.

No. 2, while I am not in favor of massive drug testing everywhere—and I think in some cases we have gone overboard in advocating some things—prisons, unfortunately, are places where there are a lot of drugs. And before prisoners can get parole, they ought to pass a drug test. And it just seems to me those two steps ought to be included in a package in the future.

Dr. BENNETT. The second one, I believe, Senator, was included in our first strategy.

Mr. CARNES. It was part of the President's strategy last September, the legislative package. It was not passed, and we are seeking to have it passed once again.

Dr. BENNETT. You can help us. Thank you.

Senator SIMON. The third, I know that Chicago was not picked as one of your priority areas, and I suppose each of us—Senator Specter wants Philadelphia, I want Chicago. I think there are very practical reasons why we ought to make a priority out of a city like Chicago, because crack has not penetrated Chicago as fully as it has Washington, DC, and some other areas. How do we make sure that we don't have that kind of penetration? I just pass that along to you as a suggestion. I think it is extremely important that to the extent we can keep crack out of Chicago everyone is ahead.

Dr. BENNETT. Let me just say very quickly, Mr. Morris ably went through the high intensity description. This was something that Congress wanted us to do, to take advantage of. I don't think there

are very many people left with this misinterpretation, but if there are, let me clarify it. High intensity drug trafficking is not a condition for receipt of Federal funds. It does not mean that the amount of money that your area is getting is dramatically increased. In most of the circumstances, the designation high intensity, value added, or money added has amounted to 2 or 3 percent of what was going to that part of the country anyway. So it is not as if Chicago is no longer looked at, is not going to be getting substantial increases in law enforcement and treatment and in other areas. I just want that made clear.

Senator SIMON. But it does seem to me that in communities where crack has not penetrated, we ought to be saying are there practical ways to stop its spread.

Dr. BENNETT. Yes, sir, absolutely.

Mr. WALTERS. I think it is important to point out we agree, and that is why we, in addition to high intensity drug trafficking areas, put money into OCDETF and into DEA State and local task forces. And Chicago is the center of one of the 13 OCDETF regions to provide multiagency law enforcement assistance going after these organizations as well.

Senator SIMON. Then in an area where we are still not in complete agreement, Dr. Bennett: As you know, I have great respect for your ability, but I was one of two who voted against you because, as Secretary of Education, you asked for a cut of 50 percent in drug education. You today have described education as a helpful auxiliary in the battle against drugs. I think it is much more than a helpful auxiliary. You talk to the Superintendent of Police in Chicago, Leroy Martin, and he will tell you the centerpiece ought to be education.

Now, I am not suggesting that there aren't other factors in that centerpiece, but I think it is extremely important that we stress education. I am not asking for a comment, but I just want to pull you along a little further.

Dr. BENNETT. No, look. No one takes—I would like to think no one takes education more seriously than I do. I do. It all depends what we mean by education. If we are talking about an education program in the schools in which children learn to identify drugs and so on, I think that is a helpful auxiliary. If by education we mean what the schools do, what the communities do, what parents do, what example we provide, what is on TV, what is in the culture—that is No. 1. I agree.

Senator SIMON. Then the final area I want to take just a few minutes on is an area where I think we have a way to go. And maybe, Dr. Kleber, you are the one to comment in this area.

I don't know the exact statistics on cocaine babies, but it is somewhere around 360,000 or so that we have in our society. I heard someone mention this morning that many each year. I hope that is not the case. But, in any event, if I may be immodest, 3 days ago I became a grandfather for the first time. That grandchild I hope has a bright future. But when you hold one of these little cocaine babies in your arms, you know, it just breaks your heart. And you think not only of the future of that child, but all the costs.

That gets into the treatment area. Here I have some concerns. No. 1, while I do not in general believe in practicing sexual prefer-

ences in anything, I think we have to say, since everyone is not getting admitted as quickly as possible in drug treatment, that women of child-bearing age really, to the extent that we can't get everyone in programs, really have to be given priority. I really think that is a national necessity. I would like your comment on the first.

The second is, as I talk to addicts, there are many who say a lot of these treatment programs aren't any good at all. And you see ads on television for treatment programs. I think some kind of a consumer report that says this is what a good treatment program has—now, I recognize for different people it will vary. But I think there are a lot of these things out that are really not treatment programs and are not helping people as they ought to. And we are going to have to do more in that area.

Now, I don't know, Dr. Bennett, if you want to comment.

Dr. BENNETT. Yes, let me comment just briefly. Let me, if I might, Senator, tie your comment about education to your comment about the babies, because, again, education conceived broadly enough, I think there is nothing more important.

A lot of drug education that I have seen and read about, the problem is it doesn't have enough money. It doesn't have enough punch. It doesn't have enough bite to it. It is antiseptic, it is sterile, it is inert, it is overhead projectors showing here is what marijuana looks like, here is what cocaine looks like, and you can get hurt or you could die.

Education, I think an important part of the education of the American public took place when they saw pictures of these cocaine babies. I know an important part, maybe the most important part of my education on this topic, took place when I went to Harlem Hospital—just before the birth of my son, my second son—and saw these babies, these tiny babies with one hospital worker per baby. That is intensive care, plus all these wires sticking out.

I remember a couple schools when I was growing up that had alcohol education programs, and it didn't have, you know, can you name this. It took kids down to the hospitals and showed them what it was like when you were in an automobile accident and held up a liver of somebody who was an alcoholic. That is the kind of education program we need, not some nicely well-scrubbed, just recently rehabilitated person standing up saying, "Gee, I did cocaine and almost lost it, but now I'm back and looking pretty terrific."

Kids need to see what this is really about because, I think as Dr. Kleber has educated me, that notion that it can happen to me is still the one that dominates most adolescents' thinking. And this is not moved by charts and graphs and pictures of powders and liquids of various sorts. It is moved by other things.

I think there are various moments in a nation's history, and I think the death of Len Bias, I think the pictures of those cocaine babies on television, a few other events, are going to be, when somebody writes the history of this, the things that turned the American imagination on this issue. I just wanted to say that.

In terms of priorities for treatment, we are making that a priority for treatment. And I will yield to Dr. Kleber.

Dr. KLEBER. We agree that in Strategy 1 and repeated here in Strategy 2, we said there were three groups that received highest

priority: the pregnant addict, the crack user, and the high risk youth.

The problem is not making them a priority in terms of entering treatment programs. The problem is most treatment programs don't accept them or don't know how to deal with them. I have been recently meeting with some programs to try and figure out what should a good program for a pregnant addict look like. The new program that the Office of Treatment Improvement that has just been set up by ADAMHA, the associate director of that, Loretta Finnegan, is an expert in the pregnant addict and the addicted baby. She is from Senator Specter's area, Philadelphia.

This is clearly one of our priorities. We are asking overall for close to \$400 million to be targeted toward this area. We want to markedly improve it. Part of the problem is that over half of the women, maybe three-quarters—no one really knows the exact numbers—are under no compulsion to come into treatment. So we are going to have to figure out ways, better outreach ways, ways to get them to come into the treatment as we try and make the treatment available for them.

We are going to be asking that those who are in trouble with the criminal justice system, that the criminal justice system insist that they stay in treatment as a condition of staying out of jail during the remainder of their pregnancy. But for those that aren't under compulsion by the criminal justice system, we need to figure out different ways.

Second, in terms of your point about program accountability, I couldn't agree with you more. And I was delighted that the Senate passed in the last session what we asked for in terms of the State treatment plans. We clearly need to put more accountability into the system. Unfortunately, that did not survive the conference committee. We need that very badly. We need to make the States accountable to the Federal Government in terms of how they are spending the money, that it gets targeted to the right places, and we need to insist that the States hold the treatment programs in their State accountable to them so that we don't have those bad programs.

Senator SIMON. Couldn't we, however, on a national basis, say these are the things that a sensible treatment program ought to have, and make that very, very clear to the whole public?

Dr. KLEBER. Basically, we said that. We have said that in my writings. The Office of Treatment Improvement is certainly saying that. We will be happy to put out those kind of documents. The crucial thing is that the program has to have what the patient needs. As we pointed out, the patient needs rehabilitation. You need certain kinds of endeavors, which probably don't include any vocational assistance, et cetera. If they need habilitation, you need a different kind of program. What you ideally need is some way of having a range of programs with central evaluation so that people get referred to the programs they need.

Just one last point on prisons. I should have had added in my earlier response to Senator Biden that one of the problems with increasing treatment prisons is the same with increasing treatment out there. There has only really been one good evaluation of treatment in prisons. That is the Staying Out Program in New York.

That looked quite promising. But, again, treatment in prison, we don't have the answers there yet either.

Senator SIMON. Thank you.

Dr. BENNETT. I was just going to say in another context, Senator, remember proprietary schools? There is money in treatment now, and we all know that. And there will be more money out there. It means even greater efforts and accountability. As we often said in education, most proprietary schools are good, try to do their job. One can describe what the functions are of a good proprietary school. But when you increase the amount of Federal money available out there, a lot of people are going to go into the business. All the more reason for the accountability and for the study and assessment.

Senator SIMON. I thank you. Again, I thank you my colleague, Senator DeConcini, in particular.

Senator DECONCINI. Secretary Bennett, I am going to quit before 12:30 or at 12:30 so you can be relieved probably in several ways. I will continue on some questions—I think you are coming before the Appropriations Committee next week, and I want to followup.

One thing, on the treatment side, have you or would you consider analyzing the cost and the procedures to implement a treatment-on-demand national program even if it is not doable?

Dr. BENNETT. Sure.

Senator DECONCINI. Have you done anything to promote that or to look at it?

Dr. BENNETT. Well, I think we ought to start by giving you Dr. Kleber's article, "Treatment on Demand." We have some problems with the concept.

Senator DECONCINI. Yes, I have read that.

Dr. BENNETT. You have read it? OK.

Senator DECONCINI. Yes, I have read that, and it is a very good article. I don't pretend to be near as knowledgeable as the doctor, but are there are other alternatives from that to go at this in a massive way?

Now, in the President's budget, you only ask for an additional 15,000 slots. Congratulations. I am glad you got OMB or whoever to add that money. But if we have 4 or 6 million addicts, whatever it is, and we only have several hundred thousand slots and you only add 15,000, it seems to me that we are missing something that is absolutely vital. I wonder how you are looking at it.

Dr. BENNETT. Yes, go ahead, Bruce.

