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COAST GUARD DRUG LAW ENFORCEMENT

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON

COAST GUARD AND NAVIGATION

OF THE

COMMITTEE ON

MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

H.R. 2538

A BILL TO FACILITATE INCREASED ENFORCEMENT BY THE
COAST GUARD OF LAWS RELATING TO THE IMPORTATION OF
CONTROLLED SUBSTANCES, AND FOR OTHER PURPOSES

MARCH 28, 1979—WASHINGTON, D.C.

JULY 3, 1979—KEY WEST, FLORIDA

Serial No. 96-20



Printed for the use of the
Committee on Merchant Marine and Fisheries

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1980

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COAST GUARD DRUG LAW ENFORCEMENT

WEDNESDAY, MARCH 28, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:49 a.m., in room 2247, Rayburn House Office Building, Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Present: Representatives Biaggi, Myers, and Lent.

Staff present: Ricardo A. Ratti, chief counsel; Larry Mallon, counsel; John Bruce, minority professional staff; and Cyndy Wilkinson, clerk/research assistant.

Mr. BIAGGI. The Subcommittee on Coast Guard and Navigation meets today to consider legislation which I and over 50 of my colleagues have introduced to strengthen the Coast Guard efforts in high seas drug enforcement.

These proceedings are reminiscent of similar events that transpired during the very first Congress in 1790. In that year, Secretary of the Treasury Hamilton came up to the Hill to request authorization of funds to construct 10 cutters, with a complement of 100 officers and men, at an annual budget of \$24,000. This budget request was justified by the necessity to enforce newly enacted customs laws on the high seas. The potential loss of customs duties through rampant, uncontrolled smuggling was critically important to a struggling young nation with few revenue sources.

Another century would pass before the Coast Guard undertook its first efforts against seaborne drug smuggling and the suppression of the opium trade on the west coast in 1890. In the following year, an authorization for additional cutters was sought in support of that mission—189 years after its founding, the Coast Guard is still up to its gunnels in combating drug smuggling on the high seas. The service remains the primary Federal law enforcement agency, responsible for enforcing Federal laws on the high seas.

In 1973, the opening round was heard of a new drug war at sea, coinciding with the first modern-day seizure of a marihuana-laden mother ship from Latin America. By 1978, the Coast Guard was seizing a smuggling vessel every other day, for a total of 165 seizures for the year, carrying 3.5 million pounds of contraband worth \$1.5 billion.

To support this increased drug interdiction effort, the Coast Guard was forced last year to seek \$10 million in additional funding for ship and aircraft operating time to prosecute its drug war.

In contrast to times past, what is at stake this time is not just revenue loss to the Treasury. The current threat strikes at our national will through the stultifying effects of drugs and drug smuggling on our youth, Government officials, public and private institutions, and our economy.

To counter this threat, available Coast Guard resources are still lean—and I add my own comment—and undermanned, though the service has grown to comprise some 250 ships, 180 aircraft, and almost 40,000 uniformed personnel. Likewise, patrol responsibilities have increased, with nearly 100,000 miles of U.S. coastline open to smuggling.

The prerequisites to winning this war, as in others past, remain the same. These are material support and the statutory authority to arrest and punish drug smugglers apprehended on the high seas.

This latter reason is why we are here today—to put teeth in the Coast Guard's drug interdiction program. Make no mistake; the legislation under consideration has teeth in it.

Due to an inadvertently created loophole in the law in 1970, simple possession of controlled substances by U.S. citizens and onboard U.S. vessels is not a Federal crime. This legislation reinstates those statutory offenses, with appropriate penalties applicable to smugglers apprehended by the Coast Guard on the high seas.

In this respect, it is similar to legislation that I introduced in the last Congress that was the subject of subcommittee hearings last July, along with similar legislation introduced by my colleague, Ben Gilman of New York. Those earlier hearings embodied the findings and recommendations of the House Select Committee on Narcotics Abuse and Control, following field hearings in south Florida on the drug crisis.

In its present form, the bill incorporates the recommendations of agency representatives who testified at our earlier hearings. We have spokesmen from those same agencies here today. We invite their comments regarding our revisions to the original bill. We also solicit their suggestions for additions or modifications to the measure to better accomplish its intended purpose.

The bill has been expanded to encompass persons onboard vessels subject to the jurisdiction of the United States. These include what are commonly called stateless vessels and foreign vessels under universally recognized principles of international law—by prior consent of the flag state—or by operation of law.

We have also cured the statutory anomaly whereby civil penalties, but not criminal sanctions, are applicable to smuggling vessels apprehended within the 12-mile customs enforcement zone, recognized by international treaty.

We have added a specific offense directed at the mother ship operations off our coasts by making the transfer of controlled substances to a U.S. vessel or a vessel subject to the jurisdiction of the United States a separate crime.

Taken together, I believe the package of criminal offenses and penalties contained in this legislation should provide an effective deterrent to maritime drug smuggling. No longer will U.S. citizens arrested by the Coast Guard on the high seas go unpunished because of deficiencies in Federal law. More importantly, foreign smugglers who, until now, have operated with impunity, beyond

the reach of the U.S. law, will now be susceptible to prosecution in both our courts and those of their country of nationality.

Prompt passage of this legislation will give our maritime uniformed policemen on the beat all the authority they need to win the rapidly escalating drug war at sea.

At this point, I would like to ask unanimous consent to introduce into the record a statement by the chairman of the Merchant Marine and Fisheries Committee, the Honorable John M. Murphy, along with a copy of the bill and departmental reports. Without objection, so ordered.

[The following was received for the record:]

STATEMENT OF HON. JOHN M. MURPHY, CHAIRMAN, COMMITTEE ON MERCHANT MARINE AND FISHERIES

I am pleased to cosponsor H.R. 2538, and am heartened to see continuing interest in the complex problems affecting the Coast Guard and the American people with regard to enforcement of our drug laws on the seas.

The Merchant Marine and Fisheries Committee, through its determination and its actions, extols the freedom of movement, mind and spirit afforded the American people by our accessibility to the sea. This country has a long and precious tradition of turning to the sea for food, commerce, and recreation—and even escape, if you will. Unfortunately, there is another, equally long tradition that casts a pall over our enjoyment of the oceans, that of piracy and murder on the high seas.

Over the past six years, I have investigated and considered closely the modern-day version of high seas associated crimes. During my service as chairman of this subcommittee in the 93d Congress, we began to study a suspicious pattern of boat and crew disappearances. In 1972 and 1973 we found that 611 privately owned yachts, cabin cruisers and motor vessels—496 sailing in the caribbean and 115 off the west coast—had vanished. Most had given no distress signal and left no evidence of shipwreck and no trace of the passengers or crew. Rather than subscribing to the sensational Bermuda Triangle theory, the subcommittee explored a new possibility. We knew countless yachts were arriving on U.S. shores and covertly disgorging their cargoes of marijuana, hashish, cocaine, and heroin. Where did these boats come from, and how did the small-time criminals hired to do the actual transporting afford the luxury yachts which concealed their illegal mission?

When in 1974 this subcommittee and certain Coast Guard officials first explored this theory—that yachts used for recreation on the seas were being hijacked or stolen for use in criminal, drug-related enterprises—few people gave it much credence. Since 1974, this subcommittee has held comprehensive hearings both here in Washington and in southern coastal locations to ascertain exactly what is transpiring on the seas and what we and the Coast Guard can do to stop maritime drug running. We have concluded that large numbers of yachtjacking/yacht thieving and/or drug smuggling criminals operate between Latin America and our coasts.

We have also established the inability of the various Federal agencies to effectively combat this maritime crime. Crime on the high seas, by its very nature, defies complete interdiction. But the maze of conflicting jurisdictions over maritime law enforcement and the insufficient manpower, equipment and mandate of any one of the agencies of Government involved in this effort have weakened the ability of the United States to stop the illegal importation of controlled substances, and, thus, the distribution of these drugs to our citizens—especially young people.

An article from the New York Times succinctly summed up the jurisdictional problems on one of our more recent piracy cases which resulted in the murder of two Americans. I quote from that story as follows:

"What were described as four Spanish-speaking pirates boarded a crippled sailing sloop, the Feisty, off Colombia last July 18 and killed two Americans, Bobby Fisher and Wayne Dahling, both of Miami. Two other Americans survived. The Coast Guard called it 'a case of piracy.'

"Nearly a month later, it appears that no attempt has yet been made to track down the slayers and bring them to justice.

"The Federal Bureau of Investigation, which sent two agents along with two Coast Guard officers to the scene, disclaims jurisdiction. Julius L. Mattson, agent in charge of the FBI's Miami Office, indicates that either the State Department or the Coast Guard is responsible.

"At the State Department in Washington, David W. Cox, officer for Colombian affairs, replies: "we say the Coast Guard is in charge."

"Rear Adm. Robert W. Durfey, commander of the Seventh Coast Guard District in Miami, says: "we're not in the business of tracking down suspects."

"He reports that the Coast Guard is still trying to determine whether the sloop was of American or Panamanian registry and whether the attack occurred in international or Colombian waters. He knows of no motives for the killings."

I need not dwell on the destructive nature of drug-smuggling, or the effect it has on the youth of America. I must observe, however, that due to the recent increased effort of the Coast Guard and other drug enforcement officials in the Caribbean, the ocean smugglers appear to be moving their operations north. I state for the record, Mr. Chairman, that neither you nor I sought as a result of our efforts to stop drug trafficking into Florida only to have it move to our own State of New York. We hope concerted efforts will be made to eliminate New York from the list of preferred ports used by smugglers.

The bill before us today takes a signal and essential step in providing the Coast Guard, one of the most efficient and effective agencies of the Government, the authority it needs to halt the smuggling of controlled substances by U.S. citizens and foreigners onto our shores. I am confident—and its track record has shown—that the Coast Guard can successfully tackle these new responsibilities. The Congress must give it the mandate it needs to protect American shores, cities and towns—and our children—from the expanding presence of illegal and pernicious narcotics.

96TH CONGRESS
1ST SESSION

H. R. 2538

To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 1, 1979

Mr. BIAGGI (for himself, Mr. GILMAN, Mr. MURPHY of New York, Mr. WOLFF, Mr. AKAKA, Mr. ANDERSON of California, Mr. BAFALIS, Mr. BARNARD, Mr. BAUMAN, Mr. BREAUX, Mr. BUCHANAN, Mr. CORRADA, Mr. DONNELLY, Mr. ENGLISH, Mr. ERDAHL, Mr. EVANS of Delaware, Mr. EVANS of Virgin Islands, Mr. FASCELL, Mrs. FERRARO, Mr. FLOOD, Mr. GUDGER, Mr. GUYER, Mr. HOLLENBECK, Mr. HUGHES, Mr. HYDE, Mr. ICHORD, Mr. LAGOMARSINO, Mr. LEACH of Louisiana, Mr. LEE, Mr. LIVINGSTON, Mr. LOTT, Mr. MICA, Mr. MITCHELL of Maryland, Mr. MONTGOMERY, Mr. MOORE, Mr. MURPHY of Illinois, Mr. NEAL, Mr. OBERSTAR, Mr. PANETTA, Mr. PATTEN, Mr. PATTEESON, Mr. RAILSBACK, Mr. RANGEL, Mr. ROSENTHAL, Mr. ROE, Mr. SNYDER, Mr. STACK, Mr. TREEN, Mr. WHITEHURST, Mr. ZEFERETTI, and Mr. BEARD of Tennessee) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 That (a) it shall be unlawful for any person, knowingly or
2 intentionally, to possess, manufacture, distribute, dispense, or
3 unlawfully import, on board a vessel of the United States or a
4 vessel subject to the jurisdiction of the United States, a controlled substance as defined in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812).

8 (b) It shall be unlawful for a citizen of the United
9 States, knowingly or intentionally, to possess, manufacture,
10 distribute, dispense, or unlawfully import, on board any
11 vessel a controlled substance as defined in section 202 of the
12 Comprehensive Drug Abuse Prevention and Control Act of
13 1970 (21 U.S.C. 812).

14 (c) It shall be unlawful, except as provided in section
15 1002 of the Comprehensive Drug Abuse Prevention and
16 Control Act of 1970 (21 U.S.C. 952), for any person on any
17 vessel, within or without the United States, to attempt or
18 conspire to import or transport a controlled substance into
19 the United States; or to attempt or conspire to facilitate the
20 import or transport of such a substance.

21 (d) It shall be unlawful to transfer a controlled substance
22 from any vessel to a vessel of the United States or a vessel
23 subject to the jurisdiction of the United States, either within
24 the territorial seas of the United States or on the high seas.

1 (e) Any person who violates subsection (a), (b), (c), or (d)
2 of this section shall be sentenced in the same manner as a
3 person would be sentenced for possession of a controlled sub-
4 stance under section 1010 of the Comprehensive Drug Abuse
5 Prevention and Control Act of 1970 (21 U.S.C. 960).

6 SEC. 2. As used in this Act—

7 (a) "High seas" means all waters beyond the territorial
8 sea of the United States and beyond the territorial sea of any
9 foreign nation.

10 (b) "Vessel of the United States" means any vessel
11 documented or numbered under the laws of the United States
12 or owned in whole or in part by a citizen of the United
13 States, unless the vessel has been granted nationality by a
14 foreign nation in accordance with article V of the Convention
15 on the High Seas, 1958.

16 (c) "Vessel subject to the jurisdiction of the United
17 States" includes—

18 (1) any vessel without nationality or any vessel
19 assimilated to a vessel without nationality, in accord-
20 ance with paragraph (2) of article VI of the Conven-
21 tion on the High Seas, 1958;

22 (2) any vessel, within the customs waters as de-
23 fined in section 401 of the Tariff Act of 1930, as
24 amended (19 U.S.C. 1401); or

1 (3) any vessel on the high seas registered in a for-
2 eign nation when that nation authorizes the United
3 States to assert jurisdiction over that vessel for the
4 purposes of enforcing this Act.



GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

12 JUL 1979

Honorable John M. Murphy
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of this
Department on H.R. 2538, a bill

"To facilitate increased enforcement by the
Coast Guard of laws relating to the importa-
tion of controlled substances, and for other
purposes."

The bill would make unlawful specified acts with respect to
a controlled substance by U.S. citizens on any vessel, by
any person on board a vessel of the United States (U.S.
documentation) or subject to the jurisdiction of the United
States (within U.S. territorial seas or on the high seas),
or by any person on any vessel involved in a conspiracy to
import or transport a controlled substance into the United
States. Violation of the bill's provisions would subject
the offender to the criminal sanctions for possession of a
controlled substance under section 1010 of the Comprehensive
Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960).
We presume that the Coast Guard would be responsible for
enforcement of the bill's provisions pursuant to its authority
to enforce the laws of the United States in the territorial
seas of the United States and on the high seas.

The Department of Commerce supports legislation that would
facilitate increased enforcement of laws relating to the
importation of controlled substances. With respect to whether
H.R. 2538, as presently drafted, would accomplish this objective,
however, we defer to the Coast Guard and Department of Justice.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. L. Haslam", is written over the word "Sincerely,".

C. L. Haslam
General Counsel

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

APR 11 1979

Honorable John M. Murphy
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Department of Justice on H.R. 2538, "To facilitate increased enforcement by the Coast Guard of laws relating to controlled substances and for other purposes." The Justice Department is in agreement with the fundamental purpose of H.R. 2538. However, we believe that there are numerous technical difficulties with the bill, and we suggest an alternative that would reach its objectives with greater certainty and less risk of conflicting judicial interpretations.

Subsection 1(a) of H.R. 2538 would make it unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to knowingly or intentionally possess, manufacture, distribute, dispense, or unlawfully import a controlled substance. The term "controlled substance" would have the definition given it in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812).

Subsection 1(b) would make it unlawful for any person on any vessel to attempt or conspire to import or transport a controlled substance into the United States. Subsection 1(c) would also make it an offense for any such person to attempt or to conspire to facilitate the importation or transportation of such a substance.

Subsection 1(d) would make it unlawful to transfer a controlled substance from any vessel to a vessel of the United States or a vessel subject to the jurisdiction of the United States within the territorial sea of the United States or on the high seas.

Subsection 1(e) would provide that persons who violate the bill would be sentenced in the same way as they would be sentenced for possession of a controlled substance under Section 1010 of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 960).

Our comments are as follows:

Several terms used in H.R. 2538, for example, "manufacture," "distribute," "dispense," "United States," and "import," appear to be taken from the Comprehensive Drug Abuse Prevention and Control Act. These terms are clearly defined in that statute. See 21 U.S.C. §§802(10), (11), (14), (26) and 21 U.S.C. §951. However, the terms are not defined in H.R. 2538, and there is no indication in the bill that they are to have the meaning given them in the Comprehensive Drug Abuse Prevention and Control Act. This could pose interpretive difficulties.

Subsection 1(a) of the measure would make it unlawful for any person on board a vessel subject to the jurisdiction of the United States knowingly or intentionally to "possess, manufacture, distribute . . . or unlawfully import" a controlled substance. A "vessel subject to the jurisdiction of the United States" would, under Section 2(c), encompass foreign vessels as well as stateless vessels and vessels within the customs waters of the United States. */ This raises questions of criminal jurisdiction over foreign nationals and foreign vessels. Under international law, a state does not have jurisdiction to proscribe the conduct in question, United States v. Keller, 451 F. Supp. 631, 634 (D. Puerto Rico, 1978). To have jurisdiction over possession, manufacture, or distribution of a controlled substance by a non-U.S. citizen on foreign vessels on the high seas, the United States must show an actual or potential adverse effect within its territory. See Ford v. United States, 273 U.S. 593, 620-621 (1927); United States v. Cadena, 585 F. 2d 1252, 1257-58 (5th Cir. 1978). It is doubtful that such an adverse effect could be demonstrated in the absence of intent to import the substance into the United States or knowledge that it will be imported.

*/ Customs waters extend 12 miles from shore or farther as provided by treaty. 19 U.S.C. §1401(j).

Subsection 1(a) also appears redundant in making it "unlawful . . . to . . . unlawfully import." The same redundancy occurs in subsection 1(b) of the measure.

Subsection 1(b) would make it unlawful for a United States citizen, among other things, "to possess . . . on board any vessel . . . a controlled substance." The term "vessel" would include United States, foreign, and stateless vessels. There is no question that possession of a controlled substance on board any vessel can be made unlawful for a United States citizen under the generally recognized principle of international law that a State may punish acts, wherever they are committed, simply because the person who committed them is a citizen of the State. See United States v. Bowman, 260 U.S. 94 (1922) and United States v. Black, 291 F.Supp. 262, 266 (S.D. N.Y. 1968). Nevertheless, a blanket prohibition of possession of controlled substances on vessels seems unwarranted, since certain controlled substances may be possessed for legitimate medical or trade purposes. See 21 U.S.C. §§ 952-55.

Subsection 1(c) would make it unlawful for any person on any vessel to attempt or conspire to import a controlled substance into the United States. This conduct is covered by existing law. See 21 U.S.C. §§ 952, 963; United States v. Winter, 509 F.2d 975 (5th Cir. (1975)). In addition, the bill conflicts with existing provisions of law that allow the import of controlled substances for lawful purposes as permitted by the Attorney General. See 21 U.S.C. § 952.

Subsection 1(c) also speaks of an attempt or conspiracy to import or "transport" a controlled substance into the United States. The term "transport" is not defined in H.R. 2538 or the Comprehensive Drug Abuse Prevention and Control Act. It appears there would be an overlap in the meanings of the terms "import" and "transport," at least in the context in which they are used, that would create problems of construction.

It is noted that the phrase "knowingly or intentionally" is not used in subsection 1(c). "Knowingly or intentionally" is the phrase used in the Comprehensive Drug Abuse Prevention and Control Act to designate the mental intent required for conviction, and we recommend that the phrase be included in subsection 1(c).

Subsection 1(c) would also make it an offense for any person on any vessel to "attempt or conspire to facilitate" the import or transportation of a controlled substance. Normally, a facilitation offense is created by prohibiting the use of a particular means, such as a communications facility, to commit an offense defined elsewhere. See, e.g., 21 U.S.C. §843(b). Defining the mental state required for criminal facilitation has troubled the courts for some time. See, e.g., Direct Sales Co. v. United States, 319 U.S. 205 (1940); United States v. Falcone, 311 U.S. 205 (1940). Combining this indefinite offense with the equally uncertain mental states required for attempt or conspiracy appears to invite attack as being void for vagueness.

Subsection 1(d) would make it unlawful to transfer a controlled substance from any vessel to a vessel of the United States or subject to its jurisdiction either within the customs waters or on the high seas. This subsection appears intended to prohibit "mother ship" operations. To the extent that these operations are intended to import the controlled substances into the United States, existing law covering the distribution of controlled substances appears to prohibit them. See 21 U.S.C. §§952, 959, 963.

The word "transfer" is not defined in H.R. 2538. It is assumed that the word would be given its usual dictionary meaning. The essence of the offense set forth in subsection 1(d) is the transfer of a controlled substance from one vessel to another. There would seem to be no problem in making such activity an offense when the transfer takes place within the territorial sea of the United States. The United States clearly has jurisdiction in its territorial sea. See United States v. Louisiana, 363 U.S. 1, 30-36 (1960). However, the "transfer" language of subsection 1(d) is so broad that it would cover transfers of relatively harmless prescription controlled substances from one pleasure vessel to another within our territorial waters. It is doubtful that this result is intended.

The provision making it unlawful to transfer a controlled substance from one vessel to another on the high seas could cause jurisdictional problems. As drafted, it would apply, inter alia, to transfers of controlled substances between foreign vessels. The mere transfer of a controlled substance would constitute the prohibited act regardless of its connection with unlawful importation into the United States. We doubt that the United States

would have jurisdiction to proscribe such high seas transfers by non-citizens among foreign vessels, where such transfers would not have an adverse effect on the United States. See United States v. Cadena, 585 F. 2d 1252, 1257-58 (5th Cir. 1978). When foreign vessels are involved, the 1958 Convention on the High Seas would pose additional problems regarding transfer offenses. See, i.g., United States v. Warren, 578 F. 2d 1058, 1064, note 4 (5th Cir. 1979); United States v. Cadean, 585 F. 2d at 1260.

H.R. 2538 does not define the term "vessel." It is recommended that the following definition of that term be added to the bill:

The term "vessel" includes every description of craft used or capable of being used as a means of transportation on the water.

The term "vessel of the United States," as defined in section 2(a) of the bill could be broadened to read:

The term "vessel of the United States" means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended, or owned in whole or in part by the United States, or any citizen of the United States, or any corporation created under the laws of the United States, or any State, Territory, District, Commonwealth, or possession thereof, unless such vessel has been granted nationality by a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas.

For the above reasons we oppose enactment of H.R. 2538 in its present form. Instead, we suggest that the Comprehensive Drug Abuse Prevention and Control Act be modified to give greater coverage of off-shore possession of controlled substances. Under existing law, §1009 of the Act, 21 U.S.C. §959, prohibits any person anywhere in the world from manufacturing or distributing controlled substances with the intent or knowledge that they will be imported into the United States. The statute, we believe,

should be amended to prohibit any person from possessing controlled substances with intent or knowledge they will be imported into the United States. In addition, it should prohibit any person on any vessel within the customs waters, any person on a U. S. or stateless vessel on the high seas, or any U. S. citizen on any vessel on the high seas from manufacturing or distributing controlled substances or possessing them with intent to manufacture or distribute. Such legislation would extend United States criminal jurisdiction as far as permitted by international law, and it would make use of the existing, judicially construed statutory definitions of "possess," "manufacture," "distribute," and "import."

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

(Signed) Patricia M. Wald

Patricia M. Wald
Assistant Attorney General



GENERAL COUNSEL

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

APR 20 1979

Honorable John M. Murphy
Chairman, Committee on Merchant Marine
and Fisheries
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

During his testimony before Mr. Biaggi's subcommittee on the Coast Guard and Navigation on March 28, the Commandant of the Coast Guard, Admiral John B. Hayes, referred to an impending Administration proposal concerning Mr Biaggi's bill, H.R. 2538. That proposal, which the Administration supports, is enclosed and is cast as a revision of H.R. 2538. A section-by-section analysis of the proposal is also enclosed.

The purpose of this proposal is the same as that of H.R. 2538: to increase the effectiveness of the Coast Guard's maritime law enforcement activities as they relate to drug interdiction, to the maximum extent possible, by making illicit trafficking in controlled substances on the high seas a violation of United States law.

The primary activity addressed is the distribution of a controlled substance or the possession of a controlled substance with intent to distribute it. Two major problems arise: (i) ascertaining the extent of the United States' ability under international law, to prescribe rules of conduct for persons and vessels on the high seas; and (ii) structuring the statute so that it proscribes illicit activity (i.e., illicit manufacture or distribution, or possession with intent to illicitly manufacture or distribute) without hampering legitimate maritime trade and commerce.

The crux of the crime that we are trying to suppress is unlawful distribution or trafficking. Because the conduct we are attempting to regulate takes place beyond our territorial limits, international law considerations require some nexus to the United States before we can apply our statutes. But this does not necessarily mean that conspiracy or attempt (or for that matter, intent) to import must be proven. In most circumstances, there are other, less burdensome, elements which

would provide the required connection. Most notable among these is nationality; if either the person whose conduct is being regulated or the vessel on which the conduct takes place has United States nationality, the conduct is subject to the legislative jurisdiction of the United States.

H.R. 2538 would recognize and take advantage of this broader basis of jurisdiction by making it unlawful for any person aboard a vessel of the United States or a vessel subject to the jurisdiction of the United States, or for any United States citizen aboard any vessel, to possess, manufacture, distribute or dispense a controlled substance. In some respects, this goes too far. If the bill were to become law in its present form, no United States citizen or vessel could participate in the legitimate trade in controlled substances. Any United States vessel whose cargo contained a drug listed on the controlled-substance schedules would be violating the law.

The working group's proposal agrees with the concept expressed in the bill that United States law may be made applicable to the activities of foreign persons aboard United States vessels or other vessels subject to the jurisdiction of the United States. A vessel other than a vessel of the United States may be subject to the jurisdiction of the United States (for limited purposes, including suppression of drug trafficking) if: (i) it is either actually or constructively present within the customs waters of the United States; (ii) it is stateless; or (iii) if, although truly foreign, it has engaged in some activity or practice which allows the United States to treat it as stateless.

One major area of concern, however, is the treatment of foreign vessels when our ability to take enforcement action is based solely on permission granted by the flag state. H.R. 2538 classifies such vessels as "vessels subject to the jurisdiction of the United States," and, in effect, uses that status to provide the "nexus" which allows the United States to apply its laws to them.

The possibility of using the flag state's consent as a basis for classifying such vessels as "vessels subject to the jurisdiction of the United States" was among the theories explored by the working group in developing their proposal. However, primarily because drug trafficking on the high seas is not generally accepted as an international crime, they were unable to develop a sound juridical basis for the theory. Because unilateral implementation of such a novel concept without a solid juridical base could adversely affect our ability to obtain the consent of flag states in less tenuous cases, we have decided that it would be unwise to attempt to apply our law to vessels in this category (or persons aboard them) without including intent or conspiracy to import, or some similar nexus, as an element of the offense.

Thus, the United States may apply its laws regulating possession and distribution of controlled substances on the high seas to: (i) United States citizens (regardless of the status of the vessel); (ii) all

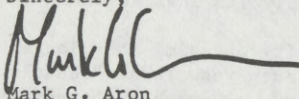
persons (regardless of their nationality) aboard a vessel of the United States; (iii) all persons (regardless of their nationality) aboard a vessel which can be treated as stateless; and (iv) all persons aboard a vessel within the customs waters of the United States.

After defining the classes of persons and vessels which are amenable to rules of conduct prescribed by the United States, it remains necessary to determine what rules are to be prescribed. The new law must be carefully tailored so that it does not interfere with the ability of those persons and vessels to engage in the legitimate trade in controlled substances on the high seas. It is neither desirable nor practicable to subject all such trade to the regulations which govern the production, distribution, importation and exportation of controlled substances within the United States. For example, persons aboard a U. S. vessel carrying controlled substances as legitimate cargo between two foreign countries are engaged in the distribution of a controlled substance. They must comply with the applicable laws of the country of origin and destination of the controlled substance, and there is no reason to add the burden of complying with U. S. laws and regulations. In addition, the new law must be constructed so that it covers illicit trafficking by foreign vessels passing through U. S. customs waters without affecting foreign vessels passing through those waters in the course of the legitimate trade in controlled substances. Vessels must carry medical supplies for treating injuries or sickness at sea and the law must not contain language that would affect this practice.

These points, and the methods used in approaching them are more fully explained in the section-by-section analysis attached to our proposal.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report for consideration of the committee.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark G. Aron", with a long, sweeping horizontal line extending to the right.

Mark G. Aron
Acting General Counsel

Enclosure

Amend H. R. 2538 to read as follows:

A BILL

To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) it shall be unlawful for any person to manufacture, distribute or possess a controlled substance--

(1) intending that such substance be unlawfully imported into the United States; or

(2) knowing that such substance will be unlawfully imported into the United States.

(b) It shall be unlawful, while on the high seas, for any person on board a vessel of the United States or on board a vessel without nationality to manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(c) It shall be unlawful within the customs waters of the United States, for any person on board any vessel to manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(d) It shall be unlawful, while on the high seas, for any citizen of the United States on board any vessel to manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(e) Nothing in subsections (b), (c) or (d) shall apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business, provided that the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment or other pleading or in any trial or other proceeding, and the burden of going forward with the evidence with respect to this exception shall be upon the person claiming its benefit.

(f) This section proscribes acts of manufacture, distribution and possession committed outside the territory of the United States. It does not enlarge the ability of United States authorities to take unilateral law enforcement action against persons and vessels not otherwise subject to the jurisdiction of the United States.

(g) Any person who violates this section shall be tried in the United States district court at the point of entry where such person enters the United States, or in the United States District Court for the District of Columbia.

(h) Any person who violates subsections (a),(b),(c), or (d) of this section shall be punished in accordance with section 1010 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 960), or, for second or subsequent offenses, in accordance with section 1012 of that Act (21 U.S.C. 962), in the same manner as a person who manufactures or distributes a controlled substance contrary to section 1009 of that Act would be punished.

Sec. 2. As used in this Act--

(a) "Customs waters" has the meaning assigned to such term in Section 401(j) of the Tariff Act of 1930 [19 USC 1401(j)].

(b) "High seas" means all ocean waters beyond the territorial sea of the United States and beyond the territorial sea of any foreign nation as recognized by the United States.

(c) "Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(d) "Vessel of the United States" means:

(1) a vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended; or

(2) unless it has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas, a vessel owned in whole or in part by:

(A) the United States or a territory ;

(B) a State or political subdivision thereof;

(C) a citizen of the United States; or

(D) a corporation created under the laws of the United States or of any State.

(e) "Vessel without nationality" means:

(1) a vessel which is not a "vessel of the United States" (as defined in subsection (3) above) and which does not possess the nationality of any foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas; or

(2) a vessel which can be assimilated to a vessel without nationality in accordance with paragraph (2) of Article 6 of the 1958 Convention on the High Seas.

(f) All terms used in this Act which are defined in sections 102 or 1001 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 802 & 951) shall have the meanings assigned to such terms in that Act.

Sec. 3. Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

Sec. 4. (a) The following shall be subject to forfeiture and no property right shall exist in them:

(1) Any vessel or other conveyance used or intended for use in any manner to facilitate the commission of an offense under this Act, except that no vessel or other conveyance shall be forfeited under this section:

(A) if it is used by any person as a common carrier in the transaction of business as a common carrier, unless it shall appear that the owner or master or other person in charge of such vessel or other conveyance was at the time of the alleged unlawful act a consenting party or privy thereto; or

(B) if the owner thereof establishes that the alleged unlawful act was committed by a person other than the owner while such vessel or other conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of a State.

(2) Any controlled substance manufactured, distributed or possessed in violation of this Act.

(3) Any other property used or intended for use in any manner to facilitate the commission of an offense under this Act.

(b) Property described in subsection (a) shall be subject to seizure without a warrant whenever there is probable cause to believe that it has been used or is intended to be used in any manner to commit, or to facilitate the commission of, an offense under this Act.

(c) Property seized or forfeited under this section shall be processed in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 881).

(d) Once the United States has shown probable cause for the seizure of property under this section, the burden of going forward with the evidence to establish that such property is not subject to forfeiture under this Act shall be upon the party opposing the forfeiture.

SECTION-BY-SECTION ANALYSIS

A. Definitions.

The terms of art used in the proposed amendment are defined so as to comport with international law and to classify all vessels and persons on the high seas.

1. The term "vessel of the United States" is broadly defined. A given vessel will be classified as a vessel of the United States for the purposes of this law if it satisfies the requirements of this definition regardless of whether or not it actually claims or acknowledges United States nationality.

2. The term "vessel without nationality" includes:

(a) a vessel which does not claim a nationality;

(b) a vessel which, though claiming a nationality, does not, according to the appropriate authorities of its purported flag state, meet the conditions fixed by that nation for granting its nationality to vessels under Article 5 of the 1958 Convention on the High Seas; and

(c) a vessel which, though it possesses a genuine nationality, may, according to Article 6 of the 1958 Convention on the High Seas, be assimilated to a vessel without nationality because it has claimed the protection of two or more nations (e.g., by flying or claiming the right to fly, the flag of more than one nation, or by otherwise displaying the indicia of nationality of more than one nation under conditions which make such display tantamount to a fraudulent claim of nationality).

3. The term "vessel" is given a broad definition so as to include every conceivable means of transportation on the water.

4. The term "high seas" is defined so as to comport with the United States' interpretation of international law.

5. The term "customs waters of the United States" is defined by reference to the definition of that term found in section 401 of the Tariff Act of 1930 (19 USC 1401). For all practical purposes under this statute, it includes the waters within 12 nautical miles of the United States baseline and its outer limit is coterminous with the outer limit of the United States' contiguous zone [see Article 24 of the 1958 Convention on the Territorial Sea and Contiguous Zone and Dep't of State Public Notice 358 of 1 June 1972, 37 Fed.Reg. 11906 (15 June 1972)].

6. Other terms used in the proposal are defined by reference to the Comprehensive Drug Abuse Control and Prevention Act of 1970.

B. Substantive provisions.

1. Section 1 is designed to prohibit all acts of illicit trafficking in controlled substances on the high seas which the United States can reach under international law. And it attempts to do this in a way which has a minimum effect on the legitimate possession and use of, and trade in, controlled substances on the high seas.

a. Subsection (a) of the proposed amendment builds on the concept reflected in the current section 1009 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 959). It differs from that section in two particulars: (i) where that section applies to controlled substances in schedules I and II only, this provision applies to all controlled substances; and (ii) in addition to the distribution and manufacture prohibited by section 1009, this provision proscribes possession with intent to unlawfully import or knowledge of impending unlawful importation into the United States as a prohibition. This additional prohibition would reach persons aboard vessels (regardless of nationality) found on the high seas with controlled substances which they intend to smuggle into the United States or which they know will be smuggled into the United States by others. It would obviate the current necessity of proving that those persons either manufactured or distributed the controlled substance.

b. Subsection (b) would proscribe the manufacture or distribution of a controlled substance, or the possession of a controlled substance with intent to manufacture or distribute it by any person on the high seas aboard any vessel subject to the jurisdiction of the United States. It would not be necessary to show that the vessel or the controlled substance was bound for the United States. Therefore the proof required for a successful prosecution under this provision would be the same as that required for the same offense within the United States.

c. Subsection (c) would reach the same acts by any person aboard any vessel which is actually or constructively present within the customs waters of the United States. Under international law, the United States may prescribe and enforce laws designed to protect its customs and sanitary (public health) interests within a contiguous zone which extends out to 12 nautical miles from the baseline. The illicit manufacture or distribution of controlled substances (or possession with intent to do so) near our coasts obviously affects these interests; therefore, the United States may proscribe this activity by all vessels and persons (regardless of nationality) within the contiguous zone. The term "customs waters" is used in the statute in lieu of "contiguous zone" because the former term has a more established meaning in domestic law.

d. Subsection (d) would implement the United States' obvious competence to regulate the conduct of its citizens wherever they may be located.

e. Subsection (e) provides an exception for certain legitimate activities which would otherwise be prohibited by subsections (b), (c) or (d). The defendant would have the burden of going forward with evidence to show that his conduct came within the exception. Cf. section 515 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 USC 885).

f. Subsection (f) would make clear that although this section is intended to reach conduct which occurs beyond the territorial limits of the United States (and in some cases reaches the activities of foreign persons and aboard foreign vessels), it does not purport to enlarge the competence of the United States, through its law enforcement personnel, to unilaterally engage in law enforcement activities in places or aboard vessels not otherwise subject to the jurisdiction of the United States under international law. For example, persons aboard a foreign vessel on the high seas beyond customs waters who possess a controlled substance with the intent to unlawfully import it into the United States would be in violation of subsection (a). Nonetheless, since a foreign vessel on the high seas beyond customs waters is not subject to the jurisdiction of the United States under international law (except under certain circumstances not applicable here), United States law enforcement authorities may not take action against the vessel or the persons on board (even if they are United States citizens) unless they first obtain the permission of the vessel's flag state.

g. Subsection (g) establishes jurisdiction and venue for the trial of persons who violate the section.

h. Subsection (h) provides for the punishment of persons who violate the Act by reference to sections 1010 and 1012 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 960 & 962).

2. Section 3 makes attempts or conspiracies to commit any offense defined in the Act punishable to the same extent as the actual commission of the offense. Note that, through the application of sections 2-4 of Title 18, United States Code, any person who aids or abets the commission of an offense under this Act would be punishable as a principal. For example, it would be possible to prosecute as a principal [for possession with intent to distribute under subsection 1(b)] a person aboard any vessel on the high seas who knowingly transfers a large amount of a controlled substance to a person aboard a vessel of the United States.

3. Section 4 subjects to forfeiture all property used or intended for use in any manner to facilitate violation of the Act. By reference to section 511 of the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 881), it prescribes the procedure for processing and disposing of such property. It provides for the warrantless seizure of such property by an enforcement officer who has probable cause to believe that it is subject to forfeiture under the section. It establishes a burden of proof consistent with that provided for forfeitures under the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 885) and the Customs Laws (19 U.S.C. 1615).

Mr. BIAGGI. Mr. Wolff, Mr. Gilman, and Mr. Railsback, will you please come forward?

I am not going to get involved in protocol here; we will establish our own. Although Mr. Gilman is one of the original cosponsors, I am sure we all defer to our esteemed chairman, Mr. Wolff.

**STATEMENT OF HON. LESTER L. WOLFF, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK**

Mr. WOLFF. Thank you, Mr. Chairman. Mr. Chairman, first let me thank you for cooperating with the Select Committee on Narcotics. You see much of the Select Committee on Narcotics leadership before you on both sides of this table—yourself, as well as the members who are testifying before you today.

We have a tight schedule in that we have to apply before the Accounts Subcommittee of House Administration for our budget within the hour.

Mr. BIAGGI. Well, do not use all your energies here.

Mr. WOLFF. I think you understand our predicament.

Let me first congratulate you, Mr. Chairman, for your leadership in this piece of legislation, H.R. 2538, which you and Mr. Gilman conceived in the last Congress. With the improvement you have made I think that it is an important measure, and I speak as chairman of the Select Committee on Narcotics Abuse and Control. This bill represents real progress in our attempt to stem the flow of illegal narcotics into our country.

Last June during the hearings before the Select Committee on Narcotics Abuse and Control, it became apparent that serious problems existed with respect to the ability of Federal law enforcement authorities to intercept illegal narcotics on the high seas.

In a telegram to President Carter at the close of these hearings, the select committee advised that south Florida was in the midst of a catastrophic and overwhelming drug disaster. As a result of what was seen in south Florida, the select committee recommended that legislation be enacted to regulate the transfer of controlled substances between vessels on the high seas. The committee also advocated the enactment of legislation which would permit the Coast Guard to board a stateless vessel on the high seas if there appeared probable cause to believe the vessel contained an illegal cargo of controlled substances destined for U.S. shores.

Through your efforts, Mr. Chairman, and the efforts of this subcommittee, I can report that tremendous progress has been made with the enlistment of the Coast Guard in this fight against the illegal importation of narcotics into our country.

What we discovered in Florida last June is becoming more and more common throughout the gulf and Atlantic coasts. We now have the situation where mother ships, laden with illegal and illicit cargo, safely remain outside U.S. territorial waters, while unloading their drugs to smaller and faster boats. These small boats are far more sophisticated than those the Coast Guard possesses, and they mingle with scores of recreational craft before returning to shore to distribute their illegal drugs.

The magnitude of the problem can be illustrated by two simple statistics. During the last 6 months of 1978, as a direct result of the action of this subcommittee, more drug smuggling vessels were

seized by the Coast Guard than during all of the 5 previous fiscal years, and during the same period, almost 2 million pounds of marihuana were seized, representing 300 percent of that seized during the same period a year earlier.

Whatever the cost, Mr. Chairman, the amount that has been intercepted far exceeds anything that the Coast Guard could ever spend in the exercise of the duty that is recommended in this legislation.

What is clear is that we have a weak spot, and the smugglers have capitalized on it. As you know, prior to 1970, Federal law did extend to the drug smuggler on the high seas. We are here today to support your legislation and that of Mr. Gilman and the other cosponsors of this legislation, and I am among them.

For some inexplicable reason, the provisions embodied in this legislation were omitted from the Comprehensive Drug Abuse and Control Act of 1970. The legislation now being considered by this Subcommittee would close this loophole in the law for the first time since 1970, and it will assure that all smugglers apprehended by the Coast Guard can be successfully prosecuted for their crimes under Federal law.

Enactment of this legislation would certainly restore a potent weapon in our arsenal against the drug smuggler. I thank you, Mr. Chairman.

Mr. BIAGGI. I thank you, Mr. Chairman. This committee points with pride, and I think assumes properly so, an appropriate amount of credit for emphasizing the need for the Coast Guard to assume unto itself with greater vigor the responsibility of enforcing the laws with relation to drug interdiction.

I have been chairing this subcommittee for some 4 years, and a change of direction is very clearly indicated. The Coast Guard is to be congratulated and the committee, of course, is, too, because it supported the initiative that we embarked upon 4 years ago.

Mr. WOLFF. It is tragic, indeed, Mr. Chairman, to see these drug smugglers, with the millions and perhaps even billions of dollars that they are reaping as a harvest from their illicit traffic, thumbing their nose at existing authority.

Mr. BIAGGI. Mr. Evans of the Virgin Islands pointed out earlier on that in addition to the need for additional search and rescue facilities, the Virgin Islands was an important intermediate stop for drug smugglers. Would you care to comment on his statement?

Mr. WOLFF. Yes. Increasingly, the intelligence that we receive indicates that the Virgin Islands are being used as a transit point, because by clearing customs in areas such as the Virgin Islands and customs preclearance, if that exists in areas such as this, the smugglers are able to operate with much greater immunity than they have if they were to come directly into our ports of entry in the continental United States.

Mr. Chairman, one element, I think, should be mentioned and that is regardless of the amount of effort that we place in the interdiction of drugs, we are not going to be able to stop all of the drugs coming into our country; we recognize this. But, certainly, we should try to plug whatever loopholes we possibly can and utilize whatever existing facilities there are in order to stop this nefarious traffic.

We often talk about our trade deficit and our balance-of-payments deficit. A figure that does not even enter into these deficits is the \$6 billion leaving the United States from and through the State of Florida to pay for these illicit drugs which are coming into our shores. Certainly, anything that this committee can do in order to help tighten the noose around those traffickers will be helpful to the overall effort.

I should like to yield for a moment to either Mr. Gilman or Mr. Railsback; the three of us have to get up to the committee.

Mr. BIAGGI. They will each have an opportunity to speak. One more question: It has been our observation from the intelligence that we have obtained that there seems to be a great effort to interdict the smugglers on the seas, but then they come inland. My experience is that once they are inland, they get little or no attention. Would you care to confirm or deny that?

Mr. WOLFF. This seems to be true, and you offered a suggestion as to enlarging upon the idea of being able to police these traffickers. The smugglers do get very little attention when they come to shore from the mother ships. Why? Because they mingle with pleasure craft; they are easily hidden among the large traffic that exists in our coastal and recreational areas.

The suggestion that you made, of trying to enlist the Coast Guard Auxiliary, I think, is really an outstanding one. It is similar to what we are doing now with the Civil Air Patrol. These two organizations are of very little cost to the American taxpayer, because they are volunteers, and they could very easily be enlisted in this overall effort.

The work of the Civil Air Patrol has been in coastal patrol to stop an enemy from entering our shores. I know of no greater enemy to the people of this country than the drug smugglers who are bringing death and misery into our Nation to exploit and to destroy our youth.

Mr. BIAGGI. Thank you, Mr. Chairman.

Mr. BIAGGI. The ranking member of that committee, Mr. Railsback.

STATEMENT OF HON. TOM RAILSBACK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. RAILSBACK. Mr. Chairman, I really do not want to read my statement; I know that you are busy and we are busy. I really am here to be supportive of your efforts, and I want to compliment you for holding early hearings and for your leadership.

I see that Mr. Treen is a cosponsor of the bill and, of course, my friend, Mr. Gilman, is the chief cosponsor. I think it is a very serious problem and I would hope that we would act very expeditiously; I expect that we will. I think you are going to have very strong support on our side of the aisle, as well as from the majority. Thanks for inviting us.

Mr. BIAGGI. Your support is valued support.

[The following was received for the record:]

PREPARED STATEMENT OF HON. TOM RAILSBACK

Thank you, Mr. Chairman. As a cosponsor of H.R. 2538, a measure to facilitate Coast Guard enforcement of laws relating to the importation of controlled drugs,

and as the Ranking Minority Member of the Select Committee on Narcotics Abuse and Control, I want to commend you and the distinguished members of this subcommittee for holding early hearings on this legislation. I certainly welcome the opportunity to appear before you today in support of this measure.

Our proposal would correct that statutory defect by making it unlawful to knowingly possess, manufacture, distribute or dispense a controlled substance on a U.S. vessel or a foreign vessel subject to American jurisdiction. An attempt or conspiracy to import a controlled substance into the United States would also be prohibited. A convicted violator could be imprisoned for up to 15 years and fined up to \$25,000 for a first offense and up to 30 years with a \$50,000 fine for subsequent convictions.

Mr. Chairman, as a member who also serves on the Narcotics Committee, you are well aware that drug trafficking is a multi-billion dollar industry. No one knows exactly the amount of illicit drugs which penetrate our borders or the vast amounts that these illicit financial transactions cost our citizens in lost tax revenues, but an estimated 42 million Americans who have tried marihuana reportedly consume approximately 130,000 pounds of marihuana a day and annually spend an estimated \$25 billion. Some reports indicate that 2 million Americans spend approximately \$20 billion to purchase 66,000 pounds of cocaine.

Last year, the Select Narcotics Committee's hearings in south Florida revealed the magnitude of the \$7 billion marihuana and cocaine smuggling operation; an operation that produces revenues far exceeding tourism and the export of Colombian coffee, the largest legitimate businesses for south Florida and Colombia. Peter Bensinger, Administrator of the Drug Enforcement Administration, recently stated: "Colombia is the largest supplier of marihuana in the world. It's a trafficker's paradise." It is believed that two-thirds of the marihuana and 80 percent of the cocaine that enters the United States originates from Colombia.

One major technique used by marihuana and cocaine traffickers with great success, is the "mother ship" technique popularized by the rum runners during the prohibition era. Through this technique, freighters, trawlers and yachts loaded with marihuana and cocaine sail from the Colombian coast, through the Caribbean, laying anchor just outside the 12-mile Customs inspection waters. The contraband cargo then is loaded onto small, inconspicuous vessels that can mingle with the tens of thousands of recreational boats in U.S. waters. The smaller craft eventually unload in the isolated coves scattered all along this country's coastline. From there, the illicit drugs are distributed to virtually every city and town in the United States.

Our bill would prohibit "mother ship" transfers from any vessel to a U.S. vessel or a vessel subject to U.S. jurisdiction either within the territorial waters of the United States or on the high seas.

Mr. Chairman, H.R. 2538 is not a controversial proposal. It is not a complex measure. To date, 53 Members from both sides of the aisle, representing all political perspectives have endorsed this measure. This proposal will not put an end to illicit drug trafficking. But hopefully, it will provide our drug law enforcement agencies with an important tool that puts a substantial dent in seaborne drug smuggling. Accordingly, I urge my colleagues to support this measure and I hope that this distinguished subcommittee and the full committee will be able to bring H.R. 2538 to the House floor for early consideration.

Mr. BIAGGI. Mr. Gilman?

STATEMENT OF HON. BENJAMIN A. GILMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Mr. GILMAN. Thank you, Mr. Chairman. Mr. Chairman, I too want to join my colleagues in congratulating you for your continuing efforts in trying to make our law enforcement efforts more effective than they have been in the past. Certainly, the problems that are encountered in this bill were underscored for all of us when you, along with our Narcotics Select Committee visited south Florida.

We saw that south Florida is an open sieve and narcotics pours into that area from all directions. This loophole was underscored at that time, and I certainly commend you in your efforts for bringing our proposed legislation along this far. Mr. Chairman, I want to

commend this Subcommittee on Coast Guard and Navigation for promptly holding these hearings on H.R. 2538. It is a measure that will facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and a measure that we introduced on March 1 of this year.

I am pleased to report that we now have some 53 members, including the distinguished chairman of the Narcotics Select Committee and our ranking minority member. You are the major sponsor, and Mr. Treen is also a cosponsor. We have support from many facets of the Congress and I am sure we will have a great deal more support by the time the measure reaches the floor.

As you know, this bill is a revision of H.R. 10371 and H.R. 10698, measures that we introduced in the last session of the 95th Congress and measures that were supported by the Narcotics Select Committee in its recent report on drug trafficking in south Florida.

Our revised proposal has two primary purposes: First, to prohibit any person on board a vessel subject to the jurisdiction of the United States, or a U.S. citizen on board any vessel, from possessing, manufacturing, distributing, dispensing, or importing, including the attempt or conspiracy to import, any drug that is scheduled under the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Second, the measure would prohibit the transfer of a controlled drug from any vessel to a vessel subject to U.S. jurisdiction on the high seas, thereby prohibiting the mother ship technique that was popularized in the early 1920's and 1930's by prohibition rumrunners and that has been used so successfully by modern-day drug traffickers.

Through the mother ship technique, the mother vessel remains, as you know, outside the 12-mile customs inspection zone and unloads contraband cargo to a small, inconspicuous vessel that then mingles among the tens of thousands of recreational boats in U.S. waters. From there, these deadly drugs are scattered by organized crime's intricate operational networks to virtually every city, town, and school district in this country, infecting our citizens with misery and reaping billions of dollars in untaxed profits from these sordid transactions.

I will yield to the gentleman.

Mr. WOLFF. I just would ask the chairman's permission to leave, since I must go before the committee.

Mr. BIAGGI. We understand.

Mr. WOLFF. Thank you very much.

Mr. BIAGGI. I hope your efforts are successful.

Mr. WOLFF. Thank you. I might say that 11 members of our Select Committee on Narcotics are cosponsors of this legislation.

Mr. BIAGGI. Well, it is a perfect example of the cooperation that exists and the effectiveness of the presence of the select committee, working together with the legislative committees no more graphic illustration could be demonstrated than this instance.

Mr. TREEN. Mr. Chairman, I ask that Mr. Railsback's statement be made a part of the record.

Mr. BIAGGI. Each statement will be made a part of the record.

Mr. TREEN. Thank you.

Mr. GILMAN. Mr. Chairman, I will briefly summarize and ask that the full statement be made part of the record.

Mr. BIAGGI. Without objection, so ordered.

Mr. GILMAN. Mr. Chairman, this legislative proposal is designed to help plug the 12-mile zone loophole by prohibiting circuitous avoidance of U.S. jurisdiction and by subjecting the convicted violator to an imprisonment of not more than 15 years, a fine of not more than \$25,000, or both. A subsequent conviction would subject the violator to imprisonment of some 30 years, a fine of not more than \$50,000, or both. These are penalties that are stipulated by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Mr. Chairman, our Nation's borders have become an open sieve for narcotics trafficking. Illicit drugs are no longer trickling into our Nation; it has now become a tidal wave of epidemic proportions. Federal, State, and local law enforcement officials have been seizing marihuana and cocaine not by the pounds, but by the tons, in boatloads and planeloads. The vile business of drug trafficking in our Nation has been estimated to be some \$45 billion per year; that is not millions, but \$45 billion per year.

In 1978, the U.S. Coast Guard participated in the seizure of 167 vessels, the arrest of some 865 drug traffickers, and the seizure of more than 3.5 million pounds of marihuana with a street value of over \$1 billion, compared to the seizure in 1977 of about half that amount—some 58 vessels, the arrest of 294 drug traffickers, and the seizure of over 1 million pounds of marihuana, worth \$430 million.

Mr. BIAGGI. If you go back 4 years, you find that we confiscated 50,000 pounds on one vessel; that is the difference.

Mr. GILMAN. There has been a tremendous increase in enforcement. They now need this as an additional tool, and I am hoping that we are going to be able to accommodate them. The 1978 seizures were 34 percent more than the 1977 seizures, and as of the end of last week, March 23, the Coast Guard participated in the seizure of 15 vessels, the arrest of 74 traffickers, and the seizure of 371,000 pounds of marihuana, worth an estimated street value of \$134 million.

Just 9 days ago the Coast Guard, in a recordbreaking seizure, confiscated 41,000 pounds of hashish, valued at over \$180 million on the street. That has all taken place since the beginning of this year. Obviously, these seizures are only the tip of the trafficking iceberg. No one knows just how much narcotics trafficking there is in this Nation, or the voluminous amount of drugs that daily penetrate our borders that escape interdiction by Federal, State, and local enforcement agents.

We all recognize, though, that the drug trafficking problem in this Nation and throughout the world is herculean. It is a multibillion-dollar industry conducted by highly organized, well-financed international syndicates that reach into every region of the world, injuring the health of citizens and corrupting those societies.

If our Nation is going to effectively interdict narcotics trafficking, then the statutes under which our law enforcement agencies operate must be perfected to permit our dedicated law enforcement agents to properly perform their dangerous tasks. This proposal is

a step in that direction, Mr. Chairman. It would improve our legislative arsenal in the war on narcotics trafficking by providing the Coast Guard with the necessary authority to interdict drug traffickers on the high seas and to penalize the convicted traffickers with stiff penalties.

I certainly urge its early adoption and I want to commend the committee for giving it early attention. Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you, Mr. Gilman, and I am delighted that you joined us in this hearing, and your cosponsorship of this bill. Thank you.

Mr. TREEN. Mr. Chairman?

Mr. BIAGGI. Mr. Treen?

Mr. TREEN. May I just say that I want to express my gratitude as a Member of Congress and as a citizen of this country for the leadership that Congressman Gilman has shown in this problem throughout the time that he has been here in the Congress, and to compliment his colleagues that have departed. We are very grateful to you for your leadership and your persistence in this effort.

Mr. GILMAN. I thank the gentleman from Louisiana for his kind remarks. I want to thank him, too, for his kind support in all of our endeavors to make this a much more effective program.

Mr. TREEN. Thank you. Thank you, Mr. Chairman.

[The following was received for the record:]

PREPARED STATEMENT OF HON. BENJAMIN A. GILMAN

Thank you, Mr. Chairman.

Mr. Chairman, I want to commend you and the distinguished members of the Subcommittee on the Coast Guard and Navigation for promptly holding hearings on H.R. 2538, a measure to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances and a measure that we introduced on March 1st of this year. As coauthor of H.R. 2538, I am pleased to report that to date 53 members, including the distinguished Chairman of our Narcotics Select Committee (Mr. Wolff) and the distinguished ranking minority member (Mr. Railsback), have endorsed our proposal.

As you know, H.R. 2538 is a revision of H.R. 10371 and H.R. 10698, measures that you, Mr. Chairman, and I respectively authored during the 95th Congress and measures that were supported by the Narcotics Select Committee in its recent report on drug trafficking in south Florida.

Our revised proposal has two primary purposes: First, it would prohibit any person on board a vessel subject to the jurisdiction of the United States or a U.S. citizen on board any vessel from possessing, manufacturing, distributing, dispensing, or importing—including the attempt or conspiracy to import—any drug that is scheduled under the Comprehensive Drug Abuse Prevention and Control Act of 1970. Second, the measure would prohibit the transfer of a controlled drug from any vessel to a vessel subject to U.S. jurisdiction on the high seas, thereby prohibiting the "mother ship" technique popularized during the 1920's and early 1930's by prohibition rumrunners. Through the "mother ship" technique, the "mother vessel" remains outside the 12-mile U.S. customs inspection zone and unloads contraband cargo to a small, inconspicuous vessel that then mingles among the tens of thousands of recreational boats in U.S. waters. From there, these deadly drugs are scattered by organized crime's intricate operational networks to virtually every city, town and school district in this country infecting our citizens with misery, and reaping billions of dollars in untaxed profits from these sordid transactions.

Mr. Chairman, our Nation's borders have become an open sieve for narcotics trafficking. Illicit drugs are no longer trickling into the United States—it is a tidal wave of epidemic proportions. Federal, State, and local law enforcement officials are seizing marihuana and cocaine, not by the pounds but by the tons, in boatloads and planeloads. Peter Bensinger, the able Administrator of the Drug Enforcement Administration (DEA), has estimated that the vile business of drug trafficking in the United States amounts to as much as \$45 billion per year.

In 1978, the U.S. Coast Guard participated in the seizure of 167 vessels, the arrest of 865 drug traffickers and the seizure of more than 3.5 million pounds of marihuana worth more than \$1.3 billion, compared to the seizure in 1977 of 58 vessels, the arrest of 294 drug traffickers and the seizure of 1.2 million pounds of marihuana worth nearly \$430 million, or approximately 34 percent of the 1978 marihuana seizure.

Under the leadership of its distinguished chairman (Mr. Wolff), the Narcotics Select Committee found in its recent investigations into drug trafficking in south Florida that marihuana and cocaine smuggling has reached a staggering \$7 billion a year for that area alone, a volume that far exceeds south Florida's biggest legitimate business—tourism.

Hardly a day goes by that narcotics traffickers are not able to penetrate our borders, infect our citizens with their deadly drugs and reap millions of dollars in untaxed profits. Hardly a day goes by that Federal, State, and local law enforcement officials do not seize some contraband. As of the end of last week (March 23rd), the Coast Guard participated in the seizure of 15 vessels, the arrest of 74 drug traffickers, and the seizure of 371,243 pounds of marihuana worth an estimated street value of \$133,647,480. During the first 59 days of this year, from Jan. 1 to Feb. 28, the U.S. Customs Service seized 46 pounds of heroin, valued at nearly \$27.2 million; 356 pounds of cocaine valued at more than \$105 million; 2,705 pounds of hashish valued at \$11.8 million; and 479,325 pounds of marihuana, valued at more than \$174 million. Just 9 days ago, the Coast Guard, in a record-breaking seizure, confiscated 41,580 pounds of hashish valued at nearly \$182 million on the street.

Obviously this is not a complete listing of daily narcotics seizures throughout the United States. These seizures are only the tip of the trafficking iceberg. No one knows just how much of narcotics trafficking there is in this country or the voluminous amounts of drugs that daily penetrate our borders, escaping interdiction by Federal, State, and local law enforcement agents. We all recognize that the drug trafficking problem in this country and throughout the world is herculean. It is a multi-billion dollar industry conducted by highly organized, well-financed international criminal syndicates whose corrupt tentacles reach into every region of the world, undermining the political, economic, and social structure of society. Its toll in lives and property is costly. Several thousands of our youngsters annually succumb to drug overdose and last year narcotics abuse and trafficking cost our Nation's taxpayers an estimated \$10 billion.

As a member of the Narcotics Select Committee that held hearings in November of 1977 at the U.S. Mission to the United Nations in New York on international narcotics control—a hearing that you, Mr. Chairman, participated in in your capacity as ex officio member of the Select Committee—I was impressed by Rear Adm. Norman C. Venzke, Chief of the Office of Operations and Director of the Enforcement of Laws and Treaties Program of the U.S. Coast Guard, who stated: "The general revision of drug laws which produced the Comprehensive Drug Abuse and Control Act of 1970 omitted the provision making the possession of quantities of drugs by U.S. vessels on the high seas a Federal crime. Consequently, Coast Guard drug law enforcement action against U.S. vessels at sea beyond the 12-mile customs zone now requires the proof of conspiracy to import before law enforcement action can be properly undertaken."

Mr. Chairman, as you know, our legislative proposal is designed to help plug that 12-mile zone loophole by prohibiting circuitous avoidance of U.S. jurisdiction and by subjecting the convicted violator to an imprisonment of not more than 15 years, a fine of not more than \$25,000, or both.

A subsequent conviction would subject the violator to imprisonment of not more than 30 years, a fine of not more than \$50,000, or both—penalties that are stipulated by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

If our Nation is going to effectively interdict narcotics trafficking then the statutes under which our law enforcement agencies operate must be perfected to permit our dedicated law enforcement agents to properly perform their dangerous tasks. This legislative proposal is a step in that direction—it would improve our legislative arsenal in the war on narcotics trafficking by providing the Coast Guard with the necessary authority to interdict drug traffickers on the high seas and to penalize the convicted traffickers with stiff penalties.

Again, Mr. Chairman I commend the committee for acting swiftly on this legislation and hope that other colleagues will join with us and the more than 50 cosponsors in helping to plug this loophole—a loophole through which significant amounts of drugs are smuggled onto this Nation's shores.

Mr. BIAGGI. Our next witness this morning will be Adm. John B. Hayes, Commandant, U.S. Coast Guard.

STATEMENT OF ADM. JOHN B. HAYES, COMMANDANT, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY REAR ADM. NORMAN C. VENZKE, CHIEF, OFFICE OF OPERATIONS, U.S. COAST GUARD, AND LT. COMDR. ALEX BLANTON, STAFF MEMBER

Admiral HAYES. Good morning, Mr. Chairman. As an aside, before I begin my statement, may I congratulate the chairman on his seaman-like language; I was impressed by it.

Mr. Chairman and members of the committee, I am Adm. John B. Hayes, Commandant of the Coast Guard. Accompanying me today, on my right, is Rear Adm. Norman C. Venzke, who is Chief of the Coast Guard's Office of Operations, and, on my left, Lt. Comdr. Alex Blanton, one of our staff.

It is a pleasure to appear before you today to report on the Coast Guard's drug interdiction activities and to applaud and endorse your efforts, and those of your numerous cosponsors, in introducing this legislation, the enactment of which is so crucial to the continued improvement of our interdiction program.

Before I address myself to the specifics of H.R. 2538, Mr. Chairman, I would like to bring the committee up to date on the status of the Coast Guard's interdiction program and the efforts we are making to enhance that program.

As you can see by the table of statistics attached to this statement, the flood of drugs entering our country has not abated. Thus far this calendar year, we have seized 12 vessels with illicit drug cargoes valued at over \$300 million. While the number of vessels seized is down from last year, the value of their cargoes is up substantially. Thus, there appears to be a trend toward larger, more valuable shipments on fewer vessels. However, it is too early to tell whether this represents a true change in the smugglers' method of operation or just a temporary statistical aberration.

One thing that appears certain, however, is that the ongoing traffic suppression operations being conducted by the Government of Colombia in its Guajira Peninsula have at least diverted the smugglers from their traditional routes. Since that operation came to full force in January, the number of mother ship suspects encountered by the Coast Guard on the southern approaches to the United States has dropped considerably.

This Colombian operation is just one example of the high degree of cooperation the United States is receiving from various Latin American governments. Last December, I visited five South and Central American countries—Venezuela, Panama, Ecuador, Colombia, and Honduras—in an effort to enhance regional understanding, support, and coordination of the Coast Guard's maritime safety and law enforcement activities. Without exception, the naval, law enforcement, and political officials in each country expressed a genuine concern for the adverse implications that maritime drug trafficking holds for the entire Caribbean basin, and were very receptive to the Coast Guard's suggestions for improving cooperation and coordination in our efforts to suppress it.

One of the suggestions that received favorable response was the establishment of a regional intelligence system through which the maritime law enforcement agencies of the various governments could share information on trafficking methods, patterns, and sightings. We envision that such a system could go a long way toward supplying the information needed to make our interdiction operations more efficient and fruitful. For this reason, we have, with the assistance of the Department of State's Bureau of International Narcotics Matters, arranged for experts from nine countries to meet this May to lay the groundwork for the system.

I would like to add one comment here also, Mr. Chairman, and that is, in this effort, we are not only receiving tremendous cooperation from our DEA and Customs friends, but one of the things that has impressed me as much as anything else since I have become Commandant is the way in which this whole law enforcement effort is being coordinated at both the national level and in the field.

Another matter I discussed with officials in each of the countries on my trip was the sensitive issue of getting permission from their government for the Coast Guard to board and take enforcement action against one of its vessels on the high seas. This, of course, is one of the keys to suppressing smuggling by foreign mother ships on the high seas. Though all flag states have expressed a desire to cooperate, some—primarily because of a want of authority under their own laws—have been unable to grant us this permission. Our inability to get the requisite permission from some flag states has added to our burden, but it has certainly not been fatal. Thus far, our success in taking alternative action, such as following the vessel until it enters the territorial waters of some country, has apparently convinced the traffickers that no flag provides a haven from enforcement action.

Now, Mr. Chairman, I would like to address several issues raised by the bill before your committee today.

First, let me reiterate the importance the Coast Guard places on this legislation. The loopholes that it would close are major obstacles to effective suppression of the illicit drug trade. Current statutes are inadequate to deal with high seas trafficking in illicit drugs because they require proof of a conspiracy or attempt to unlawfully import into the United States. We have little difficulty in finding the level of evidence—that is, probable cause—needed to make arrests under these statutes, but it is usually impossible to come up with evidence sufficient to prove that one element—that is, that the contraband was bound for the United States—beyond a reasonable doubt.

Thus, the only benefit of many of our enforcement actions is the removal of the vessel and its load of drugs from the illicit trade. The minor inconvenience has little deterrent effect on the crew of the smuggling vessels—we have arrested some foreign crewmen, for example, four or more times—and the trafficking organizations merely write off the financial loss as a part of the cost of doing business. Needless to say, this seeming inability to hurt the opposition has a severe impact on the morale of enforcement and prosecutorial personnel at all levels.

The real shame of this state of the legislation is that in most situations the element of importation is just so much excess baggage. The crux of the crime that we are trying to suppress is unlawful distribution or trafficking. Because the conduct we are attempting to regulate takes place beyond our territorial limits, international law considerations require some nexus to the United States before we can apply our statutes. But this does not necessarily mean that conspiracy or attempt or, for that matter, intent to import must be proven. In most circumstances, there are other, less burdensome, elements which could prove the required connection. Most notable among these is nationality; if either the person whose conduct is being regulated or the vessel on which the conduct takes place has U.S. nationality, the conduct is subject to the legislative jurisdiction of the United States.

Your bill would recognize and take advantage of this broader basis of jurisdiction by making it unlawful for any person aboard a vessel of the United States or a vessel subject to the jurisdiction of the United States, or for any U.S. citizen aboard any vessel, to possess, manufacture, distribute or dispense a controlled substance.

The Coast Guard would welcome the advantages such a provision would offer in getting at illicit traffickers. But in some respects, it goes too far. If this bill were to become law in its present form, no U.S. citizen or vessel could participate in the legitimate trade in controlled substances. Any U.S. vessel whose cargo contained a drug listed on the controlled substance schedules would be violating the law.

Another area of concern is the treatment of foreign vessels when our ability to take enforcement action is based solely on permission granted by the flag state. Your bill classifies such vessels as "vessels subject to the jurisdiction of the United States," and, in effect, uses that status to provide the so-called nexus which allows the United States to apply its laws to them.

This same issue arose during discussions on similar bills which were introduced during the last session. At that time, attorneys from the Coast Guard and other agencies were considering various possible solutions to the troublesome issues of constitutional and international law presented by any attempt to assert jurisdiction over foreign mother ships employed in the drug trade. The possibility of using the flag state's consent as a basis for classifying them as vessels subject to the jurisdiction of the United States was among the theories explored at that time.

However, since drug trafficking on the high seas is not generally accepted as an international crime, we have been unable to develop a sound juridical basis for the theory. Because unilateral implementation of such a novel concept without a solid juridical base could adversely affect our ability to obtain the consent of flag states in less tenuous cases, we have decided that it would be unwise to attempt to apply our law to vessels in this category, or persons aboard them, without including intent or conspiracy to import, or some similar nexus, as an element of the offense.

One final point: Since the bill is not cast as an amendment to the Comprehensive Drug Abuse Control and Prevention Act of 1970, which is 21 U.S.C. 801 et seq., it will be necessary, either by reference to that statute or otherwise, to address additional collat-

eral issues such as the forfeiture and disposition of seized vessels, contraband and other property, and certain procedural matters such as the burden of proof and the burden of going forward with evidence in various situations.

I am not prepared today to offer specific remedial language for these and other minor problems we perceive in H.R. 2538. However, a proposal developed by an interagency working group is undergoing formal review within the administration at this time. This proposal, based on the experience of all the involved agencies in developing and prosecuting cases under the present law, is designed to facilitate the prosecution of persons and vessels engaged in the illicit international trade in drugs without adversely affecting the licit trade in drugs classified as controlled substances in the United States. Its provisions would regulate all classes of vessels and persons and all conduct to which the United States may, consistent with international law, apply the legislation.

I would emphasize, as an aside, Mr. Chairman, that we see these as constructive comments to what otherwise is a piece of very, very important legislation which we support. I look forward to working further with this committee in completing the fine work you have started in drafting and introducing H.R. 2538. Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you very much, Admiral. We will include with your statement the statistics of performance from 1973 to date.

I want to congratulate you for an excellent statement. I have been sitting here for a few years now, and that is one of the finest I have heard, and probably one of the most helpful.

The question we ask, then, is when will the administration be in a position to submit its proposed language, because we are prepared to go by April 11.

Admiral HAYES. We are hopeful, Mr. Chairman, that we will have that within the week.

Mr. BIAGGI. Excellent, excellent.

Would you give us a brief overview of the character and the level of the Coast Guard interdiction operations in recent years?

Admiral HAYES. I would be happy to, Mr. Chairman. To give you an idea of the increased level of operation of the Coast Guard, let us say, since 1973, perhaps this data would be helpful: We began, in 1973, with about 2,250 ship days being applied to the drug interdiction function and fisheries. I emphasize that it is hard to distinguish precisely what portion is applied to each, but, at any rate, the level of activity in that enforcement arena was at about 2,250 ship days. What this means is actual days at sea by Coast Guard vessels enforcing the law.

Mr. BIAGGI. How do you account for such a poor return, or a very low record of confiscation?

Admiral HAYES. Well, I think my next figure will suggest to the chairman what the difference is. In fiscal year 1978, that had increased to 10,075 ship days at sea, just about a fivefold increase, and I think, clearly, it is that kind of increase that has had an impact.

On the aircraft hour side of things, we have gone from 4,189 aircraft hours to about 15,000 plus aircraft hours. So, again, that is about a 3- to 3½-fold increase.

Mr. BIAGGI. Do you think that an increase was interpreted by members of the Coast Guard as a serious effort and a whole new thrust?

Admiral HAYES. I think without question, Mr. Chairman.

Mr. BIAGGI. How many lookout vessels do you have in the El Paso Intelligence Center as compared with 5 years ago?

Admiral HAYES. Our data at the present time shakes out in this fashion, Mr. Chairman: During EPIC's first year of being applied to this problem—that was 1975—there were 123 vessels placed on lookout for suspicion of smuggling contraband. During 1978, there were 249, and currently, there are 150 active lookouts. Overall, there have been 1,365 active lookouts in EPIC, whose data base contains information on over 4,000 vessels.

Mr. BIAGGI. Do I understand, Admiral, that you have some pressing commitments this morning?

Admiral HAYES. Well, I have at least another 30 minutes, Mr. Chairman, available to me, so I would be happy to respond to any questions for that period.

Mr. BIAGGI. Fine. Presidential Directive NSC 27 establishes procedures governing, among other things, boarding of foreign flag vessels on the high seas. I have several questions regarding the implementation of this directive by the Coast Guard.

Can you provide information as to the average time required for obtaining prior consent of foreign nations to board their flag vessels on the high seas?

Admiral HAYES. First of all, Mr. Chairman, I would like to clarify something. The process we are currently using with respect to that question is not basically related to the PD 27 process. For foreign flag vessel boarding, we are going through the Department of State and the embassy in the foreign country directly to that government in order to get permission to board. So the PD 27 process, for the most part, is not directly involved in that particular situation. It is more related to our fisheries enforcement and prospective seizure of a foreign fishing vessel.

Mr. BIAGGI. Well, again, how much time would it take? Our experience has been with relation to fishing, and our experience is that oftentimes there is endless delay.

Admiral HAYES. I can give you the precise figures, Mr. Chairman. On the average, it has taken 22 hours and 23 minutes to get a response in 42 separate cases, and that is since January 1, 1979, just to give you an idea of how that is presently—

Mr. BIAGGI. Has it improved any?

Admiral HAYES. Well, I think the answer is yes, sir, it has definitely improved. For example, the longest time lapse which was in this period was 134 hours, but there were extenuating circumstances on that particular one.

I think it has improved probably about to the minimum time, Mr. Chairman, that we can expect in dealing with a foreign nation and having to go through embassies.

Mr. BIAGGI. Have you had illustrations of inordinate delays, where those delays impeded the law enforcement efforts?

Admiral HAYES. I think the answer is clearly yes, Mr. Chairman.

Mr. BIAGGI. Impeded to the extent where they were able to escape apprehension?

Admiral HAYES. Rarely escape, unless our authority to board was not received at all and we were unable to convince the master to join us in a voyage toward our own territorial waters, which, incidentally, frequently occurs.

Mr. BIAGGI. How do you convince a master today? I know how they did in yesteryear.

Admiral HAYES. It is kind of interesting, Mr. Chairman, but, occasionally, we are able to do just that, and it suggests there is a certain amount of ingenuity inherent in our commanding officers' approach to this, occasionally.

Mr. BIAGGI. Is the ingenuity reinforced?

Admiral HAYES. I would hope so. I think perhaps I do not want to get too far into that particular subject. A lot of it also, Mr. Chairman, fairly and seriously speaking, comes from the fact that our commands are becoming more and more experienced and innovative in approaching this problem.

Mr. BIAGGI. In light of your own studies and that of the report of the GAO, does the Coast Guard expect to increase its activities in drug interdiction or maintain its present level?

Admiral HAYES. This, perhaps, Mr. Chairman, is one of the most difficult questions to respond to, for this reason: One of the things I wish to be very careful of is that we do not, within the Coast Guard, overbalance the emphasis that we are placing on any one particular mission. As you well know, at the present time, we are enforcing, basically, eight major missions—not enforcing—I mean, carrying out, basically, eight very significant missions for the Nation. It would be easy to, by priority assignment of resources, overbalance, overweigh the effort to one to the derogation of another. I think that is one of the most difficult problems I am facing at the present time, is to try to retain a balance in enforcing fisheries laws, enforcing customs laws at sea, carrying out our search and rescue, aids to navigation and other functions.

I think the answer is yes, we have increased our effort. We probably can, during a low level of activities in fisheries' areas, further increase our drug interdiction efforts. Within existing resources, I feel we are getting pretty close to the point of maximum effort right now.

Mr. BIAGGI. Just an aside; I think it is something that the committee should know. When the 200-mile fishing limitations came into being, there were all types of speculation as to how much personnel and equipment would be necessary. They anticipated great difficulty and an absence of cooperation. I think experience has proven just the contrary to be true. There has been a great deal of cooperation.

Admiral HAYES. That certainly is true.

Mr. BIAGGI. I know the Coast Guard has been on the job, but has there been an extraordinary increase in personnel and equipment in patrolling those areas?

Admiral HAYES. Really, once again, Mr. Chairman, we have been able to take advantage of the multimission nature of our operating equipment. I think that has been the most significant feature in

our ability to contend with the increased drug activity, and while a vessel is on patrol with respect to fisheries, it can also be involved in drug interdiction activities as well; it is also available at sea for response to a search and rescue incident.

I think it is important to recognize that it is that multimission aspect of things that has permitted us to involve ourselves to the level that we have.

With respect to fisheries specifically, the cooperation of foreign nations has indeed exceeded our expectations. On the other hand, I would point out to the chairman that, nevertheless, we are still involved in seizing foreign fishing vessels for gross violations of the law, and just within the last few months, we have had two such seizures for gross violations. I would suggest that we have to continue that enforcement effort at sea.

Mr. BIAGGI. On a multimission basis.

Admiral HAYES. Yes, sir.

Mr. BIAGGI. I understand.

Do you believe this legislation—there are two prongs to this question—one, would help with the morale of the personnel and, two, would produce a deterrent effect?

Admiral HAYES. My answer to both questions, Mr. Chairman, would be a strong yes and an amen. I think one of the things that has really discouraged our people has been the fact that we seize, we bring into port, and the next patrol may find those same people on another vessel coming right back again. So this, first of all, will be a strong morale improver for the Coast Guard.

With respect to deterrents, I would certainly hope at least it would act in that direction.

Mr. BIAGGI. The Coast Guard has had some challenge of authority in the boarding of U.S. vessels and subject to their jurisdiction. How do you believe that the decision of the Fifth Circuit Court in the case of *United States v. Warren* applies itself?

Admiral HAYES. Well, of course, it is not possible to forecast the result. It is always possible, Mr. Chairman, as I am sure you are aware, to challenge the Coast Guard at any time with respect to its boarding authority and the actions it takes.

Mr. BIAGGI. Successfully challenge.

Admiral HAYES. Successful challenge—to date, we have had one; that currently is on appeal, the *Piner* case. If previous circuit court decisions and appeals are any indication, we would hope to win that one, and that is our current forecast.

Mr. BIAGGI. Thank you very much, Admiral.

What we have here now—if you would like, you may view it with us—is a brief excerpt from the ABC evening news of December 7, 1978, and it is a segment which poignantly emphasizes the deficiencies in present law. I think it will do us all some good. You may be familiar with it; if so, you do not need to remain.

[The following is a narration of a segment on the ABC evening news, December 7, 1978:]

The Coast Guard in Miami said today they have made the second biggest marijuana seizure ever. A Coast Guard cutter seized this boat, the *Roman Brio*, yesterday 20 miles off the Florida coast. On board, officials said they found 60 tons of marijuana. The captain was missing, and the Coast Guard arrested 13 Colombian crewmen.

It is the Colombian connection, marijuana from Colombia, that has been inundating southern Florida and posing a major problem, law enforcement agencies say. Here is Bob Sirkin with a closeup report.

SIRKIN. Off the Bahamas, 60 miles east of Fort Lauderdale, heavily armed Coast Guardsmen have been ordered to board this 50-foot sloop; it is the *China Doll* out of Wilmington, Delaware. Reason for the caution: the Colombian connection, an annual \$6 billion worth of marijuana flowing between South America and Florida, an industry that has been known to convert graceful sloops into pot-hauling freighters.

After searching the vessel, the Coast Guard's suspicions are confirmed.

VOICE. It is marijuana.

SIRKIN. The *China Doll's* cabin is crammed with six tons of high-grade marijuana; estimated street value, over \$4 million.

VOICE. Place them under arrest. Seize the vessel, the contraband and all other equipment aboard.

SIRKIN. The four-man crew, offering no resistance, is taken aboard the cutter, frisked and placed under armed guard. With the *China Doll* in tow, the Coast Guardsmen and their catch sail for Miami.

The *China Doll* is 1 of 100 pot boats seized in the South Atlantic and Caribbean this year, but hundreds more have managed to slip through these waters to the Florida coast. This year, more than 20 million pounds of marijuana have been smuggled into the United States, most by boat and air. Nearly all of it is Colombian grown.

VOICE I do not know of any time in the history of the United States when a state has had as its leading industry a criminal activity. Why rob a bank when you have these huge profits to be made and a relatively low risk of being caught, No. 1, and of being prosecuted, second, and, third, of serving any time after your conviction.

SIRKIN The Government's attempts to curb the endless flow of dope into south Florida can be as frustrating as they are costly. For instance, while their boat and cargo were seized, the crew of the *China Doll* was set free soon after docking in Miami Beach. Although the Coast Guard has the power to board U.S. vessels on the high seas, mere possession of marijuana is not considered a crime; only intent to import it is. In this case, the Coast Guard could not prove that intention.

A handful of cutters like this one help stop only about 10 percent of the dope traffic entering the United States. The laws governing search and seizure at sea have been called "a shark-infested problem" by a Federal judge, but the Coast Guard hopes at least that pending legislation in Congress will soon make arrests, like the *China Doll's*, stand up in court. Bob Sirkin, ABC News, off south Florida.

Mr. BIAGGI. I had never seen that. I had suggested that you might remain. It is really a Coast Guard commercial. [Laughter.]

Admiral HAYES. It is a very good one, Mr. Chairman. I am glad I stayed. It is a very fine one.

Mr. BIAGGI. That vessel came out of Wilmington, Del.; it is a U.S. vessel and, hence, you had the authority.

If it were a stateless vessel, you would have still had the authority, under this law. Do you have the authority now if it is a stateless vessel?

Admiral HAYES. The stateless vessel proposition, Mr. Chairman, I think has been worked out fairly well. We interact directly with the Department of State. I am aware, I think, of only one instance where we have not received fairly prompt concurrence with respect to the seizure of a stateless vessel, and as time has progressed, we have worked out that particular interaction and coordination to the point where, I think it is fair to say, it is no longer a major problem.

Mr. BIAGGI. Under the present circumstances, if that were a vessel of foreign flag, you would have had no authority?

Admiral HAYES. No direct authority to board, seize or inspect; that is correct.

Mr. BIAGGI. Unless you have clearance.

Admiral HAYES. Unless we have clearance from the flag nation.

Mr. BIAGGI. And if it were a foreign vessel and you had U.S. citizens abroad?

Admiral HAYES. If it remains the flag vessel of another nation, then we do not have the authority to board without that flag nation's concurrence.

Mr. BIAGGI. Not withstanding information to the contrary?

Admiral HAYES. That is correct, sir.

Mr. BIAGGI. So, hence, this bill is desirable?

Admiral HAYES. We certainly support it wholeheartedly, Mr. Chairman. I appreciate the opportunity to testify in its behalf.

Mr. BIAGGI. Thank you very much.

[The following was received for the record:]

GENERAL LAW ENFORCEMENT CONTRABAND SEIZURES BY CALENDAR YEAR

	1973-74	1975	1976	1977	1978	1979	Total
Vessels seized by Coast Guard.....	17	5	18	35	140	12	227
Vessels seized by other agencies with Coast Guard participation.....	4	2	10	22	25	3	68
Marihuana seized by Coast Guard (lbs).....	54,200	94,025	200,568	1,022,799	3,230,359	366,843	5,175,479
Marihuana seized by other agencies with Coast Guard participation (lbs).....	9,575	653	145,003	200,315	272,828	4,400	632,774
Cocaine seized by Coast Guard (kilograms).....	1	0	20	0	0	0	21
Cocaine seized by other agencies with Coast Guard participation (kilograms)....	0	0	10.1	0	.03	0	10.13
Hashish seized by Coast Guard (lbs).....	6,139	0	0	0	0	0	6,139
Hashish seized by other agencies with Coast Guard participation (lbs).....	0	2,000	0	1,700	1,100	41,580	46,380
Thai sticks seized by Coast Guard (lbs).....	0	0	10,185	17,130	4,500	0	31,815
Quaalude seized by Coast Guard (doses).....	0	0	0	0	500,000	0	500,000
Arrests.....	73	28	184	304	865	84	1,538
Street value of contraband seized (millions).....	\$42.18	\$34.80	\$146.42	\$429.59	\$1,482.44	\$73.88	\$2,209.31

Mr. BIAGGI. The Honorable Peter Bensinger was scheduled to testify, but unfortunately he is en route and will be delayed beyond the point appearing at this hearing. Representing him, however, is Mr. Gordon Fink, Assistant Administrator for Intelligence, Drug Enforcement Administration. Joining Mr. Fink will be the Honorable Robert E. Chasen, Commissioner of the U.S. Customs Service, and Mr. Morris D. Busby, Director, Office of Oceans and Polar Affairs, Department of State.

The procedure will be that each of you will be permitted to make your opening statement; if it is lengthy, we would appreciate a summary, because I think we will be going around and around pretty much on the same material. But if there are exceptions and you have observations that differ, please stress them. Your entire statements will be included in the record. Mr. Fink?

STATEMENT OF A PANEL CONSISTING OF: GORDON FINK, ASSISTANT ADMINISTRATOR FOR INTELLIGENCE, DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE; ROBERT E. CHASEN, COMMISSIONER, U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY; AND MORRIS D. BUSBY, DIRECTOR, OFFICE OF OCEANS AND POLAR AFFAIRS, DEPARTMENT OF STATE

Mr. FINK. Thank you very much, Mr. Chairman. I would ask that the statement be entered, and I will summarize, highlighting some of the points made in the statement.

I am pleased to appear again before the committee, having testified last summer, and I also extend the apologies of the Administrator, whose plane last night had mechanical difficulties and he could not make it back in time for the hearing.

Mr. BIAGGI. Well, you tell the Administrator that we are not unhappy about his prolonged vacation, because we know it does not happen too often. We are disappointed that he is not here, but only because we are always delighted to see him.

Mr. FINK. Well, I think you should also know that the Administrator combines work with his vacations, so he is also taking the opportunity to—

Mr. BIAGGI. If he is in Florida, I hope he is not making any purchases. [Laughter.]

Mr. FINK. I am sure of that.

Mr. Chairman, we appear here in support of the intent of the bill. Our statement reflects that 90 to 95 percent of the marihuana in the United States is imported—versus the 5 to 10 percent that is produced domestically. Because of its bulk, most of the marihuana moves by vessel. Trafficking of marihuana is, in fact, big business.

An interagency committee has recently released an estimate that for calendar year 1977—10,000 to 15,000 tons of marihuana were imported into the United States. The retail sales value, at street price, of that figure ranges from \$14 billion to \$21 billion, and that, again, is for calendar year 1977. We are in the process of updating that estimate now for 1978, and the figure will rise; we are not sure just how much, but we are still, of course, accumulating seizure data and statistics for what happened in 1978.

Marihuana trafficking is run as a big business, as far as the sophistication of the organizations that are involved. They have, in some cases, a logistics arm, a finance arm, sales, and even elements that buy property for them, often the seafront type of property that they need. They are professionals, as well as criminals. By that I mean, many of the people we face have been enticed into the field of marihuana trafficking and they are professionals—they are doctors, attorneys; they often have professional jobs in addition to having trafficked marihuana. There also is an element of the classic criminal, those that we find in our files, who are associated with marihuana or other drugs.

Mr. BIAGGI. I have been told—excuse me for interrupting you. I have been involved in law enforcement for a long time—and you never really sever the umbilical cord—but I have been told that it is the best game in town; it is a minimum risk, great returns.

Mr. FINK. Yes, sir; high return on investment, low risk as far as sentencing goes. And because of the points that your committee is

addressing, for the importation, as long as they stay outside our waters the risks are further minimized.

We also continue to see the trend of what we call poly-drug importation. As I testified last summer, we have seen the evidence of cocaine as part of the cargo on some of these vessels laden with marihuana. However, recently, we also have noted the addition of quaaludes; those produced in Colombia, especially, have been part of the cargo of some of the vessels that have been seized.

DEA's role is twofold: One, an intelligence role, which I will describe in a few minutes; also, an investigative role. Now, the cases that the Coast Guard and U.S. Customs come across, as far as their enforcement authority, are referred to us. We work with them in conducting the investigation, and then also with the U.S. attorneys office in the prosecution of those individuals that have been arrested and against whom charges are placed. We also have targeted a few large organizations involved with the trafficking and importation of marihuana. And, of course, our overseas aspects, especially those in Colombia, but some of the other countries, are focused on intelligence collection, as well as some of the investigative followthrough in support of our enforcement effort.