Mr. CARNES. I have got to correct one point there, if I could, Senator. That 15,000 is just an artificial construct. If nobody put in 1 penny more and every dime used of Federal money to buy a slot, that is how many slots you get. What we are proposing and what we are projecting is that there will be many, many more slots than that.

Senator DECONCINI. How many more?

Mr. CARNES. The States, that there will be a total—

Dr. BENNETT. Something like 500,000. Somewhere between 380,000 and 643,000.

Mr. CARNES. Correct.

Dr. BENNETT. So say 500,000.

Senator DECONCINI. How many are there now?

Mr. CARNES. How many are there now? The numbers——

Dr. BENNETT. There are 329,000. Aren't there?

Mr. CARNES. The number of slots right now is somewhere between 380,000 and——

Senator DECONCINI. And you are talking about maybe doubling them; is that right?

Mr. CARNES. We are talking about, conceivably——

Senator DECONCINI. Conceivably.

Mr. CARNES. Our increase would not double the number of slots, but it would raise the number of people who get treated by 100,000 people.

Senator DECONCINI. By 100,000 people. Well, to me, that is good, and this is not and please don't consider this criticism in the least bit. My point is, if we have a need that is 20 times or 30 times that—and I believe that is not being too conservative—do you have a plan or strategy to address this in a bigger way? And it is not criticism that you are not addressing it. It is how do you go after the whole ball of wax, so to speak.

Dr. KLEBER. I think part of the problem lies in, one, what the size of the apple is. As Senator Biden said earlier, you know, there is some disagreement as to whether there is 2 or 3 million that both need and could benefit. If we took the 2 million figure, we could say that at the end of fiscal year 1991 we would have the ability to treat in any given year 1.7 million of those 2 million. If we agreed with Senator Biden that there are 3 million, clearly that would put us a lot farther from that.

We plan to keep coming back and asking for additional funds to expand treatment. You are going to be hearing from us on that.

Senator DECONCINI. Good.

Dr. BENNETT. As our ability provide it——

Dr. KLEBER. As we improve the system.

Senator DECONCINI. Is there anything besides money now that stops you from asking for even more?

Dr. BENNETT. Yes.

Senator DECONCINI. There is?

Dr. BENNETT. Yes.

Senator DECONCINI. The inability to know where they are and how they are going to be provided?

Dr. BENNETT. No. Systemic deficiencies. Dr. Kleber can speak to it. Able staff and people who can provide it and the state of the art and lack of knowledge.

Senator DECONCINI. OK. So we don't have the capacity even if we had the funding. Is that a fair statement?

Dr. KLEBER. We don't have the infrastructure to expand the system.

Senator DECONCINI. We don't have the infrastructure. We don't have the capacity to get those people into slots because we can't provide them.

Dr. KLEBER. That is correct.

Senator DECONCINI. Even if you had the money.

Dr. KLEBER. That is correct.

Senator DECONCINI. Is that what you are saying?

Dr. KLEBER. That is correct. My hope is that once we get that infrastructure we will be able to markedly expand the treatment

system much faster. But without that infrastructure, you are going to be pushing water through that hose, and it is just going to be squirting out the sides.

Senator DECONCINI. Dr. Bennett, let me ask you a question, and perhaps Mr. Morris or somebody will address it. First, I am pleased that you have designated the Southwest border. I understand the conditions it is done on, and holding your nose I don't understand. But everybody has their preference. To me it's vitally important that you are doing what you are doing, attacking areas where large amounts of drugs are unquestionably coming through, and the Southwest border is one of those.

However, when you factor in the decreases that are proposed in the 1991 budget, versus your strategy, my question is—how do I put this gently and kindly, are you in control of it? Did you know what was going to be in the budget versus your strategy?

Let me just point out, in Customs, we are talking about adding about 200 people and taking away 636 in the budget for a net loss of 438. Now, some of that is for pay benefits. Some of it is for the automatic overtime. Some of it is for the A-76. But it all mounts in the Customs budget. If you take the ATF, you are talking about adding 185 in your strategy and taking 241 out. And if you are talking about INS, including the Border Patrol, you are talking about adding 119—excuse me, no, you are talking about adding 200-some and taking away 400-some, and you end up with a net loss of 119. If you go to ATF's request, they ask for 30 FTE's for Operation Alliance, and they didn't get them.

My question to you, did you get to approve this? Do you have the authority? Do you have the hands-on stuff to see that this stuff doesn't happen? Because, to me, it is counterproductive. Quite frankly, it makes it embarrassing when we say we are high intensifying the Southwest border or Houston or some place else, and then we end up asking these agencies for a net cut.

Dr. BENNETT. Right. Let me comment first. You talked about the hold-the-nose. Not to point to anyone in public, this was my deputy's comment; it wasn't my comment. It is OK. Now that I have said that and put him out there as a target, let me say I had my problems with it, too. I wouldn't have put it exactly that way. I'd put it another way. But there were some days in the office when business almost ground to a halt because of the large number of people writing and calling my office from the Hill insisting that their town, county, block, neighborhood be designated a high intensity drug trafficking area. It was the most ridiculous thing I have ever seen—since I was at the Department of Education. But, I mean, it just went on and on and on. People would come up and say, you know, we had a drug deal in our town last year, designate it a high intensity drug trafficking area.

Senator DECONCINI. I understand.

Dr. BENNETT. OK. So—

Senator DECONCINI. Excuse me. And I understand the difficulty you had, and had you not named the Southwest border, I would have been immensely upset. But the areas you did name, in my opinion, deserve it.

Dr. BENNETT. Sure.



Senator DeCONCINI. Not that Chicago and Philadelphia aren't high intensity, but your standards for doing it, I have no argument.

Dr. BENNETT. And this is a special thing with a special purpose. I have to leave the second part of your question to Mr. Carnes.

Mr. CARNES. Just three quick points, Senator DeConcini. No. 1, just a couple of errors in the letter. We have reviewed the letter, and a couple of numbers are off a little bit. We actually said in the strategy that 90 Border Patrol agents would be added, and that is correct. But the letter says 174. That is in the first paragraph of that second page.

Senator DeCONCINI. Let me interrupt you. On page 70 of the strategy, you mention, under manpower and resources, 174 new agents and 26 support staff for the Border Patrol. In the budget that is submitted, it calls for only 90.

Mr. CARNES. We are talking about the 90 folks down along the border.

Senator DeCONCINI. It says Southwest border. That is right.

Mr. CARNES. Right.

Senator DeCONCINI. On page 69. I am talking about the same one, United States-Mexican border.

Mr. CARNES. Right.

Senator DeCONCINI. And over on the top of page 70, you talk about 174 plus 26. And in the budget request, there is only 90. It is exactly my point you are making for me, and I am not here to lecture anybody. My question is: Who has got a handle on this? And why does this sort of thing happen? Because it seems to me it defeats what you are trying to accomplish.

Mr. CARNES. The second point, Senator, is that there has been since 1989 to 1991 a 31 percent increase in employment, in Federal employment in the drug war, not counting the Department of Defense manpower. And there is an increase in drug resources in the strategy in every single program area.

The third point, if I could, is that those decreases that have been announced so far are being revisited jointly by us, OMB, and the agencies involved. And we have been advised that the agencies intend not to take any reductions in agents in other nondrug-related areas.

Senator DeCONCINI. So what are you going to do, then? What are you going to do when you have a net loss in Customs, BATF, and INS, and Border Patrol of 742 after you have added the ones in your strategy? Are you telling us that that is going to be revisited—

Mr. CARNES. Yes, sir.

Senator DeCONCINI [continuing]. And, in fact, these agencies that are supposed to cut them are not going to have to do it?

Mr. CARNES. That is correct.

Senator DeCONCINI. OK. That is fine. And thank you for that answer because I think that clarifies something that is immensely important; that, in fact, when you make a designation, you are really make it a priority.

Mr. CARNES. The only point I was making is no cut in drug resources, and now we are not going to cut the others, either.

Senator DeCONCINI. OK, and I thank you for that.

I am going to halt, Mr. Chairman, as I told the Secretary I wouldn't keep him after 12:00 o'clock. I have a lot more questions. Thank you, Mr. Secretary.

Dr. BENNETT. Thank you.

The CHAIRMAN. Judge Walton, don't pack up.

Dr. Bennett, if it is all right, there are a number of people, including Senator Kohl, who have questions that they would like to submit. And one of the questions that I want to get into with you at a later date in writing is this: Did you have to decertify any agency? We will go through that certification question. But I will not get into that now.

Dr. BENNETT. OK.

The CHAIRMAN. I thank you. I have several more questions for your staff. I know you have to leave. If they are willing to stay, we will not keep them but for another 15 minutes if that is all right.

Dr. BENNETT. That is fine.

The CHAIRMAN. Thank you very much.

Dr. BENNETT. Thank you very much, Mr. Chairman.

The CHAIRMAN. Now, Dr. Carnes, if I can keep you on that issue that was just raised by the Senator from Arizona, it is true that there have been increases in the agencies but not necessarily manpower; is that correct?

Mr. CARNES. There are manpower increases in the agencies as well, and those are laid out FTE's by agency, drug-related, in the second volume of the strategy in the budget summary.

The CHAIRMAN. All right. Now, let me move to the FBI, if I can.

Mr. CARNES. Yes, sir.

The CHAIRMAN. President Bush's strategy said, "The FBI is the most experienced agency in the area of organized crime, and expansion in the number of its field agents, intelligence analysts, and foreign language specialists will allow the Bureau to work more efficiently against criminal drug organizations." That is stated on page 14, I believe.

But even though the FBI budget increases, the FBI would actually cut the number of FBI drug agents by 23, if I read it correctly, plus the total number of FBI agents would be cut by 433 agents. Now, am I right or wrong on that?

Mr. CARNES. Well, I don't have a total number of nondrug agents right now, but the number that you see there does not factor into OCDETF personnel. There are a great—

Mr. MORRIS. That is where the largest increase is.

Mr. CARNES. You have to spread the OCDETF people back in. When you spread the—

The CHAIRMAN. The number I gave you, my staff tells me, does spread them back in, does include them.

Mr. CARNES. Well, the 1990 figure with OCDETF for FBI is 2,442, and the 1991 figure for FBI with OCDETF is 2,768. So there is an increase of 326.

The CHAIRMAN. Yes, but the end result, they still tell me, is a cut of total agents by 23, notwithstanding that increase in OCDETF.

Mr. CARNES. Our responsibility, first off, is the drug resources.

The CHAIRMAN. Right.

Mr. CARNES. So what I am saying is the drug resources are going up when you factor in OCDETF by over 300 at FBI. The second

thing, the point I made with Senator DeConcini, is that the Department of Justice indicates that they are going to go back with us and OMB and revisit the other nondrug-related areas.

The CHAIRMAN. OK. Well, I think we have got a little problem here because we literally spoke to the FBI. The FBI tells us something different than you just told us. Let me just make sure I get on the record what the FBI told us.

The FBI told us that they will be cut by the budget; the total number of FBI drug agents will be cut by 23, and not that this is in your bailiwick, but the total number of FBI agents under the President's budget will be cut by 433. They provided a chart for us, a staffing chart here, and it goes through from fiscal year 1980 through fiscal year 1991, which this budget is about. And it talks about a drop from 10,113 to 9,580. And that is from the FBI.

Now, maybe you could clear up the confusion.

Mr. MORRIS. I can try, Mr. Chairman. What we have here is a problem in how the FBI keeps records, basically. This will sound very bureaucratic, but they have a TUR system, which is the time utilization reporting system. That system basically does not talk about agents. It talks about the amount of manpower, FBI power, devoted to certain activities—white collar crime, organized crime, FCI, and the like.

What they have done in the last couple of years is they have devoted actual time more to drugs than, in fact, the Appropriations Committees had listed as what they were—in other words, they were robbing Peter to pay Paul.

The CHAIRMAN. Correct.

Mr. MORRIS. They have had this problem for years. It was a big problem with FCI for a while in which they, as both Webster and Sessions would tell you, under burned.

So what we have here is we are not talking about agents. We are talking about manpower devoted. They are trying to be honest, but they will tell you also that their intention is not to reduce the level of effort at the drug problem. That is one. The 433 positions is an issue under debate right now within the Justice Department because of the question of how to fund the extra costs of administrative controllable overtime which the Congress permitted to be increased for agents. And they can take that out of attriting, basically not filling agent positions, which I understand the Attorney General is not very happy with and is looking for other ways to do it. If that is not possible, there may need to be adjustments in the numbers.

The CHAIRMAN. When it is all said and done—and I understand what you have said. Although I have some disagreement, I won't go into that at this moment. But when it is all said and done, we agree they do not have enough money to fund all that they are supposed to do, including overtime for agents. Is that an unfair statement?

Mr. CARNES. I think it is too broad and too general. I think that right now they don't have enough money to do everything that they may want to do. The other question—

The CHAIRMAN. Well, look, the Director of the FBI sat before us here under oath, and he said to us the following: He said, look—essentially what Mr. Morris said: We have had to rob Peter to pay

Paul. Because you have put more emphasis on drugs and told us to, we have been neglecting white collar crime, we have been neglecting these other areas which we are required to deal with. And, furthermore, even by doing that, we have identified drug trafficking organizations, and we have identified the number of them—I forget the precise number—by name. You know, they know them, where they are, who they are, and so on. And he said even by robbing Peter to pay Paul, we are still only in a position, with the present funding we have and the structure we have, of targeting one-half of those organizations, drug trafficking organizations.

I then asked him, I said, Director, what would you need in terms of an additional number of agents—not even to make up robbing Peter to pay Paul, what would you need to target these folks? He said, “I need an additional thousand agents.”

Now, do you all disagree with that?

Mr. CARNES. Yes, I think I would. I would not agree to it just without taking a look at what the numbers are.

The CHAIRMAN. Well, I would respectfully request you to take a look at what the numbers are.

Mr. CARNES. We will do that.

The CHAIRMAN. Because I put in money over the next 2 years for an additional 1,000 agents.

Mr. CARNES. I don't believe the Attorney General supported that statement.

The CHAIRMAN. There are a lot of things the Attorney General doesn't support that the FBI does support, as you well know. And that has been one of the rubs downtown. There are a lot of things that you support that the Attorney General doesn't support. So I would think you are on really shaky ground offering him as an appeal authority because you are in deep trouble if you go his way.

At any rate, having said that—

Mr. WALTERS. Senator, can I just add one point for the record?

The CHAIRMAN. Sure, please. This is confusing.

Mr. WALTERS. I think sometimes it is confusing when you look at one enforcement agency. What we have tried to do—and we would agree that this year's funding in FTE for the FBI for drugs, and we are single-minded, is too low.

The CHAIRMAN. Right.

Mr. WALTERS. That is why we propose to increase it substantially. Now, we can argue about whether we increased it enough, but I think it is important to remember that what we have taken as a vehicle—aside from high intensity drug trafficking areas—is OCDETF, and that is the multiagency area, and we have increased that dramatically to blend FBI, DEA, Customs, INS, and resources in the 13 regions to go after organizations. And I think that is what we would like to make sure is on the record to indicate we do recognize the importance of going after organizations, and we also think that the OCDETF mechanism provides a way to do that effectively.

The CHAIRMAN. Well, I understand what you are saying, and I am not certain that you are wrong. I think from my perspective it doesn't get it done, but what I am going to request of the agency, you all, is that we have a hearing, because part of our authorization process, is on that specific topic. And so we will have a chance

to get back to that. I am not suggesting you in any way are cooking numbers or in any way trying to mislead. And it may be that I am just misunderstanding and the FBI misunderstands. That is possible. But we will try to work that out.

Prior to the hearing, we will have our staffs—if you are willing—sit down with you, come down and talk to you all, and tell you what, as we read it, we see and see how much we can get done before we actually have a hearing on this subject.

Now, I would like to shift 1 minute. There is much more to say about that, but I promised I wouldn't keep you much longer. I find some discrepancy between your emphasis on juveniles becoming an increasingly significant part of the national drug problem—and you go on and talk about that on page 25 and then in your budget summary on 59—with what has been a historic request from the Reagan administration through this one to cut the juvenile justice funding by more than \$60 million, from 70 million to 7.5, with a particular focus of use of that 7.5.

Can you explain as briefly as possible your rationale for why it is helpful to do that?

Mr. CARNES. The administration has computed in that program, as it has in every other program, that portion of the program that is drug-related. And the administration is proposing to fund that straight line in 1991, the drug-related portion.

The CHAIRMAN. Because the administration doesn't think the juvenile justice program does have an impact on drugs after what the Director said and you all said about this being a multidisciplinary requirement with regard to education? We hear the Director and Senator Kennedy talk about, you know, everything from Little Leagues to the broader impact, and yet we are taking out the one piece we have in there in the juvenile justice program. I may be mistaken. Judge Walton, in the past, I have heard you say positive things about the juvenile justice program. I may be wrong.

I would really like—again, at a later date and maybe in writing—if you could in a little more detail tell me why it makes sense on the overall strategy to cut out that roughly little more than 60 million out of juvenile justice and why the rationale of saying we are just targeting the directly drug-related, and how you argue what is drug-related and not drug-related. It would be a useful thing for us.

Again, I am not looking for a fight. It would be useful for us to better understand what differences we have, if we have any differences on that.

Dr. Kleber, as you can see, you have been a direct recipient of a number of questions today because, as the strategy has been narrowed here and the differences have been narrowed, one of the areas it falls into is an area of your expertise. What Senator DeConcini didn't say and I include in this strategy is it is difficult to get pregnant women or women of child-bearing age into drug treatment programs and drug treatment regimes that work or have a prospect of working. And one of the reasons, the studies that I have read indicate, why it is difficult to get them in is not that they don't think they need help, but there is not an ability to be reimbursed for what is a big problem. If they have other children who are already in being, already there in the household, they

cannot get reimbursed for somebody either taking care of that child or bringing the child along. Therefore, there is a direct correlation between whether or not a 23-year-old woman with a 3- and a 5-year-old child will submit herself to a drug treatment program, and whether or not she can have her children with her.

Now, A, is that correct that there is that kind of correlation? And, B, if it is correct, does it make sense to provide for the ability to have coverage for the costs related to bringing along Junior? Not Junior for, you know, sensitivity sessions but just Junior so he's not far from Mommy. Does that make any sense?

Dr. KLEBER. The problem you run into, let's take first bringing Junior with her. What you run into when you talk to the people who run these programs is the enormous problems that that causes; the disruption of the program often by having programs that are geared especially in therapeutic communities with certain confrontational kind of mode. Even having little children around can be very difficult. The staff demands can be enormous.

I met a couple days ago with the director of one of the better ones in New York, Project Return, Jane Vallez, and the staff could be full time just shepherding these little kids to pediatrician appointments and all this, and suddenly you run out of staff to do the therapy. In addition, the mother begins to say, "I want to spent time with my child. I don't want to be in the therapy session," et cetera. So bringing the child into the facility is not as simple as it may sound as far as simply increasing a child-care component or a day care component.

A lot of the women, even if there were ways to leave the child out there, don't want it. They are afraid if they go into the facility and they leave the child out there in some form of foster care or whatever that they will have trouble getting the child back. So it is a very complex situation. It is one of the more puzzling areas trying to devise what a good system for pregnant addicts would look like. This is going to be one of the first priorities that the Office of Treatment Improvement is going to be looking at: What should a good system for pregnant addicts be?

The CHAIRMAN. What we have tried to do to the extent of our capability—which I think is increasing and, I think, sound—is look at some of the same programs. Again, I don't want to be anecdotal. You know, one program in one city works; ergo, it works for the whole world. I am not laying that one on you.

But I would like you to take a look at the program they have in Tucson. The studies have showed that they came up with a number. The number they came up with was that women who were able to have access to their children and not be totally separated from their children stayed in the programs, in ongoing programs, outpatient as well, 489 days versus 90 days on the average. It seems to me just common sense. If you are a 23-year-old woman and you seek treatment and you know to get in you have got to put your child in foster care, I just think the likelihood of you making that judgment is overwhelmingly against choosing treatment if that is your only alternative. But it is something we should explore.

Dr. KLEBER. And I will certainly look. I have to be in Arizona in April. I will certainly explore firsthand that Tucson program.

The CHAIRMAN. I would appreciate that very much.

Now, one last question for you, Doctor. A proposal put forward by Senator Moynihan that I have, again, included in the proposed strategy that I am trying to convince my colleagues warrants being looked at—and I would ask you to do the same. You may or may not have an answer now. Under current policy, Medicaid does not cover a significant portion of those circumstances and individuals and costs incurred to be able to be in a drug treatment program. For example, the problem is it provides treatment to only a few types of drug treatment, in hospitals and mental institutions. It does not cover outpatient drug treatment. And only 20,000 people were given drug treatment under Medicaid in the year 1989.