We have a sizable role in the field of intelligence, starting with the collection of information in the foreign countries—the source countries and those transshipment countries—as well as the analysis of that information and time-sensitive support to our many customers—U.S. Customs, U.S. Coast Guard, and the other agencies that frequently call on us. Most of that support is centered in the El Paso Intelligence Center, which I have described to the committee before. I will only note that their support continues to expand. The rate of what we call transactions or events, lookouts—the question you addressed to the Commandant—continue to go up, as well as the hit rate in the files when queries are made.

Mr. BIAGGI. Mr. Fink, in your prior testimony, we had some question as to the efficacy of EPIC, and to the accuracy. Given that it was the early stages, someone said they were trying to report some information into a computer and they were looking for boats, and they identified automobiles. If you recall—I do not know if you do or not—I thought it was humorous.

How is EPIC functioning now; how would you assess it?

Mr. FINK. I do not remember the specific to which you speak, but—

Mr. BIAGGI. I think it was a Florida border patrol officer who testified to that. The point I am making is there is some question as to the efficacy of it.

Mr. FINK. Let me give you a couple of statistics that are very impressive. The fact that each year we almost double the amount of activities—transactions I mentioned earlier the word “transaction;” that can be a lookout placed, it can be a request for information from either a State or local or a Federal agency. But very significant is that when anybody calls EPIC or teletypes EPIC, over 30 percent of those queries hit in 1 or more of the 15 data bases present there, which means that in a third of the cases we are able to provide intelligence support back to the organization that has made the request.

I think Admiral Hayes mentioned the number of lookouts, that the data base is expanding, and the fact that for somewhere between 40 and 50 percent of those vessels seized we have information in EPIC, prior information, that has assisted the Coast Guard with their activity on the high seas.

I say it is an outstanding success, and I would invite you and members of your committee to visit to see firsthand what has happened since late 1974 when we had 25 personnel, and now we are staffed with over 100, but staffed by all the agencies—Customs just added 10 members; the Coast Guard has increased onboard strength and has members on the watch. It is truly an interagency operation and there is real teamwork on each watch, as well as in the analysis section. It sells itself when you make the visit; it is a little hard for me to convey it.

Mr. BIAGGI. We plan to do that.

Mr. FINK. We would be very happy to have you. As I say, the doors are open; just give us the word and we will set the arrangements up.

One of the things that was mentioned previously by the Commandant of the Coast Guard was the outstanding joint efforts on the part of the Federal Government, and I think that some of the actions highlight that. One is the Florida initiatives work, headed by Lee Dogoloff in the White House which was designed to try to pull the Federal effort together; because at the time, Florida was a focal point for the delivery or importation of the marihuana, as well as for the financial transactions. It truly has had an impact on the trafficking in that area.

I must also point out that we have, together with Customs and the Coast Guard, broadened our joint efforts to include more State and local activity. I think you made mention earlier of the fact that there is a problem once the marihuana is imported, but we are doing more and more to use the eyes and the ears of the marine police of the States—the State of Maryland, the State of Virginia, and other States—as well as those officers that are out on the roads or have access to the importation aspects. We have given those organizations copies of the profiles that EPIC produces—of vessels and the aircraft that are used; and profiles of the couriers. So we are trying to sensitize the State and local governments and we have significantly increased our activity with them and, in many areas, formed task forces with them when we find enough information to pursue from an investigative standpoint.

Over the last 2 years, there has been a major shift in marihuana importation. First, as mentioned before, because of the eradication campaign by the Mexicans, Colombia marihuana has become the drug of choice for the abusers in the United States. There was, as a result of that, a shift to the eastern seaboard from the southwest border of the United States; however, recently, because of the outstanding effort on the part of the Coast Guard and Customs, we see a trend away from the importation into the Florida area, to the Mid-Atlantic States as well as the Northeastern United States, along the Atlantic seaboard, as well as a shift to the gulf coast.

Mr. BIAGGI. On that point, I am aware of the transition, and it is a credit to the enforcement efforts, but we are not too happy about it being shipped up to my neck of the woods directly, although it

might reduce the cost. It would seem to me, in light of the voyage distance, they would be more inclined to use the motherships, the large ships. Is that your experience?

Mr. FINK. Yes, sir, they are continuing to use large vessels; they do not hesitate to move up the seaboard or, in some cases, go clear up the seaboard and appear as though they are transiting south-bound—any kind of diversionary tactic. And, of course, they know that once they get through the passages in the Caribbean and they are on the high seas, they are much harder to detect. Thus, they can stay further out until they have to come into the area for off-loading. But we have intensified our effort, as I mentioned before, with States and local enforcement officials. In the areas where we are seeing the increased activity, we have initiated intelligence probes ourselves, and some of those include, for instance, real estate profiles. Our north New England project is, in part, looking for those organizations that are buying the waterfront, the ocean-front property with the potential to use it as a place of importation and as a stash site.

Mr. BIAGGI. What happens when you make the arrests? I think when you make the arrests on vessels, you confiscate the vessels.

Mr. FINK. Well, sir, if we do, that is correct, but, of course, if it is the Coast Guard—

Mr. BIAGGI. I have a point to make.

Mr. FINK. The Coast Guard then turns it over to Customs, who is responsible, and then, of course, we are called in. But it depends on who is part of the original case.

Mr. BIAGGI. What happens when you make the arrest on the seashore property?

Mr. FINK. Right now, sir, because of legislation passed by the Congress, we have the authority now to go in and hold and seize not only financial assets, but fixed assets that we can demonstrate are part of the marihuana trafficking; and, of course, we have to do that by showing the organization used its money to purchase that property with the intent to use it to smuggle. But that authority does now exist, and we have to thank the Congress for adding that to our enforcement authority.

I mentioned the shift that has occurred. I must say we remain alert to any trend to the use of the west coast for importation, especially with the pressures the Colombia Government is also placing on the movement of drugs from the northern part of their country. We feel that the Colombian military campaign, to date, has had a success; we are encouraging that country, with the State Department, to continue that effort.

I might also add one additional element. We have started an analysis of the crewmen that have been detained, and we find that there are some common points. The Commandant mentioned earlier the fact that we see many repeat violators, those foreigners who are detained and then deported. We are finding that many of these are functioning from seaports, are easily recruited by the organizations and by the masters of the vessels; we are now pursuing to see if there are any common threads to that, but this is based on the immigration debriefing. We are kind of taking another cut at those individuals who are detained, not arrested—I mentioned earlier

they are foreigners—and then who are deported, generally, to Colombia.

I would like to commend the action of this committee as far as the legislation. We fully support it's intent. And I would also again like to pass on the success noted before, not just in the effort, but in the statistics that stand behind it, as far as the number of vessels seized and the amount of marihuana that has been removed from the market. I think it truly stands as an unchallengeable result of the effort.

It has been a pleasure to appear here, and I will remain available for questions as a member of the panel.

[The prepared statement follows:]

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

Good morning. It is a pleasure to appear here this morning to discuss the problem of maritime drug smuggling and the role of the Drug Enforcement Administration in the national and international efforts to stem the flow of drugs to this country.

We must be concerned about international drug control trends because all the heroin, cocaine, and 90 to 95 percent of the marihuana in this country is "imported;" that is, it is grown, processed and then smuggled into this country.

These traffickers use various routes by private and commercial aircraft. Private aircraft take advantage of the Southeastern United States' many landing strips and the heavy legitimate air traffic. Some fly directly into the United States from South America; others involve stopovers on any of the major Caribbean Islands or in the Central American countries for refueling or cargo dropoffs. To a lesser extent, the traffickers also traverse an overland route through Central America.

Although the large-scale smuggler of bulk drugs such as marihuana and hashish does have options, he primarily resorts to smuggling via vessel. This mode is particularly significant because the quantities of marihuana encountered in each seizure are generally much greater than those that are encountered in the other trafficking methods. Available reporting indicates that almost all types of drugs have been smuggled into the U.S. via vessel and almost every type of vessel has been used. However, these vessels generally fall into one of three categories and associated trafficking patterns.

The first consists of large commercial-type vessels such as freighters, tankers and passenger liners. As a rule, an individual crew member is involved in the smuggling, and fellow crew members and officers are unaware of this activity.

The second, mothership operations, involves a variety of vessel types. The mothership is usually a coastal freighter or large fishing vessel which has been converted to haul cargo. An identifiable group of traffickers is usually behind this well-orchestrated operation. At a rendezvous point, various types of craft including sailboats, sport fishers, cigarette boats, cabin cruisers, fishing vessels, etc., meet the mothership to off-load the cargo.

The third involves vessels that are in the private sector and smuggle drugs directly to the United States. The vessels themselves may range from a 40-foot sailing vessel to a 70-foot shrimp boat with a multi-ton marihuana load. Criminal organizations will often sponsor such vessels.

Seized most often are fishing vessels, usually in the range of 60 to 80 feet, and pleasure craft, ranging from 40 to 60 feet in length. Cargo vessels are seized in the majority of the other encounters.¹

Marihuana accounts for the greatest amount of drug contraband seized. This is due primarily to its principal characteristics: namely, because of its bulk it is difficult to dispose of if seizure becomes imminent. As a "low-bulk" item, cocaine is more readily concealed, thus making detection more difficult and reducing the need for disposal. There are, nonetheless, numerous reported cases where packages and bags were jettisoned immediately before a vessel was boarded. I caution that, therefore, the actual number of reported maritime cocaine incidents compared to those regarding marihuana, may not accurately reflect the extent of the problem.

In recent years, vessel smuggling methods have differed from coast to coast, depending on such variables as terrain, types of vessels and visibility of enforcement. Even still, there are some common denominators. Most maritime smuggling

¹ Based on EPIC data, for fiscal year 1978. See appendix A.

ventures require long-term planning, a great number of support personnel, a communications capability and generally expensive vessels—in short, considerable capital. The amount of contraband to be smuggled in depends on the materiel limits of the particular organization involved. Many organizations are extremely sophisticated and use, for example, long-range, single side band radios and other equipment capable of monitoring law enforcement radio channels.

Obviously, the task facing the law enforcement community in controlling this serious maritime smuggling problem is formidable. Interagency and international cooperation are essential if we are to realize any success in disrupting these trafficking organizations.

Under the aegis of Mr. Lee I. Dogoloff, Associate Director for Drug Abuse Policy, Domestic Policy Staff, DEA has been participating in such an interagency effort in cooperation with the U.S. Customs Service, the U.S. Coast Guard and the State Department. In the first six months following the preliminary development of coordinated Federal response initiatives, considerable progress has been made. For instance, the U.S. Coast Guard seized two million pounds of marihuana during this period (July–December 1978) which was three times the amount seized during the comparable period the preceding year.

The other distinguished Gentlemen here this morning can best speak to their own agency's accomplishments. I would like to take this opportunity publicly to commend them for their outstanding contributions.

We have seen the coordinated effort of Operations Stopgap become a foundation and a prototype for other interagency enforcement efforts such as Operation Atlantis in New England. This Federal/State Task Force was developed to ensure that the North Atlantic Coast community was prepared for the influx of the maritime smugglers avoiding the intensified enforcement effort along the Southeastern/coastal areas.

Operation Atlantis has been credited with the development of a successful investigative tool—the real estate profile program. Recognizing that smugglers purchased or leased coastal property with secluded deep-water docking facilities, Operation Atlantis agents have contacted real estate agents asking to be notified, in particular, if such a purchase has been made or closed with large amounts of cash. Other members of the community, such as the shipyard and marina workers, also provide valuable information to the Atlantis personnel. Our Special Agent-in-Charge of the New England States, Ed Cass, has estimated that Operation Atlantis nets almost half the vessels attempting to deliver marihuana along the Maine coast.

Of course, a critical element in the success of a particular operation or a routine enforcement activity is intelligence. The El Paso Intelligence Center (EPIC) provides real time support to the U.S. Government maritime smuggling interdiction program. EPIC directs vessel lookout data to the U.S. Coast Guard and U.S. Customs Service for transmittal to appropriate shore and vessel units. Additionally, professional analysts assigned to the vessel intelligence section work on operational planning and support.

One such vessel targeted for an operation was recently intercepted and seized. "The mothership, Sea Lane V, has been known to smuggle multi-ton loads of Colombian marihuana and multi-kilogram quantities of cocaine into the U.S. since at least October 1976. EPIC Reports note that since that time, the Sea Lane V made at least six such trips, the amount of contraband ranging from 135 tons of marihuana and 100 kilograms of cocaine to 17 tons of marihuana. When the U.S. Coast Guard Cutter Courageous intercepted the Sea Lane V on February 21, 1979 just north of the Windward passage in the Caribbean, there was 35,000 pounds of marihuana on board. At that time, 13 crewmen, primarily Colombians, were arrested."

As with other recent cases involving motherships, the Sea Lane V was heavily loaded, in poor condition, found to have numerous South American flags on board, and had made false claims regarding the cargo on board.

Of the vessels seized in fiscal year 1978, almost 40 percent were on record at EPIC or were on lookout prior to their seizure. This is significant in that, while maritime smuggling is on the rise, the quality and quantity of intelligence needed to combat it has also been on the rise and, in fact, has been relatively successful.

We are closely monitoring several trends in maritime drug smuggling. DEA expects the growth in vessel traffic between the U.S. and South America to continue. Although it is too early to draw firm conclusions, we believe the recent decrease in actual numbers of vessels seized in the last several months is attributable to the effectiveness of the military drug interdiction program of the Government of Colombia. We believe that the increased law enforcement pressure on the U.S. Southeastern seaboard has already caused some large-scale marihuana smuggling organiza-

tions to modify their methods of operation and to direct their illicit imports to the Gulf and New England coasts.

We have not seen a large amount of evidence indicating widespread mother ship operations along the Pacific coast.

This lack of evidence can be attributed to: (1) The more direct route from the Guajira Peninsula, the staging area for bulk drugs from Colombia, is to the East rather than West Coast and (2) the coastal terrain of the West Coast, with large stretches of inaccessible rocks and open beaches, is not as conducive to smuggling as are the sheltered inlets and coves of the Eastern Seaboard. What activity there has been has been difficult to detect because there are no choke points in the Pacific as there are in the Caribbean; and only three States share the vast Pacific coastline, none of which have an organization similar to the very effective Florida Marine Patrol.

We do foresee, however, that within the next 12 months, the U.S. Pacific coast will become a more active channel for marine borne smuggling of marihuana from Columbia's Pacific Coast, Mexico and Thailand. During 1978, three multi-ton marihuana seizures were made from vessels in the Puget Sound and one in the San Francisco Bay. One of these vessels had been loaded with 13 tons of marihuana near Buenaventura, a loading area along Colombia's Pacific coast. DEA agents in California and in the Pacific Northwest are focusing a major investigation against an international marihuana smuggling organization. The managers of this criminal enterprise are interested in expanding vessel smuggling operations along our Pacific coast.

We now have legislative tools which will be invaluable in providing for the forfeiture of trafficker's assets. This provision will be of great benefit in our efforts to dismantle trafficking organizations by destroying their financial base.

I remain concerned, however, about loopholes in the law which allow traffickers, particularly foreign nationals, to circumvent prosecution for controlled substances violations. Legislative initiatives to provide law enforcement with the ability to cope with drug smugglers' tactics are sorely needed.

The Comprehensive Drug Abuse Prevention and Control Act of 1970 replaced an earlier act (the Act of July 11, 1941, 55 Stat. 584), but in the process inadvertently omitted the prohibition against possession of controlled substances on a vessel engaged on a foreign voyage. The CSA prohibits possession of a controlled substance " * * * (only if it) was arriving on or departing from the U.S. or the Customs territory of the U.S." Thus, there is a significant gap in the present law regarding the commission of a substantive controlled substance offense on American owned or registered vessels on the high seas.

Specifically, the U.S. Code (21 USC 959) has extraterritorial application only if a controlled substance is manufactured or distributed outside the United States with the intent of smuggling it into this country. This section does not, however, include possession with intent to smuggle as an extraterritorial offense.

There is another loophole by which traffickers are circumventing prosecution in the United States. As I mentioned earlier, mother ships are generally manned by foreign nationals. At the present time, it is very difficult to prosecute these crew members; consequently, they only face deportation back to their country. Accordingly, we would fully endorse a legislative proposal that would prohibit any person, not just an American citizen or person on board an American registered vessel, but any person on board any vessel subject to the jurisdiction of the United States, from manufacturing, distributing or possessing with intent to import controlled substances.

Legislation which would enable us to prosecute the crewmen of the trafficking ships which fly no flag and are thus stateless is essential, since these ships belong to only those countries which can assert jurisdiction over the vessel. We can, under both international and U.S. case law assert this jurisdiction over these vessels, but in order to prosecute the crew, we must first make it a violation of U.S. law to possess large quantities of drugs on-board.

We welcome legislation that would close the loopholes in the law and which would thus give to the Federal enforcement community much needed support against this problem which shows no signs of abating.

Chairman Biaggi, I would like to thank you for your sustained interest and for your initiatives with respect to this serious situation. I look forward to working with you and the Congress on this vital agenda before us. Thank you.

APPENDIX A.—SEIZURES OF VESSELS CARRYING MARIHUANA AS REPORTED TO EPIC, FISCAL YEAR
1978

Vessel type	Number	Percent of total	Approximate pounds of marihuana seized	Percent and total vessels	Most common vessel size		Average load in pounds	Load range in pounds
					Feet	Percent		
Fishing	84	40	1,980,381	49	60-80	54	32,000	9,000-69,000
Pleasure	52	25	445,872	11	40-60	50	12,300	2,400-40,000
Cargo	34	16	1,245,715	31	70-100	50	30,000	6,000-60,000
					105-165	32	55,100	5,000-225,000
Sailing	27	13	217,416	5	40-50	66	7,400	3,000-46,000
Miscellaneous	14	6	153,700	4	(¹)			(¹)
Total	211	100	4,043,084	100	(¹)		(¹)	(¹)

¹ Not available.

Mr. BIAGGI. Mr. Chasen?

Mr. CHASEN. Thank you, Mr. Chairman. I also appreciate the opportunity—

Mr. BIAGGI. Excuse me. Before you go, Mr. Fink, we had some testimony this morning and on another occasion where we concluded that most of the effort was offshore, and yet these little boats, these little satellite boats come scooting into the inland waterways, and that has developed into a whole area that goes virtually unsupervised and undetected, and yet there is a whole area of that.

It came to my attention that the sheriff of Broward County, I think it is, has started a unit, working together with the Coast Guard and, I think, the DEA—a sheriff's office in the proximate area of the Coast Guard to focus attention in that area.

Mr. FINK. The shuttleboats.

Mr. BIAGGI. The shuttleboats. And while we are here, I was going to ask you, Mr. Chasen, if he has made a request to you yet, and if he has, I think it would be advantageous if you gave it consideration, so there will be a whole working unit as a task force, because that is an area where the birds and bees know what is going on. You have people who never work and suddenly are into cars, boats, and houses; the neighbors know it. He is a neighborhood boy, the sheriff, and he just does not have the capacity, by virtue of his own limitations staff-wise, not intent-wise, and it might be advisable if we could all get together.

Mr. CHASEN. We are doing that, sir. Gordon and I were just talking about that, not only in that area but in the Chesapeake Bay area.

I might say, down in the Miami region our two offices might be described as one office. That is how closely we work together.

Mr. BIAGGI. That delights me. We have been around a long time in law enforcement, and the traditional rivalries have left a bitter experience, to the detriment of the total effort. Due to the efforts of you and Mr. Bensinger, that feeling is diminishing somewhat and there is a closer relationship—although we had an experience at Kennedy that kind of left us with a sour taste in our mouths. We have learned from our experiences, and hopefully there is no repetition of—

Mr. FINK. Shortly, I think you'll see some indictments on that particular case.

Mr. BIAGGI. Really?

Mr. FINK. Yes, sir.

Mr. BIAGGI. My observation was, if that situation occurred in the police departments, several things would have happened: One, charges by the police commissioners, and two, a grand jury investigation, if not indictment and arrest.

I can understand stupidity—I can't abide it, but I can understand it. There were too many factors there that created an unsavory aroma.

Mr. FINK. I think as a demonstration of the outstanding relationship between my boss, the Administrator, and Mr. Chasen, is the fact that they both took a personal interest. They had their own joint assessment of what happened. I think it is significant where two agency heads can get together and take an event and use it in a constructive sense to solve the problems ahead, and that did happen, I know specifically. You can address your aspects—

Mr. BIAGGI. Let me congratulate you, Mr. Chasen, and Mr. Ben-singer. That had a completely unsavory aroma, and you would have to be furious, because of all the facts leading up to that. I am delighted to hear that.

Mr. CHASEN. Like Mr. Fink and Admiral Hayes, I would also like to express our support of the thrust of this proposed legislation.

Also, with your permission, Mr. Chairman, I have a brief statement, and if we could enter the full statement in the record

Mr. BIAGGI. Without objection.

[The following was received for the record:]

STATEMENT OF ROBERT E. CHASEN, COMMISSIONER, U.S. CUSTOMS SERVICE

Good morning, Mr. Chairman, and members of the committee. I appreciate the opportunity to appear before you today to comment upon H.R. 2538, a bill to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances. If enacted into law it would close the loophole in existing law which precludes the successful prosecution in U.S. Courts of most drug traffickers apprehended on the high seas.

We believe this bill has been introduced at a particularly appropriate time. Since 1976, a new trend of drug smuggling has developed and the focus has shifted from the Mexican land border area to the extensive Gulf and Southeastern Atlantic coastal areas. Today, Customs seizures of marihuana in the Gulf and Southeastern Atlantic coastal areas account for over 80 percent of the national total. In the first 5½ months of the current fiscal year, Customs marine patrol has seized 1.3 million pounds of marihuana and 122 vessels for narcotics related offenses, while 1.5 million pounds and 182 vessels were seized during the entire 1978 fiscal year. As recently as two weeks ago, a vessel carrying 20 tons of hashish was seized off the coast of New Jersey. In addition to the vast amounts of marihuana being smuggled into this area of the U.S. by motherships, we also have made most of our significant seizures of cocaine from legitimate commercial vessels, very often banana boats originating out of Turbo, Colombia. Thus, it is apparent that the drug smuggler has recognized the attractiveness of smuggling controlled substances into the United States by vessel.

There are several factors accounting for this trend—the continuing Mexican eradication program has made Colombia the primary source country for marihuana; Columbian marihuana generally has a higher THC content; the use of large vessels enables the smuggler to transport vast quantities of the bulky marihuana relatively cheaply; we believe in some instances the motherships themselves represent a small capital outlay for the smuggler when compared to the valuable shipments and low risk of loss; the extensive southeastern coastline offers easy, undetected, access to the U.S.; and gaps and inadequacies in our present law make successful prosecutions difficult.

To take full advantage of all of these factors, smuggling by vessel is primarily achieved by the use of "motherships," large ocean-going vessels generally employed specifically for smuggling drugs. By this method, freighters, sometimes 300 feet in

length, loaded with large quantities of marihuana—50 to 60 tons is common (although loads of over 100 tons have been encountered)—in Colombia and then set their course for the U.S. These motherships, most often under foreign registry, will remain on the high seas outside the Customs waters, and thus effectively beyond the U.S. jurisdiction, where they rendezvous with smaller high-speed craft generally owned by, or registered to, U.S. citizens. It is these smaller craft which then transport the contraband into the thousands of bays and inlets along our coast.

The smuggler further decreases his risks by utilizing expensive and sophisticated communications equipment to plot their smuggling runs. We have discovered that the smuggler has been able to intercept law enforcement communications and thus can easily avoid federal law enforcement efforts. Further, the smuggler can afford to employ decoy runners to divert our attention, and then the runners laden with drugs will slip into shore undetected.

Although we are woefully outnumbered by the smugglers, we are interdicting sizeable quantities of contraband. This is because of the excellent cooperation which now exists between the Federal and State agencies engaged in controlling drug smuggling. Last summer Customs signed an agreement with the Coast Guard which solidified our working relationship, one which is primarily responsible for the success we have had in dealing with drug smuggling by vessels.

However, once the Government seizes a vessel laden with marihuana or other drugs, loopholes and inadequacies in our present law create prosecutorial problems which often result in the individuals gaining their freedom to once again make another smuggling attempt. Under present law, the potential smuggler has committed no substantive crime by possessing narcotics on the high seas, even though he is an American citizen or aboard a vessel of the U.S. Additionally, under present law it is extremely difficult to prosecute foreign nationals engaged in smuggling efforts aimed at the U.S. so long as they remain on the high seas.

More importantly, international law presents many obstacles as well. Since most of the motherships found on the high seas are of foreign registry, we must request and receive the permission of the country in which the vessel is registered before we can take any enforcement action against it, except under limited circumstances, even when we have proof that the particular vessel is carrying contraband destined for the U.S. While most nations have been cooperative, the time required to notify the country of registry and to receive the proper authorization has caused some problems. However, even when we receive permission to take enforcement action, either the gaps in our own law create prosecutorial difficulties or the foreign governments are reluctant to prosecute their nationals because of what they believe to be evidentiary problems created by a seizure and arrest by U.S. officials. Some of these problems can only be solved by treaties.

So called "Stateless" vessels, those which are not lawfully registered in any country, or those which are assimilated to Stateless vessels because of a claim of dual registry, also present prosecutorial problems, although permission to board is not required.

Consequently, we face a major problem involving the "recidivist smuggler." Our records reveal that some foreign nationals have been apprehended on as many as five separate occasions and many other on two and three occasions.

For all of these reasons, we applaud the efforts of this Committee to consider legislation addressing these serious problems. We have been working with the several Federal agencies involved in the drug interdiction effort. We, at the Customs Service, are pleased to be working with the Committee to insure that appropriate legislation is formulated.

However, legislation along the lines of H.R. 2538 will solve only some of the problems relating to maritime drug smuggling. A potential difficulty, in Customs view, facing the marine drug interdiction program is the fact that, under existing law, licensed yachts and undocumented American pleasure vessels have up to 24 hours after arrival from a foreign port or place to make the required Customs report. In other words, they do not have to report to Customs immediately upon arrival. It is during this 24 hour period that contraband can be unloaded at secluded sites. Since Customs may be unaware of the arrival of such vessels during this time period the Federal Government has little control over the movement of American pleasure craft. Although vehicles and aircraft are required to report arrival at designated border stations or approved airports where Customs personnel are present, vessels are not subject to these restrictions and may pull into any marina or private dock and then telephone customs. Some of these small craft may be runners for mothership operations. We are now studying whether it would be effective to require immediate reporting at designated places so as to narrow for Customs the number of vessels and areas to patrol.

The Customs Service has also encountered problems relating to the forfeiture of both motherships and smaller vessels. In Miami, Florida, alone the Customs Service has approximately 170 seized vessels awaiting forfeiture proceedings. Most of these vessels have been in our custody for over a year, and are causing several serious problems. Due to a lack of suitable dock space, many of these vessels are secured in the river.

Because of the excessive number moored there, they are becoming hazards to navigation. Also the costs of storage and dock fees incurred by the Customs Service over this extensive period are enormous. The vessels deteriorate at a rapid rate because we are unable to provide sufficient preventive maintenance, or running of the engines and consequently they depreciate considerably. Therefore, because we face increasing storage costs and depreciating values the longer we must hold a vessel, the Government realizes less money once a court ordered sale is held. Presently the Customs Service is working with the Interagency Working Group on Maritime Drug Interdiction on ways to reduce this costly problem.

Since currency is the lifeblood of the smuggler, we should also focus on the flow of currency into and out of the U.S. While present law does address this problem, nonetheless there are loopholes in the law which prevent successful enforcement of all of its provisions. Some of our investigations of currency violations have uncovered a close connection to narcotics trafficking, and thus vigorous enforcement of the currency laws can be an important part of our drug interdiction effort.

The Treasury Department has under consideration proposed legislation directed at solving these problems.

Customs continually is striving to develop new procedures and working arrangements with other agencies which will result in a more effective interdiction effort. It is evident to us today that this Committee is intent upon addressing the problems which prevent a successful interdiction effort. We deeply appreciate the committee's concern and interest, and we remain willing to work closely with you to solve these problems.

I will be happy to answer any questions you may have at this time.

Mr. CHASEN. We feel this bill is introduced at a particularly appropriate time. Since 1976, we have seen a new trend of drug smuggling developing, with the focus shifting from the Mexican land border to the extensive gulf and southeastern Atlantic coastal areas.

Our customs seizures of marihuana in the gulf and southeastern Atlantic coastal areas account for over 80 percent of our national total.

What we want to point out is that although most marihuana seizures are from mother ships, most of our significant cocaine seizures come from legitimate commercial vessels, very frequently banana boats originating out of Turbo, Colombia. So it is apparent to us that the drug smuggler has recognized the attractiveness of smuggling a controlled substance in by vessels of all kinds.

Although we are outnumbered and outresourced by the smugglers, we still interdict sizable quantities.

I just want to repeat once more the excellent cooperation that exists. For your information, Mr. Chairman, we meet at least every other week, and that's Admiral Hayes, myself, Mr. Bensinger, Miss Falco from the State Department, and it's a meeting that is chaired by a representative from the White House. The whole purpose is to assure cooperation and it has achieved a success that I think has brought us to levels of cooperation never before achieved.

Mr. BIAGGI. That started within the last year.

Mr. CHASEN. I have only been on the job a little more than a year-and-a-half, and I have seen it grow. I think it was in existence, in a formative stage, before that.

Mr. BIAGGI. I'm aware of that.

Mr. CHASEN. Now, we are aware that international law presents many obstacles. Most of the mother ships found on the high seas are of foreign origin, and we have to request and receive the permission of the country where the vessel is registered before we can take any enforcement action, except under limited circumstances.

While most nations have been cooperative, the time required to notify the country of registry and receive the authorization has raised some problems. But when we do get the permission, we still find that there are gaps in our own law, or in the laws of the foreign countries, and some of these problems, we wish to point out, can only be solved by treaty.

But legislation along the lines of H.R. 2538 will solve the bulk of the key problems. However, there is one particular problem that affects the Customs Service and its marine drug interdiction program, and that is, under existing law licensed yachts and undocumented American pleasure vessels have up to 24 hours, after arrival from a foreign port, to make a report to the Customs Service. It is during this period that contraband can be unloaded at secluded sites.

Although vehicles and aircraft are required to report arrival at designated border stations, vessels are not subject to the same restrictions—

Mr. BIAGGI. Would you require them to report? That question has been raised before.

Mr. CHASEN. Yes.

Mr. BIAGGI. If I recollect correctly, the response was that it would develop into a whole ponderous procedure, with mountains of paperwork and unnecessary delay. How would you respond to that?

Mr. CHASEN. I would personally make two suggestions. One is, that they be required to report immediately instead of giving them 24 hours. We could handle the reporting status changing from within 24 hours to immediately.

The other thing that we think we could handle is, for example, down below Miami, at Barber's Point, there are several cuts in there—Barber's Cut, I guess it's called. We would like to see the vessels report as they come through those points. At least, if vessels turned away from those points, they would become suspect. So these are two things that we think would not place a great burden on us and could be very helpful. I wanted to point them out.

We also have well-known problems in relationship to the forfeiture of both mother ships and smaller vessels. Right now, in the Miami area, we have 170 seized vessels awaiting forfeiture proceedings, which sometimes take 6 months to 1 year—

Mr. BIAGGI. Do you have areas for their storage?

Mr. CHASEN. Yes, sir. It's very expensive.

Mr. BIAGGI. What seems to be the delay overseas?

Mr. CHASEN. Well, that seems to be the length of time it takes to get it in court and get it processed. If there is a way to speed it up, it would save a lot of money.

A lot of these vessels right now are decaying, and we have so many now that we can't run all their engines. When we do sell

them, they're worth far less than they really would be if we could dispose of them quickly.

Mr. BIAGGI. I understand the Department of State will address themselves to that.

Mr. CHASEN. Yes.

There is one other item I wanted to mention. Like yourself, Mr. Chairman, I'm a former law enforcement officer, and since I have been with Customs and have looked at this drug enforcement problem, it seems to me that one of the most valuable services that we can contribute—and we do, in effect, support the Drug Enforcement Administration, which has the prime national responsibility—and that is in the area of currency reporting investigations.

As you know and we have discussed, drugs become money and money becomes drugs. The Customs Service, through the Bank Secrecy Act, can get at two forms; one is the form which requires the reporting of more than \$5,000 in funds leaving or entering the country, and the other is the 4789, which is an IRS form on bank transactions involving in excess of \$10,000.

I would identify this program from the point of view of our Office of Investigations as being our No. 1 program. We want to work very closely with DEA.

So, in summary, those are a few major points I wanted to touch on. I want to express my admiration to this committee for sponsoring this legislation which is very badly needed.

I would be happy to answer any questions, or try to.

Mr. BIAGGI. We will get to questions in a minute, as soon as we hear from Mr. Busby.

Mr. BUSBY. Thank you, Mr. Chairman.

With your permission, I will dispense with the reading of the statement which I have prepared and would merely submit that for the record.

Mr. BIAGGI. Yes, without objection.

[The following was received for the record:]

STATEMENT OF MORRIS D. BUSBY, DIRECTOR, OFFICE OF OCEAN AFFAIRS, OES
BUREAU, DEPARTMENT OF STATE

Mr. Chairman and members of the committee, it is a pleasure to appear before you today to testify regarding H.R. 2538, which is designed to facilitate enforcement by the U.S. Coast Guard of laws relating to the importation of controlled substances. The Department of State shares the view of this Committee that legislative action is required to help stem the increased flow of illegal narcotics into the United States. In particular, we also share your view that it is necessary to close significant gaps in our own drug laws to enable the United States to prosecute U.S. citizens and persons aboard U.S. vessels or vessels which are stateless, who engage in illicit drug trafficking on the high seas. H.R. 2538 would accomplish these goals and we strongly support it, although we will offer several suggestions with regard to certain aspects of the legislation.

As you know, Mr. Chairman, the Department is engaged in a series of international consultations designed to facilitate the interdiction of narcotics being smuggled into the United States by sea. These consultations are being coordinated through the Interagency Committee for the Coordination of Maritime Drug Interdiction under the auspices of the Bureau of International Narcotics Matters in the Department. In our analyses of the maritime problem, we have broken it down into three distinct phases: boarding, search and seizure; disposition of seized vessels; and action against the crew members.

The boarding, search and seizure phase is in many respects the most difficult since it involves a number of traditional international legal questions. International law is clearly very protective of the concept of exclusive flag state jurisdiction over vessels on the high seas and exceptions to this general rule are few. Therefore,

under international law a country may not assert jurisdiction over a vessel of another country sailing on the high seas except in rare circumstances. These are limited to piracy and slavery anywhere on the high seas, and certain types of resource, customs, fiscal and sanitary jurisdiction in offshore areas. There is also an exception which allows us to board a vessel on the high seas which is without nationality, that is one which is not registered in a foreign state or which can be assimilated to a vessel without nationality under paragraph 2 of article 6 of the Convention on the High Seas.

As a general rule, however, neither the United States nor any other state may, under international law, board the vessel of another country on the high seas. We ourselves are strong defenders of this principle for two reasons. First, it protects vessels of the United States from interference by other countries. Second, boarding of a foreign flag ship on the high seas could be viewed as a hostile act by the flag state and would at the very least create serious foreign relations problems. Our experience and consultations with other countries have persuaded us that we should not undertake bilateral initiatives to establish defined prior boarding rights on the high seas. Rather, we should continue to request such rights on a case-by-case basis, justifying each request on its merit. In fact, this procedure has worked very well, and although there were some delays encountered earlier, we have over the past year established a smooth interagency mechanism to enable the Coast Guard to carry out its interdiction mission.

A second problem relates to the disposition of the seized vessels. In many instances, these vessels are in a legal limbo. They are seized by the Coast Guard, brought to a U.S. port, and turned over to the Customs Service. Because the legal status of the vessels is often in question, they are sometimes stored for an inordinate period of time, and incur rather expensive storage costs. To alleviate this problem, we have proposed to a number of the countries whose vessels seem to be most frequently involved in narcotics trafficking a plan which would standardize the procedure for disposing of seized vessels. Under our proposal, shortly after a vessel is seized we would provide to the flag state full particulars on the seized vessel, including the rate of storage charges, condition of the vessel, and perhaps a surveyor's estimate of the value of the ship. The flag state would then undertake to notify us within a specified period of time as to whether: (a) They wish to take possession of the vessel themselves, or (b) they wish it to be sold at auction, in which case the proceeds of the sale could be turned over to the foreign government once administrative and storage costs are paid.

We have contacted the governments of Venezuela, Panama, Honduras, and Colombia within the past several months to discuss this matter, and in the coming weeks we will be proposing an exchange of diplomatic notes to put this system into effect.

The third issue is directly related to H.R. 2538. At the present time, crewmen on board seized vessels are for the most part simply excluded from the United States. In many instances, these traffickers are flown home at U.S. expense. To be sure, where it can be proven that a violation of U.S. law exists we have prosecuted such individuals vigorously, although with varying degrees of success. However, the deficiencies in our existing drug laws have made it difficult to successfully prosecute crew members. Interestingly, our consultations have revealed that a number of countries have the same loopholes in their drug laws as does the United States.

We have discussed this issue with a number of foreign governments. We have recommended that all of the governments involved—the United States (which is the target of the traffickers); the governments whose vessels are being used for trafficking, and the governments whose nationals are engaged in trafficking—should harmonize their national legislation pertaining to narcotics to facilitate prosecution of narcotics traffickers. We have proposed to the concerned governments that they should amend their drug laws to make it:

A violation for their citizens to possess drugs with intent to distribute even when those citizens are outside the territory of that State;

A violation for any person to possess illicit drugs with intent to distribute on board a vessel entitled to fly the flag of that country;

A violation for any person anywhere to possess illicit drugs with the intent to distribute and introduce them unlawfully into that country;

And a violation for any person to possess illicit drugs with an intent to distribute them within the territory of that country.

In addition, we have recommended to these countries that they make it a violation for these acts to occur on board a vessel which is stateless or which has been assimilated to statelessness, and which the country has boarded in accordance with international law. While ordinarily the United States does not favor a unilateral

extension of jurisdiction by the United States over the activities of non-U.S. citizens on board stateless vessels without proof of some connection to the United States, the serious nature of this problem, and the fact that persons on board these stateless vessels are engaged in narcotics trafficking aimed at the United States, warrant an extension in this particular case.

Mr. Chairman, I think you can readily see the strategy which we are employing. If all of the national legislation of the countries involved were harmonized in this manner and a trafficking vessel were seized, we could have at least three countries able to prosecute the offenders: the United States, into whose territory the drugs were to be imported; the flag State of the vessels which were being used for trafficking; and the country of nationality of the crewmen. This situation would offer the best chance to prosecute and punish the traffickers, while assuring that navigational freedoms, so vital to the economic and security interests of the United States, are safeguarded.

Mr. Chairman, you have asked for specific additions or modifications to H.R. 2538. The witness from the U.S. Coast Guard will discuss a proposal which has been drafted in the Interagency Committee for the Coordination of Maritime Drug Interdiction which is under review within the Administration. The Department associates itself with those remarks and stands ready to work with the Committee to ensure early enactment of legislation which will accomplish our common objective. The Department of State strongly supports the intent of H.R. 2538.

This concludes my testimony, Mr. Chairman, and I would be pleased to answer any questions you or the other members may have.

Mr. BUSBY. I appear here today, Mr. Chairman, in support of H.R. 2538, and at the same time would like to associate myself with the remarks of Admiral Hayes. The administration has been preparing a proposal which we will get to you before the end of the week. We look forward to working with your staff on this particular problem.

The Department is very strongly in support of this legislation, not only for the very good and sufficient reasons which have been enumerated already by yourself and other witnesses, but also because we are working with other countries to try and convince them to update their narcotics legislation in the same manner. I think it's important to demonstrate to these governments that the United States is taking expeditious action to close the loopholes in its own drug laws.

Mr. BIAGGI. Let me ask you, Mr. Busby: We have a fair idea of Colombia and the Dominican Republic and how that whole area works. I think it's clear to all of us who want to be candid that there is tremendous corruption in the levels of government. The question was, is the government sufficiently interested to cooperate?

I have been told recently that there has been an effort on the part of the officials in Colombia at least to respond with some measure.

How would you assess their response? Is it token or symbolic or real?

Mr. BUSBY. I have been involved in some of the efforts with Colombia, and I accompanied Admiral Hayes on his recent trip there. Also, we met with high officials of the Colombian Government within the last couple of weeks, and presently have a team there.

I am very encouraged by the response we have gotten from Colombia, as well as from the other countries which we visited which includes Panama, Honduras, and Venezuela. I believe there is a genuine effort by these countries to work with us, and that they do not want to have themselves viewed by the international

community as being supporters of drug smuggling. In sum, I would not characterize their efforts as token at all.

Mr. BIAGGI. That's heartening. Then how do you account for the creation of staging areas on the Pacific coast?

Mr. BUSBY. You're speaking of Colombia?

Mr. BIAGGI. Yes.

Mr. BUSBY. The information that I received when we were there was that, in fact, there are indications that such staging areas are being developed on the west coast of Colombia. Part of the problem that the Colombian Government is facing is similar to some of the difficulties they've had on the Guajira Peninsula. It's a very wild and uncontrolled area and very difficult for them to police, short of taking the kind of actions they have on the Guajira, which amounts to a naval blockade. It's very difficult for them to enter the area and take the kind of law enforcement measures we would like to see. I do think that they understand the problem and they're sympathetic to our concerns.

Mr. BIAGGI. The response time of, I think, 22 hours, as testified to by Admiral Hayes, is remarkable; a remarkable improvement over what we were looking at some time ago.

Do you find any countries that are resisting them?

Mr. BUSBY. I wouldn't exactly say resisting, Mr. Chairman.

Mr. BIAGGI. Slower than most?

Mr. BUSBY. There are several countries—Colombia is one, and the United Kingdom may be another—that, because they have the same deficiencies in their own legislation that we do, do not believe they have the authority to authorize the United States to board, search, and seize their vessels on the high seas.

Part of our effort has been to work with these countries to see if we can assist them in overcoming that particular problem.

Perhaps I could speak to the United Kingdom situation. Most large maritime nations are very protective of the concept of exclusive flag state jurisdiction over their vessels on the high seas, and are very reluctant to allow another country to go aboard that vessel.

Mr. BIAGGI. They may be reluctant, but there isn't any prohibition, is there?

Mr. BUSBY. Within their own domestic system there may, in fact, be a lack of authority at any level of government to authorize such actions.

We would fear, for instance, that in the same situation if we were to authorize a foreign government to go aboard one of our vessel on the high seas and damages of any sort resulted, that we probably be sued by the owners on the grounds that we did not have the authority to allow a foreign government to board the vessel.

Mr. BIAGGI. What procedures does the United Kingdom make the Coast Guard go through when it desires to board?

Mr. BUSBY. The United Kingdom does not grant us authority to go aboard their vessels. However, they do not object, in some certain instances, to our going onboard. If the vessel is smuggling, they allow the Coast Guard to gather evidence which is turned over to officials of the United Kingdom to be used in their prosecution of that vessel.

Mr. BIAGGI. I am surprised, because the United Kingdom is such a civilized country—

Mr. BUSBY. Mr. Chairman, they are very supportive of what we're trying to do. As I understand it, and we have been talking to them over the past several months, they are reviewing their own legislation internally to see what they can do about this particular problem.

Mr. BIAGGI. That's heartening.

Mr. BUSBY. If I could just comment, I think our efforts over the past 6 months to try and smooth out the whole question of boarding, search, and seizure, which may be legally one of the most difficult maritime problems, have in fact, paid some dividends. As Admiral Hayes indicated, I think we have worked the kinks out quite well with most countries.

What we have tried to do is to insure that we understood the problems of the other countries, so that when we go to them with a request we get a quicker reaction time on whether the vessel is theirs, and to insure that we get sympathetic consideration of our request to serve the vessel if we so desire. I believe our efforts have paid some dividends.

As you have heard, we did have one vessel that took 134 hours. If you remove that one case from the statistical analysis, I think you will find that our reaction time is really quite good.

Mr. BIAGGI. As a matter of state policy, are there any initiatives underway across the board to accelerate the time in which the Coast Guard can board, and what nations—I won't pose it that way, because we're liable to get a litany of responses and it's time-consuming.