Now, what I propose is a strategy to expand Medicare to provide all forms of drug treatment, including outpatient, a step away from the 28-day program. And the cost of this proposal, as we have calculated it, would be roughly \$385 million, \$200 million to be paid by the Federal Government, \$185 million to be paid by the States. It is estimated that 40,000 people could be brought into the net. These are people not all of whom are the crazed addict who is on a binge, leaving their child to starve. These are middle-class mothers, middle-class folks who are strung out in suburbia, who aren't in that bad a shape but look at it and they are part of that 18 million people who don't have any health care. You know, it is a real problem that they have come across.

Do you see any merit in this notion, this approach?

Dr. KLEBER. There are major problems to expanding who Medicaid covers. I think there are two separate issues. Should you expand that coverage? It sounded like that last category you described would not typically be eligible for Medicaid under current eligibility requirements. The second issue is, for those people who are eligible, should the type of services be expanded? As I understand it, the States do have the option to provide outpatient treatment for the Medicaid-eligible population. And for the others, I think that—and we favor that. We favor that there should be outpatient more readily available. It certainly would be cost saving in many aspects.

For the other, we think that expansion of the block grant program, an expansion of money in general going to States rather than simply expanding entitlement programs, would be a better way to bring treatment to that group.

The CHAIRMAN. Thank you. Again, I would like to go into that in a little more detail.

You mentioned pharmacological promising alternatives. Have you had a chance to look at the proposal that I have made to significantly increase the amount of research money? Not suggesting you don't think it is important, but the commitment of \$100 million a year for the next 10 years, for a total commitment long term of \$1 billion to deal with a significant increase in research into medical help—not cures, medical help for treatment and rehabilitation and prevention?

Dr. KLEBER. I certainly agree with the thrust of it. I think that medication development can be a very important part of the fight to improve treatment. I must have misunderstood the funding. As I

saw the funding, I thought that it wasn't a level \$100 million a year, that you started at around 60—

The CHAIRMAN. No, you are correct. The reason we started is the argument you have historically made that there aren't enough people there. The infrastructure doesn't exist to just bump it up immediately.

Dr. KLEBER. Yes. It is my understanding that we are asking for about \$40 million in fiscal year 1991 for that program, so we are not that far apart.

The CHAIRMAN. On the front end.

Dr. KLEBER. In terms of where we start with. I agree that it is an important program, and I think the issue, again, is simply how fast the system can be pumped up.

The CHAIRMAN. OK. Last point, unless someone wants to make more. Mr. Walters spoke—and I appreciate you taking the time to at least lay out in broad strokes your preference for direct aid programs to the Andean nations, as opposed to the proposal that I have put forward of a drug swap notion.

I say only this: I have met, as you know, extensively with the three governments in question, and they have formally endorsed each of them, the approach—which doesn't make it right or wrong, it only speaks to what they think might be—what they prefer to have, the direct aid or the drug swap for debt. And I don't ask you to comment beyond making a request. They have formally asked me—Colombia, Bolivia, and Peru all asked me to formally ask the administration whether or not this issue could be part of the agenda.

I told them I may not be their best spokesperson to convince the administration what should be done, but I am formally passing on what I have been formally asked to do. And maybe before the conference, I could actually spend a few minutes with someone in your shop to discuss in more detail so that there is no misunderstanding about what I am proposing. I am not saying there is, but to make sure.

My question is this: We have heard rumors—I don't know whether they are true—that your shop has not been counted in on the early planning stages as to what the agenda should be at the Andean summit. Can you tell us, to a degree, who is the lead agency in setting up that agenda and putting together that conference?

Mr. WALTERS. Well, the lead agency is the State Department at this point. But I should explain that the coordination of this through the national security apparatus is through a committee that I chair. The construction of the agenda and all papers connected with it are things that we will be involved with. I was in Santa Cruz during the last negotiation. I chaired the working group that dealt with some of the issues of enforcement. We have every agency from the Department of the Treasury to the Defense Department, even some demand-side agencies here plugged in, not directly represented but in order to provide information. So I don't know—we can talk in private if you want about where the rumor is coming from, but I think if you talked to the people who are involved in the State Department, in the National Security Council, in the national security area, as well as the law enforcement area



responsibilities overseas, I don't think you will find that

CHAIRMAN. I am glad to hear that because, as you might see there would be a good deal of consternation up on the Hill if the drug summit were not something that you, in effect, the lead agency on—we love our State Department. I think they are doing great things. But they have historically shown an admirable knowledge of and interest in and ability to progress on the drug issue.

ALTERS. They are doing better.

CHAIRMAN. Pardon me?

ALTERS. I think they are doing better, in fairness.

CHAIRMAN. They are doing better. Well, I am glad to hear

there are many more questions I have, but I have already taken a good part of your time. Reggie, I guess so many questions went to you that year that you ought to feel flattered that we must all be working with your end of the program right now.

A number of questions we will submit in writing.

forward for genuine further discussion with all of you individuals—we need not have the Director every time up here—to discuss it over the next several months what we hope will be a program we can all agree on.

Thank you very much for your good work. We appreciate your efforts.

[prepared statement of Dr. Bennett follows:]

## STATEMENT BY WILLIAM J. BENNETT

Ladies and gentlemen, when I took up my duties just about a year ago, I said that although America had to win this war, it was by no means certain that we would win it. My view has changed.

The war is by no means over, but it is clearly winnable and the momentum is shifting our way. Indeed, while there is still too much bad news, there are scattered but clear signs that we are beginning to win, the scourge is beginning to pass. If we keep up our efforts, we are going to win.

We are making progress every day: Drug use is down, drug arrests are up, drug seizures are up, seizures of traffickers' and dealers' assets are up.

There is something else as well. A year ago, if you had asked for a comprehensive picture of national drug policy, you had to go to over 30 different agencies. Not anymore. The President has encouraged and supported me as I have worked to fashion the efforts of thousands of dedicated people into a complementary and comprehensive whole. Mostly, our decisions have been easily reached, but when we failed to agree, the President has stepped forward to make the tough calls.

Not only are we working more smoothly internally, but -- occasional

misunderstandings notwithstanding -- we have now found more common ground with more foreign nations than ever before.

And we're putting money behind all this. If the Congress enacts this Strategy as is, total Federal spending on anti-drug efforts will have increased by 69 percent since President Bush took office one year and thirteen days ago. For FY 1991 the President is seeking \$10.6 billion in drug-related budget authority, -- a \$1.1 billion (12%) increase over FY 1990.

Actual spending -- budget outlays -- for FY 1991 will increase by \$2.8 billion (41%) over FY 1990.

Perhaps the most important progress is in an area more difficult to quantify -- the attitudes of our citizens. But it is real -- I have been there and I have seen it. In the past four months I have visited more than 35 cities and towns and I can assure you that all across the country Americans are saying that they will no longer tolerate the use of illegal drugs -- not at home, not at work, not in their neighborhoods. They are banding together with their neighbors and, working with the police, they are standing up to the dealers and users and telling them to move on. Attitudes are hardest and, consequently, progress is most impressive in some of the toughest places: in North Tulsa and South Dallas, in South Seattle and in scores of cities across the country. These neighborhoods are the front line in the drug war, and I can tell

you that it is these neighborhoods which are no longer giving up ground to the enemy. The line has been drawn; the worst is over. We aren't there yet; in some places we are years away, but we know where we're going and we know how to get there.

The President's second National Drug Control Strategy elaborates and builds upon the philosophy set forth in the first. We will educate and dissuade our citizens away from using drugs; we will get more drug addicts into more effective treatment programs; we will reduce the supply and availability of drugs on our streets and dismantle the trafficking organizations through tough law enforcement and interdiction measures; and we will strengthen the efforts of source countries to stem violence and economic dislocation caused by the international drug trade.

There are several new initiatives in this Strategy which I would like to highlight. In the criminal justice system, we will seek to expand the resources of Federal agencies, such as the Drug Enforcement Administration, who conduct investigations to disrupt and dismantle drug trafficking organizations. We will seek to broaden the death penalty for certain drug crimes, not simply to deter other drug criminals but to administer just punishment upon those who are wreaking havoc upon our society. We will seek funding increases and launch several new initiatives in treatment, prevention and education. We will create a National Drug Intelligence Center within the Department of Justice to provide a

comprehensive intelligence picture of the drug trafficking organizations. Finally, we will seek to strengthen the efforts of courageous leaders like President Barco in Colombia through a \$206 million increase in our assistance to the Andean nations.

Nothing we have learned in the last twelve months has led us to change our view that a comprehensive effort putting pressure on every point of the spectrum is required. As we said last September, there is no "magic bullet," no one simple solution to the drug problem. We must continue to press on all fronts. If we do, we will continue to see real progress in a war that just twelve months ago was seen as unwinnable.

Mr Chairman, I have read your recent response to our Strategy. I was struck by the similarities -- the degree to which our Nation's political leaders are moving in the same direction on this problem. We agree that legalization would be a wholesale disaster. We agree that we must push on all sides of this problem at the same time -- because our treatment system will not survive without law enforcement and our criminal justice system will be overwhelmed without education and prevention. We agree that courageous foreign leaders must be assisted. We agree that our borders should not be fair game for criminal smugglers.

Moreover, you have put forward several initiatives which appear interesting to us, although we have not had time to review them in

detail. These include your proposals to encourage private sector companies to include drug treatment in their benefits package; to improve treatment quality by increasing Federal quality requirements; to modify the Orphan Drug Act; to expedite the FDA approval process; to reform immigration policy to permit aggressive deportation of criminal aliens; to improve our drug intelligence; to seek tougher penalties for drug-related child abuse; and, to improve our research. I hope to work with you on these proposals.

Mr. Chairman, our concurrence is a hopeful sign. The American people's intolerance for this problem had solidified several years ago -- it appears that our Nation's leaders have finally caught up with them. To paraphrase the President's remarks from his State of the Union address, we're not here to bicker; we're here to get the job done. Let's have our talk and then get back to work.

If we agree that we must push on all points at one time, in our Second Strategy we explain just how we are doing this, agency by agency, program by program, account by account.

In treatment we propose to:

- o Increase Federal funding to \$1.5 billion. We believe that sum, when combined with State, local and other support, should provide treatment for 1.7 million patients annually;

- o Increase Federal support from \$70 million to \$84 million for job training and counseling for recovering addicts;
- o Increase treatment research by \$30 million;
- o Spend approximately \$350 million to treat women and dedicate an additional \$6 million solely to expand and improve outreach and treatment services for "cocaine babies"; and
- o Develop innovative new treatments, including drug treatment campuses and special programs for adolescents and pregnant women.

In education, community action and the workplace we propose to:

- o OSAP Demonstration grants to provide high-risk youth with educational and recreational activities;
- o Increase Drug-Free Schools grants by \$50 million;
- o Continue emergency grants to urban and rural education agencies by \$25 million;
- o Increase grants for comprehensive community prevention programs by \$50 million;

- o Increase to \$38 million grant funds to help drug-using pregnant and postpartum women and their children; and
- o Increase \$50 million (to \$150 million) funds for Public Housing Drug Elimination programs;
- o Develop model state legislation for drug-free workplaces; and
- o Issue a new anti-drug handbook for parents and publish a model anti-drug curriculum by March.

In criminal justice we propose to:

- o Increase Department of Justice grants to State and local law enforcement to \$492 million -- an increase of more than 225% since the President took office;
- o Increase to \$403 million funds for drug-related activities within the U.S. Court system;
- o Increase DEA funding by \$151 million, including \$10 million to fund joint DEA State and Local Task forces;
- o Double funding -- to \$35 million -- for domestic marijuana eradication; and



- o Request 75 new Federal judgeships for the Federal Court System.

**In international efforts and interdiction we intend to:**

- o Increase funding for economic, law enforcement, and military assistance to Colombia, Peru, and Bolivia by \$206 million;
- o Expand cooperation with Mexico in a broad range of areas;
- o Improve the interdiction of drug money, munitions, and precursor chemicals moving to or from the United States;
- o Increase our focus on the Southwest border; and
- o Expand the role of the Department of Defense in detection and monitoring of drug smuggling.

**In Intelligence and Research we propose to:**

- o Increase drug-related research by \$65 million to a total of \$383 million; and
- o Create a National Drug Intelligence Center to consolidate and coordinate law enforcement information on drugs.

I want to mention two other initiatives included in this Strategy:

High Intensity Drug Trafficking Areas

- o New York, Miami, Houston, Los Angeles, and the Southwest border have each been declared High Intensity Drug Trafficking Areas.

This means concentrated Federal law enforcement assistance, hundreds of additional DEA and FBI agents, more Border Patrol agents and Customs inspectors, and -- consistent with overall budget increases -- additional treatment and prevention funds.

More specifically, Congress appropriated \$25 million for this purpose in FY 1990. These funds will be provided to Federal law enforcement agencies to help them assess, coordinate and increase their efforts against drug trafficking organizations in these areas. In addition, approximately \$1.2 billion will be provided in FY 1990 to these five areas through existing Federal programs in treatment, education, State and local law enforcement, Federal law enforcement, and Defense Department activities.

In FY 1991 we are requesting \$50 million for this purpose. A further \$1.4 billion will be provided in FY 1991 through existing Federal programs.

DEATH PENALTY

The Administration will be sending to the Congress a proposal to apply the death penalty to three additional categories of drug-related offenders: major drug kingpins, drug kingpins who attempt to kill in order to obstruct justice, and Federal drug felons whose offenses result in death.

In summary, this Strategy offers more detail on more programs than the Federal government has ever before undertaken.

The point is, we're on offense and the drug dealers and drug users are now on defense.

We're going to keep the pressure on and, as the President promised, we are going to end this scourge.

The CHAIRMAN. The hearing is adjourned.

[Whereupon, at 12:59 p.m., the committee was adjourned.]

[Responses to written questions follow:]



OFFICE OF NATIONAL DRUG CONTROL POLICY  
EXECUTIVE OFFICE OF THE PRESIDENT  
Washington, D.C. 20500

June 5, 1990

The Honorable Joseph R. Biden  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are the responses to the questions submitted to Director Bennett subsequent to his testimony before your Committee on February 2, 1990. I hope you will find these responses satisfactory.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Joseph H. McHugh".

Joseph H. McHugh  
Director  
Congressional Relations

Enclosure

## QUESTION ONE FROM SENATOR BIDEN

**QUESTION:** During your confirmation hearings, you and I discussed how the strategy and budget process should work. The process is supposed to ensure that the goals and priorities established in the National Drug Control Strategy determine how much we spend on drugs -- and not to have the budget determine our goals.

To make sure that you have the authority to make this process work, we wrote into the law that you are to certify -- in writing -- whether each agency's budget is sufficient to meet the goals.

Did you follow that process for this year's budget?

Did you "de-certify" one or more agency budget requests because they were not sufficient?

Did you certify, in writing, that the total \$10.6 billion proposed for fiscal 1991 is sufficient to meet the goals outlined in the national strategy?

**ANSWER:** The process we followed this year is not the process we'll follow next year, for several reasons. First of all, the law says that the certifications are to be done with respect to a Strategy. At the time the budgets were developed and submitted to me, there was no Strategy. In fact, the agency budgets were developed months before the Strategy was written, and were, therefore, largely overtaken by events. For example, some agency requests for FY 91 were below the enacted BY 1990 levels. In other instances, new items became priorities in the Strategy that were not priorities at the time the agencies put together their budgets.

Our focus during this first year was to ensure that the final document -- the President's Budget -- had money in the right places and in the right amounts. That is, under the pressure of developing two Strategies, amending the FY 90 President's Budget and developing the FY 91 President's Budget, we had to be very judicious in where we focused our energies. We chose to be forward-looking to the President's Budget, rather than backward-looking, certifying or decertifying budgets that in many respects had been rendered obsolete. Therefore, we issued no certification or decertification documents for FY 91.

We do intend, however, to certify the budgets in the FY 92 process, in accordance with the law. Indeed, we have already communicated with the agencies on this topic to ensure that they understand the purpose and process of certification.

## QUESTION TWO FROM SENATOR BIDEN

**QUESTION:** As you and I discussed last year, Congress wrote into the Drug Director law an explicit provision requiring you to "maintain records regarding certifications."

The authors of the law did this so that Congress could review compliance with the Strategy and budget process through the certifications.

Can you please provide to the committee all of the written certifications that you made, along with a list of any agency(s) that were not certified?

**ANSWER:** As I indicated in the previous answer, we did not certify or decertify any budgets in the FY 1991 budget process.

QUESTION 1 (from Education Group) FROM SENATOR BIDENQUESTION:

Are you convinced that drug education funds are distributed the best possible way to ensure that every child in Grades K-12 receives comprehensive drug education. (I define comprehensive drug education to include an anti-drug policy, peer-to-peer programs, training for teachers, and family and community development.)

ANSWER:

The 1989 amendments to the Drug Free Schools and Communities Act modified the State grant formula to distribute more funds to local education agencies with economically and educationally disadvantaged children and required the development and implementation of prevention plans in every school. The State grant formula was modified to distribute funding in excess of the FY 1989 appropriation on the basis of the school-aged population as well as on the basis of the amount of Chapter I funding received for remediation. In addition, new sections were added to the law to require each school to develop age-appropriate, developmentally based drug and alcohol education and prevention programs for students in all grades, from early childhood level through grade 12. We believe that the formula, in conjunction with the prevention plans, distributes funds and encourages expenditures of those funds in a manner that will help ensure that every child in grades K-12 receives comprehensive drug education.



## QUESTION 2 (from Education Group) FROM SENATOR BIDEN

QUESTION: THE \$15 MILLION THAT IS DEVOTED TO ANTI-DRUG PROGRAMS ON COLLEGE CAMPUSES COULD PROVIDE COMPREHENSIVE DRUG EDUCATION IN OVER 800 ELEMENTARY AND SECONDARY SCHOOLS. I UNDERSTAND THAT WE SHOULD PROVIDE DRUG EDUCATION EFFORTS AT ALL LEVELS, BUT WITH LIMITED RESOURCES, TOUGH CHOICES MUST BE MADE. WOULD YOU AGREE WITH MY PROPOSAL TO DEFER FUNDING DRUG PREVENTION PROGRAMS ON COLLEGE CAMPUSES UNTIL WE ARE CERTAIN THAT ALL GRADES K-12 HAVE ADEQUATE FUNDING? PLEASE BE SPECIFIC.

Answer: The 1989 amendments to the Drug Free Schools and Communities Act require that institutions of higher education (IHE's) as well as local educational agencies (LEA's) develop and implement prevention plans. The Strategy focuses on elementary, secondary and higher education and provides funding for efforts at all levels of the educational continuum. We see no reason to shift funding away from IHE's at this time. Higher education has a major role to play in shaping the attitudes and mores of society, and it is clear that there are drug problems in higher education. I don't think we should neglect one area in order to concentrate on another.

QUESTION 3 (from Education Group) FROM SENATOR BIDEN

QUESTION: THE FIRST WEEK OF FEBRUARY, THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AWARDED "DRUG ELIMINATION GRANTS" WITH 1989 MONEY UNDER GUIDELINES FROM THE "ANTI-DRUG ABUSE ACT OF 1988." SOMETIME THIS SUMMER, HUD PLANS TO AWARD THE 1990 MONEY. DO YOU HAVE ANY SUGGESTIONS AS TO HOW HUD COULD SPEED UP THE DISTRIBUTION OF FEDERAL ASSISTANCE TO STATE AND LOCAL HOUSING AGENCIES? HAVE YOU GIVEN ANY GUIDANCE OT THE DEPARTMENT AS TO HOW PREVENTION FUNDS SHOULD BEST BE SPENT?

ANSWER: HUD is in the process of developing final regulations for this program. As a result of what they have learned from the 1989 pilot, they will be making changes to their funding announcement for 1990. We expect the 1990 grants to be awarded in the fourth quarter of 1990. We expect the 1991 process to be more timely, with grants awarded in either the second or third quarter of 1991. ONDCP will work closely with HUD and OMB in developing regulations and funding notices for this program. Although we cannot prescribe what these projects can do beyond the scope of the enabling statute, we will make certain that grantees are held accountable and that projects are evaluated on their ability to reduce drug use and drug-related crime.

QUESTION

It is my understanding that the entertainment industries -- television, motion pictures and sports -- need some direction in how to maximize their contribution to the fight against drugs. Who in your office is focusing on the entertainment industries? Is there a plan to coordinate these high profile volunteers? Have you begun to set objectives and priorities for the entertainment industries' contribution to the fight against substance abuse? If so, what are they?

ANSWER

The President's National Drug Control Strategy recognizes that individuals from all segments of society need to get involved in anti-drug efforts. No-use messages must be conveyed by each and every part of the community -- including the entertainment industry. The Office of Substance Abuse Prevention in the Department of Health and Human Services has used celebrities in both their "Stay Smart, Don't Start" awareness campaign and in their most recent anti-drug billboard campaign. We will continue to utilize these volunteers in appropriate drug prevention activities.