Do we have many nations resistive of the request on the part of the United States to board a vessel, to inspect a vessel?

Mr. BUSBY. The only continuing difficulties we have to date, Mr. Chairman, are the two that I indicated. As far as the Department's ongoing efforts, they are reflected in the statement which I offered for the record. We are attempting to continue to smooth out the boarding, search, and seizure procedures. We are also trying to resolve the difficulty referred to by the customs representative, regarding the large number of seized vessels presently in storage in Florida. We have worked out, in cooperation with other agencies, a procedure which we have already proposed to a number of countries which would—

Mr. BIAGGI. Does the same process and the same attitude exist with those Commonwealth nations whose foreign affairs are conducted by the United Kingdom?

Mr. BUSBY. We have dealt with the Government of the United Kingdom on these matters. I can't respond to that particular question.

Mr. BIAGGI. Well, one thing that comes as a revelation to me, and a disappointment—but it's the only thing that gives me encouragement—is that they're looking at it?

Mr. BUSBY. Yes. The vessels that are registered under the flag of the United Kingdom—I won't say in all instances, but in most instances—are, in fact, vessels registered in the Caribbean Commonwealths, and the United Kingdom is very concerned about the problem.

Mr. BIAGGI. Mr. Chasen, you talked about the legitimate cargo vessels being used as carriers of contraband. Do you have enough customs officers to inspect those vessels?

Mr. CHASEN. I think—

Mr. BIAGGI. Do you have enough technology to inspect those vessels?

Mr. CHASEN. I think we have enough customs officers, but a cargo vessel is surprisingly large and it has unbelievable nooks and crannies. To answer the manpower, I think we have enough manpower to do the kind of job that I would call adequate.

With regard to technology, we are trying to develop new technologies that will enable us, through electrochemical sensors, to try to detect whether or not there is cocaine, particularly, or heroin. Marihuana is so bulky that we can find that. But it's the cocaine and the heroin that is difficult to find.

Mr. BIAGGI. Do we have anything better than dogs?

Mr. CHASEN. The device we are looking for would simulate the nose of a dog. [Laughter.]

Mr. BIAGGI. About this specific legislation, I know you support it and its concept and intent, and the administration will be coming up with specific language to deal with the concerns expressed by Admiral Hayes.

Do you have any other contribution or observation to make? We would like to produce a piece of legislation that would stand legal assault.

Mr. FINK. Well, sir, I think we're fully supportive, and I think you're going to find the results, after the Justice Department review, to be very close to your language.

But I also think it's important that we take this step, because you know there is legitimate importation that we don't want to affect, and there are other aspects. So I think the week it is going to take for staff to review it with those who must then use it as a basis for prosecution in the Department is well worth it. But I think you're going to find we are very supportive, with only some minor points to be addressed.

Mr. BIAGGI. I want to ask you a few self-serving questions, the answers to which are quite obvious, but I would like it for the record.

Do you believe that this legislation effectively closes the loophole in the existing law with relation to smuggling onboard U.S. vessels?

Mr. FINK. Yes, sir.

Mr. CHASEN. Yes, sir.

Mr. BIAGGI. Do you believe that the limited extension of the bill's provisions, to encompass foreign smugglers onboard vessels subject to the jurisdiction of the United States, is necessary?

Mr. CHASEN. Yes, sir.

Mr. FINK. Yes.

Mr. BUSBY. Yes.

Mr. BIAGGI. In your opinion, will enactment of this bill as drafted further the national drug enforcement effort?

Mr. CHASEN. Yes, sir.

Mr. FINK. Yes, sir.

Mr. BUSBY. Yes, sir.

Mr. BIAGGI. All right. Thank you very much.

Our next witness is Mr. Michael P. Sullivan, assistant U.S. attorney, chief, criminal division, southern district of Florida.

Mr. Sullivan, we welcome you.

STATEMENT OF MICHAEL P. SULLIVAN, ASSISTANT U.S. ATTORNEY, CHIEF, CRIMINAL DIVISION, SOUTHERN DISTRICT OF FLORIDA

Mr. SULLIVAN. Thank you, Mr. Chairman.

I want to express my appreciation for this opportunity to speak on a problem of great significance to us in southern Florida, and also on behalf of the U.S. attorney, the Honorable Jack Eskenazi, who conveys his wishes that we are able to deal with this problem.

The drug smuggling problem and drugs, in general, probably make up one-third of our caseload in the U.S. attorney's office in south Florida. Drug smuggling by boats and airplanes are the primary type case that we have to deal with.

I, myself, sir, have been involved in this area since I became an assistant U.S. attorney 8 years ago. I have been the chief of the criminal division for 1 year, and deputy chief 2 years prior to that I have personally tried and briefed the main cases that have reached the level of the fifth circuit, where we so far have been successful on stateless and foreign vessels.

We have always been successful on prosecutions of seizures of American vessels where we can prove that one essential element—of the intent to import the seized contraband into the United States. That has always been the one element that either makes or breaks a case once it is brought to us for either authorization or declination of prosecution.

The cases involving high seas seizures by the Coast Guard started much earlier than media attention gives it credit for in the south Florida area. It generally started back in 1972 and 1973 in south Florida. We were successful initially, but only because we could prove that essential element of the intent to import.

The then Bureau of Narcotics and Dangerous Drugs had been able to insert an informant into the crew of a vessel called the *Adventurer II*, which was, along with other crewmembers, smuggling marihuana into the United States from Jamaica. It was successfully prosecuted and it is one of the landmark cases in the area oft cited in all the legal treatises in this area. It is called *United States v. Winter*.

It is an American vessel and there were American and foreign citizens arrested and prosecuted in that case.

The next case that the southern district handled, which in contrast to that *Winters* case shows and illustrates the problem of what happens when the Government doesn't have such strong proof of the intent to import. It's called the *United States v. Andries and Greenwood*. I tried that one myself. I tried it three times. The first time the jury hung; the second time they hung; and the third time they hung. The last time we just dismissed.

Mr. BIAGGI. Who were the defendants?

Mr. SULLIVAN. The defendants, one was a fellow by the name of Billy Andries and the other was Bobby Greenwood.

Mr. BIAGGI. Americans?

Mr. SULLIVAN. Yes, American citizens, Mr. Chairman.

They had been found out on the high seas, about 50 miles off of south Florida, by another pleasure craft. They were in one of these high-powered racing boats, which is the preference of smugglers. They had broken down and the pleasure craft gave them a tow toward land. At the same time they radioed the Coast Guard to please come assist. A cutter did come assist and took over the towing job, despite the protests of Andries and Greenwood, who much preferred to stay with the pleasure craft.

When the vessel *Mr. Lucky*, which was the smuggler's craft, was brought—

Mr. BIAGGI. That's the name of my boat. [Laughter.]

Mr. SULLIVAN. This one was lucky, because despite having been found with 3,000 pounds of marihuana on it once it was brought into the Coast Guard base, we were not able to successfully prosecute.

Andries took the stand in that trial and testified that his boat had, in fact, been used for smuggling, but what he was doing, he claimed, was shuttling marihuana from a Columbian mother ship to another freighter out in the Gulf Stream between Florida and the Bahamas, and that this European freighter was going to proceed on to somewhere in Europe.

We thought that was quite implausible, but someone on the three different juries found that enough to be unable to convict. We did dismiss that case after the third trial.

The cases that continued from that time went both ways. We would be able to successfully prosecute when we had something such as an informant on the crew, who would be so deep into the conversations with other crewmembers and the heads of the organization, that they, from personal knowledge, could testify the marihuana was going to enter the United States; or, in the instances where the Coast Guard boarded to perform a routine safety inspection check, which is permitted under present statutes, were able to elicit confessions from the crewmembers, or to find documents of an incriminating nature, to show that the marihuana then found aboard the vessel was, in fact, coming to the United States.

Where we haven't had that kind of proof we have again failed. After a while, Mr. Chairman, we began just declining on those cases where experience taught us we were not going to be able to proceed with a successful prosecution.

We started out, when a great number of these cases first began in southern Florida, which probably would be in 1976 and 1977, we decided to prosecute on the notion that any reasonable juror would find that anyone out on the high seas with that huge amount of marihuana, or whatever the huge amount of drug was, could only be coming to the United States, and that there was a reasonable inference that a reasonable person could draw. We failed to consider, however, how a reasonable Federal judge would view the matter, and we began to suffer directed verdicts at the close of the Government's case, rather than even allowing it to go to the jury.

In a few cases, we then decided we would only proceed where we had such proof—and this is a common one—a chart found aboard the seized vessel, or its log, that hopefully would show a course

line, a track line, coming from the area where the vessel was seized into the United States as being sufficient proof of the intent to import it into the United States.

We suffered judgments of acquittal by the Federal judges on that concept as well, and we have now largely come to the position that we cannot prosecute a high seas seizure unless we do have a confession or an informant who can testify from personal knowledge, or, third, to select one of the crewmember defendants and persuade him, either by offering him immunity or some kind of benefit such as that, not to prosecute or recommend a light sentence, and have him testify against the other crewmembers.

We have not been successful in that third type of attempt. The crews of these vessels that we seized all remain silent and they won't cooperate. I think, after considering all the cases, we are pretty much of the opinion that these crews are advised before they ever undertake a smuggling venture what to expect from the Coast Guard and from Federal prosecutions, and how to combat it; and that is, do not cooperate and do not make any statement, do not write anything down, do not put any track lines on your maps, because if you do that, then the Government will be unable to prosecute.

To a man, they very largely do that, and there is very little cooperation from any of these crews.

We have been successful in one other type of prosecution, Mr. Chairman, where it has involved stateless vessels, or even vessels registered by a foreign nation, when there has been probable cause to believe that that vessel—and this is a higher standard of proof—probable cause to believe that that vessel was intended and was intending to import its contraband into the United States. In those cases, people within the southern district of Florida and other districts now, likewise, I am advised, have made the mistake of hiring undercover DEA agents to be smugglers; that is, to go out to the mother ships, unload the marihuana or other contraband from the mother ships, bring it back in on their undercover DEA vessels, and deliver it to the conspirators here in the United States.

We had that sort of prosecution, the very first of its kind in south Florida, in April of 1977, and it is reported in the fifth circuit decision under the name of *United States v. Cadena*. It was a Coast Guard seizure of the vessel *Labrador*. That case is oftentimes cited.

I tried that case, and so far we are awaiting a writ of certiorari to the Supreme Court to see if any of the legal reasoning by the fifth circuit might be reversed.

There are several other cases now being prosecuted or in the process of being appealed to the fifth circuit involving stateless vessels. So far we have been successful on those, but they have all involved informants or confessions or some sort of tangible proof showing the intent to import by the coconspirators found on the different vessels.

Mr. Chairman, I have included in my prepared statement, which I would ask be incorporated in the record, a statistical summary of high seas seizures by the Coast Guard in the 7th Coast Guard District since September of 1976 to present.

Mr. BIAGGI. We will insert your prepared statement, without objection.

[The following was received for the record:]

PREPARED STATEMENT OF MICHAEL P. SULLIVAN

Mr. Chairman, members of the Sub-Committee it is a privilege and honor for me to have been granted this opportunity to address you in this forum. I also wish to express my appreciation, and that of the United States Attorney for the Southern District of Florida, the Honorable J. V. Eskenazi, for giving me this chance to comment on the serious problem of narcotics trafficking in the Southern District, and on Congress's response to that problem, i.e., the passage of the proposed bill H.R. 2538. Before delivering those comments, however, I would like to give some perspective to the narcotics situation in the Southern District.

Narcotics trafficking is indeed a tremendous problem in South Florida, and has received a considerable amount of attention within the last year from the media, the public, the Department of Justice, and both Houses of Congress. The problem is not one of recent appearance, however; the great attention now paid to it is the only "recent" thing about it. For the problem is one of long duration, for at least as long as I have been an Assistant United States Attorney in Miami, which is since 1971. In those early days amounts of marijuana and cocaine smuggled into the area were not in the great quantities that they are today; I can remember that a prolific type of case prosecuted by the United States Attorney's Office was the smuggling through the Miami International Airport of pound quantities of marijuana concealed inside ornamental wooden heads from Jamaica. Now in 1979 no reasonable person would consider that my office should utilize its limited resources on such a less significant type of case.

The quantities of controlled substances smuggled since then, however, have kept increasing from mere pound quantities of marijuana to multi-ton quantities of marijuana. To handle these increased quantities, the smugglers have had to change their methods, abandoning wooden heads in favor of steel-hulled ships and fast airplanes. Law enforcement necessarily had to change its prevention-techniques in response. One such technique inaugurated in this area was not really new, but rather harked back to the days of prohibition, when rum runners sailed from the Bahamas into Florida waters—that technique was interdiction patrols on the high seas by vessels of the United States Coast Guard.

The appearance of the United States Coast Guard on the drug-enforcement horizon met initially with fairly good results. In the earliest case on record in the United States Attorney's Office, *United States v. Winter*, 509 F.2d 975 (5th Cir. 1975), American citizens and Jamaican nationals were successfully prosecuted for conspiracy to import marijuana into the United States. The case was investigated by the Federal Bureau of Narcotics and Dangerous Drugs, which was able to insert an informant into the crew of the one of two American vessels later seized by the Coast Guard in March, 1973.

Proof of the defendants' intent to import the marijuana found on the two vessels in the *Winter* case was no problem, because of the deep penetration by the BNDD informant into the conspiracy. Such proof was lacking, however, in the next high seas-seizure case, which occurred in June, 1973. In *United States v. Andries and Greenwood*, Case No. 73-593-Cr-PF, a Coast Guard cutter answered a distress signal sent out by a pleasure craft which had found a disabled high-powered racing boat, the "MR. LUCKY", occupied by defendants Andries and Greenwood, and had taken it in tow back to the South Florida mainland, 50 miles away. The cutter assumed the towing job, over the protests of Andries and Greenwood, and brought the power boat into Miami, where it was inspected for mechanical problems. A seaman discovered the boat was loaded with several thousand pounds of marijuana.

Andries and Greenwood were charged with conspiracy to import marijuana. At trial Andries testified that he had not been smuggling the marijuana into the United States, but rather transferring it from a Colombian freighter to another freighter destined for Europe. Despite the implausibility of that story, the jury deadlocked, and did not arrive at a verdict. The case was tried a second and even a third time, but after the last deadlock, the Government dismissed.

Despite this early failure, Coast Guard drug-enforcement activities continued, and resulted in the seizure on the high seas of more American vessels carrying marijuana. Prosecution results were again spotty, success or failure depending upon the quantity and quality of the Government's proof of the defendant's intent to import the seized drugs into the United States. In the criminal prosecution of the defendants arrested aboard the S/V "Winds Will" which was seized on the high seas by the Coast Guard in September, 1974, after a routine safety inspection discovered a load of marijuana, the Government suffered a directed verdict of not guilty; the

Government did win the civil forfeiture case against the offending sailboat, reported as *United States v. One 43 Foot Sailing Vessel*, 405 F.Supp. 879 (S.D. Fla. 1975).

Similar types of Coast Guard boarding for safety inspection purposes in several other cases did result in successful prosecutions, however. The difference between these other cases, and the "*Winds Will*" case was the presence of strong proof of the defendant's intent to import the seized marijuana into the United States. In *United States v. Odom*, 526 F.2d 339 (5th Cir. 1976), a routine boarding in October, 1974, resulted in the skipper of the smuggling boat making a full confession to the Coast Guard skipper, and even agreeing to deliver the seized marijuana to the distributors waiting for it ashore. In the cases of *United States v. Warren*, 578 F.2d 1058 (5th Cir. 1978), and *United States v. Hillstrom*, 533 F.2d 209 (5th Cir. 1976), routine boardings in September, 1974 and in March, 1975, respectively, resulted in the obtaining of sufficiently incriminating statements and documents from the crewmember-defendants to cause their conviction for conspiracy to import marijuana into the United States.

High seas-seizures of American-registered vessels by the Coast Guard continued through 1975, and occur even now; but in 1976 the Coast Guard expanded its efforts to interdict smuggling by seizing even non-American registered vessels. The Coast Guard was cautious about this expansion, however, as it only expanded so far as to seize non-U.S. vessels where there was probable cause to believe that such vessels were hovering off our shores to be off-loaded by smaller vessels which would then smuggle the drugs into the United States. This pattern was present in February and March, 1976, when the Coast Guard seized the non-U.S. vessels "*Ecopesca III*" off South Florida, and "*Kaki*" off South Carolina. In these two cases American smugglers in Florida and South Carolina unknowingly hired special agents of the Drug Enforcement Administration to meet and off-load the "*Ecopesca III*" and the "*Kaki*" on the high seas, and transport the marijuana into the United States. The undercover agents actually performed these duties, and then had Coast Guard cutters lurking in the area seize the freighters. The legality of these seizures was never tested, as the alien crew members in both cases chose to plead guilty to conspiracy, and be deported.

Court tests of the legality of high seas-seizures of non-U.S. vessels by the Coast Guard did occur soon thereafter, however. In September, 1976, a cutter seized the British registered sailboat "*La Rosa*" on mere suspicion of smuggling. The cutter's captain believed the seizure was occurring within United States customs waters, i.e., within 12 miles of the South Florida coast. After indictment of the sailboat's three American citizens, however, and upon detailed analysis of all relevant charts, it became apparent that the seizure actually occurred on the high seas at 16 miles. Trial commenced, nevertheless, on the charge of conspiracy to import the 8,000 pounds of marijuana found aboard the "*La Rosa*", and based upon incriminating statements and documents, the three Americans were convicted. Their convictions, and the legality of the seizure, was affirmed in *United States v. Postal, et al.*, 589 F.2d 862 (5th Cir. 1979).

Other foreign seizures followed the "*La Rosa*" incident soon thereafter. Whether there was any prosecution or not again depended upon the presence of evidence proving the crew's intent to import the drugs into the United States. The hovering vessel "*Don Emilio*" was seized upon suspicion, but prosecution was declined by my office for lack of such proof, despite the fact that the vessel contained 70,000 pounds of marijuana and its 24 crewmembers were consequently deported to Panama.

Prosecution was authorized, however, in the case of *United States v. Cadena*, 585 F.2d 1252 (5th Cir. 1978). The *Cadena* case was similar to the cases involving the "*Ecopesca III*", and the "*Kaka*", in that undercover DEA agents off-loaded the hovering vessel "*Labrador*" on the high seas, and transported some 13,000 pounds of marijuana back to distributors waiting in South Florida. A Coast Guard cutter then proceeded to seize the "*Labrador*", which was stuffed with an additional 110,000 pounds of marijuana. Unlike the crews in the latter two cases, the crew of the "*Labrador*" chose to go to trial. They were convicted, and sentenced to substantial prison terms. Their convictions, and the legality of the search and seizure of their freighter, were upheld on appeal.

The year 1977 was a watershed for Coast Guard drug interdiction. Seizures increased dramatically, and increased even more in 1978. The same factors still applied, however, as to the success or failure of a Federal prosecution, and in most instances prosecution was declined by my office. Where prosecutions were authorized, spotty results were again the norm.

Because the number of seizures in these years was so great, they cannot be easily individualized. Therefore, to gain an accurate perception of the magnitude of the drug smuggling problem, I have prepared a statistical summary of seizures from

information supplied to me by the legal staff of the Seventh Coast Guard District, centered in Miami, Florida. It should be noted that the 7th District includes a much larger area than just South Florida. The 7th District starts at South Carolina, proceeds south well into the Caribbean, up into the Gulf of Mexico, to the Florida-Alabama line. The vast majority of seizures, however, have involved my office in South Florida, with regard to any decision to authorize or decline prosecution. The statistical summary is as follows:

a. Total seizures (1 September, 1976 to present)—107 includes one vessel seized without any crew which is not listed below.

b. Cases closed without prosecution—49.

(1) Foreign vessel—crew return to home country. F/V Lady Mark; F/V Maria Victoria; F/V Saint Cecelia; M/V Yosuru; F/V Diana Cecelia; F/V Lemarca I; M/V Isla De Aruba; F/V Jose Gregorio; F/V Caybur; M/V Meiry; M/V French Cap; M/V Faviola; M/V Fiavesa III; M/V Apollo; M/V Carmen; M/V Arida; M/V Rio Chico; M/V Ajax; M/V Los Dos Amigos; M/V Faruk; M/V Santa Barbara; M/V Delmar; M/V Miss Connie; F/V Ecopesca IV; M/V Dona Petra; F/V Misioty; F/V Carolina; F/V Heriberto; M/V Lynn IV; F/V Lemar III; F/V San Rafael; M/V Alvaro; M/V Pirana; M/V Ste. Anne D'Uray; M/V Jose Gregori (II); M/V Rio Mizoa; M/V Daveyton; M/V Miss Carol; M/V Santa Magdalena; M/V Peninsula De Paraguana; M/V Don Pacho; M/V Roamin Brio; M/V Fiavesa V.

(2) U.S. vessel—U.S. Attorney declines prosecution—9: P/C Konte; Bonus Margie; Lazy Zuzan; P/C Ixora; F/V Crackerjack; Utila; St. Jude; F/V Louise; F/V Lady B.

c. Cases closed the crew extradited for prosecution—1: M/V Don Emilio.

d. Cases closed the crew prosecuted in United States.

(1) Convictions—22: S/V Larosa; S/V Nahoia; M/V Marania; M/V Night Train; M/V Calabres; P/C Jugglehead; M/V Albazul; M/V Heidi; M/V Cimba; M/V Joanne; M/V Bocas; S/V Thanet; F/V Iris Marie; S/V Griffin aka Truent; F/V Ato; S/V Silver Sea; E/V Lady Ellen; M/V Moctezuma; F/V Lady Sara; S/V Sea Trumpf; M/V Mabell; F/V Lady Lou.

(2) Acquittals—4: S/V Coraje; F/V Selena II; S/V Reformation; P/C Hi Ho.

e. Cases pending trial—20: S/V Janet; F/V Lady Sara; F/V Big Champ; P/C Great Mystery; M/V Unwinder; M/V San Nicholas; M/V Miss Renee; S/V Carte Blanche; P/C Love Affair; M/V Sea Lane II; F/V Meylin; S/V Heron; M/V Piter; F/V Happy Hour; M/V Escopesca III; CP/C Gregg II; M/V Sea Nymph; M/V Lady Rhonda; M/V Mini-One; M/V Miss Phyllis.

f. A summary as to persons is as follows:

a. Apprehended 1 time	900
Apprehended 2 times	37
Apprehended 3 times	9
Total	946
b. Convicted in United States	114
Convicted in Panama	5
c. Acquitted	5
d. Dismissed	19
e. Repatriated	709

In all those cases where prosecution was declined, it was invariably on the basis that the Government lacked the necessary evidence to prove that the contraband was being smuggled into the United States. Where prosecutions were authorized, it was on the basis that such proof was available, from such sources as confessions, or incriminating documents such as charts showing the seized vessel's anticipated course in the United States, or by convincing one crewmember to testify against the others.

As can be determined from the summary, there have been several prosecutions authorized, which nonetheless ended in acquittals for the defendants. In each of these instances the acquittals were caused by lack of proof of the defendants' intent to import. In the case of the S/V "Coraje" the jury actually convicted the defendants of conspiracy to import, but the trial judge set aside the verdict for the specific reason that he felt that the Government had not proved the necessary intent element.

It is with this extensive background of the drug smuggling problem in South Florida in mind that I now turn my attention to a proposed solution to the problem, the passage of H.R. 2538.

In my mind the major need of anti-smuggling law enforcement is a supplement to the present criminal law, which now permits only prosecutions for conspiring to import controlled substances. As a practical matter evidence sufficient to show the essential element of an intent to import is difficult to obtain.

H.R. 2538 meets this critical need by making it unlawful for anyone aboard an American registered vessel, or a United States citizen aboard any registered or unregistered vessel, to possess a controlled substance. The act of knowing possession by a crewmember-defendant would not be difficult to prove, especially in those situations where the quantities of the controlled substances are in the multi-ton range. In those instances where the amount of controlled substance on the vessel is small, it might be difficult to prove "knowledge" of the presence of the drug, but that difficulty exists even under the present law.

The one technical problem I believe appears in this portion of the bill making possession illegal, however, is that the bill makes such possession a felony, and punishable as such, whereas under present law knowing possession is a misdemeanor, incurring a much less severe penalty, under 21 U.S.C. § 844. It seems somewhat incongruous to me to treat possession of, say, 100 pounds of marijuana on the high seas more severely than possession of the same amount in United States territory. Conceptually possession outside the United States should be less severe than inside the United States, or at least treated no differently.

Under the present possession law, 21 U.S.C. § 844, the misdemeanor penalty is only one year in prison and/or \$5,000 fine; Section 844 does not distinguish, or even mention, any particular weight or quantity of controlled substance which can be prosecuted under the section. Theoretically, a prosecutor could charge a defendant with the misdemeanor crime of simple possession of 10,000 pounds of marijuana. Such a charge would clearly not be within the spirit of the misdemeanor provisions, but it is possible.

Because of the dichotomy between the present possession law, 21 U.S.C. § 844, and because of the incongruity of making mere possession a more serious crime outside the United States than inside, it is conceivable that some Federal court might hold that the new law of possession on the high seas is not a felony as intended by Congress, but rather is a misdemeanor. Such a ruling would be very unfortunate where the controlled substance possessed is in great quantities.

It is in just such situations where the substance possessed is in great quantities that the present drug law, 21 U.S.C. § 841 provides that such possession can be treated as a felony, if the Government can prove the additional essential element of intent to distribute by the defendant.

For example, the possession of 1,000 pounds of marijuana could be treated as a felony, and the essential element of intent to distribute proved by the Government introducing expert testimony that 1,000 pounds of marijuana would make enough joints to last one person three or four lifetimes, the inference being that the possession was not for personal consumption but rather for distribution.

Transposing this element of intent to distribute to the proposed law of possession on the high seas, in order to avoid any confusion as to whether such possession is a felony or misdemeanor, contains its own element of confusion, however. For if it were to become a law that it is a felony to possess with the intent to distribute a controlled substance while on the high seas, the question must then be addressed whether or not it is an essential element that the distribution would occur within United States territory. If the answer is "yes", that such an intent to distribute necessarily involves an intent to distribute within the United States, rather than some foreign nation, then the new law would be quite useless, as smugglers charged with this new law would just testify that their contraband was to be distributed in Canada, Bermuda, or Europe, anywhere but the United States, just as the defendants in the *Andries* and *Greenwood* case did. Clearly, this law would be no improvement on the present law, since it would be tantamount to requiring the Government to prove an intent to import, which is the present, unsatisfactory situation.

In my view there exists, therefore, a Scylla & Charybdis situation—on the one hand possession on the high seas of large amounts of drugs should be treated as a felony, while on the other any essential element that would raise a misdemeanor possession to felony possession must be avoided, if it means creating the same necessity for proof of an intent to import.

As to the remainder of H.R. 2538, I wish to offer only these last comments. The term "vessel subject to the jurisdiction of the United States," as it is defined in part (c)(3) of the bill, places United States criminal jurisdiction in the hands of a foreign state to grant or deny according to its interests. I doubt the constitutionality of such a provision which allows a foreign state to interpose itself in our judicial process. I believe the definition confuses jurisdiction over crimes that are cognizable in a Federal court with jurisdiction of the Coast Guard to perform searches and seizures on the high seas. This particular provision should be further evaluated before its inclusion in the bill.

Finally, I would like to state that I am advised that the Administration is in the process of formulating and developing its own position on H.R. 2538. I, therefore, am not prepared today to offer the Administration's views on this bill, only my own. I believe I am able to state, however, that the passage of a bill embodying some of the general concepts of H.R. 2538 would have a heavy and salutary impact on drug smuggling in the Southern District of Florida.

Mr. SULLIVAN. As we prepared this, I might add that we had to change it almost day to day, because a new seizure would occur and we would have to change our figures to reflect that.

The 7th District includes more than south Florida. It starts from South Carolina, extends out into the Atlantic, down south into the Caribbean, around the Florida peninsula to approximately Pensacola in the Florida Panhandle. So the great number of cases we have included in our summary also have arisen in other districts. I should say, though, the great majority have involved the south Florida U.S. attorney's office in the decision on whether to prosecute or decline. As the summary shows, we have generally declined prosecution.

The few that we have prosecuted have involved again solid proof of the intent to import. I might make special mention of the one category that I have labeled the "acquittals." Those were the earlier cases where we believed we just might be able to get a jury conviction on what we believed to be the reasonable inference that anyone on the high seas with such a huge quantity, multitudes of marihuana, that a reasonable inference would arise that the only place they could be taking that controlled substance to would be the United States.

These cases here were the sailing vessel *Coraje*, the fishing vessel *Selena*, the sailing vessel *Reformation*, and pleasure craft *Hi Ho*. As the records of those trials would reflect, we were not correct in that evaluation.

In the case of the sailing vessel *Coraje*, which was prosecuted in 1977, the Coast Guard has seized an American vessel with a crew of three American citizens, sailors. There was no solid proof again of their intent to import. We proceeded to trial, nevertheless. It was a case of first impression for that Federal judge and, in fact, the jury did convict the defendants. However, on a motion for retrial, the Federal judge decided that he would have to reverse that jury verdict because in his opinion—and he was correct—there was no solid proof of the intent to import.

Generally, that can be said for the other cases as well. Some of them didn't even go so far as a jury verdict. The different district court judges directed verdicts at the close of the Government's case and it never ever became a jury matter to deliberate.

Generally, Mr. Chairman, I would like to say that in our experience in south Florida the greatest number of cases that would be affected by the proposed legislation, H.R. 2538, would be those involving American citizens on American vessels. We have probably more of that type case than of the case involving a stateless vessel, or even a vessel with a nationality. Because south Florida, by its nature, is a water sports area, a tourist area, there are many, many vessels, boats. It's a fishing area. The types of boats used have been generally American vessels, those that have been seized by the Coast Guard, and not many foreign or stateless vessels.

The proposed portion, that it be a crime for an American citizen on any vessel, or any person aboard an American vessel, to possess any controlled substance, would have a particularly heavy and salutary impact in our area.

I had one observation I wanted to make about that particular section, however, on the possession of a controlled substance. In the present Controlled Substance Act of 1970, possession of a controlled substance is only a misdemeanor, and as it is now proposed in this bill, possession on the high seas would be a felony. My personal opinion to that was that it would seem somewhat incongruous to make possession in the U.S. territory a misdemeanor while outside it is a felony and requiring more severe punishment.

On the other hand, it would be of no help to Federal prosecutors if the language was changed to reflect the way a felony is now dealt with in the Controlled Substances Act. A felony possession, under the Controlled Substances Act, charges possession with the intent to distribute the amount of the controlled substance, and that's a felony. For marihuana, it's a maximum sentence of 5 years or \$15,000. The intent to distribute is meant to cover those large quantities which a person could not possibly possess for his own consumption but rather for distribution, and that is a very logical way to charge it. We usually prove that charge by calling an expert witness, sometimes a DEA agent, to say that a certain amount of marihuana, say 1,000 pounds, would make so many marijuana cigarettes that they could not possibly smoke them themselves in three or four lifetimes, the inference being that therefore it was possessed with the intent to distribute this amount.

If that intent to distribute element were put into the law here to create the crime of possession with intent to distribute on the high seas, that would, under the present law, avoid any conflict or any argument before a Federal judge as to whether this new law charges a misdemeanor or a felony.

On the other hand, we would have to avoid any type of argument that the intent to distribute necessarily means an intent to distribute in the United States, because then we would be coming right back to the problem, the unsatisfactory situation that we have now, that in most cases in this type situation we cannot prove the transportation of the controlled substances into the United States.

Mr. BIAGGI. Excuse me, but you are pointing out the difficulties with the existing situation, and we're aware of that. As I understand it, your record for prosecutions in this area is extraordinary, and you have prosecuted more than any other assistant U.S. attorney in the country. That is, if you will forgive the expression, one hell of a record.

Mr. SULLIVAN. Thank you, Mr. Chairman.

Mr. BIAGGI. You have extraordinary authority to speak. But let's address ourselves to the bill and how we can effect it, or at least make it better. We don't anticipate that it will be a perfect bill, and the longer you stay here the longer you realize there is no such creature.

With relation to making the current violation a felony, that's the way it was in the law prior to 1970, and it was inadvertently omitted in the reorganization. I can understand the problem you

have with a vessel containing large quantities of marihuana and being able to prove it. It is difficult.

How would you react to the creation of a rebuttable presumption of an intent to distribute in the United States?

Mr. SULLIVAN. I would view that quite favorably, Mr. Chairman. There have been such rebuttable presumptions included in other laws, including the drug laws, before, specifically under the prior drug law which, in fact, had the possession on the high seas provision.

There was also in a separate section a rebuttable presumption concerning the presumption, or rather the possession of a controlled substance—although they didn't use that term at that time—but of a narcotic, that it was not possessed with the tax stamps paid on it. At that time the paying of tax stamps was the basis for criminal jurisdiction.

Rebuttable presumption of an intent to distribute a large amount of a controlled substance I think is quite reasonable and logical and could well be incorporated into the bill to avoid the different pitfalls that in my opinion exist between whether or not this is a misdemeanor crime or a felony crime, and at the same time avoid any later argument that the intent to distribute, the possession with intent to distribute, must mean the intent to distribute in the United States.

If that were included, I think that would avoid those two pitfalls.

Mr. BIAGGI. It occurred to me, if you ever left the U.S. attorney's office and decided to represent these people, you could make a fortune. [Laughter.]

Mr. SULLIVAN. The thought occurred to me, Mr. Chairman.

Mr. BIAGGI. I hope you stay where you are.

I don't think you testified to this area, but I think it should be included in the record.

In the practical process, in which these individuals come to your court, or come within your jurisdiction, what happens to them and who pays for the whole process, they're arrested, booked, and then they come to you, what happens?

Mr. SULLIVAN. Mr. Chairman, when they are first arrested, if they are presumptively aliens, they are interviewed by the Immigration and Naturalization Service for a determination of their alien status in this country.

Immediately a request is made to my office as to whether or not we would authorize or decline prosecution of the aliens, or if it's a case of American citizens, authorize or decline their prosecution.

If we state that upon the available evidence we would decline prosecution, INS would take the alien crew members, place them in their own INS hold cells, contact the counsel for the countries to which they are citizens—for the most part, Colombia—inform them that they have certain named persons under arrest and that they are to be deported from the United States. The Colombian counsel takes several days in preparing the necessary papers to allow their entry back into Colombia.

Mr. BIAGGI. Who pays their transportation?

Mr. SULLIVAN. The U.S. Government pays it.

Mr. BIAGGI. I knew it, but I just wanted the answer on the record. It's only tourist class, I'm told.

Mr. SULLIVAN. The statistics summary I included here states that we have deported back from this country to their nations of nationality 709 people.

Mr. BIAGGI. They go round and round; don't they?

Mr. SULLIVAN. Yes. We have persons who have been caught three or four times, as the Commandant pointed out. Some times it is extremely dissatisfying to know they are probably thumbing their noses at you as you decline for the fourth time on their prosecution.

Mr. BIAGGI. Well, let's hope this legislation helps a little bit. We thank you very much for your contribution and your presence, and more importantly, for your excellent work in this area.

Mr. SULLIVAN. Thank you, Mr. Chairman. It's a privilege.

Mr. BIAGGI. I have an article here from the Washington Post, for today, and it talks about the business people being involved in financing drug smuggling:

A month ago, an FBI agent in El Paso, O. Leon Dobbs, broke an unwritten rule that this "respectable" underwriting of criminal investment go unmentioned. Dobbs warned 70 members of the El Paso Downtown Kiwanis Club that businessmen who knew about illegal activities had 6 weeks to turn themselves in or face prosecution.

There was an attitude problem among some rich persons in El Paso, Dobbs said in a subsequent interview. "Doctors, lawyers and businessmen invest money in crime. Then they pretend they don't know about the investment they've made in illegal drugs. And some get a 25 percent profit or more a week."

Local businessmen and the mayor complained about the speech and Dobbs was reportedly ordered by his superiors to stop giving ultimatums or newspaper interviews but there is a general belief in El Paso that his warning has made potential investors more wary.

I understand that condition exists in Florida.

Mr. SULLIVAN. It does, Mr. Chairman. It exists among all the professional classes, of doctors and lawyers. At one point we prosecuted a doctor who was the examining physician for all DEA agents in the southern—

Mr. BIAGGI. Say that again.

Mr. SULLIVAN. The DEA agents have to pass a physical examination every year, and this particular doctor, as a sideline to examining DEA agents, was also investing in marihuana smuggling activities. He was successfully prosecuted for that.

Mr. BIAGGI. He was successfully prosecuted?

Mr. SULLIVAN. He was, sir.

Mr. BIAGGI. It must have been an isolated case.

Mr. SULLIVAN. Well, there are some pending cases that we will return indictments on within a matter of 1 or 2 months, of lawyers and some several businessmen involved in the used car business, investing in the narcotics trade as well.

Mr. BIAGGI. It reminds me of the Eddie Foy, Sr. song, where he went through the days of the week and said the man was a thief on Monday, lied on Tuesday, swindled on Wednesday. But just because he went to church on Sunday, he was an honest man. These are the so-called honorable citizens of the community. It's disgraceful.

Thank you very much.

Mr. SULLIVAN. Thank you, Mr. Chairman.

Mr. BIAGGI. Any questions, Mr. Lent?

Mr. LENT. I have no questions, Mr. Chairman. I'm just sitting here spellbound at your recitation.

Mr. BIAGGI. The meeting is adjourned.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned.]

COAST GUARD DRUG LAW ENFORCEMENT

TUESDAY, JULY 3, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COAST GUARD AND NAVIGATION,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in Mallory Square Convention Center, Mallory Square, Key West, Fla., Hon. Mario Biaggi (chairman of the subcommittee) presiding.

Present: Representatives Biaggi, Lent, and Melvin Evans.

Staff present: Ricardo A. Ratti, chief counsel, Subcommittee on Coast Guard and Navigation; Larry Mallon, subcommittee counsel; Cyndy Wilkinson, subcommittee clerk/research assistant.

Mr. BIAGGI. The Subcommittee on Coast Guard and Navigation is meeting in Key West for the purpose of conducting general oversight of Coast Guard drug interdiction efforts in the 7th Coast Guard District. The 7th District has a new commander, Rear Adm. Benedict Stabile. He will be making his initial appearance before the subcommittee this morning.

We welcome Admiral Stabile, as he assumes his duties as the on-scene commander in the Coast Guard's drug interdiction campaign. He will be our escort, as we embark on an inspection tour of Coast Guard facilities in the 7th District, from Miami to the U.S. Virgin Islands.

We would be remiss if we did not express our gratitude to the mayor and the city council of Key West for their assistance in providing suitable accommodations for this hearing.

Key West is an appropriate site for this hearing, designed to provide a progress report of the ongoing drug war at sea. The Chair takes notice of the history of the city, as a salvage and, more recently, a tourist center.

From all reports, the salvage business is still thriving in the Keys—only now, the flotsam, jetsam, and ligam are more often converted to personal consumption.

The Coast Guard's primary drug enforcement strategy is to commit its limited major assets to random patrols along the main smuggling routes, permitting the most effective use of available resources.

A recently released Comptroller General's report—requested by this subcommittee—cited this enforcement strategy as the most appropriate, given present budgetary limitations. The same report concluded that the Coast Guard lacks sufficient resources to effectively patrol, on a continuing basis, these principal chokepoints. The Department of Transportation concurred in that evaluation.

The present Coast Guard interdiction rate for the 50 million pounds of marihuana smuggled into this country annually is estimated at between 8 to 10 percent. This reflects a 35-percent residence time by Coast Guard units in these chokepoints.

This subcommittee has been closely monitoring trends in maritime smuggling to insure that adequate resources are provided the Coast Guard to wage its drug interdiction campaign. This inspection tour is indicative of our interest and concern for this program.

It has been 44 months since I launched this subcommittee's continuing investigation into maritime drug smuggling, in conjunction with field hearings held in November 1975 in San Juan, Puerto Rico, inquiring into the use of that island as a trans-shipment point for drug trafficking from South America to the United States.

In 1977, the subcommittee held hearings in south Florida on the drug smuggling epidemic sweeping that region. Those hearings revealed a significant loophole in existing law, precluding the successful prosecution of drug smugglers apprehended on the high seas by the Coast Guard.

I moved promptly to fill that void. I anticipate imminent House action on H.R. 2538, my high seas drug enforcement legislation, followed, hopefully, by prompt action by the Senate.

The 1977 hearings also revealed the lack of a common covered law enforcement communications capability among Federal agencies engaged in joint drug operations.

My efforts have now resulted in the Coast Guard acquiring and introducing into its fleet, voice privacy units, to deny the drug smuggler the ability to monitor communications between Coast Guard vessels and aircraft. In addition, an Interagency Committee on Communication has been formed to coordinate the utilization of joint frequencies during combined operations.

Those hearings, and the later GAO report, documented the need for more effective training and readiness of Coast Guard personnel, at all levels of operational law enforcement.

In response, the Coast Guard initiated a maritime law enforcement program at its training center in Yorktown, Va., including a special course for senior officers. It has also increased its quotas at the Federal Law Enforcement School in Glynco, Ga.; and, recently, the service saw its first graduate from the FBI's National Academy.

These are all significant milestones in the Coast Guard's long history of maritime law enforcement. The service has now effectively made the transition—from fireman to uniformed maritime policeman, responding to national priorities—with little difficulty and is deserving of commendation for this achievement.

I have been continually working with the administration in reorienting priorities in domestic law enforcement, now reflected in "Federal Strategy '79," a document recently released by the White House Strategy Council on Drug Abuse. That strategy now emphasizes border interdiction over "buy bust" tactics. It encourages postseizure investigations to provide additional intelligence to support the immobilization of drug trafficking organizations.

It emphasizes the collection, analysis, and timely dissemination of intelligence information in support of maritime drug interdic-

tion, reemphasizing the role of Customs in intelligence gathering for the first time since 1973.

It emphasizes the sharing of intelligence information through the formation of an interagency committee convened for that purpose.

For these efforts, I applaud the administration.

However, there is still much to be accomplished to increase the effectiveness of domestic drug law enforcement. To this end, the subcommittee now shifts its attention from the necessity for remedial legislative action, to provide an effective deterrent to drug smuggling to the adequacy of materiel support.

In this regard, the GAO recommended that the Coast Guard update its program standard for general law enforcement to reflect increased drug interdiction efforts consistent with overall Federal strategy and to identify levels of resources necessary to meet those goals. The Department of Transportation also concurred in this recommendation.

We will ask the Coast Guard, today, what progress has been made in this regard, as well as for a briefing on recently completed studies of long-term operational law enforcement requirements.

We will single out, for special recognition, the accomplishments of Sheriff Robert A. Butterworth, of Broward County, for his efforts in establishing a mini-El Paso intelligence center—EPIC—in conjunction with an interagency drug interdiction task force in south Florida.

We will assess the need for an equivalent Caribbean-wide EPIC, a concept advanced by the Coast Guard's own developing intelligence community.

We will review joint "sting" operations, like the famous *Black Tuna* case, a case with spectacular results, and other joint Federal/State operations that unfortunately degenerated into mutual accusations and searches for scapegoats.

We will review the two major trends in drug smuggling today. One is the penetration of the drug trade by organized crime, including the use of sophisticated laundering operations involving banks and private businesses like marinas—reportedly occurring right here in Key West as well as elsewhere.

International criminal organizations have also targeted entire Caribbean nations for takeover and use as staging areas for drug smuggling, money laundering, and the rechanneling of profits into real estate and tourism.

The other significant trend, which I find particularly repugnant, is the complicity of legitimate businessmen in all phases of drug smuggling—not just as silent partners but through the systematic establishment of vertically integrated smuggling networks that invariably co-opt, corrupt, or neutralize everything and everyone in their path.

Hopefully, the success of the Black Tuna operation will be repeated more frequently, as more and more Federal resources are devoted to conspiracy investigation.

Last, I commend Governor Graham and the State of Florida for enacting the Nation's toughest antitrafficking statute, a fitting complement to my high seas drug enforcement legislation.