BIDEN'S STEROIDS LEGISLATIONQUESTION

I am pleased to see that the strategy expressly mentioned the steroids abuse problem. Not only have medical studies indicated that steroids can have serious physical effects, but scientists at Harvard, Penn State and the University of Michigan have found that steroids can lead to mental disorders, including violence and addiction.

I have introduced legislation to add steroids to the list of controlled substances. My bill would increase penalties for steroids trafficking, give DEA authority to investigate steroids cases, and incorporate steroids in general drug prevention and education efforts.

Do you support my bill to make steroids a controlled substance? Please explain.

ANSWER

ONDCP agrees with the objective of Senate Bill 1829 to discourage the abuse of anabolic steroids and human growth hormones. However, we have some concerns about this bill. Currently, under the Controlled Substances Act, decisions on what substances should be scheduled are made administratively by the FDA, after extensive scientific review and consultation, rather than legislatively. We believe this is the way such determinations should be made. The FDA is continuing to study the problem and a recommendation to schedule anabolic steroids or some other recommendation to address this problem can be expected in the near future.

STEROIDS ENFORCEMENTQUESTION

Is the current regulatory scheme -- with about 40 Food and Drug Administration investigators trying to stop a \$300 to \$400 million illegal (steroid) market -- sufficient?

ANSWER

Private sector efforts are critical in fighting steroid abuse. Numerous athletic organizations have taken positions against steroid use by athletes, and have instituted policies to test for and sanction illicit steroid use. Convincing athletes that steroid use will be detected and punished is the surest deterrent to steroid abuse.

For the present, we believe that the level of resources committed by the FDA is appropriate. The FDA will monitor the situation closely and, if the situation warrants, will make adjustments. We must also remember, however, that FDA resources are only a part of the effort directed against steroids. First, local and State enforcement agencies have jurisdiction against misuse of steroids (users), and manufacture, distribution and/or diversion of steroids under existing legislation concerning abuse of prescription drugs. The U.S. Customs Bureau is responsible for controlling smuggling of steroids, and is currently prosecuting a number of cases. The FDA coordinates its enforcement activities with the Federal Bureau of Investigation.

## QUESTION #1 FROM SENATOR BIDEN

QUESTION:

The latest Strategy indicates that the Administration plans to initiate a seized asset sharing program between the United States and Mexico, whereby criminal assets seized in an investigation would be shared with Mexico if that government supplied information which led to its seizure. Have there been any negotiations with the Mexican Government on this proposal? Is the Administration planning to initiate a seized asset sharing program with other nations?

I have proposed--as part of my crime bill (S. 1970)--a change in the money laundering statutes to allow "equitable sharing" with foreign nations of assets seized under this law. Does the Administration support this idea?

ANSWER:

Yes, we have been negotiating with the Mexican government on this and other drug-related issues. In fact, we have ratified a Mutual Legal Assistance Treaty with Mexico that covers asset sharing.

Sections 6074 and 7366 of the Anti-Drug Abuse Act of 1988 authorized the transfer of forfeited personal property or proceeds from the sale of real or personal property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property for the Departments of Justice and Treasury. To date, one transfer has occurred. Switzerland and Canada each received one million dollars in 1989 for their participation in a money laundering case. Justice and Treasury also have cases in process that will result in assets being shared with France and Great Britain.

The Administration strongly supports equitable sharing of seized assets with foreign nations, as we stated in the National Drug Control Strategy. The President reaffirmed this position in the Cartagena Declaration signed at the Andean Summit in February. Not only do we support the principle, but we already have begun to implement it. We do not believe that additional legislation is required at this time.

## QUESTION #2 FROM SENATOR BIDEN

QUESTION:

Last year, the G-7 nations, along with other industrialized countries, held a conference in Paris on international money laundering and formed a Financial Action Task Force. The full report of the Task Force is expected in April of this year. Which U.S. agencies are involved in this process? What measures can we expect the Task Force to recommend?

As you know, the Senate will soon consider comprehensive crime legislation that includes provisions on international money laundering. Has the Task Force formulated any preliminary recommendations that might assist the Senate in drafting this legislation?

ANSWER:

The Departments of Justice, State and Treasury and their components, as well as the bank regulatory agencies, have been involved in the Financial Action Task Force process. The 15-nation Task Force comprised the G-7 nations -- Canada, France, F.R.G., Italy, Japan, Great Britain and the United States -- plus Austria, Australia, Belgium, Luxembourg, the Netherlands, Spain, Sweden, Switzerland. The Task Force released its report, which contained some 40 recommendations, on April 19, 1990. The recommendations were in three general areas:

- o Strengthening national legal systems to combat money laundering by ratifying and implementing fully the Vienna Convention.
- o Enhancing the role of the financial system by modifying secrecy laws so as not to inhibit money laundering investigations, and calling on regulatory authorities to ensure that financial institutions have programs to guard against money laundering.
- o Strengthening international cooperation by expanding mutual legal assistance in financial investigations and prosecutions and using extradition in money laundering cases.

In many respects, the United States is ahead of other countries in this area. We already require currency reports on all cash transactions of greater than \$10,000 and, by this fall, we expect to complete regulations to require better record-keeping on electronic funds transfers.

**QUESTION CONCERNING RESEARCH AND DEVELOPMENT FROM SENATOR HEFLIN**

**QUESTION:** I think there is great potential for better utilizing our existing federal research and development facilities to aid civilian law enforcement in the war on drugs. In the plan on this subject that your office transmitted to Congress on November 15, as required by Public Law 100-690, the first sentence of the summary states:

"It is not the purpose of this plan to recommend how projects to support the law enforcement agencies will be funded, how much funds will be allocated for this purpose, or to designate the sources for such funds. The purpose of this plan is to lay out a process for determining how the Federal facilities will be most efficiently utilized to support the research and development requirements of the law enforcement agencies."

My question is simply, how are these projects going to be funded?

**ANSWER:** Each department and agency is responsible for defining the scope of their own research and development program. Accordingly, funding for research and development projects compete with other requirements in overall department budgets.

ONDCP can influence support for R&D efforts during the budget development process. During the interim, ONDCP will explore funding options to augment R&D efforts.



**QUESTION CONCERNING RESEARCH AND DEVELOPMENT FROM SENATOR HEFLIN**

**QUESTION:** One research area that particularly interests me is the use of dogs in the interdiction of drugs and explosives. I read recently that in 1988, the value of the narcotics that the United States Border Patrol's 3,200 agents detected amounted to \$123,758 per agent, while the Patrol's 24 drug-sniffing dogs detected \$4,696,574 per dog.

At the same time, I understand that D.E.A. and Customs, the Border Patrol, the Secret Service, not to mention the Capitol Police, all encounter significant problems in the training and handling of dogs used for this work. In light of their proven effectiveness, can you tell me if the Office of National Drug Control Policy's Science and Technology Working committee has any plans to push for significant research in the use of dogs in the interdiction of drugs and explosives?

**ANSWER:** The Science and Technology Committee is looking at the Southwest Border from a systems perspective and hopes to provide recommendations for a comprehensive strategy to integrate existing sensors, retrieve lost data not being used by one agency but which is relevant to another, identify what types of equipment are necessary, and where to place it, to effectively monitor cross border activity, and more. The results of this analysis will include the potential use of canines to enhance current efforts.

Our strategy calls for increased resources for the use of drug detection dogs. The Administration has requested \$5.4 million in FY 1991 for additional dogs and their training. The Department of Defense has offered assistance with regard to the training, handling, and availability of drug dogs. There does not seem to be a need for more research in this area.

Instead, the Science and Technology Committee will focus on developing new technological advancements to detect contraband. The Contraband Detection Working Group has been chartered by the Committee with this task.

**QUESTION CONCERNING ASSET FORFEITURE FROM SENATOR KENNEDY**

**QUESTION:** Your National Strategy urges states to improve their asset forfeiture laws. Based upon comments I have received from State and local law enforcement officials ranging from Massachusetts and New York to California, it is clear that State asset forfeiture is an underutilized law enforcement tool. Mandating State forfeiture law enhancements make sense -- it provides more resources for drug enforcement and demand reduction and it shifts some of the burden to offenders themselves. How would you react to this proposal?

**ANSWER:** Actually, all States have some form of asset forfeiture law. There are, however, State-to-State differences in the kinds of property that may be seized and the proportion of the proceeds which are returned to law enforcement agencies. As you know, when State and local agencies assist Federal agencies in drug investigations that result in asset seizures, they are eligible to receive a share of the forfeited assets from the Federal government.

While remaining mindful of the fact that some states intend to use their forfeiture fund proceeds for competing purposes, we strongly urged States to use Federal forfeiture statutes as models for their own statutes. Several States have already done so.

**QUESTION CONCERNING MANDATORY MINIMUM SENTENCES FROM SENATOR KENNEDY**

**QUESTION:** You are familiar with the Boston Bar Association report on the Boston Criminal Justice System. A striking conclusion of that report is its criticism of mandatory minimum sentences because of the burdensome effect they have on a court system that is already overwhelmed. In particular, mandatory minimum sentences remove incentives to plead guilty. By advocating more mandatory minimums, you sacrifice swiftness of punishment in favor of certainty of punishment. Aren't you threatening to inundate State court systems that are already overburdened?

**ANSWER:** While it is true that our Federal and State courts are faced with mounting case loads, it is vitally important to separate out the principles underlying our criminal justice policies. One of the most effective criminal justice, prevention, and education tools available today is the deterrent effect produced by certainty of punishment. Because our society believes that law serves to shape the behavior of the citizenry, a genuine sanction must underlie our laws. Mandatory minimum sentences are one way to provide this certainty of punishment. However, they are not the only way. The President's National Drug Control Strategy calls on States to broaden their notions of what constitutes punishment, and expand their use of alternatives to incarceration. Such alternatives, such as stiff fines, property forfeiture, loss of drivers' licenses, heavy community service, or house arrest are more efficient and less expensive than prison sentences. In addition, the President's Strategy proposed increased Federal funding for Federal law enforcement activities and for State and local drug law enforcement, including courts, prisons and prosecutors.

**QUESTION CONCERNING DRUG TESTING WITHIN THE CRIMINAL JUSTICE SYSTEM FROM SENATOR KENNEDY**

**QUESTION:** Your strategy proposes an ambitious drug testing program urging states to adopt drug testing programs for all arrestees, prisoners, parolees, those out on bail and throughout the criminal justice system. How expensive will it be for States to implement these drug testing programs and do you believe that other law enforcement programs should be scrapped to provide resources for State drug testing?

**ANSWER:** The President's Drug Control Strategy does not propose that States be required to drug test every individual at every stage of the criminal justice system. Rather, it merely calls for States to adopt drug testing programs as part of their criminal justice programs. The Strategy, as well as the implementing legislation, seeks to condition receipt of Federal criminal justice funds upon States adopting testing programs as one component of their overall program. Under the proposed implementing legislation, the Attorney General is required to promulgate regulations which are to include, among other things, guidelines concerning those individuals to be targeted for testing. Testing programs should include a broad class of individuals within the various stages of the criminal justice process. Relying on these guidelines, States will then be free to designate which individuals they wish to test as a component of their criminal justice program.

The final cost will depend on the number of individuals tested within each State, a determination the Strategy leaves up to each State. Furthermore, we do not see drug testing as a trade off to other law enforcement programs. Rather, testing is designed to complement these other programs.

QUESTION CONCERNING COORDINATION OF INTELLIGENCE EFFORTS FROM  
SENATOR KENNEDY

QUESTION: Federal, State and local law enforcement officials have often sought improvements in the way drug intelligence information is collected and used. A prime reason the Office of National Drug Director was created was to bring coordination to every aspect of our Nation's drug control policy. The failure to coordinate our intelligence gathering efforts has led to problems and inconsistency in enforcement, most recently highlighted in a hearing last month by Chairman Biden. An intelligence center headed jointly by the Federal Bureau of Investigation and the Drug Enforcement Administration to increase intelligence efforts to target trafficking organizations and coordinate the use of such information would seem to be a priority, yet no such proposal is included in your strategy. Why?

ANSWER: I agree that the improvement of our law enforcement intelligence efforts should be a priority of any sound anti-drug effort. We can arrest and prosecute many individuals, but unless we have discovered and attacked the real vulnerabilities of the drug organizations, drugs will remain widely available. Good intelligence is the best way to discover those vulnerabilities. For that reason, we have endorsed the concept of a National Drug Intelligence Center to be run within the Department of Justice. We have also requested funding for that Center as part of our 1991 budget request. We believe such a center would go a long way to improving drug-related intelligence.

**QUESTION CONCERNING THE ROLE OF THE U.S. MILITARY IN DRUG INTERDICTION FROM SENATOR KENNEDY**

**QUESTION:** Prior to your nomination, you strongly supported the use of U.S. military assets in the battle against the supply of drugs. Much of the \$21 billion in drug funding during the last Administration went to expensive interdiction programs. These operations have had little lasting effect on the drug problem when compared with the cop on our own street or expanded drug treatment has had in the U.S. Your Strategy proposes a reduction in Defense Department spending on drug interdiction and a general freeze in interdiction funding. To what extent does that reflect a change in thinking on the issue and a departure from the drug enforcement policy of the last eight years?

**ANSWER:** Actually, Department of Defense spending for drug interdiction is increasing dramatically from \$355 million in FY 1989 to more than \$1.1 billion in FY 1991.

I feel that interdiction should not be the sole component of a Federal anti-drug strategy. As you point out, in recent years, we have seen not only increasing drug seizures but also increased drug availability.

But I do not feel that our borders should go unprotected. The integrity of our borders has great importance and the military seems a logical U.S. agency to help with this mission. I therefore strongly support an increase role for the U.S. military in anti-drug activities.

**QUESTION CONCERNING HIGH INTENSITY DRUG AREA FUNDING FROM SENATOR KENNEDY**

**QUESTION:** What funding, if any, will your office have at its disposal for distribution to designated high intensity drug areas?

Last year, bipartisan drug legislation shifted the supply and demand reduction funding ratio to a 50:50 balance. Your National Drug Strategy recognizes that supply and demand needs are important criteria in making High Intensity Drug Trafficking Area designations. Do you intend to distribute emergency resources to High Intensity Drug Trafficking Areas in a manner that reflects the 50:50 balance mandated by the 1988 drug bill?

**ANSWER:** Funds appropriated for Fiscal Year 1990 for the High Intensity Drug Trafficking Areas (HIDTAs) amounted to \$25 million. We have doubled this amount in our request for \$50 million in funding for the HIDTAs in Fiscal Year 1991.

Section 1005 of the Anti-Drug Abuse Act of 1988 authorizes the Director of the Office of National Drug Control Policy to designate "any specified areas of the United States as a High Intensity Drug Trafficking Area." Those designations -- of New York City, Los Angeles, Miami, Houston, and the Southwest Border -- were announced in January 1990 using the following criteria:

- 1) the extent to which the area is a center of illegal drug production, manufacturing, importation, or distribution;
- 2) the extent to which State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;
- 3) the extent to which drug-related activities in the area are having a harmful impact in other areas of the country; and
- 4) the extent to which a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

Now that the designations have been made, officials from the Departments of Treasury and Justice are coordinating with State and local officials in the HIDTAs to determine what resources would most directly address critical needs. The funds will be provided to Federal law enforcement agencies to increase their efforts targeted against drug trafficking organizations, traditionally defined as a supply measure. In addition to these funds, the Administration is requesting more than \$1.4 billion for drug enforcement, treatment, and prevention activities intended for the five designated areas.

**QUESTION CONCERNING STREET-LEVEL DRUG ENFORCEMENT FROM SENATOR KENNEDY**

**QUESTION:** Your Strategy places considerable emphasis on street level enforcement. When properly implemented, targeted street level enforcement can eliminate street drug sales in targeted neighborhoods, reduce the rate of drug-related crime, isolate new drug networks and increase the numbers of drug addicts willing to seek treatment. But increased street level enforcement is of minimal value if it is improperly implemented, either because of a failure to target specific neighborhoods or because of a failure to intensify police presence in problem neighborhoods. What steps will you take to insure that these programs will indeed be targeted on the right kind of street activity and implemented in a way that will help local communities disrupt street markets and reclaim their streets, and what assurances can you give State and local governments that this will not be a one-time injection of Federal grant funding.

**ANSWER:** While street-level drug enforcement alone cannot eliminate drug use, it remains the best tool we have for restoring a sense of order and civility to neighborhoods where drugs have wrought havoc. We know that street-level drug enforcement can work because it has enjoyed some success in the past. The Kansas City Ad Hoc Group Against Crime and the new York City Operation Pressure Point are among the many examples of how areas virtually overrun by drug traffic and use can be reclaimed by a persistent and well-coordinated police effort.

To insure that these types of successes continue, we have encouraged State and local authorities to implement a variety of enforcement tactics, including "buy-and-bust" undercover operations, expanding local informant networks; establishing drug hotlines; razing abandoned buildings; stepping up traffic and parking violation enforcement to discourage buyers from driving into areas where drugs can be purchased; enforcing loitering laws to keep dealers away from school yards and playgrounds.

We have also worked with the Department of Housing and Urban Development (HUD) to assist local police efforts to keep drug dealers out of public housing projects. HUD has already taken measures to expedite eviction proceedings against known drug dealers living in public housing, and law-abiding residents have welcomed and encouraged the help.

To insure that we maintain a flexible, high-volume system for an entire range of drug offenders, we are encouraging States to consider alternative and intermediate sanctions apart from imprisonment, including boot camps, house arrest and supervised release programs. We are also encouraging States to develop laws which maintain accountability for first-time and casual users, subjecting first-time and casual users to drivers' license



suspension, employer notification, eviction from public housing, or forfeiture of cars driven while purchasing drugs.

In order to assist States and localities in their efforts to reclaim their streets, the Administration is requesting for FY 1991 \$492 million for Bureau of Justice Assistance State and local law enforcement drug grants. Uses for these grants include: multi-jurisdictional task force programs which integrate Federal, State and local agencies, community and neighborhood anti-drug programs, demand reduction education programs in which law enforcement officers participate and programs which provide for the identification, assessment, referral to treatment, case management, and monitoring of drug offenders.

At present, the Administration has no intention of eliminating the annual funding of BJA State and local drug grants.

**QUESTION CONCERNING FEDERAL LAW ENFORCEMENT PRIORITIES FROM  
SENATOR KENNEDY**

**QUESTION:** Some prosecutors and local law enforcement officials have questioned whether Federal law enforcement is driven by statistics that are too heavily weighted toward street-level buy-bust operations as opposed to larger scale narcotics trafficking. Although Federal law enforcement has been an extremely productive component in the drug war, some critics contend that many of the Federal law enforcement targets should instead be pursued by State and local law enforcement. Even if Federal authorities have targeted trafficking organizations, the critics contend, they have identified only the tip of the iceberg and have not focused sufficiently on the leadership of these organizations. Would you agree with that assessment and, if so, do you have any suggestions?

**ANSWER:** Clearly, the overarching mission of Federal drug enforcement is to identify and investigate large-scale drug trafficking organizations, disrupt and dismantle their operations, bring the leaders and their accomplices to justice, and seize and forfeit their illegally gained wealth. I would take issue with those critics who assert that our Federal agents have not focused sufficiently on the leadership of large scale organizations. The Drug Enforcement Administration (DEA) has been exemplary in carrying out its mandate as the lead agency in these efforts. DEA's efforts will continue to be complemented by the most experienced agency in the area of organized crime, the Federal Bureau of Investigation (FBI).

In addition, recognizing the need to tap the collective resources at both the Federal and State level, the Administration has proposed a 53 percent increase in funding for the Organized Crime Drug Enforcement Task Force Program (OCDETF). This organization draws on the expertise of 9 different Federal agencies and numerous State and local law enforcement offices to coordinate the investigation and prosecution of highly sophisticated and diversified criminal drug-related and money-laundering enterprises.

**QUESTION: WHAT ANTI-DRUG (DEMAND REDUCTION) INITIATIVES DO YOU ANTICIPATE CAN BE TAKEN IN CONJUNCTION WITH THE COUNTRIES OF EUROPE?**

**ANSWER:**

The European countries are concerned that they may experience a drug epidemic of the extent that now exists in the United States. They have organized themselves as individual countries and within their regional institutions to deal with the reduction of drug demand as well as supply, and have given every indication of wanting to work with us as well as other nations to combat the drug problem. They appear to be moving toward a tougher position with regard to drug demand -- for example, by supporting in the April 9-11 London Drugs Ministerial Summit conference the rejection of the legalization of drug possession as well as drug supply.