I now call upon my distinguished colleague from the Virgin Islands, Dr. Melvin Evans, for any remarks he wishes to make.

Mr. EVANS. Thank you, Mr. Chairman. My remarks will be very, very brief.

In many ways, the Virgin Islands share the same geographical problems that face Key West; a long coastline with many areas where trafficking can take place unnoticed, strategically located as a way station in drug traffic from South America to the continent; and the shortage of resources is certainly conducive to this traffic.

It is for this reason, I am very happy that, after we leave Key West, we will proceed to the Virgin Islands and, I think, make a list of what we learned here. I think the methods we learn here can be applied, also, there and perhaps we can make a serious dent in this traffic business that is on its way to destroying and damaging our Nation.

Thank you, Mr. Chairman.

Mr. BIAGGI. Congressman Norman Lent from New York.

Mr. LENT. I have no statement at this time, Mr. Chairman.

Mr. BIAGGI. All right, thank you.

Admiral Stabile.

STATEMENT OF REAR ADM. BENEDICT STABILE, COMMANDER, 7TH COAST GUARD DISTRICT, U.S. COAST GUARD, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY CAPT. CLYDE ROBBINS, CHIEF OF PROGRAMS, COAST GUARD HEADQUARTERS

Admiral STABILE. Mr. Chairman and members of the committee, I submitted a formal statement to you. I would like to summarize that statement at this time.

I am Adm. Benedict L. Stabile, Commander, 7th Coast Guard District. It is my responsibility to insure successful execution of the many Coast Guard's missions in the 7th District, which ranges from the North Carolina/South Carolina border, down through Florida, into the Greater and Lesser Antilles.

In the past few years, the 7th District has emphasized drug interdiction. In calendar 1978 we concluded with a total of 101 vessels seized, almost 3 million pounds of marihuana seized, and almost 600 arrests for narcotics trafficking.

In the first half of this calendar year, 45 vessels and almost 1 million pounds of marihuana have been seized, and accompanying that we have had about 193 arrests.

While these figures are impressive by themselves, we are still only stopping a small percentage of the marihuana destined for the United States.

We continue to enjoy open cooperation with Federal, State, and local agencies. Such seizures were the direct result of intelligence information passed to the Coast Guard from these sources. Cooperation between our agencies is better, and more productive now, than in the past and we find that it is improving daily.

Colombia continues to be the primary source for marihuana and smuggling by vessels remains the principal method of shipment. The vessels involved in this activity remain, as previously reported to you, with the exception that there may be more vessels in excess of 100 feet than previously estimated.

The shift to larger vessels may be occurring for several reasons. No. 1, successful interdiction efforts in southern Florida appear to

have caused a gradual shift in the routes to other coastal areas, along the gulf coast, in the mid-Atlantic and New England areas for instance. Larger vessels are required for the transit in the longer route.

Second, the traffickers have found that it is more difficult for us to detect smuggling aboard larger vessels, where narcotics can be comingled with other cargos.

Another change is a shift in smuggling routes. In the past, the windward passage, between Cuba and Haiti, was primary by providing the shortest tracking between Colombia and southern Florida.

There appears to be a definite increase in smuggling through the Yucatan, the Mona Passage, and other smaller passages in the Leeward and Windward Islands. This shift to longer routes, of course, as I said, requires larger vessels.

We, the Coast Guard, do not have enough patrol vessels to cover all areas at the same time. We do need additional intelligence information to make our patrols more productive. We have initiated several actions to assist us in this area.

No. 1, the Commandant visited, recently, nine Caribbean countries to explain our enforcement effort and to solicit their assistance.

Second, as a followup to that visit by the Commandant, and through the Department of State, the nine nations involved issued a joint agreement to form an intelligence network, on vessel movements in particular.

Another effort has been through the CNO, in the Department of Defense. The Chief of Naval Operations has directed his units to submit intelligence reports to the Coast Guard and to provide surveillance platforms, ships and aircraft, military operations permitting.

In June, the Coast Guard and Navy exercise was conducted to determine the feasibility of joint operations for ocean surveillance to detect suspect vessels and the results were very promising. We would look for similar operations in the future.

Colombia's current enforcement effort has successfully shut off some traditional smuggling areas, making it much more difficult to load drugs along the coast.

The smugglers are responding by shifting their loading areas and by ferrying drugs in smaller vessels to the mother ships.

The Colombians do not have the resources to completely stop the flow of drugs from their shorelines, but we do feel that their effort has been effective and we strongly support its continuation.

I realize that one of the primary areas of interest of this committee, at this time, is trafficking through the Virgin Islands and Puerto Rico. A recent intelligence report indicates the eastern Caribbean has become a primary route.

Successful interdiction efforts in the Windward Passage, Yucatan Channel, and in southern Florida have, as I indicated earlier, forced the smuggler to expand his area of operations. The Mona Passage, and other passages to the east of Puerto Rico, are his alternate routes.

We are responding to the shift by increasing our patrols in the eastern Caribbean and the Mona Passage. Additional vessel time

will be deployed from northern ports, to expand our patrols, while maintaining an adequate presence in the Windward Passage and the Yucatan.

While the Virgin Islands are ideally located for transshipment of drugs, we do not feel that this area compares, in the tempo of operations, with that in the continental United States.

One specific item we have identified is the use of Puerto Rico ports to resupply and refuel vessels on their return from deliveries. Unfortunately, in all the documented cases we have, they come in clean and they are abiding by U.S. laws and we have been unable to prosecute for any violations, even though we know they have been involved in the traffic.

The Florida Keys are noted for their isolated islands that provide a safe haven for smuggling. The area is difficult to patrol; the volume of vessels and air traffic is very great. The south Florida area, and particularly the Keys, and the great number of recreational and commercial vessels, taxes our multimission resources.

I would like to emphasize that the patrols we make are multimission patrols in the broadest sense. They are not specifically dedicated, totally, to drug interdiction.

In conclusion, I would like to emphasize that we are faced with a continuously changing problem. As we become successful in one area, the smuggler changes his method and area of operation, and we must be capable of responding positively and quickly to that change.

I feel we are responding to present changes in an adequate manner, but our resources are limited and, as the geographic area of interest expands, the total coverage of any one particular area frequently diminishes.

Our one hope to counter this is to develop better and more timely intelligence information through our regional narcotics intelligence network and reports from naval units.

I would also like to take this opportunity, Mr. Chairman, to endorse your legislative efforts in closing some of the legal loopholes which have hindered our enforcement efforts to date. The enactment of such legislation is mandatory to help insure continued improvements in our drug interdiction program.

Thank you very much. I will now be glad to answer any questions.

Mr. BIAGGI. Thank you very much, Admiral. I would like the record to show that Admiral Stabile is accompanied by Captain Robbins.

Admiral, I am glad you highlighted the fact that yours continues to be a multimission undertaking. We did not expect that you would be sending vessels out there solely for the purpose of interdicting drugs. Like the police officer, or any law-enforcement personnel, they are out there to see that the law is enforced—all the law.

What we have been doing is raising the consciousness of Coast Guard personnel to the laws dealing with drugs. Prior to my taking over the chairmanship, I think the records will indicate that the Coast Guard had apprehended one vessel and 50,000 pounds of marihuana.

In less than 4 years, that has gone up to 165 vessels and nearly 3½ million pounds last year. I do not think the traffic has increased any; we are just stopping a lot more of it, that's all, because there is a consciousness; and what I understand, by my personal observation and discussion with personnel in the Coast Guard, is it has added to the morale of the Coast Guard.

They are "gung-ho," you might say. They enjoy their work and, so far, we can be thankful that it has all been done without loss of lives or injury, or any violence, and that is the interesting facet of this whole drug interdiction effort.

Unlike prohibition days, when law enforcement personnel would stop the smugglers, they would have hand-to-hand, gunpoint battles, with the loss of many lives on the part of—well on both sides of that conflict.

You said, on page 5—and I will not ask you to go into detail—you said, additional vessels will be deployed. Is that underway?

Admiral STABILE. Yes, sir, it is. I might, perhaps, describe it in this way. It is my understanding that, as of today, every high-endurance cutter—and I think that is correct—and every medium-endurance cutter, on the east coast, has made at least one patrol in 7th district waters, with regard to the emphasis that we are talking about here.

In addition, of course, recently we had the cadet squadron of three or four vessels—I think it was four—who made a special effort in this area and, as a matter of fact, wound up with four drug busts while on cadet cruise.

I recently spoke with the commander of the Atlantic area, Vice Admiral Price, who has assured me that the Atlantic area will provide any resources that they possibly can spare, to assist us here in the 7th District.

Mr. BIAGGI. Do you know whether or not the northern patrols have raised the consciousness of their personnel up there, in the light of the changing smuggling routes?

Admiral STABILE. I do not know, personally, but I would feel that we would have the same effect in the northern districts, or similar effect, as we have here in the 7th.

Of course, the training, that you alluded to before and described so well, is servicewide and we are getting better trained people. I think the consciousness is being raised all the way around. Does that answer your question, sir?

Mr. BIAGGI. The last part of it may be responsive, but I am not so sure that the northern patrols have the same degree of consciousness—awareness—that we have in the 7th District, in the light of several apprehensions in the north—not too many—and your testimony that the routes have been changed to avoid these chokepoints in this area, I think it is important that the northern commanders be made aware as well.

Admiral STABILE. I am sure the commanders are well aware of it, sir. I suspect that, due to the level of activity so far in the 7th, perhaps it is more heightened here than up there.

Mr. BIAGGI. I think on the first page of your testimony, you made reference to 193 arrests. Do you have any idea what the disposition of those arrests are?

Admiral STABILE. No, sir, I do not, but I would be happy to provide it.

Mr. BIAGGI. I wish you would provide the committee with that information.

[The following was received for the record:]

ARRESTS MADE IN 1979

Out of 193 arrests made in 1979 by the Coast Guard, the following is the disposition of such: 44 persons—repatriated; 106 persons—pending trial; 43 persons—released with no charges.

Mr. BIAGGI. It has been our experience—sad experiences—that arrests are made but few are convicted. We would like to find out why and where the structure fails, and whether or not legislation is necessary.

You also spoke about additional materiel. I am not satisfied that, with one cutter in this large area of your jurisdiction, that is adequate supervision.

We know the spartan policy of the Coast Guard, and you are to be commended for it, but we have a national purpose here and that is to deal effectively with the smuggling of contraband.

How would you respond to the criticism that you simply do not have enough materiel or personnel to effectively deal with the problem?

Admiral STABILE. Mr. Chairman, I would like to respond in several ways. When you mention the one cutter, I presume you were talking about the local cutter.

Mr. BIAGGI. Yes.

Admiral STABILE. As a matter of fact, on the average in the district, we have six cutters on patrol at any one time. Those patrols are—the locations are classified—in random, for good reason.

The Coast Guard in the 7th District is no different—does not have enough resources to perform all of its missions. And I am sure that, given more resources, the 7th, as well as other districts, could do more in the drug interdiction area.

Mr. BIAGGI. I like your concern for all the other districts—

Admiral STABILE. Yes, sir.

Mr. BIAGGI [continuing]. But right now it is only about the 7th.

Admiral STABILE. The 7th, yes, sir. Yes, we could use more resources in the 7th. I am not in a position, at this time, to say what the top priorities for those resources are, we have shortfalls in so many areas supporting the systems that we now have. I do not think they are adequately supported.

If the Commandant were to say, "Admiral Stabile, you could have X number of resources," it would take some careful looking to see where we would best use those resources. I am not sure it would be adding an additional vessel, for example, and extending my support lines even thinner than they are now.

Our ships are running hard; they are running long. Our people are working long hours and these are problems that must be addressed, as well as adding more hardware to the system.

Mr. BIAGGI. Given the multimission purpose—the multimission nature—of your service, would additional materiel assist in search and rescue as well?

Admiral STABILE. Yes, sir. As a matter of fact, in the 7th District, our auxiliary is doing the lion's share, at least 25 percent, of our workload right now. We have been very fortunate to have such a highly effective, and cooperative, Coast Guard Auxiliary.

There are times when I feel I would like to see the regular Coast Guard be able to do a little bit more. As long as Commodore Douglas and her gang are doing so well, why I am not so sure that I would opt for a resource that would be specifically pinpointed for SAR.

As you know, recently arriving in the 7th, I will need a little bit more time to make that kind of an assessment.

Mr. BIAGGI. Well, I think the Coast Guard can be thankful for the Auxiliary all over the Nation, without—very frankly, they are doing the job the Coast Guard should be doing and the Government should be paying for and they are to be commended, giving their time, their vessels, and their energies.

We made that assessment a long time ago and, given the realities of life, I know that there will be a diminution on the part of the auxiliary, because of an increase in participation on the part of the Coast Guard.

But when we are talking about the Coast Guard, and their facilities, I would like to know just how effectively any additional supports can be utilized.

Admiral STABILE. I am glad you brought that up again, sir, because I never finished the answer to your question. You prodded me on.

We do have a study that is being conducted, I believe, by the Center of Naval Analysis, to determine the efficacy of incremental resources in the direct trafficking area. Unfortunately, I believe it will be about another year or so before we have the results of that analysis.

To the best of my knowledge, we do not have a good handle on what the benefit would be for any given investment, other than intuition, at the present time. Of course, we would like to present Congress with something more rigorous than that. That study is ongoing, sir.

Mr. BIAGGI. Yes. I understand the Coast Guard has its own study completed, Coast Guard Operational Law Enforcement, 1980-2000. Are you familiar with that?

Admiral STABILE. I am only familiar, Mr. Chairman, with the fact that our internal assessment that has been made, indicates that there will be increased activity in this area to the year 2000. I am not familiar with the details of the internal assessment at this time.

Mr. BIAGGI. Let us get back to the effectiveness and utilization of what you have. You stated you have six cutters. Our experience with equipment is that there is always the down time.

What percentage of time do you have these assets on line and operational?

Admiral STABILE. What I was indicating took that downtime into account. A rough check we made yesterday indicates we are able to provide, in 7th District waters, approximately 2,000 to 2,200 cutter days; "cutter" being defined as a WPB of 82 feet, 95 feet, medium-endurance cutter and high-endurance cutter.

So the six figure that I gave you is my assessment. If you broke that down to the average that we might have available on line at any one time, considering downtime.

Mr. BIAGGI. Now, that is a very impressive figure, 2,200, but it tells me nothing. Talk to me as though I do not know a single thing about your operation.

How many days a week and how many hours a day?

Admiral STABILE. We have—our high-endurance cutters, as you may recall, have a standard operating—what we call Alpha time of 180 days a year, as do the medium-endurance cutters. My calculations were based on about, I think, 100 days, per medium-endurance cutter—of which I have four in the 7th District—that would be able to put emphasis in the area of interest.

These are days operating, that is, how much the vessels are on the line, underway. So I am saying I can provide 400 medium-endurance cutter days. I have, I believe, 14 WPB's and they patrol 9 days a month, 3 separate patrols—3-day patrols—and they do that year round. So their "Charlie" time or maintenance time is separate from that.

Mr. BIAGGI. Are you satisfied that is sufficient?

Admiral STABILE. I really—we could use more, Mr. Chairman. I do not know what "sufficient" is, to be perfectly honest.

It is obvious to me that we are doing an adequate job. Whether or not it is sufficient, I really cannot say at this point. I just do not know. If I had to make a judgment of adding four or five more ships, No. 1, I would not know at this point where they should be placed in the total scheme of things in the Coast Guard and I could not predict the payoff.

One of the things the Commandant, I know, is working on right now is the question of the level-of-effort standards that should be established for this type of thing and, as of the time I left headquarters, it had not been resolved; it's something that's under study.

Mr. BIAGGI. That is a critical determination.

Admiral STABILE. Yes, sir.

Mr. BIAGGI. If we revert back to 4 years ago, the level of effort would be virtually nil, unless we recognized the realities of today's picture; I think the response might not be the most acceptable.

With relation to percentage, the chokepoints seem to be the critical areas. What percentage of time do you have your vessels out in these areas?

Admiral STABILE. I was interested in the figure that you gave in your opening statement, Mr. Chairman. We had—our own estimate was approximately 20 percent of the time and I think your figure was a little higher; and I suspect the truth lies somewhere in between.

I would expect, with the emphasis recently placed on the effort by the Commandant in the Atlantic area, that we might be able to increase the time on the chokepoints; concentrating our vessels in the Yucatan and the Windward, and using the northern ships—as they are made more and more available—for the eastern passes. I would expect the coverage to increase is what I am saying.

Mr. BIAGGI. Fine. I think we mentioned the voice-privacy units. Do you plan to put those on track and where are we?

Admiral STABILE. Yes, sir. We have procured the equipments and we ran into a technical problem with interfacing the equipments with our transceivers and with our aircraft systems.

We are close to a solution on VHF/FM interfacing and it will take a little longer to be able to work it into the high frequencies, but fairly soon—I could not give you an exact date—we expect to have VP-2 capability on VHF/FM in this district.

Mr. BIAGGI. Do you think that is essential to effective operation?

Admiral STABILE. I am sure it would help. In some locales, in the short time I have been here, I have gotten the impression that it is not all that important on a strictly local basis. They seem to work around it very nicely but, once they get the gear, they might feel differently.

Mr. BIAGGI. You mentioned something about training, on a nationwide basis, with relation to this problem. Would you give the Committee a brief overview of what that consists of?

Admiral STABILE. Yes, sir. As a matter of fact, I was impressed by your view of it. It had some factors in it that I—

Mr. BIAGGI. You and I are going to get along very well.

Admiral STABILE. We have a Maritime Law Enforcement School, at Yorktown, I believe, and it is attended by some—presently by some 300 Coast Guard personnel per year. The course is of a 5-week duration.

We hope to expand this training to 600, per year, and will require a staff increase of some 13 people to accomplish that.

The present training plan involves a school, plus training teams in the district. And, of course, some of our key people receive the expanded training, do on-the-spot training at the various units.

My understanding is that our boarding teams are much better trained today than they were several years ago; not only in the procedures for boarding and law enforcement, but they are all trained with regard to the use of sidearms or small arms. They have to be qualified, in order to carry the weapons.

Mr. BIAGGI. What weapons are they? Enumerate them.

Admiral STABILE. We are using 45's and M-16's, and shotguns.

As I say, there has been—the Commandant has given a special emphasis to the full spectrum of this law-enforcement training and, especially, the small-arms training because we may not always go unscathed in these operations.

Mr. BIAGGI. I have a number of other questions; I am sure so do my colleagues.

I have been informed that the Coast Guard receives many anonymous tips by the citizens of this community. Have they resulted in any seizures?

Admiral STABILE. Mr. Chairman, I spoke briefly to my group commander, Lieutenant Commander Dennis, and he mentioned that that does occur; and I got the distinct impression that it has resulted in some seizures.

I would have to provide for the record any specifics on that. I am not up on that.

[The following was received for the record:]

ANONYMOUS TIPS

The Coast Guard occasionally receives anonymous tips, and occasionally they result in some direct law enforcement action. In one case a seizure resulted directly from such a tip, however, that is rare. Normally, such information is forwarded to other agencies such as DEA, where it may add to other intelligence, that may or may not eventually result in some law enforcement action.

Mr. BIAGGI. I think that is an important development. It is reflective of the concern of the people of Key West. It is also an experience that law-enforcement personnel have witnessed in the entire profession and it clearly demonstrates that there is a lot of productivity as a result of citizen participation.

Given the nature of this activity, I understand the desire of the citizen not to disclose his identity. I do not think it is that important to be identified, except to continue the dialog and have some intelligent questions to elicit official information. But those who do this perform a great service.

Admiral STABILE. Mr. Chairman, I have just been reminded to add that, when this does occur, we do take special pains to protect the identity of anyone who does identify himself; but I agree with your comments.

Mr. BIAGGI. Well, I feel it is critical that that information be given the highest priority, as far as confidentiality is concerned, because we have seen some sad consequences.

Have you made any load "boat" busts that have resulted in the seizure of mother ships, from evidence found onboard?

Admiral STABILE. Mr. Chairman, I am sure we have. The one thing I do know—I have just consulted with my staff—the one thing I do know, in the few days that I have been in this particular position, that the intelligence checks, the information that we get in the checks through EPIC have been very good.

The quality of the information received, when the system is queried, has improved substantially in the past few years. I feel quite certain that it has contributed to the interdiction—and probably with regard to mother ships, but I cannot say for sure.

Mr. BIAGGI. Well, perhaps you can respond, for the record, in any event.

[The following was received for the record:]

EPIC INFORMATION USE

Intelligence information such as that obtained from EPIC is very useful in our law enforcement work, but because of its nature, we can seldom say that an EPIC check led to a seizure, although it has happened. An EPIC check is usually made when the ship or aircraft is on scene, and may provide the information needed to determine where best to apply our resources. The information is also used by a boarding party to assure its own safety. If the people on a vessel are known to be past violators and known to carry weapons, more caution can be used.

Mr. BIAGGI. You do make a point and, I think, an important point. When EPIC was first formed, there was a question as to its efficacy. The testimony we have listened to indicates there has been a very substantial amount of progress made.

I remember one point, at one of our hearings early on, one of the law-enforcement officials testified that they had made an inquiry about a boat and got information about an automobile. It is humorous, but also pointed out the need for a great improvement, but in

fairness to all concerned, it was the early stages and the bugs developed everywhere.

One more factor—EPIC is one phase of it. How about the general degree of cooperation, because our experience has been there have been traditional rivalries over the years? Those rivalries sometimes can develop into counterproductive undertakings.

Admiral STABILE. Sir, just last week, I met with the LEO organization in Miami. Between that meeting, with the representatives of all the law enforcement agencies, and my conversations with the district staff and with Rear Admiral Durfey, it is apparent to me that the level of cooperation has improved dramatically; that there is less provincialism all the way around.

If there is some "holding close to the vest", I think it tends to be to preserve, perhaps, the cover on a particular operation; rather than trying to be provincial, holding back or backbiting.

I am completely impressed, favorably, by the spirit of cooperation that I have seen thus far.

Mr. BIAGGI. You know what you are saying is very interesting, because I heard the same thing over a lifetime in law enforcement. Every time officials have testified, they have said, for the record, complete cooperation, but we all knew differently.

Except this time, from our own personal sources, we know what you are saying has more substance than ever before and that is important.

Congressman Lent?

Mr. LENT. Thank you, Mr. Chairman.

Admiral, I certainly want to say, on my own behalf, that I am very, very impressed with the competency and esprit de corps of the 7th Coast Guard District personnel. I want to thank you, Admiral, and your people, for the hospitality they have afforded the members of the committee and our staff.

I am trying to get a handle on the magnitude of the drug smuggling problem that you have here in south Florida. I want to try to understand what the Coast Guard is up against.

Now, we know, from your statement, you seized 101 vessels in 1978, some 3 million pounds of marihuana; so far this year, 45 vessels have been seized and 1 million pounds of marihuana.

What percentage of the traffic do you think the Coast Guard, and other law enforcement officials, are interdicting at this point? Would it be 5 percent, 10 percent, 20 percent?

Admiral STABILE. Congressman, I have tried to get a handle on that myself. The best answer I seem to have gotten is we really do not know but, if you want a ballpark figure, I have heard figures from 8 percent up to 24 percent. Mostly, I have heard around 10 to 15 percent of the maritime.

Mr. LENT. Well, let us say, for the sake of argument, you were interdicting 10 percent of the traffic coming into this area by vessel—and during 1978 we had 100 vessels that were seized—are we saying, then, that there are 1,000 vessels, possibly, that could be involved in the business of smuggling in drugs?

Admiral STABILE. I think we are talking about volume of cargo, rather than the number of vessels. Of course, as I indicated in my remarks, as the size of the vessels goes up, for the given amount of cargo, the number of vessels goes down—could go down.

Mr. LENT. What kind of vessels are you seizing? Are you seizing shrimp boats, or fishing boats, privately owned? Just what kind of boats are you seizing?

Admiral STABILE. It is a very wide spectrum. I have seen photographs of these and there is no one type. They do include fishing boats, shrimp boats. They include small pleasure craft. There is such a thing as a 52- or 45-foot Hatteras. Some of them are very nice looking craft; most of them are old and decrepit.

We have seized vessels up to several hundred feet long that are old, rust-bucket freighter types. It is a wide spectrum.

Mr. LENT. So you do not have any evidence to support the notion that Key West shrimp boats might be involved in this trafficking particularly?

Admiral STABILE. Not that I am aware of, Congressman. I am sure there are some, but I would not want to say that they are especially engaged in it, to my knowledge.

Mr. LENT. Why would smugglers of marihuana come into the Key West area? Certainly you do not have the population here that could support the kind of consumption that we are talking about.

What makes the Key West area attractive?

Admiral STABILE. I think it is the geography, I would guess. It is a widespread area of many little inlets, islands, places to duck into. I think it is relatively easier to go undetected than some other places perhaps.

Mr. LENT. Would you characterize the Key West area of the Keys as a major transshipment area for marihuana smuggling coming up from South America?

Admiral STABILE. I do not know the answer to that. I am told it is one of the larger ones but I do not know that.

Mr. LENT. Does it appear that some of these boats carrying contraband are going to offload in the Key West area for transshipment, by vehicle, to northern population centers or is it all being offloaded for local consumption?

Admiral STABILE. My guess would be that it is some of both, including offloading for pickup by another vessel to bring it further up the coast someplace else. I think it could be a wharf transshipment as well.

Mr. LENT. Well, do you get the impression, from examining the cargos on these ships that have been seized, that these cargos were packed at sea or that these cargos are so carefully packed that they must be packed at some land base?

Admiral STABILE. I do not know. I have never asked the question but, what I have heard about it, I came away with the conclusion that they had been packed ashore somewhere, not at sea.

Mr. LENT. Well, I had gotten the impression, from a briefing that our committee received yesterday, that in many cases that packages or bales of marihuana had been packed so tightly—the conclusion almost hit me in the face—that the packing job had to have been done—at a dock, or at some shore installation, rather than at sea.

Admiral STABILE. You are thinking of something like a compressor, for example, that would give you a tight bale.

Mr. LENT. Well, I realize the bales are packed. I am talking about the manner in which the bales have been packed in the vessel—in the hold of the vessel.

The briefing indicated that they were packed extremely well and that every available inch of space was used; leading to the conclusion that the packing must have been done, not at sea, but at a shore base.

Now, my point that I would like to reach is, if the vessels, that you are seizing, are shrimpers, or lobster boats, or boats having a relatively short range, how is this possible that they would be so well packed?

Admiral STABILE. Well, Congressman, I really do not know that I would come to the same conclusion. I think the word that might eliminate some confusion is the "loading" of the vessel.

It is not my impression that it would necessarily require loading at a dock. I do not see any reason why it could not be manually loaded at anchorage, or drifting, from a lighter or from another vessel.

I think, as I mentioned in my remarks for example, the loading in Colombia was being done right along the coastline. And due to the Colombian effort, for example, they have had to use smaller craft and load up mother ships, so-called, offshore. I would assume that the same would pertain in other areas.

I am advised that the primary source was loading at a dock and I am sure that would be the preferred method, given the option.

Mr. LENT. Well, do these vessels that were seized, generally speaking, have the range to come from a South American dock, or a Colombian dock, all the way up to these waters?

Admiral STABILE. Yes. The larger ones certainly are. Now, of course, the mothership operation, as I am sure you are aware, is such that many of the vessels we seize are the ones that are offloading to the mother ships offshore.

Mr. LENT. Well, let us get back now to this point. This is what I am trying to determine. If it is a mothership loading, that is different than the loading operation taking place at a dock, is it not?

In other words, if you are saying that these ships, or these contraband-bearing vessels, were loaded at a shore point that would indicate they were not loaded from a mother ship.

Admiral STABILE. Well, you know, I am conjuring up a vision of one of the things that was briefed on yesterday, which was something like a 22-foot, open boat; and I think they said they had 70 bales. It must have just been thrown on top of one another. It is not a very sophisticated loading operation.

Mr. BIAGGI. Would the gentleman yield? So far as packing is concerned, I have been advised that they use compactors. I do not want to use the commercial name but it is an American product. A lot of people are buying it and it is apparently very effective.

Only one point, it has the durability but it is very interesting that the American product is very effective in this regard.

As far as the shipping is concerned, we have learned that it is done in a number of ways. They have mother ships which come right into the harbor facilities. We talk about governments that are

not cooperative. They are part of the problem, rather than the solution—Colombia, specifically.

Now, I understand there is a change of attitude in that area and there will be a great degree of cooperation. We spoke to the Ambassador from that nation, in Washington, not too long ago.

He predicts that in about a year there should be a very substantial reduction of marihuana from that country.

What it does is raise the question, where does it go from there, because the profit margin is so great. Mother ships can be loaded in proper harbor facilities; they can be loaded offshore. They can be huge vessels; they can be relatively small rust-buckets, that we witnessed the Coast Guard apprehending some 400 miles offshore.

It is amazing just what kind of boats are used and how they can risk the hazards of the sea. The conditions are just impossible.

I have had the advantage—unpleasant experience—of boarding a number of them and it just defies imagination. I think the smallest one was about 25 tons of marihuana; it was about 45 feet and that came all the way from Colombia.

Mr. LENT. One last question, Admiral. When your people interdict a vessel, are you generally acting on the basis of intelligence or are you simply making spot checks?

Admiral STABILE. It is a mixture and I honestly could not give you—I could not say it was 50 percent, one way or the other, at this time. I could perhaps provide it for the record.

[The following was received for the record:]

PERCENTAGE OF SEIZURES ATTRIBUTED TO INTELLIGENCE

It is difficult to state a percentage of seizures attributed to intelligence. Periodically, we will act on specific intelligence supplied by another agency about a single ship or operation. These incidents sometimes result in seizures. I would attribute less than 10 percent to that clearcut application of resources to hard intelligence.

Admiral STABILE. I might point out that we have information, with regard to people that are suspected of being in the business, but our cutters operate on patrol and board for cause. That is, they board for some reason that they can legitimately perform a boarding for that is, insuring compliance with U.S. laws.

Other than that, we do random boardings. Sometimes the random boardings will disclose a violation and result in a seizure. Other than that, we board for cause and frequently—of course, when we board for cause, we are checking our intelligence files, EPIC, and what-not, to assist us in determining what kind of a problem we have.

In fact, we do it before we board, to see what the threat might be on board. EPIC has been very good about warning us beforehand as to what we might expect when we get aboard, with regard to dangerously armed criminals and so forth.

Mr. LENT. I have no further questions.

Admiral STABILE. Does that answer your question, sir?

Mr. LENT. Well, I—it does not really answer my question, because I am—perhaps you could provide this for the record at a later day.

If you had 101 vessels seized in 1978 and 40-some-odd vessels seized so far in 1979, I would be interested in knowing how many of these seizures were the result of intelligence, tips, informers, EPIC,

et cetera, and how many you just stumbled upon in making a routine, on-the-spot check?

Admiral STABILE. We will attempt to provide that for the record. [The following was received for the record:]

SEIZURES DUE TO INTELLIGENCE

In 1978 about 15 seizures were the result of direct hard intelligence. So far, in 1979 about five can be attributed to direct intelligence.

Mr. BIAGGI. Mr. Evans?

Mr. EVANS. Thank you, Mr. Chairman. First of all, I want to associate myself with the remarks made by both the other committee members as to the commendation for the work being done by the Coast Guard, Admiral. It certainly impresses me.

We are aware of the problem and are doing everything we can, at this time, to correct it. I do have some questions.

You pointed out that there is an intensification of surveillance at the chokepoints, such as the Yucatan Channel and the Windward Passage. You are driving the traffic further east to the Mona Passage and the passage east of Puerto Rico.

What provision are you making, in advance, to correct or negate this expected shift in the traffic pattern?

Admiral STABILE. I alluded, briefly, to the fact that, with our limited resources, we would cover the westerly passes and we would call on Atlantic area to provide northern ships; perhaps increase their patrols, to increase the coverage to the eastward. I cannot predict the number of cutter days that would be involved but it would be an increase.

Mr. EVANS. As a followup to that same concept, we all know that there is a tremendous leadtime between the time you anticipate, or recognize, the need for an increase in resources and the time that actual resources get to the line.

That being true, do you think that we are in a stage, such as somebody who goes up an escalator—the down escalator?

You know, you can expend a tremendous amount of energy, but unless you beat the pace, you end up no place. Are we doing the same thing here? Are we expanding our efforts but just barely keeping pace or do you think we are actually gaining on the problem?

Admiral STABILE. My off-the-cuff estimate, Congressman, would be that we will make no marked change with the resources that we have. I am sure we will be able to provide some effective increase, by drawing in these additional resources from other districts.

I mentioned the northern district, so I might add that Admiral Yost, to the westward, the 8th District, is making increased resources available to me also, partially by relieving my western patrol requirements, so I can shift some of my patrol days down to my critical area.

I do not think I can honestly say that we would make a dramatic dent with the existing resources.

Mr. EVANS. Well, I think I speak for the others—I hope I do—when I say that the Congress depends on those who are on the scene to advise what the needs are.

Would you think that you are being a little conservative in your request for additional resources? Are you unduly being conserva-

tive due to the constraints—the maximum constraints—or are you looking as to what you actually need here to do the job effectively? Not saying to do a job with what you have, but to do a job that really has a sufficient impact, in effect.

Admiral STABILE. Well, Congressman Evans, as I said, I, personally, am not at the point where I can measure effectiveness. I could not put a benefit value on a particular additional resource at this time. We hope to do so, as I said, with the contract study.

We are also looking at the potential for getting more out of our existing cutters by increased crewing concepts, but I am sure the committee is well aware of the personnel constraints that also influence us in this area.

Mr. EVANS. Well, yes, I think we are and that is exactly what I am trying to do. If our effort is of such magnitude and we are not gaining on the problem, then we are at the point of the treadmill.

One final question. Are we taking any steps to make sure we do not have a repetition of the French Connection, with the disappearance of contraband?

Admiral STABILE. I am told we are. I am not sure I know the ins and outs of that, Congressman.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. BIAGGI. I think once the Coast Guard is in the picture, they generally get Customs—turn over the marihuana to Customs. They transport it—at least, they do transport it to the Miami area.

Captain Robbins. Orlando, I believe.

Mr. BIAGGI. Orlando. Well, that is only because after they burned all of that contraband, the people of Miami were the happiest people in the world.

But the Government made some excellent observations. One being made all the time, the Coast Guard is conservative in its requests. I know some people regard that as salutary. In the light of public spending, perhaps that is. That may well be, from the taxpayer's point of view.

But this committee has assessed the Coast Guard's needs and has given it additional funding. I do not know that there are any moneys allocated—extra moneys allocated—to law enforcement in the Navy budget. As a matter of fact, the request was not made by the Coast Guard in its testimony.

Mr. Evans, we have to help the Coast Guard help itself. It is our responsibility and that has been our observation, as far as financing is concerned.

I would like the record to show that this is DOT's comments on findings and recommendations. The Department of Transportation concurs with the GAO findings concerning the Coast Guard's lack of sufficient resources to effectively patrol chokepoints and that is an observation made yesterday.

We are talking about a very large area and there is just not enough vessels afloat. On that point, tell us where the *Diligence* is right now, the 210-foot cutter you have.

Admiral STABILE. The *Diligence*, at the moment I believe, is in the Coast Guard yard, undergoing marine sanitation device installation in order to comply with the law.

Mr. BIAGGI. Well, that is exactly the point. We do not quarrel with the needs for that; we quarrel with, again, the availability of equipment to maintain the continued effort.

I do not honestly believe that you have enough equipment and personnel in this area to maintain a sustained effort. It should not wax and wane like human emotion. We are talking about professional law enforcement. It should be a constant effort.

Now, we do have varying, seasonal needs in the fisheries area. When the needs diminish in those areas, it might be well to deploy some of those vessels to the 7th District. That is just a simple observation.

But whether it be that way, or additional equipment, the inescapable conclusion is you need more. I am sure those engaged in the smuggling know exactly where the *Diligence* is and when it is back in operation, they know where it is, unfortunately, when it is on patrol. That is even worse.

That sophisticated communication equipment they have, is extraordinary. It gives the smuggler a distinct advantage over a spartan agency.

Thank you very much, Admiral and Captain Robbins.

Admiral STABILE. Thank you, Mr. Chairman.

Mr. BIAGGI. Before you go, I just—what efforts has the Coast Guard 7th District undertaken in supporting activities of Sheriff Butterworth, in establishing a regional drug interdiction task force and intelligence center in Broward County, adjacent to Coast Guard facilities there?

Admiral STABILE. I would have to provide the answer to that specific question for the record, Mr. Chairman.

Mr. BIAGGI. All right.

[The following was received for the record:]

COAST GUARD COOPERATION WITH SHERIFF BUTTERWORTH

Our Coast Guard Station at Fort Lauderdale, FL., is immediately adjacent to the site of this Task Force, and we have worked very closely with Sheriff Butterworth's people during its development. We continue to cooperate on specific missions of mutual interest.

Admiral STABILE. I do know that, on a local basis, Sheriff Butterworth and our personnel at Fort Lauderdale have worked extremely closely and very well. The sheriff confirmed that with me this morning. I am not aware of the status of planning for that center.

Mr. BIAGGI. What about the Coast Guard—the Commandant's proposal for an EPIC situation for the Caribbean?

Admiral STABILE. I think I mentioned that earlier. The Commandant visited nine nations in the Caribbean and that was in May.

As a followup to that visit, the Department of State worked up an agreement between the nine nations, whereby the signatories agreed that they would provide intelligence information with regard to vessel movements.

I do not know all the details of the agreement, but I would say that just getting that agreement was a substantial step and a very worthwhile effort.

I am advised that it was the Coast Guard, and not the DOS, that was involved. I do not know if you have any other questions that we might clarify, with regard to our specific involvement on that

agreement. I do know it was a Commandant initiative, in visiting those nine nations, explaining our program, and soliciting their cooperation.

Mr. BIAGGI. Yes; that would be more of a Department of State undertaking.

Admiral STABILE. Well, the visit, itself, I know was the Commandant.

Captain Robbins. Right. He made the visit in May. We had meetings with the naval representatives from each one of those countries at Coast Guard headquarters; and have been working out a mutual agreement to pass information on ships at sea that are suspect, among the various nations.

Mr. BIAGGI. Do you get a general feeling of sincerity of effort?

Captain Robbins. Yes, sir. They were very sincere. Of course, in those countries it is the naval forces that fulfill what we do here in the U.S. Coast Guard.

Mr. BIAGGI. Are they doing anything now, in relation to this interdiction?

Captain Robbins. I cannot tell you for sure if there is actually information passing back and forth, but in my conversations I believe there is. I am sure that it is sporadic as yet, because there is still a great deal of work to be done.

Mr. BIAGGI. All right. Thank you very much, Admiral, Captain.

Admiral STABILE. Thank you, Mr. Chairman.

Mr. BIAGGI. Mr. Frederick Rody, Jr., southeastern regional director, Drug Enforcement Administration and Mr. Fred W. Long, supervisor, U.S. Customs Service.

You may proceed.

STATEMENT OF FREDERICK A. RODY, JR., REGIONAL DIRECTOR, SOUTHEASTERN REGIONAL OFFICE, DRUG ENFORCEMENT ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY ALLAN PRINGLE, SPECIAL AGENT IN CHARGE, MIAMI DISTRICT OFFICE

Mr. RODY. Before I start, Mr. Chairman, I would like to introduce my associate, to the left, Mr. Allan Pringle, who is the special agent in charge of our Miami district office, which under our recent reorganization covers the entire State of Florida, Jamaica, and a newly established office in Nassau.

We would like to thank you, Mr. Chairman, and members of this committee for the opportunity to appear here today to discuss the drug situation in Florida and the initiatives taken during the past year.

On June 9, 1978, I appeared before the House Select Committee on Narcotic Abuse and Control, at which time I described south Florida as a gateway for the introduction of large amounts of drugs from South America to the continental United States. Based on removal figures for the first 6 months of 1979, I see no reason to significantly alter that statement.

There is some representation of all types of illicit drugs in Florida, although the major trafficking problems are marihuana, cocaine, and more recently, counterfeit Quaaludes.

We continue to estimate that at least 90 percent of all marihuana and cocaine shipments from South America, regardless of where

delivered, in some way affect Florida. Colombia is the source for the majority of these drugs, with some origination in other South and Central American countries.

Several areas within the Caribbean are being used as major transshipment points and stash sites for drugs. Jamaica, Puerto Rico, and the Bahamas can all be considered major transshipment points.

Even if the drugs never enter Florida, the negotiations, arrangements and financial transactions more often than not take place here. Consequently, the violence attendant with these multimillion dollar negotiations is cause for considerable public alarm.

In Dade and Broward Counties alone, there have been 48 drug-related homicides so far this year. Twice within the past 3 months, these homicides have involved shootouts, in broad daylight, in heavily populated areas.

The thefts of aircraft and vessels by international drug traffickers is of grave concern to us. Narcotics traffickers are directly responsible for increases in vessel theft along the Guajira Peninsula and are also arranging for the purchase of vessels in other Latin American countries. Obviously, the utilization of mother ships is not on the wane.

On many occasions, before Congress, DEA Administrator Peter Bensinger and I have described, in great length, the many problems associated with the mother ship operations, so I will not discuss that matter in detail here. DEA expects growth in the trafficking of drugs on the high seas to continue.

Congressman Biaggi, we are most appreciative of your longstanding interest in the problems associated with maritime smuggling and interdiction. The legislation you have introduced this Congress, H.R. 2538, would close the loopholes in existing law and thus enable us to prosecute the crewmembers of these mother ships. This bill would give much needed support to the maritime drug enforcement efforts.

Shortly before the Select Committee on Narcotics adjourned the hearing in south Florida, the White House Domestic Policy Staff issued "The Southeast Initiatives." Many of these initiatives have been implemented and others are under consideration.

For example, these initiatives called for DEA, the U.S. Coast Guard and the U.S. Customs Service to expand cooperation, coordination, and intelligence sharing and training activities with State and local enforcement officials in Florida.

DEA has intensified its training schedule and added a series of Florida initiative seminars. These monthly 3-day seminars, directed toward Federal, State, and local agencies are not just learning experiences; they provide us an open forum for the exchange and discussion of mutual problems and goals.

The six seminars presented so far this year have been well received. The Drug Enforcement Administration is firmly committed to cooperating with State and local law enforcement agencies, as well as with other Federal enforcement agencies.

These cooperative efforts frequently have significant results. During this past year DEA and various State and local agencies have cooperated on 102 joint investigations throughout the State of Florida.

The joint DEA/FBI task force in Miami, commonly referred to as Operation BANCO, has progressed to the postindictment phase in one of the most complicated investigations. They are now preparing for trial.

The Department of Justice has assigned three full-time attorneys to assist in the prosecutorial needs of this task force. These cases are significant, in that they substantiate charges of conducting a continuing criminal enterprise and violations of the RICO statutes. These provisions of law call for mandatory sentences and provide for forfeitures of assets and moneys.

Another situation addressed in the White House initiatives was manpower allocation. The southeast region has opened new offices in Panama City, Fort Myer, and Fort Lauderdale, Fla.

Our new resident office in Nassau, Bahamas, is scheduled to be in full operation some time this month. Collectively, DEA has increased the number of special agents in Florida by 10 percent. Presently, 9 percent of the DEA special agents assigned domestically are stationed in Florida.

Last September, the State of Florida FDLE—Florida Department of Law Enforcement—formalized an agreement with the El Paso Intelligence Center—EPIC. This agreement greatly facilitates intelligence sharing.

The State of Florida is currently developing a complimentary system to service all county and local departments with the data available to them from EPIC. Of equal significance, the State of Florida also passed legislation calling for mandatory sentencing of commercial smugglers and traffickers of drugs.

It is DEA's desire to continue to improve upon cooperation and coordination of Federal, State, and local law enforcement agencies. Only in this way can we conduct a meaningful attack on the drug smuggling problem facing us.

Mr. Chairman, I would be remiss, if I did not compliment the fine efforts of the U.S. Customs Service and particularly the interdiction efforts of the Coast Guard at high sea. The cooperation between the Federal families has been excellent and I highly compliment the interdiction efforts of these agencies.

Mr. BIAGGI. Thank you very much, Mr. Rody. How long have you been with the DEA?

Mr. RODY. Since 1973, sir. I was approximately 17 years with U.S. Customs Service, investigations, prior to that time.

Mr. BIAGGI. You have an extensive history.

Mr. RODY. Beg your pardon, sir?

Mr. BIAGGI. You have an extensive background in this area.

Mr. RODY. In drugs; yes, sir, 23 years.

Mr. BIAGGI. I am only making the point, in relation to your closing comment about the cooperation that exists today. Is it your knowledge that it did not always exist?

Mr. RODY. Yes, sir, I will acknowledge that.

Mr. BIAGGI. I think we have made the proper comments, with relation to interagency cooperation, historic, its use and that it happened when the Indians were killing each other.

I appreciate the statement. Let us deal with manpower allocation just a little bit. I am impressed with 9 percent of DEA—9 percent of DEA assigned domestically here in Florida.

Have you sufficient backup staff in Florida, at this time?

Mr. RODY. In Florida, sir?

Mr. BIAGGI. Yes.

Mr. RODY. We increased by 10 percent of what our complement was prior to October of 1978. With our reorganization and internal reorganization, we established the entire State of Florida as a district office, which Mr. Pringle supervises.

Prior to that time, Florida was a regional office, with no composition of a district office, that covered a three-State area. So we do have an increase in manpower in that regard.

Mr. BIAGGI. You were present when both Admiral Stabile and Captain Robbins testified. Is it your judgment that the Coast Guard has adequate equipment and personnel to deal with this problem?

Mr. RODY. It would be my personal judgment—and I certainly do not want to offer—

Mr. BIAGGI. That is what I was asking.

Mr. RODY [continuing]. I certainly do not want to offer pleadings for the U.S. Coast Guard, but my personal standpoint, I think they have very limited resources. Their resources are stretched severely with the very fine job they are doing in the interdiction that I see.

Mr. BIAGGI. We know about the great job they are doing, but I want to emphasize the point.

Mr. RODY. They have very limited resources.

Mr. BIAGGI. You made reference to shootouts in the—what county was that? Where were the shootouts?

Mr. RODY. Dade and Broward County, principally, but we have had some drug-related homicides in other parts of the State.

Mr. BIAGGI. With relation to the drug-related ones, what is the nature of the drug involved?

Mr. RODY. It is usually three principal drugs we are confronted with in this area, marihuana, cocaine, and Quaaludes.

Mr. BIAGGI. Are these all organized groups or each little guy that is functioning—

Mr. RODY. For the most part, oftentimes, they are highly organized groups in competition, or a ripoff type thing, but I am certain there have been some that have been individual feuds of personalities.

Mr. BIAGGI. Could you describe for the subcommittee the Black Tuna operation? And by the way, you are to be congratulated for that. I think it represents a very substantial breakthrough and if that prosecution is successful it would be an important initiative for law enforcement.

Mr. RODY. Thank you, Mr. Chairman. I hesitate to comment in any greater detail than the Attorney General released on May 1, due to the right to a fair trial for the defendants and not to interfere with prosecution.

At any rate, this particular methodology involves a combination group of FBI and DEA agents who have worked in tracing the flow of money, principally those moneys of drug-trafficking organizations, which on May 1 resulted into 14 people being indicted on 40 counts, which involved smuggling of 500 tons of Colombian marihuana.

The significance of the methodology is the charge of the RICO statutes in the continuing criminal enterprise statutes which pro-

vide for mandatory sentences and, more importantly, hit them in the pocketbook, their asset moneys; their homes, businesses, and yachts.

Mr. BIAGGI. Where is that now? Are they awaiting trial?

Mr. RODY. It is awaiting trial. I was briefed on it last week. They are in a series of motions of discovery; motions for suppression of evidence; and there was preliminary procedures before trial.

Mr. BIAGGI. Can you briefly describe for the subcommittee the facts surrounding the recent joint operation, involving the Dade County attorney's office, that resulted in mutual recrimination, involving interagency cooperation and petition?

Mr. RODY. Sir, again, I am hesitant to make comments on the matters before the judiciary, on a State investigation that is presently awaiting trial.

I will briefly say that there were some operational disagreements at the initiation of some phases of the operation. I think these have been grossly exaggerated in many ways; but nonetheless, the parties concerned frequently met to arrive at understandings, working relationships, to insure that we do not have that type of activity reoccur.

Mr. BIAGGI. And all is tranquil again?

Mr. RODY. I beg your pardon, sir?

Mr. BIAGGI. All is tranquil again?

Mr. RODY. Yes, sir.

Mr. BIAGGI. Well, there was a sufficient amount of discord developed, as a result of this interagency controversy, to warrant Peter Bensinger coming down himself; and I would like to highlight that, only hoping that it is the exception, because I keep hearing that cooperation in this area is extraordinary and it heartens one.

I believe it has improved substantially, but when I learn of situations like the one we are talking about, it rouses the old sense of cynicism and doubt. I do not have to tell you how responsible people should act.

Mr. RODY. No, sir. If I may comment, I hope the committee is not misled. Mr. Bensinger has been down here on numerous occasions, in the effort of joint Federal, State, and local seminars; in an effort of developing intelligence-sharing, and to show the keen interest that he has in the State of Florida and the problems we are confronted with drugwise.

Mr. BIAGGI. One of those interests—among his many considerations was this situation.

Mr. RODY. Yes, sir.

Mr. BIAGGI. What is the status of the Caribbean EPIC concept?

Mr. RODY. This last week, the Director of EPIC, Mr. Arthur Flore, and my Deputy Regional Director, Mr. Kenneth Malley, just returned from Puerto Rico and the Virgin Islands. There, agreement was reached with officials of the Virgin Islands, to provide them access to the EPIC data base. Likewise in Puerto Rico.

They are doing so, in the Virgin Islands, through some of the facilities, the mechanic or cybernetic facilities, of the U.S. Customs Service.

In Puerto Rico, we do have a DEA district office and, there, we have made arrangements with the Puerto Rican officials to provide them with data-retrieval capabilities through our facilities.

Both Puerto Rico and the Virgin Islands, it is my understanding, have been placed in the weekly bulletin disseminated by EPIC.

Mr. BIAGGI. What nations have been targeted as those likely to be the base of operations for people who are desirous of laundering their money, and drug trafficking, and reinvestment of drug-smuggling funds?

Mr. RODY. I think the Bahamas and the Cayman Islands would be the two principal areas where we see those combinations. To some extent—but a much lesser extent—there has been some indication that possibly Dominican Republic and Haiti also.

Mr. BIAGGI. What efforts have been made in those areas and how far along have they gone in establishing the necessary contacts?

Mr. RODY. In the Bahamas and Cayman, primarily, Mr. Pringle, here, has a district intelligence unit that periodically visit all the islands. He also has established an office in Nassau, where we have very close cooperation with the Bahaman officials.

We have found, recently, that several of those islands in that area, that people known to our system as being involved in drugs, that they have purchased considerable amounts of property—in some cases, even entire islands—that we expect to be used as stash areas or for their transshipment of drugs in the United States.

Mr. BIAGGI. Let us embark on another tangent. What role does border interdiction play, in relation to the Federal Strategy 1979?

Mr. RODY. My understanding of the Federal strategy, the border interdiction plays a very, very important role. It is not the sole role, because it is going to take coordination effort, use of intelligence, greater seizures, greater prevention measures, improved technology and, probably more importantly, the coupling of all these resources and multifaceted programs into developing good, strong prosecutable cases, particularly under the conspiracy laws, the RICO statutes, and the continuing criminal enterprise, to bring the principal organizations into the criminal justice system.

Mr. BIAGGI. How about the need for additional personnel?

Mr. RODY. For DEA, sir, or what?

Mr. BIAGGI. Well, talk about it.

Mr. RODY. I would suspect, including DEA, that every law enforcement agency, in Florida, is in need of additional resources at this time and circumstance, in our perspective here in dealing with the problem daily.

Mr. BIAGGI. I should have expected that answer.

Mr. RODY. I do want to suggest—I think—from my perspective, I think modest increases we would certainly enjoy. I think it is true, in previous efforts to control drug trafficking, the bulk of the programing and effort will have to be done in the source country and that is Colombia.

We had Ambassador Ascuncio visit us last week. We made him available with Federal, State, and local, to hear his perceptive of what was occurring in Colombia and also to advise us of what they were doing from a U.S. Government standpoint.

Mr. BIAGGI. We had the advantage of meeting with him, too, and he is very optimistic of the future, as far as Colombia's participation.

Can you tell us, in as much detail as you can, what has been happening to the traffic in Colombia and what is happening in Colombia?

Mr. RODY. I have recently read Congressman Wolff's remarks, having returned from Colombia, in which he describes a very active military campaign taking place in Guajira Peninsula. It describes the President's decree to control the movement of vessels and aircraft.

It also describes a 6-month period in which they have arrested some 685 Colombian citizens, 147 other nationalities; seized 174 vehicles, 41 aircraft, 64 ships, and 1,524 tons of marihuana.

I think those are—

Mr. BIAGGI. What 6-month period was that?

Mr. RODY [continuing]. That was up through May. The report I read, I have it right here, sir. It was May 27, so that would be from probably November through May.

Mr. BIAGGI. Do we have any other statistics, with relation to the period preceding that 6 months?

Mr. RODY. I am sure we can provide that to the committee. I, personally, know that it is much less than this, from my personal knowledge.

Mr. BIAGGI. I would like to—I think it would be important to see a comparison.

Mr. RODY. We will provide that to the committee.

[The material was not received at time of printing.]

Mr. RODY. I would like to also comment that, by our own initiatives going with the Government of Colombia, the United States and the Government of Colombia are on the fringes of a mutual assistance and extradition treaty and that that is in the initialing stages.

In addition, I understand that President Turbay recently visited Mexico, with some of his principal staff, to examine some of the eradication methodology procedures there.

Mr. BIAGGI. I understand the Colombians are effectively controlling their airspace but not doing as well with the seagoing operations.

Mr. RODY. I would have to agree with that, Mr. Chairman. The area of the seagoing operations, like Guajira Peninsula, is sometimes described as "No man's land." It is a very difficult area to control.

Mr. BIAGGI. We have witnessed, over a period, a lot of amateurs involved in this business and then we had some criminal types; but organized crime did not seem to raise its head. But, recently, there is some newspaper reports—I think Jack Anderson has stated in one of his columns—that organized crime is finally moving into the marihuana field.

Do you have any evidence of that?

Mr. RODY. Yes, sir. We have had a few highly organized, traditional-organized criminal figures that have gotten involved into the marihuana and cocaine traffic.

By and large, I would say, from an organized crime standpoint, that most of the organizations involved in commercial, smuggling trafficking are not of the described traditional sense. They are exceedingly makeshift, but very well-organized and very well-

planned, such as the group in the so-called Black Tuna thing. That is organized crime in our perspective, because of the moneys, the operations, sophistication, and so on.

Mr. BIAGGI. They must have figured if it was good enough for legitimate businessmen it is good enough for them.

Mr. RODY. I would suspect so.

Mr. BIAGGI. One last question, in relation to that. Do you feel that the business of marihuana smuggling is engaged in by a wide spectrum of peoples, from absolute amateurs to just others who would like to invest money, to the low-criminal types or to the high-criminal types?

Mr. RODY. Sir, I believe we get people from every walk of life involved and I believe a lot of it has been due to the very high profits and very low risk.

We have arrested people from the judiciary, attorneys, law-enforcement people, public officials; and we have arrested students and all types of people; just as an example to describe some of the professions that sometimes get involved.

Mr. BIAGGI. Governor Graham, and the Florida State Legislature, have enacted some tough, antitrafficking laws.

Mr. RODY. Yes, sir.

Mr. BIAGGI. Do you think that will have an inhibiting effect?

Mr. RODY. I certainly believe the law, as I understand it, is directed at the commercial violators, those that make the most money with the largest quantities, and certainly not at the user. This is certainly the philosophy of DEA, to address the commercial violators.

I think having stiff penalties, is a deterrent there, certainly would do a great deal to discourage people from engaging in this type of criminal activity.

Mr. BIAGGI. Do you have any intelligence indicating a connection between drug smuggling and the illegal exporting of arms and weapons by drug-smuggling organizations?

Mr. RODY. We have had a handful of cases which involved arms and dope. I think the FBI, the U.S. Customs Service, and ATF could best address the disposition of arms or how many are being used for drug purposes.

We did a study in EPIC, in 1975, on arms for drugs. It is a little dated, but we would be glad to provide a copy of that for the committee.

Mr. BIAGGI. To your knowledge, have any of these weapons gone to terrorist groups, such as Mano Blanco?

Mr. RODY. Not to my knowledge in my agency; and, as I said, maybe FBI, Customs Service, or ATF, could best address that for the committee.

Mr. BIAGGI. Does your agency have any evidence of the use of banks, marinas, or legitimate enterprises for the laundering of drug trafficking proceeds here in Key West?

Mr. RODY. No, sir. We have had some cases that involved some commercial shrimper or fishing vessels. We have not undertaken a significant amount of interest as to the banks in Key West, due to our limited resources. Our Operation BANCO had primarily centered itself in Dade and Broward County; so we just haven't looked at it to any great detail.

Mr. BIAGGI. Well, you know, there is a strange figure that keeps cropping up in my mind. I understand the Coast Guard has confiscated 500,000 pounds of marihuana since March 1978 and I do not believe that that is for home use, as far as Key West is concerned.

And I am told that there are any number of boats being used for drug traffic in this area. There has to be a lot of money transactions. It seems to me that this area requires a closer scrutiny, because there are some questions that obviously develop and we do not have the answers to them as yet.

I suggest that, if not necessarily the same type of operation—and that would be a judgment that you would make, as you did with the *Black Tuna* case—certainly this area should get added scrutiny.

It is a puzzling picture. You have some 25,000 to 30,000 people here, a half a million pounds, in little better than a year, are confiscated; and even if you deal with the largest estimate of 25 percent, it means that 2 million pounds are being trafficked. If you deal with the smaller estimate of 10 percent, it means 5 million pounds, or 4 million pounds, are being trafficked.

That is worth of considerable attention, don't you agree?

Mr. RODY. I certainly do agree. What we have principally found in the Miami area, because of its interface with South America and the banking systems of South America, that in one form or another we usually can monitor the flow of the moneys involved. We have found a great deal of success doing that in the Dade County area, but we will look into the Monroe County and Key West area in the future, sir.

Mr. BIAGGI. Yes. I can see why you would do it in the Miami area, it is more heavily situated there; it is more convenient. Key West seems to be so remote, but obviously requires attention and it should get attention in every respect, in the beneficial as well as the negative questions.

It is a very attractive place and it should be kept that way. And to make it a haven for the lawless is hardly conducive to its best interests. My own instincts tell me, as a former law enforcement officer, I would not be happy unless I investigated it thoroughly.

What information do you have on the Golden Falcons Parachute Club, as far as transporting drugs into Florida Everglades?

Mr. RODY. We have none, sir.

Mr. BIAGGI. None.

Mr. RODY. We have heard of the organization but we have no specific information in regard to your question. We would be glad to receive such information and look into it, if you have that available.

Mr. BIAGGI. Mr. Lent?

Mr. LENT. Thank you, Mr. Chairman. Thank you, Mr. Witness.

I am trying to reconcile some of the figures here on the quantity of seizures. I believe the previous witness testified that during the first 6 months of this year, approximately 1 million pounds of marihuana had been seized by the Coast Guard.

Your statistics would indicate—and I am taking this from your June 9th testimony—477 tons of marihuana seized during the first 6 months in the south Florida area, which comes out to 1,192,000 pounds.

Can I draw the conclusion from that that an overwhelming majority of the marihuana seizures have been performed by the Coast Guard?

Mr. RODY. I think there—yes, there has been a very substantial number of seizures by the Coast Guard. The exhibits, that are attached to my testimony, only reflect those drugs which we have taken into custody for the purpose of prosecution and would not include those drugs which the Coast Guard may relinquish to Customs for destruction.

Mr. LENT. OK.

Mr. RODY. Collectively, there is not—am I on the same page you are, sir, or are we on two different—

Mr. LENT. I am looking at the first page of your June 1978 statement which is one of your exhibits here, the very last line. You say, "For example, the U.S. Coast Guard, U.S. Customs and DEA seized over 477 tons of marihuana;" now that comes out to a little bit more than a million pounds during a 6-month period.

Earlier, we had the testimony of the Admiral, which was to the effect that the Coast Guard, in this area, had seized 1 million pounds. So if all of these agencies have seized 1,192,000 pounds and the Coast Guard seized 1 million pounds, and they are overlapping, that would seem to indicate that the other agencies did not really make much in the way of a seizure.

Mr. Rody. Are we in the same year?

Mr. LENT. But the county people—

Mr. RODY. This is testimony of 1 year ago, so that would be the figure of January through June 1978, not January through June 1979.

Mr. LENT. Oh, I see. OK.

Mr. RODY. But let me support your statement. The Coast Guard certainly plays a very principal role, quantity-wise, in the seizures of marihuana.

Mr. LENT. All right. Now—

Mr. RODY. Collectively, last year, I believe Federal families seized in the neighborhood of over 4 million pounds of marihuana, some of which was never used for prosecution; that is Coast Guard, Customs, DEA.

Mr. LENT. Well, you do describe south Florida as a gateway—

Mr. RODY. Yes, sir.

Mr. LENT [continuing]. For the introduction of large amounts of drugs from South America to the continental United States. And you indicate that at least 90 percent of all marihuana and cocaine shipments from South America, regardless of where they are delivered, in some way affect Florida. Is that correct?

Mr. RODY. Yes, sir. By some way it may mean the negotiation of the money or the transactions, not just quantities of 90 percent, but in some way it does.

Mr. LENT. And it is your testimony that your agency expects growth to continue in the trafficking of drugs.

Mr. RODY. I believe my testimony would indicate that there will continue to be a high number of instances of trafficking on the international seas, boat traffic and aircraft traffic. We do not have that under sufficient management control at this time.

Mr. LENT. Now, despite the cooperation between the Federal family in drug enforcement, you indicate—let me see which testimony—now, I am going back to your June 9, 1978, testimony which you have attached to your testimony today, that

The dimensions of drug smuggling and trafficking activity, and the associated economics involved, are astounding. It is not unrealistic to say that the smugglers are better equipped, have more resources and financial backing than the entire drug law enforcement community.

Now, has that situation changed? Despite all the cooperation between the Federal family, is it a fact that the drug people are, as you said a year ago, better equipped, have more resources and financial backing than the entire drug law enforcement community, or have we turned the corner—are we ahead of them?

Mr. RODY. I believe that statement is accurate today. We have had initiatives, more or less increases, and all that, but the statement that was made a year ago is equally as accurate today.

Mr. LENT. And you make that point, despite the fact that you say organized crime, is not principally involved in this trafficking.

Mr. RODY. If I recall my testimony, I said we have had a handful of cases that did involve, in the traditional sense, organized crime.

We are confronted with a mammoth number of organized—well-organized groups that are highly financed and have a great deal of resources.

Mr. LENT. So there is a distinction, then, between organized crime and organized crime. You are saying these people, while not in the traditional sense organized crime, are very well organized nonetheless.

Mr. RODY. Yes, sir. We have had the influence of both.

Mr. LENT. I do not think, Mr. Chairman, I have any further questions at this time.

Mr. BIAGGI. All right. Mr. Evans?

Mr. EVANS. Thank you, Mr. Chairman. I refer to the last page of your exhibit, to the comparison of the "removals" as you call them, between 1978 and 1979, I understand that this refers to what you get for prosecutorial purposes; is that correct?

Mr. RODY. Yes, sir. That would only reflect those drugs which we would take into custody, either by our own initiative, from U.S. Customs or from the U.S. Coast Guard, that would be used for prosecution purposes.

Mr. EVANS. But I notice, that there has been a slight decrease in 1979 over 1978. I understand the total amount seized has probably gone up.

Does this mean that we are catching, or being able to prosecute, a smaller percentage of the people involved in this traffic?

Mr. RODY. No, sir.

Mr. EVANS. Does that mean anything?

Mr. RODY. I do not believe you could draw that conclusion from that.

Mr. EVANS. With the increase in the total seizures, with a slight decrease in that which we can prosecute, how do you explain that?

Mr. RODY. Well, it would depend on the ratio of those vessels that were interdicted outside the jurisdiction of the United States. I know there are circumstances where we have no statute to bring the violators before the court.

Now, oftentimes, that takes a great deal of resources making those interdictions, even though we cannot anticipate prosecution.

The Coast Guard will have to tow the vessels back to port and Customs and DEA will have to unload them; have to transport them to Orlando, to burn these multitons of marihuana. It takes a great deal of resources, manpower, and so forth; and in my estimation, I think, ill-spent. We pay people to be investigators and we use a great deal of our manpower.

Mr. EVANS. It might indicate the drug runners are getting smarter.

Mr. RODY. Beg your pardon, sir?

Mr. EVANS. I said, it might indicate the drug runners are getting smarter.

I will ask you the same question I asked the admiral. Are we gaining on this problem, in your opinion, or are we not, because in the final analysis that is the bottom line?

Mr. RODY. From my perspective, locally here in Florida, there are initiatives that I am optimistic about, which would indicate some slight gains.

I do not believe—no matter what we do in Florida—mammoth increases. There is a lot of things we can do to improve the situation. I believe the problem is going to have to be properly addressed in Colombia.

It is going to be that we have to stop the source country and use the efforts that Ambassador Ascuncio and U.S. Customs, and DEA, there, are now working with the Colombian Government. I see some real plus signs, in that regard, down there.

Mr. EVANS. Granted that, is this a short-sighted solution? If Colombia is taken out of this field, there are many neighboring countries with essentially the same climate and other conditions. What is to stop them from entering the heroin traffic? If one country cuts down—what stops the others from coming in?

Mr. RODY. Well, today, heroin is probably at the least availability on the streets than it has been in 10 years. It is the lowest purity and the highest price.

We are anticipating—hopefully we are at the stage, rather than play catch-up football, we are anticipating in a 2 to 3-year period, when Colombia—we have it under management control. We have already established offices in some of the neighboring countries and taken initiatives to get on top of it before it overwhelms us.

Mr. EVANS. Well, I certainly compliment you on that.

Is anything coming in, in significant volume, this way?

Mr. RODY. From South America, sir?

Mr. EVANS. Yes; or using that as a way station?

Mr. RODY. Not since the 1970's when the French Connection still existed. We have had some introductions of heroin, using some of the Caribbean Islands as transshipment points, that have come into south Florida.

Mr. EVANS. Are you finding that there is a language problem in having most people you deal with speak Spanish? Are we sufficiently bilingual here, to your satisfaction?

Mr. RODY. Well, to my satisfaction, I am never satisfied in not having enough Spanish-speaking agents, but we do have a very

large complement within this region, and particularly in Florida and Puerto Rico offices, that are bilingual.

Mr. EVANS. Thank you, Mr. Rody. Thank you, Mr. Chairman.

Mr. BIAGGI. Thank you, Mr. Rody and Mr. Pringle.

Mr. LENT. Mr. Chairman, I notice that the witness brought in some material here, in a burlap sack, and perhaps he would like to tell us what this is; what it represents.

Mr. BIAGGI. Fully packed, in any event.

Mr. RODY. Mr. Chairman, as you know, we brought this at the committee's request and the far one there—indicating—is a typical bale of marihuana that is in the compressed form. Of course, they are packed very neatly in the hold of many of the vessels. This other [indicating] is bulk marihuana.

Mr. LENT. When it is confiscated from aboard a vessel, which form is it generally found in, in the loosely packed or in the bales?

Mr. RODY. More often than not, in the bale.

Mr. LENT. And these bales are put together where, in Colombia?

Mr. RODY. I would say the vast majority of them are compressed in Colombia and, from our intelligence, the bulk of the larger mother ships. They pull right up on the shore of the Guajira Peninsula, where the trucks come up.

They use a stern anchor and the trucks come up, and they load them right aboard the ship. That is where they are usually packed so neatly, as you were referring to before.

Mr. LENT. What is the going rate for a bale of marihuana in Colombia, as compared to the retail value on the streets of Miami, New York, or any of the population centers of this country?

Mr. RODY. I would have to figure out the bale price. Normally, a pound of marihuana—negotiations are usually by the pound—is running about a hundred dollars in the Guajira Peninsula now.

Once it hits south Florida, it would sell in the neighborhood of \$300 to \$350 a pound. As you proceed further north, in the New York area, you are going to start paying \$600 to \$700 a pound; as first distributed off the ship.

Mr. BIAGGI. We have a high cost of living in New York.

Mr. LENT. How much does a bale of marihuana weigh at \$100 a pound?

Mr. RODY. Normally, the bales that we have been provided with run 59 to 60 pounds a bale.

Mr. BIAGGI. That sack, in loose-bulk form, is that the way you found it? Is that the way it was confiscated?

Mr. RODY. Sir, I just do not know. I do not know what particular seizure lot these particular contraband—

Mr. BIAGGI. The only parcels I have ever seen were those in bale form, as you people—I think the Floridians—at least Key West—people in Key West refer to them as “square grouper”. It is a strange euphemism, but I have seen them generally packed in bale form. That seems to be done in a very highly mechanized, very effective way, but it is the first time I have seen marihuana in that type of package.

Mr. RODY. Well, I would suspect—I do not know for certain, but I suspect—these offload vessels, they go to the mother ships. Many times they go out and they will pick up 5 tons off a mother ship and another boat will be picking up 10 tons.

They bring them back and usually when they break it down is when you are going to start finding half-bales being mixed up in second—or third-level distribution.

Mr. BIAGGI. OK. Thank you, Mr. Rody and Mr. Pringle.

Mr. RODY. Thank you.

Mr. BIAGGI. Mr. Fred Long, supervisor patrol officer, U.S. Customs Police.

STATEMENT OF FRED W. LONG, SUPERVISORY PATROL OFFICER, U.S. CUSTOMS SERVICE, ACCOMPANIED BY RAYMOND PEREZ, ACTING PATROL DIRECTOR, MIAMI DISTRICT

Mr. LONG. I have no formal statement to read. However, before I begin, I would like to introduce, on my left, Mr. Ray Perez, who is the acting patrol director for the Miami district.

Mr. BIAGGI. Would you repeat that? Your title, Mr. Perez?

Mr. PEREZ. I am the assistant director of Patrol, Miami district.

Mr. BIAGGI. OK. Mr. Long?

Mr. LONG. Yes, sir. The history of association between the U.S. Customs Service and the U.S. Coast Guard—

Mr. BIAGGI. A little louder, please. You have to pick up that mike.

Mr. LONG. The history of association between the U.S. Coast Guard and the U.S. Customs Service is as lengthy as the history of our Government.

In July of 1789, when our Constitution was adopted, the Continental Congress created the Bureau of Customs. The following month, the Collector of Customs established the Revenue Cutter Service, within the Bureau of Customs. The Cutter Service was the predecessor of the Coast Guard.

Although the Coast Guard is now part of the Transportation Department—

Mr. BIAGGI. Can we pause until we get restore order here. You may proceed.

Mr. LONG. Although the Coast Guard is now part of the Transportation Department, rather than the Treasury Department, most members of the Customs Patrol consider the Coast Guard our sister service.

There is an air of empathy between the two services, particularly at local levels, which promotes a natural, reciprocal, and cooperative interaction of the services. I believe the day-to-day cooperation between the Customs Patrol and Coast Guard, in the Florida Keys, has been developed to an admirable degree.

There is no doubt in my mind that the assistance the Coast Guard has provided the local Customs Patrol office has made us a more effective law enforcement agency. They have provided us with vessels, aircraft, and manpower, and opened their physical plant to us.

The Coast Guard posture of cooperation is set by the local base commander, Commander Sam Dennis. This posture is picked up by the rest of the officers, and men and women, of the base; all of whom have given unselfishly of their time and effort.

Many of our cooperative efforts have been mundane, laborious, but necessary chores.

When we have offloaded tons of marihuana from a vessel, it has been done by passing bales from person to person. There is no magic method for picking up a stash from a mangrove island. The men simply wade through the swamp water carrying bales to vessels which usually have to wait offshore because of the shallow waters.

Over the months, we have had a need to temporarily store various seized vessels at the Coast Guard base. The local commander has always been sympathetic to our needs. In addition, there have been situations which demanded security be provided for seized contraband and/or vessels and vehicles.

At these times, it is generally a joint effort. A rotating schedule is simply drawn and then the Customs Patrol and the Coast Guard provide personnel.

There have been times when the Customs Service has decided to take loaded vessels to Miami for disposition or storage. During these circumstances, the Coast Guard has readily opened their fuel docks for us. Of course, not all of the cooperative efforts with our sister service has been ordinary.

The Customs Patrol and Coast Guard have, together, conducted exhilarating, but dangerous, high-speed-boat chases, both on the open sea and in the shallow back country of the Florida Keys.

Also, the Coast Guard has provided us with valuable intelligence. On occasions, the intelligence has been the final piece of a puzzle and led to arrests and seizures.

During the past 16 months, the Customs Patrol and Coast Guard have cooperated on 42 separate cases. The involvement by Coast Guard has ranged from assisting us in the recovery of floating bales of marihuana to being the lead agency in arrest and seizure situations.

The results from these 42 cases has been the arrest of 55 felons, the seizure of 3 vehicles, 26 vessels, and 332,970 pounds of marihuana. The street value of the marihuana, I conservatively estimate to be \$91,788,000.

In closing, and on behalf of the Customs Service, I would like to thank Mr. Biaggi, and the committee, for coming to our community, in this corner of our country, and allowing us to express ourselves.

Mr. BIAGGI. Thank you, Mr. Long, for your great testimony and support of the Coast Guard. We appreciate the traditional relationship that Customs has. That statement is so great, you would almost think the Coast Guard wrote it.

Mr. LONG. I can assure you they did not. I did.

Mr. BIAGGI. I am sure you did, Mr. Long. But I also want to compliment you for the work you have been doing. My staff has informed me of the effort that you are engaging in.

How long have you been with the service?

Mr. LONG. Nine years.

Mr. BIAGGI. How long have you been assigned to Key West?

Mr. LONG. Approximately, 18 months—when we opened the office; 18 months ago.

Mr. BIAGGI. And you are the only representative of the Customs Service here?

Mr. LONG. No, sir. We have a customs inspector—full-time customs inspector—and she has, I believe, three part-time inspectors.

Mr. BIAGGI. Mr. Rody was talking about manpower—proper manpower—allocation, as part of the Federal strategy, and we appreciate that.

I pose the same question to you I posed to him. Do you have any clerical assistance?

Mr. LONG. No.

Mr. BIAGGI. In other words, the inspectors, and yourself, must do your own clerical work?

Mr. LONG. Yes. We have no clerical help.

Mr. BIAGGI. Well, that kind of limits your ability to go out and make observations and investigate; true?

Mr. LONG. Indeed it does.

Mr. BIAGGI. OK. Specifically, what do you do, as far as obtaining information, making arrests? I understand you made two very substantial arrests lately.

Mr. LONG. In the past week, we have arrested, I believe, 14 people and seized 53,000 pounds, 3 mobile homes, 3 vans, 6 boats.

We believe that the backbone of effective law enforcement is confidential informants. We are a results-oriented organization, arrests and seizures, that is what we are interested in.

To arrive at that, we feel we must have reliable informants, paid informants. That is what we devote our efforts to, cultivating relationships that will result in a person being willing to become a confidential informant.

Mr. BIAGGI. Are you provided with any moneys to do that?

Mr. LONG. Yes, sir. The Treasury has its own budget for it.

Mr. BIAGGI. I know; but are you provided with any?

Mr. LONG. Our budget comes out of the region.

Mr. BIAGGI. I understand the Coast Guard has been the beneficiary of anonymous information. Do you have the same experience?

Mr. LONG. Yes. When we first arrived, down in the Florida Keys, approximately 18 months ago, we made a conscious effort to make ourselves available to the public and to make them aware of our presence.

Mr. BIAGGI. And purpose.

Mr. LONG. Yes, intentionally, so they would have a Federal law enforcement agency to call. Sometimes people just feel better calling a Federal group. Others feel more comfortable with the local group.

But at that time, we felt as though there was an untapped source out there of information and we were right.

Mr. BIAGGI. What cooperation do you get from the press? How often do you go to the press to bring that message home? It is our experience that you must tell the public, time and time again, and make them aware of, one, your presence, the purpose, and also their responsibility.

Mr. LONG. I think the local news media has heard my story often enough, so it has gotten to the point where they will remind me, "Do you want to mention anything about continuing to call, the availability. We want help from the local citizenry." Our relationship with the local press could not be more cooperative.

Mr. BIAGGI. You were present when I made some observations. I have a feeling that there is more than meets the eye in the Key West area and that is reinforced by the amount of marijuana that the Coast Guard has confiscated.

Put that quantity alongside the population and one would have to conclude it is not here for home consumption. What is your reaction to that instinct of mine?

Mr. LONG. Well, I agree entirely with that. The seizures that are made down here are not for local consumption. It would be impossible for us, who live here locally, to consume that quantity.

Of the six vehicles we seized in one of our busts last week, four of them—I am sorry—as I recall, three of them were out of State, two from New York and I believe the other was from New Jersey.

We are constantly seizing—which indicates to us——

Mr. BIAGGI. That it is a transshipment area.

Mr. LONG [continuing]. Yes. It is not for local consumption.

Mr. BIAGGI. I did not think it was.

Mr. LONG. No.

Mr. BIAGGI. But somehow, Key West has not been receiving the kind of attention that these facts merit.

Mr. LONG. I will also agree with that. My impression is this; if tourism were to stop tomorrow, the economy would not suffer as much as if smuggling were to stop tomorrow.

Mr. BIAGGI. That is sad commentary. It also reinforces the contention that law enforcement officials should focus additional attention to this area, because it is not simply the residents, by and large; it is a trafficking community. They are using Key West as an ideal location, perhaps because of its remoteness or its unique accessibility through water.

Mr. LONG. Of the 14 men that we have arrested in the last 6 days, not one of them lived in the Florida Keys. Of the six boats that we have seized, five of them were homeported in another area; there was only one from the Florida Keys, and that man reported his boat stolen.

Mr. BIAGGI. In addition to drug smuggling, do you have any information with relation to illegal smuggling of arms by the same drug-trafficking groups?

Mr. LONG. We have no hard intelligence on that. We hear street talk. What little information we have received on that type of thing, we pass on to our office of investigations. And if they can substantiate that, then they will initiate an investigation.

I have suspicions that there are weapons being smuggled out of the country from the Florida Keys, but no substantial intelligence.

Mr. BIAGGI. OK. Mr. Lent?

Mr. LENT. Thank you, Mr. Chairman. Mr. Long, I was interested in your statement that drug smuggling may comprise a major segment of the Key West economy and you equated it with tourism.

Perhaps it is not that large, but, certainly, you do maintain that it is a significant factor in the economy of Key West.

Mr. LONG. Unquestionably.

Mr. LENT. How do you think the contraband is gotten out of Key West, if it is not all consumed here, and large quantities come in here? Does it all go out U.S. 1, by vehicle?

Mr. LONG. When it is offloaded down here, yes, it goes out by vehicle, by van, by mobile home, tractor-trailer, couples in cars, with the trunk full, saying "Just Married".

Mr. LENT. Well, let me ask you this question: It seems to me that U.S. 1 is one highway that would be extremely susceptible to a road check. Has it ever been considered to make periodic road checks of vehicles, heading northbound on U.S. 1, out of Key West and out of the Keys?

Mr. LONG. Well, the local U.S. attorney's office, in Miami, has advised us that we could run into constitutional problems there.

For somebody with a little imagination, though, I think that there is a possibility of making Route 1 a checkpoint, as we have on the border—the land border between Mexico and the United States, where cars, vehicles, and people can be checked miles from the border, because it is the only road that comes from the border.

Mr. LENT. Well, it would seem to me that, while there might be constitutional problems with respect to illegal search and seizure and a final conviction, certainly you could break the back of the smuggling traffic by confiscating contraband that was located in vehicles.

We are not talking about 1 ounce or 1 pound; we are talking about large, 60-pound bales of marihuana.

Mr. LONG. If Congress would give us the power to act as you say, we would be willing to do it. But on the other hand, we are not going to do things illegally because we think it is right. We are restricted by law, as is everybody.

Mr. LENT. Well, I can appreciate that. This is something that perhaps this committee could look into. But it would seem to me that the interdiction of vehicle traffic would be one way of collecting some of this contraband, or at least a good share of it, even if it was just spot checks along the highway, every 10th to 15th car; it could make a tremendous dent, because we are talking about very, very substantial quantities, running into the hundreds of tons that are coming into the Keys and then being transported north.

Now, your agency, as I understand your testimony, operates largely on the basis of paid informants. And one of your jobs down here is to cultivate people who will work with your agency. Is that correct?

Mr. LONG. Yes; that is correct.

Mr. LENT. And how do you approach someone or do you wait for someone to come to you? I do not want the names, but I would just like to understand and get a better grasp of what your tactics are in attracting people to sign up, if you will, as paid informants?

Mr. LONG. Everybody has their own style, when it comes to recruiting informants. You go with what you feel most comfortable with.

I come from another part of the country, so I just cannot talk the language and I cannot fake it or they will see through it. You have to be natural. You have to be honest. They have to believe that you are going to be honest. If they do not believe that, you—

Mr. LENT. Well, you have been here for 18 months. How successful have you been? How many signups have you had?

Mr. LONG. I believe we have 18—I believe.

Mr. LENT. So you have been operating, in the Key West area, with approximately 18 paid informants, at the present time?

Mr. LONG. Yes.

Mr. LENT. And have these informants been able to give you any intelligence that resulted in confiscation of marihuana?

Mr. LONG. Oh, every one of these 18 informants have given us information that has led to seizures and arrests. There are other forms of sources and we simply designate them as sources of information.

A confidential informant is someone who tells you specifics.

Mr. LENT. Now, what kind of information have you been getting from these informants? Do they give you information about particular vehicles that are parked in certain locations or do they refer to certain ships, boats, vessels, in the Key West area that might be carrying contraband?

Mr. LONG. Some informants have given us the name of the boat, the when and the where of the offloading. Other informants have identified groups that were related to a boat, but it was obvious to them, or they had knowledge, that they were going to participate in offloading and found the offloading—located the offloading site—by following them. That happened in the case, last week, that you alluded to.

Mr. LENT. Now, when you get information, with respect to a vessel that is suspected of carrying contraband, what do you do then?

Mr. LONG. If it is from a confidential informant who tells us the where and when—that is always the most important thing from our point of view—then, we will establish our surveillance.

If this is not going to happen for a number of days, 3, 4, or 5, or anytime beyond 2 days, then we will, in addition to coming up with a game plan for a surveillance, we will also put the boat on the lookout list.

Mr. LENT. Well, who maintains the lookout list?

Mr. LONG. EPIC. We enter the information in our TECS system, which is an acronym for the Treasury Enforcement Communications System, which is interfaced with EPIC. And when it gets plugged into the computer, the TECS computer, it also is picked up on EPIC, the intelligence center in El Paso.

It is then available to the DEA, Customs all around the country, and the Coast Guard.

Mr. LENT. Well, at what point do you give it to the Coast Guard, the information? Do you give it to the Coast Guard directly, right down here? Do you walk down the street, knock on the door of the Coast Guard or do you put it into the computer, back in El Paso? How do you accomplish this?

Mr. LONG. We will put it on the computer immediately. If we think it is coming local, then naturally we call up the Coast Guard and apprise them of that.

Mr. LENT. You pick up the telephone and call the local Coast Guard.

Mr. LONG. We have found that to be effective, yes.

Mr. LENT. Well, that would seem to me then to be the most direct way of doing it. I appreciate that.

Who do you contact at the local Coast Guard?

Mr. LONG. The duty officer, because this might be at 2 o'clock in the morning.

Mr. LENT. And how many times has this occurred over the course of the last 18 months?

Mr. LONG. Oh, we do not keep a number count of that, but it has to be dozens of times.

Mr. LENT. Do you agree with the previous witness that testified, Mr. Rody, of the Drug Enforcement Administration, that the dimensions of this drug smuggling and trafficking activity are astounding and that they are growing all the time? Has that been your experience?

Mr. LONG. Yes, it boggles the mind.

Mr. LENT. And do you agree with him that the smugglers are better equipped, have more resources and financial backing than the law enforcement community of which you are a part?

Mr. LONG. Yes, I agree entirely.

Mr. LENT. Do you feel that with the resources that have been made available to you, that you are still not as well-prepared to handle the situation as are those who are engaged in the actual smuggling?

Mr. LONG. Yes. When this office was opened by the Customs Patrol, it was done within the existing budget and staffed by existing personnel. The money was assigned to the Miami office.

The Director saw a need and decided to expand within the existing budget. It was not a new fiscal year or anything.

Mr. LENT. Do you feel that a substantial number of the boats, in the Key West waters, are involved in this smuggling?

Mr. LONG. A substantial number, yes.

Mr. LENT. Can you give us any idea? We know there were 100 vessels seized last year; 49, I believe, seized so far this year.

Mr. LONG. My guess, of the commercial vessels that normally tie up in the Lower Keys—my guess would be that probably better than 50 percent are either continually involved or have been involved at one time or another.

Mr. LENT. Would you say these were commercial fishing vessels or shrimp boats?

Mr. LONG. Yes. Lobster boats and shrimp boats. I am now talking—when I say better than 50 percent, I am talking about the commercial boats.

Mr. LENT. Right. Well, you have an opportunity to talk to these informants—these 18 informants. Are some of these 18 people water people, boat people, hang around the harbor?

Mr. LONG. Some of them are.

Mr. LENT. And these are people who are in a position to know, who you rely on, as having good information?

Mr. LONG. Yes. I am talking about 18 people who have already worked for us. This is not projecting into the future or hoping.

Mr. LENT. Do these informants tell you that the participation in drug smuggling, on the part of the commercial fishermen, shrimpers and lobstermen, is widespread?

Mr. LONG. That is a difficult—

Mr. LENT. I am not asking you if it is; I am asking you what do your informants tell you is the case in the Key West area?

Mr. LONG. There are many legitimate fishermen down here. When outsiders come in, with the resident people, they are not fishermen but they assume they are fishermen and they are not. They are smugglers; they are laborers for smugglers.

There is a large part of the community, down here, who are honest, hard-working people. Most of the boats that are used are crewed by those who have nothing to do with lobstering or shrimp-ing or any honest work.

This is what they do for a living. They hire themselves out, periodically, four or five times a year, maybe more often, and they get \$5,000 for each job, each offloading, and that is how they make their living.

Mr. LENT. \$5,000 for carrying contraband?

Mr. LONG. Yes, that would be for a laborer.

Mr. LENT. I beg your pardon?

Mr. LONG. A laborer would get approximately \$5,000 or \$6,000 maybe.

Mr. LENT. And you think that a large number of vessels, in the Key West area, are so employed?

Mr. LONG. Yes. Yes, I do.

Mr. LENT. All right. I have no further questions, Mr. Chairman.

Mr. BIAGGI. Yes. In the light of your description of the magnitude of activity here, it reinforces my concern and observation.

Do you believe that the same type of operation that DEA engaged in, with relation to Black Tuna, could be properly initiated here?

Mr. LONG. Yes. I have seen people walk into banks, with brown paper bags, and just take out stacks of cash and deposit. I have seen this myself, as I was in the bank conducting personal business.

When you see that happen, you know that there has been an offloading last night and you missed one, because these fellows are the laborers who are coming in to deposit their money.

Mr. BIAGGI. I understand you made a bust last night.

Mr. LONG. Oh, last night, yes. That was a particularly satisfying one for Customs, because—are you referring to a plane?

There was a plane that our air support branch followed from Rattanagua up to North Perry Airport, just outside of Miami. It was a seaplane, so they are coming at us from all angles.

Mr. BIAGGI. We have had testimony which indicates that the air is well-used. As a matter of fact, in Colombia, one pilot was, I think, engaged—a pilot, who was arrested, testified to our committee, in Washington, that he had engaged in 60 flights.

There was a problem of being hijacked and when the message got back to the principals, the principals managed to get the local—or at least some segment of the military—to protect the airfield, so they can land safely and do their business without fear of being hijacked.