We believe that European country positions will evolve as their economic integration plans proceed and as the drug issue becomes more difficult for them. We plan to be of direct assistance to them by ensuring that their governments and private sector communities involved in anti-drug activities are fully knowledgeable about our experience with drugs, including the health, social and legal consequences of drug abuse; by working with them to improve their research on European drug use; by informing them of our successes and failures in drug prevention and treatment; and by emphasizing policies, such as accountability, that can have a measurable effect in preventing illicit drug use, where these may be especially appropriate. We also see opportunities in developing with the Europeans coordinated strategies and programs to curtail drug abuse in other areas of the world, particularly among the less developed countries.

QUESTION: HOW DO YOU VIEW THE APPROACH TAKEN BY THE DUTCH -- DESCRIBED IN A RECENT NEWSPAPER ARTICLE AS "PRAGMATISM," WHEREIN DRUG USE IS REGARDED AS A SOCIAL AND HEALTH PROBLEM?

ANSWER:

We differ with the Dutch in our basic approach to drug demand reduction. For example, the Dutch make the distribution of drugs illegal, but do not criminalize their possession. "Soft" drugs - - marijuana and hashish -- are readily available at government sanctioned "coffee houses." Methadone is made available on demand. And the Dutch Government supports needle exchange programs for heroin users in an attempt to attenuate the threat of AIDS.

Adopting the Dutch model is not the right course for the U.S. It gives tacit approval of drug use, which in our view will lead directly to increased use, more addicts, more drug-impaired babies, more broken families, more crime, and higher costs for health care. Because the Dutch generally see drug users and addicts as victims rather than the products of voluntary choice, they do not support strong measures of accountability, and much of their focus is on treatment after the fact. We believe that drug use and possession should be discouraged by every means available; to this end we support strong measures of accountability within the community, the workplace, and our religious, educational and health institutions. We stress both treatment and prevention as means to reduce the level of use.

The Dutch are aware of our views, but are likely to hold onto their own until they perceive the need for change. We will continue to make available to them information that supports our judgments, to ensure that they have the necessary basis for reasoned change in their own positions, while working with other countries to explain why a strong approach to prevention is both effective and practicable.

QUESTION CONCERNING THE REDUCTION OF DRUG USE IN CRIMINAL JUSTICE FACILITIES FROM SENATOR GRASSLEY

**QUESTION:** What is the Early-Report-Card on efforts by the States and localities to undertake their responsibilities for the drug fight as envisioned by the overall strategy -- such as:

(a) eliminating drugs coming into prisons - how are we overcoming the reluctance to search visitors to prisons without meeting an overly strict standard of "reasonable suspicion" or "probable cause"?

**ANSWER:** As the Strategy indicates, we are concerned about the extent of drug use in our prisons, detention facilities, and jails. An inmate or prisoner who is using drugs is a serious health and control problem, and steps must be taken to control and eliminate such drug use. However, the major responsibility for this rests with State and local governments.

Stopping the flow of drugs into such facilities is difficult, both because of the standards needed for searches and the time and manpower that would be involved. I feel a better response is to press for a drug testing policy that covers all of those in custody or under correctional supervision. If we require random, mandatory drug testing programs for all prisoners and enforce definite and severe penalties for any who use drugs, we will be able to control drug use within our criminal justice facilities without resorting to burdensome searches.

At this time we do not know how the States are responding to the need to stop the flow of drugs into their prisons, detention facilities, and jails. However, we are in the process of developing model legislation and programs to address the problem. We will review a range of the approaches taken, and, using the Department of Justice Clearinghouse, provide information on "what works" to all State and local governments.

QUESTION 1(b) FROM SENATOR GRASSLEY: "Report Card"

**QUESTION:**

What is the early-report-card on efforts by states and localities to undertake their responsibilities for the drug fight by suspending driver's licenses of those convicted of drug offenses?

**ANSWER:**

Currently, 14 states either mandate or offer the option of suspending the drivers' licenses of those convicted of drug offenses. Drivers' license suspension legislation has been introduced in 11 additional states in 1990.

One of the funding priorities guiding our national strategy in Fiscal Years 1991-1993 is to help the police get people who are driving while under the influence of drugs off the highways.

QUESTION 1(c) FROM SENATOR GRASSLEY: "Report Card"

QUESTION:

What is the early report card on efforts by the States and localities to undertake their responsibilities for the drug fight as envisioned by the overall Strategy--such as establishing drug-free environments in the schools and workplace?

ANSWER:

The Department of Education reports that approximately 40 States currently mandate education about substance abuse and, at the local level, the Department estimates that 73% of our Nation's 16,490 school districts have written policies against substance abuse.

These statistics demonstrate that the States and localities are taking steps to prevent drug use in their schools. But the reality is that our schools are not yet drug-free. That's why, last fall, the Administration proposed and the Congress passed legislation requiring schools, colleges, and universities to implement drug prevention policies as a condition of receiving Federal funds.

The statute requires that schools implement their programs and policies by October 1, 1990. When the provisions of this law are fully implemented, schools will have adopted strong anti-drug policies, which should help reduce drug use.

With regard to the workplace, many States have established some type of anti-drug policy. Thirteen States and three localities have passed legislation to regulate drug testing.

To encourage more States to promote comprehensive, consistent drug-free workplace programs, the Administration is developing model State legislation.

QUESTION CONCERNING STATE DRUG REDUCTION ACTIVITIES FROM SENATOR GRASSLEY

**QUESTION:** What is the early report card on efforts by the States and localities to undertake their responsibilities from the drug fight as envisioned by the overall Strategy -- such as:

(b) in schools, how are we overcoming a reluctance to allow searches to be made of student lockers or to ban electronic beepers or to install metal detectors for fear of inviting a suit based on a violation of an individual's "civil rights" - what happened to an individual's right to be protected from criminals?

**ANSWER:** A recent National Governor's Association report states that nine States have enacted legislation to reduce drug sales by regulating the use and possession of beepers on school property.

At this time, we do not know the number of States that permit or enforce locker searches for drugs. However, we are developing a State "status report" on State drug reduction activities. We will review key indicators, such as school anti-drug policies to help us measure progress on a State-by-State basis and in our overall national effort.



QUESTION 1(e) FROM SENATOR GRASSLEY: "Report Card"

QUESTION:

What is the early report card on efforts by the States and localities to undertake their responsibilities for the drug fight as envisioned by the overall strategy -- such as denying Federal benefits to public institutions such as colleges and universities that do not establish drug-free policies?

ANSWER:

Last fall, the Administration proposed and the Congress passed legislation requiring schools, colleges, and universities to implement drug prevention policies as a condition of receiving Federal funds.

The statute requires that schools implement their programs and policies by October 1, 1990. When the provisions of this law are fully implemented, schools will have adopted strong anti-drug policies.

QUESTION 1(g) FROM SENATOR GRASSLEY: "Report Card"

QUESTION:

What is the early report card on efforts by the States and localities to undertake their responsibilities for the drug fight as envisioned by the overall Strategy --such as allowing random drug testing of workers in professions that affect the public health and safety?

ANSWER:

Several States have imposed barriers to drug testing, including the prohibition of random drug testing. However, the Department of Transportation (DOT) issued regulations in November 1989 requiring drug testing for more than four million employees in safety-sensitive and security-related jobs. For these employees, random drug testing would be permitted under the DOT regulations.

As you know, I do not advocate universal random drug testing. We must balance legitimate privacy concerns with bona fide public safety issues. But, when the safety of the public is at stake, I am in favor of testing.

This position has continued to be upheld by the Courts. Random drug testing sends a strong signal that drugs will not be tolerated.

QUESTION 1 FROM SENATOR GRASSLEY: Strategy's Specific Goals

QUESTION:

Why were most of the Strategy Objectives increased by between five and ten percent since last September? How does Strategy II hasten the attainment of the new goals, and why are you so confident that these goals will be met?

ANSWER:

As we state in Strategy II, the goals use the same baseline as used in the September 1989 report. Strategy I covers FY 90 and FY 91; Strategy II covers FY 91 and FY 92. Thus, the goals are projected forward for an additional year at the same rate in Strategy II. There are no new goals. As required by law, we issued two strategies within four months. These strategies contain the same philosophy, and only differ in the greater detail presented in the second Strategy which continues and refines the set of policies articulated in Strategy I.

The set of goals are ambitious, but we believe they are realistic and attainable if there is full Federal, State, and local implementation of the National Drug Control Strategy.

QUESTION CONCERNING DRUGS IN RURAL AMERICA FROM SENATOR GRASSLEY

**QUESTION:** Some critics of the Strategy contend that it does not contain a "rural action plan" to lend the heartland the weapons it needs to win the war on drugs. In fact, the Strategy mentions rural America only in passing and sends the signal that drug prosecutions in the heartland is "spotty" at best. The people of Iowa are ready to fight this war. They are ready to use all of their own available resources. As for resources they cannot come up with themselves, they want to be sure that they receive their fair share. Please give me your thoughts on this criticism.

**ANSWER:** The National Drug Control Strategy is neither rural nor urban. It is national in scope and based on the idea that the fight against illegal drug use must be waged everywhere -- at every level of Federal, State, and local government by every citizen in every community across the country.

I am confident that rural America is receiving its fair share of Federal resources to help fight the war on drugs. The majority of State and local assistance is provided through block grant programs to States. States are free to use these funds in a manner that best meets the needs of particular States in both rural and urban areas.

I am pleased to note that under the President's 1991 budget request, Iowa would receive \$14.9 million from three drug control block grant programs, which is a 109 percent increase over the 1989 level.

QUESTION CONCERNING MULTI-JURISDICTIONAL ASSISTANCE FROM SENATOR GRASSLEY

**QUESTION:** Not every area of the country can be designated as a "High Intensity Drug Trafficking Area." As a matter of fact, I do not think it should be considered an honor to receive the "High Intensity" designation.

For those areas that will never -- in all likelihood -- receive the "High Intensity" designation -- for example: the Iowa - South Dakota - Nebraska border or the Iowa - Wisconsin - Illinois border or any similar multi-state region in less populated sections of the country -- what are the prospects for innovations such as what I call multi-jurisdictional assistance from the Federal government?

**ANSWER:** The 1990 Strategy proposes a nationwide increase of Federal resources to States and localities by 13%, including a \$45.3 million increase for the Bureau of Justice Assistance Drug Grants. This will bring the total BJA drug grant program to \$492 million. Uses for these grants include the multi-jurisdictional task force programs which integrate Federal, State, and local agencies.

BJA provides Formula Grants which require matching State funds, Discretionary Grants which do not require matching funds by the States, and also supports programs that are national and multi-state in scope.