It reminds me of the days of prohibition, where there was a situation in Atlantic City, where there was a hijacking going on. At that time, the political boss, who dominated everything, arranged for the local police to make sure that no one would hijack the cases of whiskey that were being brought in on the beachfront.

The whole community came out and watched it. It was one of the not so proud moments in law enforcement.

Mr. LONG. This particular plane was a Mallard seaplane. I am not sure of the size of that. It had 2,500 pounds of marihuana on it and the last word I got, just before arriving here this morning, was they were still searching it—they believe there is some cocaine on it.

This plane can be made available to the committee. It will be moved down to Homestead General Aviation where they normally take the seized planes.

If you men are interested in taking a look at it, when you go back, we will make arrangements.

Mr. BIAGGI. Mr. Evans?

Mr. EVANS. I do not really have any questions, Mr. Chairman. I did want to make an observation, in a followup to what Mr. Lent said.

I am not a lawyer. I do not see the insurmountable difficulty in using U.S. 1 as a checkpoint. I have driven my car to California several times and each time we have been stopped inside the border and searched.

Now, you may need to get some advance authority to do it, but it seems to me that we are missing an excellent point. If it would not stop trafficking, and I do not think it would, it would certainly discourage them from using the Keys when they have to go via U.S. 1. I think this is some area that should be pursued vigorously.

Mr. BIAGGI. Well, there is a matter of, I think, constitutional question involved, but if there is a way in which these random checks can be performed legally——

Mr. EVANS. These were not random checks, Mr. Chairman. Every car that enters California is stopped and has to go through search—every car.

Mr. BIAGGI. Along the border, they also have the immigration people involved, too; that gives them authority.

Frankly, the way we have the physical structure, here at Key West, and a single road out, it is an ideal checkpoint in which I think a very effective operation could be put into place.

If there are some legal questions, we will look in to them and perhaps they can be resolved. I am sure you have looked to them already.

Thank you very much, Mr. Long and Mr. Perez. The committee will take a 10-minute recess.

[Whereupon, there was a brief recess.]

Mr. BIAGGI. The hearing will come to order.

Col. Clifford Willis, director of Division of Law Enforcement, Florida Marine Patrol. Colonel Willis.

We would like to welcome you back, Colonel. We have a high regard for your commitment and, also, for your contribution. We have had the benefit of your testimony on other occasions. We also have high regard for your marine patrol.

STATEMENT OF COL. CLIFFORD A. WILLIS, DIRECTOR, DIVISION OF LAW ENFORCEMENT, MARINE PATROL, DEPARTMENT OF NATURAL RESOURCES

Colonel WILLIS. Thank you, sir. I appreciate your comment very much.

Our department, the Florida Department of Natural Resources has been involved in drug interdiction since 1973. The Division of Law Enforcement's Marine Patrol's primary responsibility is water patrol for marine resources and boating law enforcement.

We are strategically situated to discover illicit drugs being smuggled into this country. Although we act primarily as support units in assisting local, State, and Federal law enforcement agencies, when we are arresting officers, we complete the case.

We endeavor not to take drug interdiction as our main job, but when we do bump into it, or when we are called upon, or asked, by other enforcement agencies, we take what the necessary action is.

Intelligence information obtained by this division, working in conjunction with other law enforcement agencies in drug interdiction, has led to millions of dollars worth of contraband being seized and confiscated, before the smugglers put it into circulation throughout Florida, as well as numerous other States who were destined for the tonnage delivery.

These seizures also resulted in numerous felony arrests and convictions, along with confiscation of equipment valued at several million dollars. Please refer to the attached statewide narcotics statistics for cases in which we were involved.

Now, when you look at these statistics, I would like to point out that we were not the primary. In some cases we were; the majority of cases we were not. We were only supportives.

This department has a close working relationship with the U.S. Customs Service and they have an office located in the Tallahassee Department of Natural Resources building. This liaison has proven mutually beneficial to both DNR and Customs.

Customs presence has provided us with direct access to the El Paso Intelligence Center, the Federal telephone network system, and the Customs computer terminal. We, in fee, give them free office space and a secretary that we share.

Because of the complexity and growth of the drug traffic in Florida, local, State, and Federal law enforcement agencies have found it mutually beneficial to form various task forces to work together for the common cause.

There are several task forces around the State in operation in which we are involved. One such task force is the Big Bend Task Force, and some statistics relating to our combined activity and explanatory material is attached.

Florida State statutes and Florida Department of Natural Resources rules allow our approximately 240 boating officers, who have full police powers, to inspect boats along the coastline for proper numbering, registration, titling, safety equipment, fishery catches and the commercial fishing boats for sanitation and refrigeration of the catch as well.

This wide involvement allows us to gain much information about the uses being made of the many coastal boats and to gain information that, although it may not allow an immediate arrest, will

generate intelligence that is indicative of past or future smuggling violations.

This information is passed on to State and Federal agencies who have primary responsibility for drug interdiction.

Since our officers have an indepth knowledge of fishing methods, they are at an advantage when it comes to recognizing suspicious rigging, gear, or operations not clearly used for normal activity.

All of the above makes the Florida Marine Patrol officer a uniquely equipped part of the Nation's war on drug smuggling.

Now, our primary job is not the interdiction of illicit drugs. We do this only to support the effects of municipal, county, State, and Federal agencies who have this direct responsibility.

We are limited in our funds and manpower to safeguard the processed evidence. For this, we must call on the drug agencies, especially the Federal, to continue and even possibly increase our support for our efforts in this area.

We have the boats and knowledgeable personnel to make apprehensions but not the manpower, or facilities, for the necessary processing and storage of evidence in large quantities.

Recent information indicates that the inability of the courts, both State and Federal, to keep up with the workload is hampering some of our more minor cases. We have been involved in cases where they were not the magnitude that would be—that some of the courts are used to, and they actually discourage our efforts in this case.

You might want to look at this problem, too, as to the court procedures. I am sure this is due to the magnitude of the imports coming in and being interdicted. This could be a problem.

But I also would like to say, Mr. Congressman, that the Florida Department of Criminal Law Enforcement—or as it has been more recently been termed, the Florida Department of Law Enforcement—which is a State agency, has not had a primary role in drug interdiction in the past.

However, Governor Graham has specified that, on the State level, it would be the main agency involved. He has given them an airplane, about 50-some-odd new people, and directions to increase their efforts in this behalf.

So we expect to work closely with them, as well as the Federal agencies and the sheriffs of the State, in our future efforts.

That is my basic presentation, gentlemen. I would be very glad to answer any questions.

There are some charts on the following pages. I am not going to take the time to go into them, but they are indicative of the work that we have done and are doing now.

Mr. BIAGGI. Thank you, very much, Colonel. Governor Graham's attitude and action has been most salutary. I am sure you appreciate the fact that you have been designated the number one agency for the State law enforcement, as far as drugs are concerned.

Could you tell this committee the provisions of the new mandatory, minimum law on the drug traffic and how you think it will impact on the problem?

Colonel WILLIS. Our information indicates it is going to be very, very useful. We have already had people, who are involved in borderline narcotics who have turned State's evidence, operating

CI's right now. This is very good. I am sure that, in time, it will discourage smuggling in this State.

Mr. BIAGGI. You made reference to what seems to be a logjam in the courts. There are major cases and there are minor cases.

What is the policy of plea bargaining in Florida? Do they permit plea bargaining?

Colonel WILLIS. I am not able to answer that. I think they do. I really believe they do encourage it here.

Mr. BIAGGI. Our experience has been—of course, plea bargaining clears logjams and I do not think that should be the chief purpose. But there are some cases—court cases—from a prosecutorial point of view, that could be utilized for plea bargaining—for the plea bargaining process—and while you are doing that, obtain the support of the individual who is charged.

That would give you an added source of information. You and I know information is critical in this kind of undertaking.

Talk to me about cooperation of the various agencies and how this interagency task force on organized crime has developed and what its consequences were?

Colonel WILLIS. It differs, of course, in various parts of the State. Of course, we have various task forces in existence. Generally, it is very, very good.

We have a select few from each agency, as part of the force, and we exchange information, weekly, and daily in some instances. Of course, anything of any importance, we exchange it hourly, but in the Big Bend Task Force of north Florida, we meet weekly regardless, to go over the details and go over the new suspects, and so forth.

Represented are sheriffs' departments, the Department of Criminal Law Enforcement, U.S. Customs, and DEA. We enjoy an especially good relationship with the U.S. Customs, since we are close to them, and we give each other valuable assistance.

Mr. BIAGGI. It would appear to me that one of the logical places where we could obtain information, insofar as unusual activity of certain boat people and certain boats, would be the various marinas.

Have you made an effort to establish a liaison with the heads of the various marinas?

Colonel WILLIS. Yes, sir. The new law was used to advantage, recently, in north Florida, where one of the marina operators, himself, was suspect. There was enough evidence against him to possibly bring about indictment and, when he was aware of this, he is turning State's evidence now and giving us much valuable information.

Mr. BIAGGI. Well, that is—you have a great deal of leverage in that case; that fellow is under suspicion himself.

But with relation to legitimate operators of marinas, you—

Colonel WILLIS. I believe it is a little bit new yet. I do not think there has been any all-out effort made—I do not believe it has; I'm not aware of it if it has—to gain the cooperation of marina operators, but it is certainly a field that needs more effort.

Mr. BIAGGI. How great is the storage, in attendant potential, for loss of confiscated drugs?

Colonel WILLIS. The storage facilities that we have are entirely inadequate, due to the jeopardy of a loss incurring. It takes up our men's time in guarding this stuff sometimes, in storerooms of just normal buildings.

This is one thing that we are really behind in, collectively, all the agencies, is areas to store the stuff, to dispose of it; and in some cases, the courts have put restrictions on us, such as the old interpretation that only the marihuana leaves count, that the stems and seeds could not be counted.

However, our new Florida law, State law—and it has just gone through—says that the seeds and stems will be considered part of the marihuana load. So this will help us in saving time to separate the stuff.

Mr. BIAGGI. What you have said is there is a general lack of security, with relation to the storage?

Colonel WILLIS. The security is all right, on what we have, but we just do not—we are really at a loss, sometimes, to find places to put this.

When we do find a place, we have to put it under guard and it takes up our men's time, for quite a while; and we are not in a position to give overtime for it, such as other law enforcement efforts.

Mr. BIAGGI. How long do you keep the contraband in storage?

Colonel WILLIS. If we are able to get a court order to store the major part of it, that lessens the magnitude of the problem greatly. But sometimes we have to keep this stuff for a year or more.

In one case, in north Florida, now, the case is about a year and a half old. One of the subjects is still at large and we will have to keep this stuff until he is found. It may be many, many years, even though we have convictions on the rest of the people.

Mr. BIAGGI. Does this have the potential of another French Connection?

Colonel WILLIS. Not of that magnitude, sir, no.

Mr. BIAGGI. Well, hopefully, we will never reach those dimensions again. But what occurs to me is, with relation to this type of contraband, and the absence of really good, solid security of storage facilities, there is great potential for theft and loss; and it is a serious, potential problem in any event. Just one more question.

Does the marine patrol confine its activities to the inland waters?

Colonel WILLIS. At times, yes. We have the authority of the entire State, but the only time we go inland is for boating checks, check registration, titles on boats, on the rivers and lakes at times; or if some sheriff requests our presence on one of the inland lakes for security reasons, he may be having a problem.

Ordinarily, we do not. Ordinarily we stay along the coastline.

Mr. BIAGGI. The purpose of that question was, in realities of life, you have these little satellite boats that come out into the waters, pick up a load and scoot back in different coves, and keys, and cays, and channels. There is a whole shifting of responsibility at that point. I do not believe the Coast Guard has that capacity. It would be more within your purview. Like a beehive, if you will, with bees running all over the place.

I was thinking how you would deal with that almost impossible situation in your jurisdiction.

Colonel WILLIS. Well, unfortunately, we already deal with it, because we do have small boats and we do have officers that know the coastline. They know the sandbars, oyster bars, rockpiles, and the normal fishing operations.

They check the small fishing boats, both recreational and commercial, for the size of the catch, the amount of the catch, so we can operate in shallow waters, and do operate in shallow waters, and the rivers.

Mr. BIAGGI. Thank you, Colonel. Mr. Lent?

Mr. LENT. Thank you, Mr. Chairman. Colonel, I have no questions. I want to compliment you for your testimony and for what appears to be very fine job that you are doing in the State of Florida.

Colonel WILLIS. Thank you, sir.

Mr. BIAGGI. Mr. Evans?

Mr. EVANS. Thank you, Mr. Chairman. I also have no questions. I want to associate myself with the remarks made by Mr. Lent. You did a fine job. Thank you.

Colonel WILLIS. Thank you, sir.

Mr. BIAGGI. I would like to come back. You were present when I was making some inquiries to the magnitude of the drug picture in Key West. You have been a professional law enforcement officer for many years.

My instincts tell me that Key West has not been given the kind of scrutiny that the evidence warrants. How would you assess my comment?

Colonel WILLIS. There is great room for improvement, that is true.

Mr. BIAGGI. There was testimony by at least one witness, or several, but one specifically that if the tourist business diminished, it would not impact as critically as if the drug business diminished.

That is a frightening aspect and I think it tells a very sordid picture. I have heard them say that 50 percent of the commercial vessels were at one time—at least at one time—involved in trafficking. They now have 18 paid informants, with some degree of productivity.

And he has witnessed bags of money—in brown paper bags being deposited in banks.

The Coast Guard confiscated a half a million pounds within a year.

You put all those things together and it tells me that you have an operation—well, an industry of vast magnitude. And the natural conclusion would be that many people are here engaged; and if they are profiting, they will do here what they have done elsewhere; that is, invest their moneys in properties or businesses, launder their moneys, and use Key West as a base of operation, as many of them are now considering using other nations as bases of operations for the very same purposes.

Given that fact—given those factors, do you believe it warrants the same type of attention, or the same type of operation that resulted in the multi-indictments in Black Tuna?

Colonel WILLIS. Yes, sir. One thing that the drug industry people involve, they are highly mobile. The law enforcement agencies are monitored; we are monitored. They have their own CI's.

They go to the sources, or the places, in the State that are the least patrolled. They are very highly mobile. If they find out that, we will say, the northwest quadrant of the State, if you do not have any DEA agents, or Customs, marine patrol, or Coast Guard up there, they have connections up there quickly. They will start offloading up there.

The one thing that probably makes Monroe County and Key West unique is that there is probably more stressed commercial fishing industry here than elsewhere in the State.

This makes these people desperate. The people who live down here have boats they have to make payments on. The shrimp boats, we have had—their work in Mexico has been crippled in recent years. The Mexican Government has put restrictions on shrimping out there. And the Bahamas, of course, there are crayfish boats around the Bahamas.

And this makes people who have boats—they have to make payments on them; they have families to feed—desperate. They will take chances. So that is probably one big aspect of this part of the country.

However, the drug industry is very mobile. They will move elsewhere quickly. If you were to put all your forces in south Florida, they would quickly move to north Florida.

Mr. BIAGGI. That well may be, but they would lose the distinct advantages that they are enjoying because of the geographical and physical structure of Key West and in transition—well, at least it inhibits them a little bit.

I do not think they would move immediately, until they see that it becomes impractical for them to continue. And that degree of impracticability depends upon the effectiveness of law enforcement in its inhibiting their operation, which can be translated in the number of arrests and confiscations.

Colonel WILLIS. Yes, sir.

Mr. BIAGGI. Thank you very much, Colonel.

Colonel WILLIS. Thank you, sir.

Mr. BIAGGI. Now, we have a panel of sheriffs, Sheriff Robert Butterworth of Broward County; Sheriff Robert Jones—no, Robert Jones, director of Dade County Public Safety Department; and William Freeman, sheriff of Monroe County.

Would you come forward please. Sheriff Freeman, I see you sitting there; Robert Jones.

If you have any assistants with you, you can have them come forward if you like.

Sheriff Butterworth?

**STATEMENT OF ROBERT A. BUTTERWORTH, SHERIFF,
BROWARD COUNTY, ACCOMPANIED BY NICK NAVARRO, CAP-
TAIN, ORGANIZED CRIME DIVISION OF THE BROWARD COUN-
TY SHERIFF'S OFFICE**

Sheriff BUTTERWORTH. Yes, sir. Thank you, Mr. Chairman. I, personally, appreciate the kind remarks that you made, on my behalf, in your opening statement.

I appreciate the opportunity to address this distinguished congressional subcommittee. With me is Capt. Nick Navarro, who is the head of the Organized Crime Division of the Broward County Sheriff's Department and, also, agent-in-charge of the airport/seaport multijurisdictional narcotics unit.

We shall address ourselves, today, to the subjects suggested in Congressman Biaggi's letter of invitation, that being the subject of coordination and cooperation between various Federal, State, and local law enforcement agencies.

I have prepared this brief statement to provide the subcommittee with information on Broward County's 5-month old airport/seaport multi-jurisdiction narcotics unit. We believe the unit to be unique and, though newly formed, it has proven to be very effective.

The airport/seaport multi-jurisdiction narcotics unit came about as a result of numerous meetings with local Broward County law enforcement officials. All of us were, of course, acutely aware that Broward County and the surrounding counties, due to coastal geography and closeness to Colombia, were the drug importation centers of the United States.

This was a situation we wanted to change, but no local jurisdiction could do it by itself, and it could not be done by placing more undercover agents on the streets.

To make an impact, we knew we had to identify and apprehend the drug smuggler. To arrest the smuggler, we needed the assistance of both State and Federal law enforcement agencies, and we believed they also needed our assistance.

Initial meetings were held with the U.S. Coast Guard, U.S. Customs, and the Drug Enforcement Administration. Based on the concept of a combined tactical force comprised of Federal, State, and local law enforcement officials working in a combined effort, housed under one roof, to attempt to cut down smuggling into south Florida, the multi-jurisdictional unit went into operation in mid-February of this year.

Presently, the unit is as follows: The Broward County Sheriff's Department, Hallandale Police Department, Hollywood, Miramar, Fort Lauderdale, Tamarac, Pompano, and Deerfield, local police departments. The Federal agencies are the U.S. Coast Guard and the U.S. Customs.

The Drug Enforcement Administration and the Florida Department of Law Enforcement work very closely with the unit and expect to assign members on a full-time basis in the near future.

One concept that led to the formation of this unit was to overcome the jurisdictional problems plaguing individual local, State, and Federal agencies and exert better mobility in that the drug smugglers face no restrictions or jurisdictional problems in their activities.

Thus, by this combined effort and having Federal agents assigned to the task force, we can cover areas out of the county, and the country, to identify and apprehend smugglers.

The intelligence and training units of the operation are housed at Nova University's Oceanographic Institute. This is adjacent to the Broward County Coast Guard Station, in a secluded—but very convenient—location, with rapid access to the open seas, the Inland

Waterway, Port Everglades, and the Fort Lauderdale/Hollywood International Airport.

In addition, we have available for our use a large vessel for training and tracking purposes. This vessel is equipped with the most modern radar devices, making it capable of detecting smuggling operations on the high seas and we have used it for that purpose.

We also have employed the use of one fixed-wing aircraft and two sheriff's office helicopters. We are constantly engaged in active patrol and reconnaissance duty.

During the first 5 months of its operation, the unit has been responsible for seizing more than 86,000 pounds of marihuana, three-quarters of a million Quaaludes, 1,700 pounds of hashish, 1,150 pounds of "Thai sticks", 19 pounds of cocaine and 2 pounds of heroin. Also, 61 weapons, of all types and descriptions, have been seized and some 200 drug-related arrests have been made.

In addition to these figures, 4 boats, 6 airplanes, and 16 automobiles have been seized and are in the process of being forfeited to Broward County to be used by the unit.

Intelligence work, by the unit, has contributed to several large-scale drug arrests out of the south Florida area, in which many more boats, planes, and vehicles were seized.

To help you understand how the unit operates, and how it has compiled these impressive statistics in a short 5 months, I would like to explain just one recent operation.

About 3 weeks ago, undercover agents of the unit met with smugglers in the area to negotiate a deal involving the importation of some 10 tons of marihuana. With the cooperation of DEA, the Florida Department of Law Enforcement, and others in the unit, a large vessel, with a crew made up of undercover law enforcement officers went to sea.

At a location, approximately 400 miles off the Florida coast, the smugglers guided the undercover law enforcement personnel, manning the ship, to an uninhabited island where the marihuana was being stored.

After the 10 tons of marihuana was loaded aboard the ship, it traveled to a rendezvous location, near the Florida coast, where the mother ship was met by several smaller ships, manned by smugglers, who planned to then bring the cargo into the United States.

In this operation, two vessels were seized, several arrests were made, and a marihuana shipment was confiscated.

This type of operation could be done more effectively, both in this area and others, if properly funded. At present, this unit is funded by moneys supplied by the Broward County Sheriff's Office at a cost of approximately three-quarters of a million dollars per year, with an additional \$200,000 in salaries, contributed by the local, State, and Federal agencies that are participating in the program.

It is common to hear that we are engaged in a war on drug trafficking. In this case, in Broward County, we are fighting a multibillion-dollar-a-year enterprise, with a budget of less than \$1 million. The question is: Should Broward County, with local dollars, be expected to fight a national problem—drug smuggling.

The degree of success and accomplishments of this unit can only be attributed to the great effort and dedication of the men involved, who work long and extensive hours at great personal risk, exposing themselves to constant danger without any extra remuneration.

The degree of success we have enjoyed to date is only small, when you take into consideration the tremendous amounts of illegal substances being smuggled, daily, into the Nation.

However, if similar units could be created, in other areas of the State of Florida and the Nation, with an equal degree of success by those units as in the one we are operating in south Florida, it would be a flicker of light at the end of a long, dark tunnel.

As I stated—and, also, as every other speaker has stated—the smugglers are extremely creative and have no restrictions concerning operations.

Law enforcement, also, has to become more innovative and much better equipped and funded, if we are to have any success in fighting this ever-increasing war with illegal drug traffickers.

I thank you and we will be available for any questions.

Mr. BIAGGI. Thank you, Sheriff Freeman?

STATEMENT OF WILLIAM A. FREEMAN, JR., SHERIFF, MONROE COUNTY, ACCOMPANIED BY LAWRENCE A. MEGGS

Sheriff FREEMAN. Thank you very much, Mr. Chairman. Personally, I wish to thank the committee for choosing Key West, Monroe County, for this hearing today.

Honorable chairman and subcommittee members, my tenure in the office of sheriff began in January of 1977. And since that date, the U.S. Coast Guard and the Monroe County Sheriff's Department, have had the occasion to call upon the assistance of the other on many occasions.

The response of the local Coast Guard contingent, under the command of Commander Dennis, has always been immediate when we have had the need of their services. I am also aware of the continued support that the U.S. Coast Guard has given to her sister Federal agencies, such as U.S. Customs and the Drug Enforcement Administration.

The U.S. Coast Guard has amply illustrated, in the comptroller's report that you made available; has contributed greatly toward minimizing the amounts of illegal narcotics reaching the continental United States.

Without their present commitment and, hopefully, as a result of this subcommittee's findings an increased commitment, the United States would suffer greatly from the illegal importation of dangerous drugs that would go unintercepted.

It must also be noted that the effectiveness of this interdiction on the high seas is immeasurable to assisting local and State law enforcement agencies in the drug enforcement arena.

The interception of large-quantity shipments precludes the necessity of local and State agencies in committing limited resources to what would be an uncontrollable escalation of narcotics trafficking.

The interdiction of illegal, dangerous drugs, on the high seas, is a viable and necessary means of combating their importation into this country.

The proper funding of the U.S. Coast Guard's enforcement program, to continue this interdiction effort, should be a major concern of the Congress. We, in law enforcement, urge this subcommittee to carry this message to the full Congress with favorable recommendations for continued and increased funding in this critical area of narcotics enforcement.

Mr. BIAGGI. Thank you, Sheriff Freeman. We have some questions.

Sheriff Butterworth, you described, on page 7, a transaction of your undercover agents. Is that the only one of its kind that you have had?

Sheriff BUTTERWORTH. This was actually the "Sting" operation, where we used our vessel and we had the smugglers get aboard on our vessel and we just took them out there.

This has been one of the few that we have had like this, such a big deal, a 10-ton negotiation with our vessel. Yes, this is the first "Sting" we have had like this on a waterway.

We have had the opportunity to make, we believe, bigger "Stings" at the airways, but of course that we are not allowed to do.

Mr. BIAGGI. Tell me, why are you not allowed to do it? Where is the inhibition?

Sheriff BUTTERWORTH. With—of course, we are local law enforcement agencies, within Broward County. And, since, of course, Broward County is one of the few counties which has been designated the drug importation capital of the country.

I have only been sheriff for 6 months and to walk into a situation that is a few weeks later "60 Minutes", CBS, says we are the drug importation capital and they are probably right. You want to do something about it.

But since we are the capital, of course, people that do the smuggling live there or at least operate out of there. They—as you stated before, they have to use the marinas. They have to use the airports. They have to use different types of leasing services, as well as mechanical services.

We have been able, of course, to develop, as other agencies have, a number of informants. You receive informants in various ways; maybe someone you meet or someone that knows you from before; or just, like was stated before, you arrest somebody and they suddenly want to tell you everything.

We do have informants that have been approached—pilots that have been approached—to make trips to various parts of Latin America to bring back drugs; pilots that are honest and would, of course, rather not make that type of trip.

But they would do it, if they could cooperate with law enforcement to go down to—let us just say for example, Colombia and bring back a plane load of marihuana, or marihuana and cocaine, or Quaaludes.

When it goes out of our jurisdiction—since in our unit we have two Customs officers assigned, under the same roof—we advise Customs.

Customs will then, under their regulation—and properly so—contact DEA. DEA will then attempt to obtain the consent, as we

understand it, from the country itself for us to operate this kind of procedure.

It seems, in conversations with the Ambassador that were had—the Ambassador to Colombia from United States—last week, that he did not want to give this type of authority, at this time, for the reason that Colombia is now helping us in stopping the drug trafficking.

And for us to allow in someone to commit a crime in Colombia would be a violation of State Departments and would be a breach, possibly, of international relations, as we were told.

It is frustrating, when you are sitting there as a sheriff of the county, which percentage-wise might not have the same drug dollar coming into it, as Monroe County and Key West might have—since we have maybe a larger tourist industry, because there is more restaurants and more hotels—but it is very high and we see the influence that it is having on a number of illegitimate businessmen. We see the effect that it is having on our children. We see the effect it is having, just on our general reputation, as being a drug-importation capital.

And I guess when you are naive and you are a local law enforcement agency, and you have somebody who will fly down there and bring back the drugs, and have you walk right through with them to go to the higher ups, maybe sometimes our enthusiasm might get in the way of international relations, which we do not want it to do.

So, of course, we will concede to the State Department and we will not run this type of operation.

Mr. BIAGGI. Well, you can continue this same process. You can repeat this original “Sting” operation.

Sheriff BUTTERWORTH. This type of “Sting” operation we can use, because we are not dealing with an area which—we will do “Sting” operations, if they do not involve an area which State Department would allow us to do.

Mr. BIAGGI. Well, we have been informed—I think you were present—that Colombia seems to be taking a new direction. I would say that they decided to become part of the solution. They were a problem.

And to the extent in which that government responds and becomes aggressive, in an affirmative direction—to that extent, we will achieve immeasurable success. Although it may be frustrating—and I would share the frustration with you although it may be frustrating, I, in the long range, feel it might be productive to be conciliatory and be cooperative.

Sheriff BUTTERWORTH. We do not disagree with that; we are accepting it.

Mr. BIAGGI. It is interesting, but I understand exactly how you feel and what you are talking about.

I understand the intelligence work, by this unit you have put together—and once again, let me congratulate you for it. I did acknowledge it in my opening statement—it is significant. It takes on an added significance, when you consider the Coast Guard expanding that concept on the Caribbean basis.

You provided intelligence for the Coast Guard to make a number of apprehensions?

Sheriff BUTTERWORTH. Yes, sir. I am firmly convinced that, if this unit would have been established at a place other than adjacent to the Coast Guard station, it would not have had near the effectiveness that it has now.

By being—and we are, just almost like, as far apart as these tables are from the Coast Guard station, we have constant communication with them. That is what actually resolves it, when you can have all agencies that can deal with the problem on a State, Federal, and local jurisdiction under one roof. It makes communication so much easier.

Even if we had to move from the Nova site, I would hope that we could still stay close to the Coast Guard site, for the reason of the communication interchange. It is absolutely fantastic.

Right now, we are working with the Nova University's criminal justice program to put on the seminars for both the Coast Guard and us; and the other Federal agencies want to participate, as far as jurisdiction is concerned, as to when Coast Guard can do what; when Customs can do what; when DEA can do what; and what we can; and as to how, when we're operating together in an operation, how our jurisdictions will blend into one another.

I think it would be very beneficial to all of us and I would like to thank you, Mr. Chairman, for the assistance that you gave us in being able to establish this unit, and especially the cooperation with the Coast Guard.

I know I spoke to you, about 6 months ago at the airport, and I really do appreciate how you have helped, not only with Customs and DEA but, of course, the Coast Guard as well.

Mr. BIAGGI. Well, my concern has always been what follows up once they have left the waters and then it becomes a land-based operation. The money is there; the activity is there. Even on the inland waters, where the Coast Guard does not have all of the capability to pursue it, your response has been excellent and the Coast Guard has been most laudatory in its comments with relation to it.

Hopefully, opportunity will provide this committee with a chance to—hopefully, circumstance will provide us with an opportunity to come up there and visit your place.

Sheriff BUTTERWORTH. You are welcome at any time. We would appreciate having you tour the facility. We are very proud of it and we would like to have you see it.

Mr. BIAGGI. Let us get back, right here, in your hometown, sir. I have a question for each of you, later—a closing question—and you each can respond in your own way.

Why do you not identify—

Sheriff FREEMAN. This is Capt. Larry Meggs, chief of operations, Monroe County Sheriff's Department.

Mr. BIAGGI. What experience have you had in arrests, in confiscation of contraband?

Sheriff FREEMAN. Mr. Chairman, in January 1977, when I took over as sheriff, we became aware of this importation. In that year, we really went after them. We wound up with seizures in marijuana totalling over \$200 million that year, plus \$27 million worth of hashish.

This put an awful strain on our department, because we have 32 patrolmen and 15 detectives. And because they volunteered, and even some of the jailers volunteered, we really proved effective that year.

I think our effectiveness that year is the reason why a lot of the country is interested in it, because what we did here in that year with those giant seizures, was on the "Today Show", "Huntley-Brinkley"; we were written up in the "National Enquirer"—for whatever it is worth, "High Times". You know, we got the publicity that this was really happening; that this was a wholesale business.

Since that time, Customs has come into Monroe County, which we greatly appreciate, and they are gradually building their force—I think they are up to seven or eight—the posture of the sheriff's department is now that we give any information that we have to Customs.

We support them, if they are going in on something and they only have two or three men available, we will assign some of our men to work with Fred Long.

If, like in this past week, they had a full complement, then we support them in transporting the prisoners, and processing them, and so forth.

The sheriff's department is sort of taking a back seat, because of the storage problems, our limited force, our other demands to take care of burglaries and robberies, and drugs on the street, and so forth.

In 1977, we made it the No. 1 priority. We had good informants. I would say, for a period of time there we chased them, they ceased here.

Mr. BIAGGI. Say that again.

Sheriff FREEMAN. For a period of time, it ceased here. It got too hot, from the efforts we put out. We could really notice this. We gave information to the Coast Guard, and so forth, which led to the apprehension of vessels on the west coast of Florida, Pasco County, Collier County, even up in Broward County.

One of the better proofs of this, that residents from Monroe County were then being arrested in Savannah, Ga.; Louisiana; west coast of Florida and so forth. But, naturally, we could not maintain that level with our limited force.

At that particular time, the Coast Guard's major thrust was not in drugs; it was boat safety in 1977. They later came on and got interested more in enforcement, which we are all thankful for. Naturally, it is our philosophy that we do cooperate.

Now, our extent now is, we have been arresting people in vehicles transporting marihuana. In other words, we see a suspicious truck or van on the road, if it makes a traffic violation, we will pull it over and we have made those type of successful busts.

But as far as sitting out, like Customs does, in the mangroves, in working these cases, we just assist them now. In 1977, we were everything, because it was all that was here.

Mr. BIAGGI. I notice you emphasize a diminution of activity because of limitations, but it can also be a question of frustration.

Sheriff FREEMAN. Well, you burn your men out. They can only work so many hours a week and then they are physically exhausted. That is what we did to them.

But I think we got the desired results, because it brought the problem into focus and then Congress reacted. We did get Customs agents here; the Coast Guard changed its emphasis. We hope we get more Federal agents into Monroe County.

Mr. BIAGGI. Well, you have been sitting here most of the morning. There seems to be—at least in my judgment, perhaps in yours—there seems to be a greater emphasis on drug interdiction in this area, as well as all over Florida, but especially in this area. We certainly hope that you would be encouraged by that.

Sheriff FREEMAN. Well, one of the things you have with the Florida Keys—and they keep emphasizing Key West and this is not true. Key West is this island and this does not have the importation problem.

The problem comes along the Keys, where you basically have 690 miles, if you go by the perimeter of all these islands, that have natural inlets and harbors, to where it is easy to get, on the right tide, a 40-foot, 50-foot boat up into these places and you have a density of population.

So these people have opportunities, where they can switch when they are 8 miles out and say, "Well, instead of going into Boca Chica, let's move it up to Cudjoe Key."

So they have tremendous capabilities, plus they have equipment. When we started to fight them, we had binoculars and they had night scopes. We had no funds to even purchase night scopes.

Mr. BIAGGI. Yes, we are mindful of that. We are mindful of the distinct advantage that the smugglers have in sophisticated equipment. In many cases their vessels have been apprehended and they put the Coast Guard, a national service, to shame. By comparison, the equipment used by the Coast Guard should have been in the Smithsonian.

Sheriff FREEMAN. Right.

Mr. BIAGGI. Really, it is a shame. It is a totally unacceptable situation, but hopefully with the passage of time and few dollars we can upgrade in that area. I know it is happening now.

Sheriff FREEMAN. Well, the biggest advantage the smugglers have, they have no rules they have to play by; where, if we intercept a boat or a truck, we have got to do it just right. If you do not have the right probable cause, and all of this, you are subject to lawsuits. They have no rules and that is a tremendous advantage.

Mr. BIAGGI. One question—I have put it before—I will put it again to each of you.

Given all of the factors that have been enumerated, the Coast Guard confiscations and arrests; 50 percent of the commercial vessels, at one time or another, being engaged; a cross-section of even private vessels engaged; and a host of other factors, do you believe—and given the unique quality, physical as well as geographical that the Keys have, Key West specifically—do you believe that an operation, similar to the one that DEA engaged in, Black Tuna, which resulted in multiple indictments, could be productive and would be warranted in this area?

Sheriff FREEMAN. It could be. Any effort toward deterring it could be. But I would like to, if I may, interject something here.

Key West, and the Florida Keys, are commercial fishing. Most of the people are honest fishermen. There is a lot of money in shrimp; there is a lot of money in lobsters. We wind up with these people that had these boats built for smuggling. They have never handled a fishing line; the boat has never seen a fish.

Now, you will have the occasion—like I think the Customs mentioned—where a fisherman may be in debt and here is an opportunity to pay the boat off. You do have those occasions, but most of the fishing vessels here are for the shrimping, the lobstering; and the people on them make a good living and they are not involved in this thing.

A lot of these boats were built for speed. They are built with secret compartments for cocaine. They are manufactured that way and these people pay for them in cash, you know.

Mr. BIAGGI. We certainly do not want to impugn the reputation of the legitimate people of Key West here.

Sheriff FREEMAN. I know that.

Mr. BIAGGI. We certainly believe that it is the vast majority. In addition to that, this activity could result in stigmatizing a very viable, very beautiful area.

Sheriff FREEMAN. It has.

Mr. BIAGGI. It could discourage others from coming here and I think that is shameful.

Sheriff FREEMAN. It is shameful.

Mr. BIAGGI. In the long run, Key West and its residents will benefit by the removal of those who traffic in contraband.

Sheriff FREEMAN. There is no doubt about it, because they set a bad example. If a person is making his money illegally, these type of people, who are not interested, have a tendency to flaunt it. It is a bad influence for other children and other families to see people who do not work have all the benefits of society.

This is true in Bob's county. It is predominant in Dade County. There is no hesitation about flaunting their rewards.

Mr. BIAGGI. I have seen a lot of instant millionaires up in Sheriff Butterworth's county.

Sheriff FREEMAN. Right.

Mr. BIAGGI. I am sure he will find out about them too. Sheriff?

Sheriff BUTTERWORTH. I cannot comment on Key West, or the Keys, but I would encourage any of the Federal agencies to step up enforcement in Broward County. I would welcome it.

Sheriff FREEMAN. And the same for Monroe; we need it. We have been crying for it for 2 years.

Mr. BIAGGI. Mr. Lent?

Mr. LENT. Thank you, Mr. Chairman. Gentlemen, I want to thank you for your testimony.

We heard testimony earlier that, in 1978, 2,798,000 pounds of marihuana was seized and, in the first half of this year, approximately 1 million pounds of marihuana have been seized.

It is estimated that that comprises, at best, 5 or 10 percent of what actually is being transported through the Keys, which comes out to be a tremendous volume of contraband.

What do you gentlemen think of the idea of a roadblock on U.S. 1, to inspect vehicles, to intercept that contraband? Obviously, 90 to 95 percent of it is going up U.S. 1.

Are there any legal reasons why such a roadblock could not be instituted?

Sheriff FREEMAN. Well, there is a recent Supreme Court decision, on a Delaware case, that addresses itself to that problem and related it to contraband.

You get into a highly sensitive area, unless you have good probable cause to stop that vehicle. Even if you stop it for a license check, you still—unless the man has got a bale sitting in the front seat with him—you still cannot go and look in his trunk.

Mr. LENT. Well, is it that you cannot look in his trunk or that any evidence you discover, looking in his trunk, cannot be used against him in trial?

Sheriff FREEMAN. You cannot look in his trunk, without a search warrant. That means you have got to go hunt a judge.

Now, you see, we have to operate on probable cause. Your sheriff's departments are subject to lawsuits. Customs can operate on suspicion and I do not think they are subject to lawsuits like we are. Sheriffs are sued, today, for even looking at people the wrong way.

Mr. LENT. We have had the testimony of the gentleman from the marine department that, as a matter of course, boats coming into the inland waters of Florida are inspected for possible boating violations.

Sheriff FREEMAN. Right. Life preservers and—

Mr. LENT. How come they can do that and find marihuana and confiscate it, but the sheriff's department cannot do the same thing with respect to a car? What makes a car different than a vessel?

Sheriff FREEMAN. First of all, the law: The law charges the Marine Patrol, and also the Coast Guard, with having safe vessels; so many life preservers for passengers and other safety equipment.

There is no law that says a law enforcement agency can pull a car over and check the brakes and check the equipment. An automobile, as far as search and seizure, is about as sacred as going into a man's house.

Technically, if you want to be really safe, get a search warrant on one. This is one of the problems.

Now, Customs—there have been cases with Customs and Immigration to where, if they are so many miles from a border, they have areas of law to operate that the local law enforcement people do not enjoy. We wish we had them. Our life would be a lot simpler, but we do not have them.

Mr. LENT. This is something we will have to go back to school on. I, frankly, am not up on this field of the law enough to really know.

Sheriff FREEMAN. Well, Mr. Lent—

Mr. LENT. But it would seem to me that, if you had a statute under which you could operate and if you did not selectively enforce the inspection—you inspected every vehicle—that that would meet any constitutional test. We will drop that, because I do not think any of us are that well-qualified, at the time, to say whether that could be done.

Mr. BIAGGI. Would the gentleman yield?

Sheriff FREEMAN. Mr. Lent, I might point this out with these people. When we first went after them, they were using trucks, 2-tons, 5-tons, with fruit companies, furniture companies.

When we got hot on them, they switched and then they went to the camper-type of vehicle, which there are so many of them on the Florida Keys you would have to stop every other vehicle.

Then, when that got hot, they were storing the stuff on some of these outer islands and bringing it in in trunks of cars, which a Cadillac you can put 10 or 13 bales—and that is quite a bit of money—in the trunk of a car.

They constantly monitor us. They have all our radio frequencies and they constantly shift what they are doing. In other words, if Monroe County gets hot, they will go to Pensacola. They get caught up in there, because they are not used to the waters.

That has made a lot of successful busts on the west coast, where these people were not familiar with the waters, but they do shift.

Now, if you could put men out there—for example, if you look at the sheriff's department, we are running now—I have one to three persons on a shift, per area. I have three areas, 120 miles. If I maintained a roadblock at Key Largo, I have got half of my police force on that roadblock. This is how thin we are scattered.

I have 12 officers to do around-the-clock, 7 days a week, at Plantation Key. It would take three of them—for a week's worth of this, it would take five men. It would take half of my force just to stand there and stop cars.

Now, if we got the funding, we would be happy to do it and that is our basic problem.

Mr. LENT. Did the gentleman from New York ask me if I wanted to yield, because I would be glad to yield.

Mr. BIAGGI. All right. I share the gentleman's concern and I am excited by the possibility of utilizing U.S. 1 as a chokepoint. I am also mindful of the strict constitutional question. The Supreme Court has spoken to that point not too long ago.

As an old police officer, I know exactly how people must feel. We would stop street vehicles at random, but more often when we observed a violation. But even that would not permit you—give you the right, under the circumstances of today, to look into a particular trunk, although we did it.

Sheriff FREEMAN. Yes.

Mr. LENT. All right, Sheriff, was there anything that you heard earlier, in testimony, from the Florida Marine Patrol, or Customs, or otherwise, that you would take issue with, with respect to the number of vessels that were involved or the quantity of the contraband that was coming through your county?

Sheriff FREEMAN. The number of vessels involved, I do not really know. I do not think anyone has sent out an ID that this vessel, plus this vessel, plus this vessel, does it. I think it is just a guess.

There is a number of vessels here that, as I said before, do nothing and have never seen a fish. They look like fishing boats, but that is all they do.

No, I think a lot of it was true. I do not think that the—one thing I take exception to, that if the drugs collapsed it would be

worse than our tourist business, because one has nothing to do with the other.

We do have people that reside here—some of them have in the past—and moved, since we ID'd them, to Dade County. As a drug person gets more affluent, the tendency is to go to Dade County, because he can enjoy his money. There are more things there that money buys than it buys in Key West, and also in Lauderdale.

But as you can see from Customs seizures, most of the people that we do get have Dade County addresses. This is the ideal place to come down, because of the way the island is structured. There are so many landing places. You would have to have an army to cover them all—600 miles.

We do need a real buildup, I think, of Customs and Coast Guard here, if we are going to really attack the problem.

Mr. LENT. I thank the gentleman. I have no further questions, Mr. Chairman.

Mr. BIAGGI. Thank you. Mr. Evans?

Mr. EVANS. Just one question, Mr. Chairman. I will ask the same question I asked the others.

From your vantage point, do you think we are gaining in this problem or are we losing ground?

Sheriff FREEMAN. Well, it all depends on where you read, Mr. Evans. I think, from activity here, we gained a little bit. Then you pick up a newspaper and see where we have got 30 million users. HEW says so; I do not know. But if there are more people in the country using it, somebody must be bringing it in.

All of it is probably not coming in here, but I—it comes in spells. I think we are gaining, but I think, if really—if the Federal Government, itself, took an enthusiastic effort to do something with it, I think the results would be more than what we have now. Basically, you have got fragmented agencies who are all doing the best they can.

Their major thrust is addressed in another situation. Coast Guard is a good example of this. I mean, they are charged with rescue, safety, and then this is a sideline. Marine Patrol is charged with the natural resources, the No. 1 thrust to protect Florida's natural resources. This is great; that is why they got started. Drugs is a sideline.

Both Bob and I are sheriffs of counties. We are the chief law enforcement officer of the county. We are understaffed. Our routine business, the homicides, burglaries, and robberies, plus our social services in answering domestics, and this and that, tie us down.

Then you have Customs, who is in this thing, but they have certain limitations with their relationship with DEA. So you have a fragmented situation that no one has really said, "This is my job and this is a total effort and let's go get them."

Mr. BIAGGI. Well, that is the purpose of the coordination—— Sheriff FREEMAN. Right.

Mr. BIAGGI [continuing]. One of the prime purposes.

I want to thank you gentlemen for your testimony.

Sheriff BUTTERWORTH. Thank you, Mr. Chairman.

Sheriff FREEMAN. Thank you, Mr. Chairman.

Mr. BIAGGI. Hopefully, it will be more optimistic tomorrow.

Before we close this hearing, I would like to note that we have had—this is the fourth hearing that we have had on this subject. I think the first one was in San Juan, in 1975, which for the first time highlighted San Juan, Puerto Rico, as a transshipment point.

Thereafter we had hearings in Miami, which revealed a loophole in the law, which permitted many of the wrongdoers on the high seas to escape prosecution.

A further hearing in Washington helped resolve that by developing the type of legislation necessary, which recently passed the Merchant Marine Committee, in this the 96th Congress.

And what we have developed, as a result of these hearings, is the need for additional resources and a more concerted effort on the part of all agencies.

There seems to be a heartening amount of cooperation, which I believe is a substantial step forward. My experience over the years, as I have stated, has been that when we have the heads of organizations, the different agencies, testify that cooperation exists, where, in fact, it is not existent. It is a parochial conflict which obviously develops into counterproductive situations.

With that, we thank you gentlemen. Have a good day. The hearing is adjourned.

[The following was submitted for the record:]

CHART NO. 1.—NARCOTICS FIELD INVESTIGATIVE WORK, AUGUST 1973—JANUARY 1979 ¹

Narcotics seized	Approximate value	Investigations conducted	Arrests	Property seized	Approximate value	Cash seized	Weapons seized
1973: Marihuana—80,000 lbs. (narcotic officers began August 1, 1974)	\$27,782,540	62	77	Vehicles—5, Vessels—12	\$120,000	\$400,000	0
1974:							
Cocaine— $\frac{1}{4}$ lb.	22,338,000	139	129	Vehicles—12, Vessels—20, Aircraft—9	470,000	398,000	0
Hashish—2,000 lbs.							
Marihuana—32,847 lbs.							
1975:							
Amphetamine—10,000 units	36,489,579	394	317	Vehicles—37, Vessels—21, Aircraft—9	346,400	3,380,120	20
Cocaine—31.9 lbs							
Hashish—2,449.06 lbs							
Hashish oil—4.8 lbs							
Heroin—7 oz.							
LSD—4 units							
Marihuana—137,000 lbs							
Opiate—59 units							
Pills—13,377							
Speed—50 hits							
1976:							
Cocaine—1 lbs., 10 gm.	62,383,846	647	215	Vehicles—17, Vessels (large)—16, (small)—15.	107,881	62,276.25	8
Hashish—1,228 lbs							
Heroin—1 $\frac{3}{4}$ oz.							
Marihuana—148,225 lbs.							
Pills, assorted—400							
1977:							
Hashish—2,576 lbs	246,619,200	491	194	Vessels—39, Vehicles—37	1,591,300	40,745.68	23
Marihuana—616,548 lbs							
Cocaine—1 $\frac{1}{2}$ oz.							
PCP—1 oz.							
1978 and January 1979:							
Marihuana—895,527 lbs	425,201,412	455	270	Vessels—37, Vehicles—29, Miscellaneous equipment—\$52,207.	811,900	68,500	15
Grand total	906,745,077	2,188	1,202		4,233,181	430,132,693	66

¹ Submitted by Col. Clifford A. Willis.

CHART NO. 2.—VESSEL LARCENY AND NATURAL RESOURCES VIOLATIONS INVESTIGATIVE WORK,
APRIL 1976–JANUARY 1979

Stolen boats, motors, and trailers recovered	Property seized and approximate value	Other related investigations conducted	Arrests
39 boats, motor, 7 trailers—\$879,900. 10 boats, 1 trailer—\$16,000.	Large vessels—14, \$270,000. Small vessels—1, \$1,000. Vehicle—1, \$4,000. Crawfish—1,560 lbs., \$7,020. Oysters—100 bags, \$600. Restricted coral—approximately 30 lbs., value unknown. Scale fish—80 lbs., value unknown. Sea Turtles—2, \$200. Shrimp—2,400 lbs., \$9,200. Stone crabs—500 lbs., \$20,000. Lobster—1,446 lbs., \$7,666. Trammel net, value unknown. Large vessels—4 \$190,000.	Stolen boats and boat titles investigations. Fraudulent boat and motor operations. Insurance frauds. Illegal Operations: Stone crab, Snook, Crawfish, Clam. Kidnapping and hijacking of tractor-trailer load of seafood. Possession of restricted coral. Smuggling. Stake-out of marine on boats and equipment theft. Stolen boat theft ring. Stolen motors. Stone crab robbing.	57 total arrests involving stolen motors, restricted coral, boat, and trailer theft, trap robbery, crawfish violations, and insurance frauds.

COMPARISON OF MARIHUANA AND COCAINE REMOVALS ¹

	1978	1979
Marihuana (in pounds):		
January	164,749	165,884
February	30,623	155,695
March	140,496	184,131
April	264,260	155,916
May	210,801	218,849
June	313,472	200,568
Total	1,124,401	1,081,043
Cocaine (in grams):		
January	34,591.2	6,669.7
February	13,049.7	109,770.4
March	10,210.5	18,133.7
April	8,395.4	10,524.7
May	3,195.6	26,302.8
June	8,152.3	² 99,000.0
Total	³ 77,594.7	⁴ 270,401.3

¹ Submitted by Frederick A. Rody, Jr.

² Incomplete month.

³ 170.7 lbs.

⁴ 594.8 lbs.

Note.—Above removals reflect only those accepted by DEA for prosecution.

The following are law enforcement agencies who are members of the Big Bend Task Force:

Sheriff's: Madison County Sheriff's Office; Franklin County Sheriff's Office; Gadsden County Sheriff's Office; Jefferson County Sheriff's Office; Leon County Sheriff's Office; Wakulla County Sheriff's Office; Taylor County Sheriff's Office.

Federal agencies: U.S. Custom Patrol; U.S. Attorney's Office (No. Dist. Fla.); Drug Enforcement Administration (P.C. Fla);

Police: Tallahassee Police Department; Florida State Police Department.

State agencies: Florida Department of Law Enforcement; Florida Highway Patrol; Florida Marine Patrol; Second Judicial State Attorney's Office; Law Enforcement Assistance Center (PC).

Statistics compiled by the Big Bend Task Force from Apr. 1, 1978 through Mar. 1979

County and seizure:	Approximate value
Bay:	
(1) Lockheed Constellation	\$150,000
30,000 lbs marihuana	12,000,000
Arrest (3)	
2 oz cocaine	4,000
Dixie:	
Cessna aircraft (1)	40,000
Vehicle (1)	2,500
Arrest (4)	
2,057 lbs marihuana	821,275
U.S. currency seized	47,000
Franklin:	
Vessels (3)	60,000
Vehicles (4)	35,600
DC-3 aircraft (1)	50,000
Arrest (17)	
15,006 lbs.	6,002,400
Gadsden:	
Vehicles (2)	14,200
Arrest (6)	
6,721 lbs of marihuana	2,688,400
U.S. currency seized	9,200
Leon:	
Vehicles (4)	40,000
Arrest (9)	
82,000 lbs marihuana	33,000,000
U.S. currency seized	250,000
Madison:	
Vehicle (1)	9,000
Trailer (1)	1,900
4 oz cocaine	8,000
1 lb marihuana	25
Arrest (7)	
U.S. currency seized	4,125
Swannee:	
Vehicle (1)	6,000
.38 cal. S&W (1)	75
U-Haul trailer (1)	NA
Arrest (2)	
750 lbs marihuana	300,000
Wakulla:	
Arrest (37)	
Vehicles (12)	265,000
Vessels (5)	63,500
60,657 lbs of marihuana	24,262,800
Total arrested	86
Total marihuana seized (pounds)	197,191
Total estimated value of marihuana seized	\$78,876,400
Total pieces of equipment seized	42
Total estimated value of equipment seized	\$741,775
Total U.S. currency seized	\$310,000
Total cocaine seized (ounces)	6
Total estimated value of cocaine seized	\$12,000

REPORT BY THE

Comptroller General

OF THE UNITED STATES

The Coast Guard's Role In Drug Interception--How Much Is Enough?

The Coast Guard has had some success in detecting and capturing drug smugglers on the high seas. For the most part, this is attributed to its cutters, aircraft, and electronics gear being superior to the equipment used by smugglers and its strategy of concentrating surveillance on areas through which smugglers must pass.

The Coast Guard needs to establish a drug enforcement goal to use in measuring its effectiveness and in determining its resource needs. It also should improve its training of personnel and communication with other law enforcement agencies.



CED-79-40

FEBRUARY 12, 1979



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-114851

To the Chairman and Ranking Minority Member
Subcommittee on Coast Guard and Navigation
Committee on Merchant Marine and Fisheries
House of Representatives

As requested in your letter of June 30, 1978, we have evaluated the Coast Guard's operational capability in the conduct of its drug enforcement mission.

We discussed the information in this report with agency officials.

As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. At that time we will send copies to interested parties and make copies available to others upon request.

A handwritten signature in dark ink, reading "Luther B. Atack". The signature is written in a cursive style with a large, stylized "L" and "A".

Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT
TO THE CHAIRMAN AND RANKING
MINORITY MEMBER, SUBCOMMITTEE
ON COAST GUARD AND NAVIGATION,
HOUSE COMMITTEE ON MERCHANT
MARINE AND FISHERIES

THE COAST GUARD'S
ROLE IN DRUG
INTERCEPTION--HOW MUCH
IS ENOUGH?

D I G E S T

The Coast Guard has had some success as a maritime drug enforcement agency--in 1978 it seized 140 vessels and 3.2 million pounds of marijuana--which is for the most part attributable to its

--cutters, aircraft, and electronics gear being superior to the equipment used by smugglers and

--strategy of concentrating surveillance on certain routes ("choke points") through which smugglers must travel.

The major source for marijuana is Colombia, South America. Most drug smugglers approach the U.S. coastline from Colombia in "mother ships" which are met by smaller "contact" boats. Contraband is offloaded to these smaller boats which then proceed to shore. Seizure of a mother ship generally results in the capture of large quantities of marijuana. Relatively small quantities are seized from contact boats. The Coast Guard's strategy emphasizes the seizure of mother ships by patrolling the choke points between Colombia and the United States. But it is estimated that cutters are at these points only 35 percent of the time because not enough are available. (See p. 8.)

While the Coast Guard has established a general goal for its law enforcement mission, it does not have a specific drug enforcement goal. GAO believes that the Coast Guard should establish long-range goals as to the amount of drugs it would like to intercept and identify alternative approaches, acceptable time frames, and

various levels of resources necessary to achieve those goals. (See p. 14.)

The Coast Guard contracted for studies to (1) determine the nature and magnitude of Coast Guard operational law enforcement requirements and (2) provide the Coast Guard with a drug enforcement planning model for determining the types and quantities of resources needed. (See p. 13.)

Coast Guard cutters, aircraft, and electronics serve to detect and seize smuggler vessels. The Coast Guard is upgrading its existing equipment with improved radar and more accurate navigation gear and purchasing new cutters, helicopters, and fixed wing aircraft, which should strengthen Coast Guard drug interception capabilities.

Adequate law enforcement training has been lacking for Coast Guard personnel. As drug trafficking increases, more boardings, searches, arrests, and seizures of vessels will occur with increased risks of injury or death. In spite of these risks and the job knowledge required, the Coast Guard has neither established a job classification for law enforcement nor adopted minimum qualifications for boarding party crew members. (See p. 17.)

Accordingly, the Coast Guard should improve its training, consider establishing a law enforcement rating, and establish qualification standards for boarding parties. (See p. 22.)

The Customs Service, the Drug Enforcement Administration, and the Coast Guard do not have a common radio frequency for use in communicating directly with one another during their drug operations. Therefore, the three agencies adopted several methods that provide them with a communication link, such as

- sharing assigned frequencies,
- relaying messages from units by radio,
- sharing radios and personnel, and
- relaying radio messages to units by telephone. (See p. 15.)

While the above methods provide the agencies with a means to communicate with each other, a need for a common frequency exists to

- promote an increase in jointly planned and coordinated efforts and
- increase the effectiveness of unplanned and unexpected drug operations. (See p. 14.)

GAO believes that the Coast Guard should explore the desirability of acquiring a common law enforcement frequency with the other agencies. (See p. 16.)

AGENCY COMMENTS

The Coast Guard concurred with the facts stated in this report but did not take a position on GAO's conclusions and recommendations.

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ABBREVIATIONS

DEA	Drug Enforcement Administration
GAO	General Accounting Office
HF	high frequency
LORAN	long-range aid to navigation
UHF	ultra high frequency
VHF	very high frequency
WHEC	high-endurance cutter
WMEC	medium-endurance cutter
WPB	patrol boat

CHAPTER 1INTRODUCTION

By letter dated June 30, 1978, the Chairman and Ranking Minority Member of the Subcommittee on Coast Guard and Navigation, House Committee on Merchant Marine and Fisheries, requested that we evaluate the Coast Guard's operational capability in conducting its maritime law enforcement mission. Our evaluation included

- an analysis of the performance characteristics of Coast Guard cutters and aircraft and the Coast Guard's ability to detect and capture smugglers of illicit drugs and
- an appraisal of current Coast Guard law enforcement training.

BACKGROUND ON THE MARITIME
LAW ENFORCEMENT MISSION

The Coast Guard is the Nation's primary maritime law enforcement agency. It has jurisdiction over all violations of Federal laws on the high seas and waters over which the United States has jurisdiction.

The basic statutory authority for Coast Guard law enforcement stems from:

- 14 U.S.C. 2:

"The Coast Guard shall enforce or assist in the enforcement of all applicable Federal laws on and under the high seas and waters subject to the jurisdiction of the United States;* * * and

- 14 U.S.C. 89(a) which states in part:

"The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States* * *."

On the basis of this authority, Coast Guard commissioned, warrant, and petty officers may board any vessel

subject to the jurisdiction or operation of any law of the United States to (1) address inquiries to those on board, (2) examine the ship's documents and papers, and (3) examine, inspect, and search the vessel for drugs and use force if necessary to compel compliance.

Narcotics control is an area of law enforcement having high Presidential priority. For example, as drug abuse became rampant in the 1950s and 1960s, President Johnson signed into law Drug Abuse Control Amendments of 1965 (Public Law 89-74, 79 Stat. 226) which substantially increased Federal efforts in drug law enforcement. In the early 1970s, the Nixon administration continued the emphasis on drug control efforts, initiating several actions and declaring a "war on drugs." Also, President Carter considers national control of drug abuse an urgent matter for his administration. Principal Federal strategies to reduce drug abuse in this country include making drugs (1) difficult to obtain, (2) expensive to buy, and (3) risky to possess, sell, or consume.

The Coast Guard believes various illicit drugs have been smuggled into the United States by sea. However, marijuana, cocaine, and hashish are the primary illicit substances moved in this manner. To enforce its responsibility for the interdiction of such drugs, the Coast Guard uses cutters, boats, and aircraft to patrol the Nation's shores. The current inventory of principal resources the Coast Guard uses in carrying out its drug interdiction mission, as well as other duties, includes

- 18 high-endurance cutters (WHEC), 1/
- 23 medium-endurance cutters (WMEC),
- 75 patrol boats (WPB),
- 25 long-range search aircraft,
- 31 medium-range search aircraft,
- 38 medium-range recovery aircraft, and
- 81 short-range recovery aircraft.

1/ "W" is the classification for the Coast Guard.

General characteristics of the above vessels and aircraft are described in appendix I. 1/

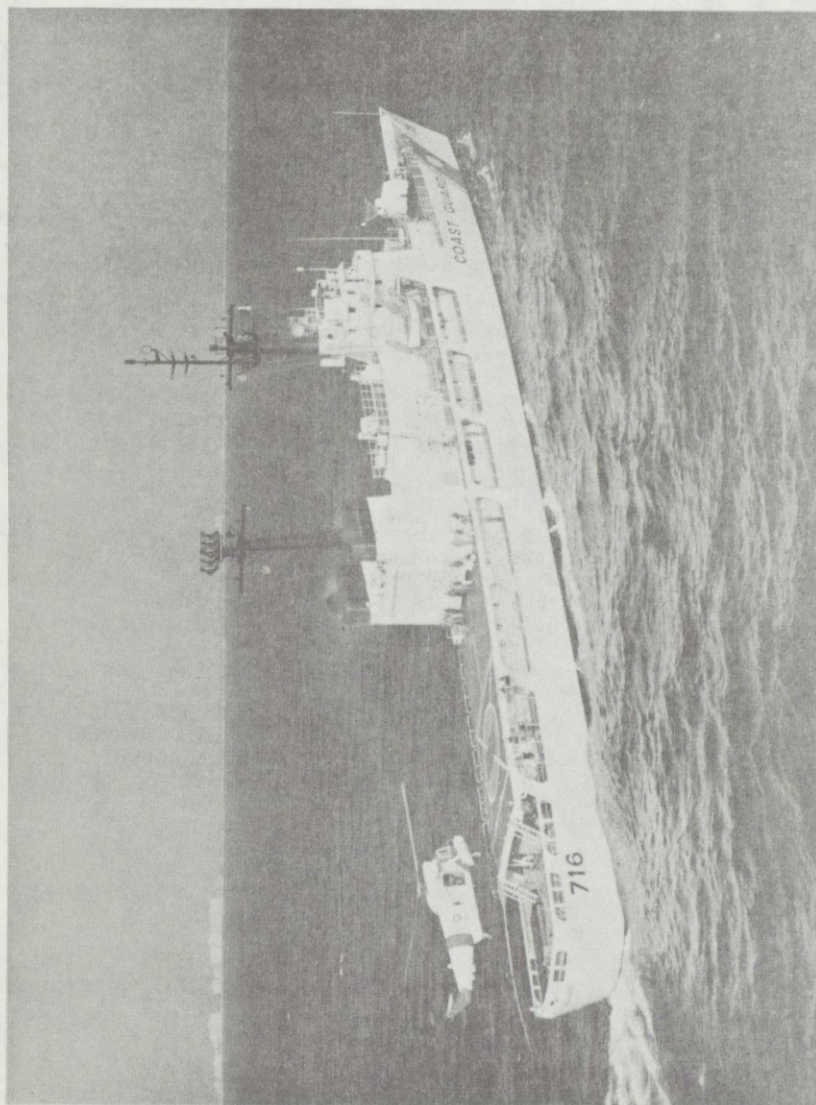
The above resources are utilized for the interdiction of drugs in various ways, such as

- single vessel patrols, usually a medium-endurance cutter or patrol boat;
- multiunit patrols, usually involving an endurance cutter with helicopter (see the following picture) and one or more patrol boats supported by land-based aircraft; and
- airborne surveillance flights to detect drug caches and report on suspect vessel activity.

On patrol, the Coast Guard is likely to stop and board smuggling vessels ranging in size from 300-foot freighters to relatively small (e.g., 17-foot) vessels, such as fishing and pleasure craft.

Since 1973, Coast Guard drug interdictions have increased rapidly. Although various illicit drugs are smuggled into the United States by vessel, the Coast Guard seized more marijuana than any other drug. Because of its physical characteristics (it is usually transported in compact, pressed bales), it is conspicuous and difficult to conceal or dispose of. Other drugs, such as cocaine and heroin, are usually smuggled in small quantities because of their high value and seldom will be detected during a routine Coast Guard boarding. Also, these drugs usually are jettisoned before the vessel is boarded. Results of the Coast Guard interdiction efforts since 1973 are shown on the following schedule.

1/ The Coast Guard also uses small patrol boats (30 to 44 feet) in its drug interdiction mission.



SOURCE: U.S. COAST GUARD

General Law Enforcement Interdiction Results
By Calendar Year

	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>	<u>1978 (note a)</u>	<u>Total</u>
Vessels seized by Coast Guard	6	11	5	18	35	140	215
Vessels seized by other agencies with Coast Guard participation	1	3	2	10	22	25	63
Marijuana seized by Coast Guard (lbs.) (note b)	15,700	38,500	94,025	200,568	1,022,799	3,230,359	4,601,951
Marijuana seized by other agencies with Coast Guard participation (lbs.)	4,600	4,975	653	145,003	200,315	272,828	628,374
Cocaine seized by Coast Guard (kg.)	1	0	0	20	0	0	21
Cocaine seized by other agencies with Coast Guard participation (kg.)	0	0	0	10.1	0	.03	10.13
Hashish seized by Coast Guard (lbs.)	0	6,139	0	0	0	0	6,139
Hashish seized by other agencies with Coast Guard participation (lbs.)	0	0	2,000	0	1,700	1,100	4,800
Thai sticks seized by Coast Guard (lbs.) (note c)	0	0	0	10,185	17,130	4,500	31,815

a/The Coast Guard seized 500,000 quaalude (a depressant) tablets in 1978.

b/According to a Drug Enforcement Administration (DEA) report, the "street" value of marijuana is \$363 a pound.

c/A very potent form of marijuana.

Approximately 85 to 90 percent of drug interdictions were made at the Coast Guard's 7th and 8th districts, headquartered in Miami, Florida, and New Orleans, Louisiana, respectively.

SCOPE

We evaluated the Coast Guard's capability to detect and capture smugglers, and the smugglers' capability to elude such capture. We also inquired into the Coast Guard's procedures for communicating by radio or other means with other Federal law enforcement agencies engaged in the interdiction of illicit drugs. We evaluated the drug enforcement training program.

Our review was performed principally at the Coast Guard headquarters in Washington, D.C., and the Coast Guard's 7th and 8th districts. We also contacted the Treasury Department's Customs Service and DEA.

CHAPTER 2ASSESSMENT OF THE COAST GUARD'SCAPABILITY TO REDUCE DRUG SMUGGLING

The Coast Guard has had some success in the drug interdiction program, which is attributable, for the most part, to two basic factors. First, the performance characteristics of the Coast Guard's cutters, aircraft, and electronics gear is superior to the equipment used by smugglers. Second, the Coast Guard's strategy of concentrating surveillance on certain routes ("choke points") through which smugglers must travel has permitted effective utilization of existing resources. However, the Coast Guard lacks sufficient equipment to provide continuous coverage, and it is estimated that cutters are present at the choke points only about 35 percent of the time. It is reasonable to assume that with increased coverage, the Coast Guard would improve its current estimated 8- to 10-percent interception rate. Additional coverage would, of course, require additional investment. A necessary first step in assessing the need for additional resources is to establish an interception goal. This has not been done. This goal should be based on and support the overall Federal strategy for controlling drugs.

The Coast Guard has the opportunity to be more effective by improving its radio communication with other Federal agencies engaged in drug smuggling prevention.

COMPARISON OF COAST GUARD AND
SMUGGLER RESOURCES

In the 7th and 8th districts the Coast Guard uses the following principal resources in its drug interdiction program:

	<u>Number of units</u>	
	<u>7th district</u>	<u>8th district</u>
82-ft. WPB	7	8
95-ft. WPB	6	none
210-ft. WMEC	4	<u>a/4</u>
helicopter HH-52A	8	6

a/One WMEC is 213 ft.

The general characteristics of the above are included in appendix I.

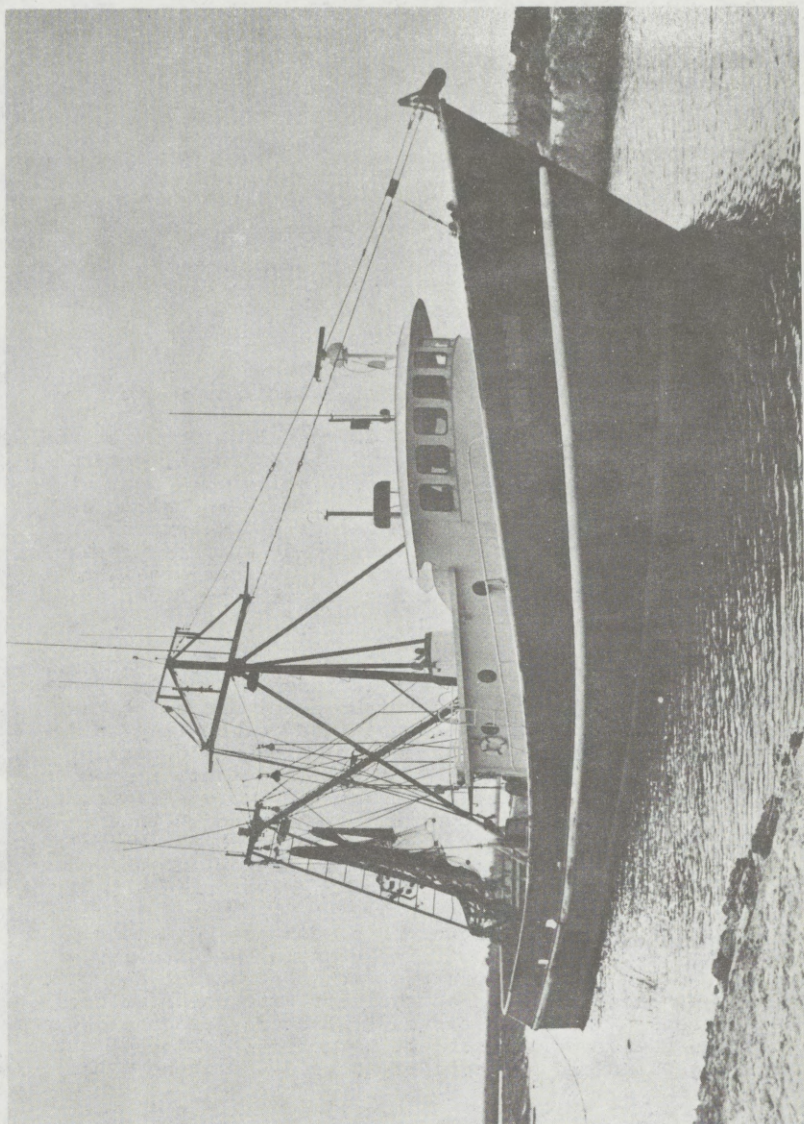
The smugglers use a variety of vessels, ranging from small pleasure craft to oceangoing freighters. Smugglers' methods of operations account for the wide variety of vessels seized. Principal among these is the mother ship (see the following picture of a seized mother ship) and contact boat strategy by which the larger vessels approach the U.S. coastline and are met by smaller load boats. Contraband is off-loaded to these smaller boats, most of which are capable of speeds faster than Coast Guard cutters. However, the larger mother ships (generally 60 to 300 feet in size) are slower than Coast Guard cutters and their seizure generally results in the interdiction of large quantities of contraband, principally marijuana. On the other hand, the seizure of a load boat results in the interdiction of relatively small quantities of contraband. Accordingly, the Coast Guard's interdiction efforts are directed principally at the mother ship. Obviously, the seizure of the mother ship results in the interdiction of larger quantities of illicit drugs--as contrasted with the seizure of a contact boat--which denies the smuggler the opportunity to disperse the cargo to contact boats. Once dispersed the chances of seizing major quantities of drugs are significantly reduced.

Colombia, South America, is presently the source of most of the contraband seized in the 7th and 8th districts. Appendix II shows the major drug routes used by smugglers from Colombia, in the vicinity of the Guajira peninsula. These routes traverse three principal channels--the Yucatan Channel and the Windward and Mona Passages--and the Coast Guard's strategy is to patrol these choke points to detect and seize smugglers. These choke points are patrolled by WMECs with assistance by HH-52A helicopters. However, we found that choke points are not patrolled continuously because not enough cutters and aircraft are available. Coast Guard officials in the 7th and 8th districts estimated that cutters are present at the choke points only about 35 percent of the time.

During calendar year 1978, the 7th and 8th districts seized 127 vessels and about 3.4 million pounds of contraband. Of these totals, 33 vessels and about 742,000 pounds were seized by the WPBs.

Comparative performance characteristics

We analyzed 54 smuggler vessels seized under various circumstances in the 7th and 8th districts during calendar year 1978 and made a comparative analysis of the performance characteristics of Coast Guard and smuggler resources. We noted that the smuggler vessels were capable of speeds ranging from 6 to 61 knots. We identified 32 of the 54 vessels as mother ships which were capable of speeds ranging from 6 to 12 knots.



SOURCE: U.S. CUSTOMS SERVICE

The cutters and patrol boats used on drug interdiction patrols by the two districts have speed capabilities in excess of 12 knots as follows:

	<u>Speed range</u>
	(knots)
210-ft. WMEC	14 to 18
95-ft. WPB	14 to 23
82-ft. WPB	15 to 25
Small boats	14 to 27

On the basis of speed, it does not appear that the smugglers' mother ships can elude a Coast Guard cutter or patrol boat.

We identified the remaining 22 vessels as contact boats. Speeds of these boats ranged from 14 to 61 knots, most of which have the capability of avoiding seizure by a Coast Guard cutter or patrol boat. However, cutters patrolling with the support of aircraft can detect and maintain surveillance over contact boats and assist other surface vessels or resources ashore in their seizure. The effectiveness of these contact boats depends upon the success of the mother ships to evade detection and seizure by the Coast Guard.

Vessel traffic off the shores of the 7th and 8th districts is extremely heavy and includes a sizable number of types of vessels which are suitable for use as contact boats. A smuggler in a contact boat can blend into this traffic without attracting attention which would warrant a Coast Guard boarding. In view of the large number of potential contact boats off the shores of the two districts, the effective interdiction of contraband smuggled in this manner is questionable. Therefore, we believe the Coast Guard's approach of interdicting mother ships by patrolling the choke points is a reasonable strategy.

In addition to the mother ship, contact boat method of operating, smugglers also utilize vessels that are large enough to reach Colombia, return with contraband, and offload directly at such locations as small private docks or secluded coastal areas. These vessels must also traverse the choke points and therefore are subject to detection and seizure by patrolling WMECs and helicopters as well as by the WPBs closer to shore.

In addition to the speed characteristics of smuggler vessels, we analyzed the electronic equipment found on 36 of the 54 seized vessels. We compared the performance characteristics of these electronics with those of the Coast Guard and found that, overall, the Coast Guard's equipment was superior, or at least equal, to the smugglers'. Also, as illustrated below, we noted that many of the 36 vessels lacked major items of electronics necessary for effective communications, navigation, and detection capabilities.

	Smuggler vessels	
	<u>With equipment</u>	<u>Without equipment</u>
Radios:		
Long-range	26	10
Marine	19	17
Aircraft	1	35
Navigation and detection:		
Radar	18	18
Long-range aid to navigation (LORAN)	20	16
Fathometer	19	17
Radio direction finder	11	25

Our comparative analysis showed that all of the cutters and patrol boats engaged in drug interdiction patrols in the 7th and 8th districts were equipped with the above items. Furthermore, the electronics on the cutters and patrol boats are presently being upgraded with

- improved radar;
- more accurate navigation equipment (LORAN); and
- modern, more versatile long-range radios.

In addition to the above, our analysis showed that 23 of the 36 vessels were equipped with duplicative items of electronics. For example, one vessel was equipped with

- three long-range radios,
- four marine radios,
- two LORAN units, and
- three fathometers.

Coast Guard and Customs Service officials expressed the opinion that the duplicative items are installed for backup purposes if some unit fails to function properly while underway. They stated that smuggler crews probably do not have the capability to properly maintain or repair their electronics.

Although the performance characteristics of the smugglers' electronics are not superior to the Coast Guard's, some concern does exist regarding the smugglers' ability to monitor the communications between Coast Guard vessels and aircraft. The radio frequencies the Coast Guard uses are known to the smugglers, and as a result they listen in to gain knowledge of the Coast Guard's location and intentions. By so doing, smugglers can increase their chances of avoiding seizure. To minimize this problem, the Coast Guard has acquired voice privacy equipment which will provide short-term protection of unclassified but sensitive voice communications. Installation of this equipment began in October 1978.

COAST GUARD'S REPLACEMENT RESOURCES

The Coast Guard is acquiring the following multimission resources which will strengthen its drug enforcement role:

- A new and larger class of WMECs.
- Short-range helicopters.
- Medium-range surveillance aircraft.

Thirteen WMECs will be acquired, and they are scheduled for delivery beginning in 1980. These will replace obsolete and overaged cutters which do not have helicopter flight decks. The WMECs will be 270 feet in length and capable of 19.5-knot speeds. Their electronics will include sophisticated tracking radar and sonar capable of detecting and identifying most surface and subsurface targets at long ranges. They will have a flight deck suitable for landing all classes of Coast Guard helicopters, including the proposed replacement helicopter.

Ninety short-range helicopters, estimated for delivery beginning in 1981, will replace the aging HH-52A helicopter fleet. This replacement helicopter will have a greater range and speed than the HH-52A. Its electronics will provide modern navigation, communication, and detection capabilities.

Forty-one medium-range surveillance aircraft, scheduled for delivery beginning in 1980, will replace the HU-16E and HC-131 fleets which are scheduled for retirement. The replacement aircraft, the Falcon 20G jet, will have a greater range and speed and will be equipped with more sophisticated navigation, communication, and detection capabilities.

In addition to the above acquisitions, the Coast Guard is modernizing the 95-foot WPBs by replacing their engines to maintain the performance levels of these patrol boats and

extend their useful life at least 10 years. This modernization program began in fiscal year 1977 and is scheduled for completion by fiscal year 1983. Similarly, a modernization program to extend the useful life of the HC-130B, long-range search aircraft was under consideration at the time of our review.

NEED TO ESTABLISH A DRUG INTERDICTION GOAL

The Coast Guard's drug enforcement mission is becoming increasingly demanding in terms of the resources allotted to it. Since 1973 the number of boardings and seizures has risen sharply. Continuing significant increases are anticipated which will further burden the Coast Guard's available resources. Vessels and aircraft will be employed on drug interdiction patrols on an increasing basis, and personnel involved in carrying out this mission will be faced with increasing law enforcement actions.

While the Coast Guard has established a general goal for its law enforcement mission of detecting and deterring 75 percent of law enforcement violations over the 10-year period 1981-90, in our opinion a more fully defined drug interdiction goal is needed to measure its effectiveness. Without such a fully defined goal, the Coast Guard cannot evaluate the effectiveness of its drug enforcement resources. However, by establishing a specific goal, the Coast Guard will be able to

- assess the relative effectiveness of its drug enforcement mission and
- determine the resources needed to achieve this goal.

The Coast Guard, anticipating an increase in drug interdictions, contracted for studies to (1) determine the nature and magnitude of Coast Guard operational law enforcement requirements through the turn of the century and (2) provide the Coast Guard with a drug enforcement planning model that will provide an analytical basis for determining the types and quantities of resources to be applied to the drug law enforcement mission. These studies were not available during our review. We recognize that their results should provide the Coast Guard with a basis of knowledge whereby informed decisions may be reached to promote a more effective drug interdiction mission in the future.

Conclusions and recommendations

A comparative analysis of resources used by the Coast Guard and the drug smuggler shows that the performance characteristics of those used by the Coast Guard exceed those used by the typical smuggler. We believe the cutters and aircraft used on drug interdiction patrols provide an adequate means of detecting and seizing smuggler vessels. We agree with the Coast Guard's strategy of patrolling the principal choke points with emphasis on seizing mother ships which are capable of smuggling relatively large quantities of marijuana.

However, the Coast Guard lacks sufficient resources to effectively patrol on a continuous basis the principal choke points through which the majority of marijuana smuggled into the country must pass. The number of resources needed will depend upon what percentage of the total drugs being smuggled the Coast Guard would like to establish as its interdiction goal. The interdiction rate is estimated at 8 to 10 percent.

We recommend that the Secretary of Transportation require the Commandant of the Coast Guard to establish long-range goals as to the amount of drugs the Coast Guard would like to intercept and identify alternative approaches, acceptable time frames, and various levels of resources necessary to achieve those goals. The goals should be based on and support the overall Federal strategy for controlling drugs.

NEED FOR A COMMON LAW ENFORCEMENT RADIO FREQUENCY

The Coast Guard, Customs Service, and Drug Enforcement Administration have not been assigned a common radio frequency for use in communicating directly with one another during their drug interdiction missions. Although the agencies have adopted alternative methods to communicate with each other, we believe there is a need for the assignment of a common frequency because as drug enforcement activities increase, it would

- offer an opportunity to promote jointly planned and coordinated interdiction efforts and
- increase the effectiveness of unplanned and unexpected drug interdiction operations.

Only about 5 percent of the agencies' drug interdiction efforts are planned jointly or on a coordinated basis. The Coast Guard has been assigned a multitude of radio frequencies

covering several different frequency bands. The Coast Guard's voice communications are normally in the high frequency (HF), very high frequency (VHF), and ultra high frequency (UHF) bands. Customs Service and DEA primary voice communications are in the VHF and UHF bands, respectively; however, the frequencies assigned to them within these bands differ from those assigned the Coast Guard. Each band has unique characteristics, such as distance or lack of static or other interference, that make it suitable or unsuitable for a particular agency's needs.

Although the three agencies have not been assigned a common frequency to aid them in their drug interdiction efforts, they have adopted several methods by which they can communicate by voice with each other. These methods provide them with a communications link--particularly when they have the opportunity for advance planning on a coordinated operation. These methods provide direct and indirect communication links among the agencies and include

- sharing assigned frequencies,
- relaying messages from units by radio,
- sharing radios and personnel among the agencies,
and
- relaying radio messages to units by telephone.

The agencies are authorized to share their assigned frequencies on a temporary basis--generally when they plan a coordinated operation. For example, DEA has, on occasion, authorized Coast Guard and Customs to use its assigned frequencies. DEA officials told us that with such an arrangement, a cutter patrolling one of the choke points would be able to establish a communication link with a DEA office along the coast within 5 to 10 minutes. However, this practice of sharing assigned frequencies for use during coordinated operations requires prior planning and agreement on the specific frequency or frequencies to be used. Such an agreement between the agencies cannot be made for the unexpected or unplanned operation.

We discussed the above matters with officials of the three agencies who expressed the opinion that even though the methods of interagency communication pose no serious problems, such as delays in transmissions, they nevertheless believe a common law enforcement frequency would be of some benefit in their drug interdiction activities.

Conclusion and recommendations

While we believe the three agencies presently have adequate means to communicate with each other, we also believe a common frequency offers some opportunity to promote more effective drug interdiction efforts and increased interagency coordination. Accordingly, we recommend that the Secretary of Transportation direct the Commandant of the Coast Guard to explore the desirability of this matter and, if deemed warranted, take the necessary steps to

--acquire a common law enforcement frequency and

--adopt an interagency agreement for its effective implementation.

Agency comments

According to the Coast Guard, it, Customs, and DEA have established an interagency committee on communications to study ways to improve their communication capabilities. We believe that such an interagency study gives appropriate consideration to our recommendation.

CHAPTER 3NEED FOR IMPROVED LAW ENFORCEMENT TRAINING

The scope and magnitude of the Coast Guard's drug enforcement mission has increased significantly over the past few years. In October 1975 the Commandant reaffirmed that marine law enforcement is one of the Coast Guard's primary missions and, as a result, law enforcement training was accelerated. Our review shows that the Coast Guard needs to

- establish qualifications for crew members engaged in boarding vessels suspected of carrying contraband and
- assure that personnel engaged in vessel boardings have proper training.

In a sense, the Coast Guard is in a "catchup" training status in law enforcement but is expanding and improving the quality of training being offered to its personnel.

LAW ENFORCEMENT TRAINING

Coast Guard personnel can receive law enforcement training through

- Maritime Law Enforcement School,
- a correspondence course provided by the Coast Guard Institute,
- area training teams,
- district training efforts, and
- on-the-job training.

The principal law enforcement training provided by the Coast Guard is conducted at its Maritime Law Enforcement School at Yorktown, Virginia. This school offers personnel a 5-week course which addresses law enforcement areas, including the problems and procedures associated with vessel boarding and drug and vessel seizure. This course prepares attending personnel to teach personnel at their home units. The course was started in January 1978, and as of November 1978, 164 personnel had attended the classes. Of this total,

14 were from the 7th district and 13 were from the 8th district. 1/ Coast Guard officials said that space limitations restrict the class size to 28 and that the space cannot be easily expanded. There are no plans to increase the number or size of classes.

The correspondence course has been available for a number of years and it covers a broad spectrum of general law enforcement topics, including boarding, search, arrest, and seizure. From January 1977 through July 1978, about 240 personnel completed the course.

The area training teams for the Atlantic and Gulf ports are headquartered in New York City. One team was formed in November 1977 and a second in October 1978 at which time the two teams started training visits to Coast Guard units in the field. Their goal is to provide a 5-day training course annually to most of the units in their area involved in law enforcement. This training will serve as a refresher course to those personnel who have attended the Maritime Law Enforcement School and provide basic law enforcement training to others. We were advised that the Coast Guard plans to start a west coast area training team by the spring of 1979.

With respect to district training efforts, the 7th district has recently formed a "training assistance" team with course material designed to provide training to its personnel in various missions, including law enforcement. The course is 2 weeks in duration and is scheduled once each month for the various units throughout the district. The first course was held September 25, 1978. The 8th district Coast Guard officials expressed an interest in pursuing a similar training effort and are currently reviewing the course material received from the 7th district.

We recognize that proficiency in boarding operations may be obtained through on-the-job training. However, we also recognize that such training exposes boarding personnel to high risks because of their lack of knowledge.

The Coast Guard plans to establish a senior officers law enforcement course for officers active in the drug enforcement mission.

1/Some additional personnel from these districts monitored the class. However, they are not involved in vessel boarding.

In addition to the above, Customs Service patrol officers have assisted in training Coast Guard personnel in boarding operations. This assistance included formal classroom training as well as informal sessions while on patrol.

Need to assure that crew members assigned to boarding parties are adequately trained and properly qualified

The principal function which generates the need for law enforcement training is the boarding operation during which crew members are faced with uncertainty and high risks associated with such activities as boarding, search, arrest, and seizure. Our review showed that many of the crew used as boarding party members had not received any training through the Maritime Law Enforcement School, the correspondence course, or the Atlantic area training team. Although boarding parties have not yet encountered violence on the vessels being boarded, it is unreasonable to assume this will not occur sometime in the future.

Further, adequate training is very important because the seizure of a vessel transporting illicit drugs and the successful prosecution of its crew requires specific knowledge in various areas of law enforcement, such as search, seizure, and arrest requirements.

In spite of the risks involved and the knowledge required, the Coast Guard has neither established a job classification for law enforcement nor adopted minimum qualifications for a crew member to become a member of a boarding party other than being qualified for small arms before a weapon is issued.

Until recently commanding officers did not have any guidance on whether or not to issue small arms to boarding parties. However, in March 1978 a weapons policy was adopted whereby a commanding officer, in dispatching a boarding party, must arm that party if there is any reason to suspect that the vessel being boarded or the persons on board are engaged in illegal activity other than violations of fishing, vessel safety, documentation, or pollution laws.

In response to this policy, increased attention is being given to small arms training and qualification. All personnel, upon entering the service, receive this training, and the Coast Guard's goal is to requalify each coastguardsman annually. However, this goal was never reached. In June 1978 the Commandant issued instructions requiring weapons

training in fiscal year 1979 for all personnel assigned to cutters and units that routinely perform drug enforcement missions.

Except for the requirements for carrying arms, the Coast Guard has not established specific criteria for boarding party crew qualifications. As a result, crew members, regardless of their training, may be involved in boarding vessels suspected of carrying contraband.

The following table illustrates the minimal training received by boarding party crew members at the 7th and 8th districts.

	Cutters			
	82	95	210	
<u>7th district</u>	<u>ft. (Percent)</u>	<u>ft. (Percent)</u>	<u>ft. (Percent)</u>	
Crew members serving in boarding parties	16	30	42	
Crew members who had received formal law enforcement training	9 (56.3)	10 (33.3)	5 (11.9)	
<u>8th district</u>				
Crew members serving in boarding parties	a/32	(b)	c/24	
Crew members who had received formal law enforcement training	8 (25.0)	(b)	12 (50.0)	

a/ Data based on 8 of 10 cutters.

b/ There are no 95-foot cutters in the 8th district.

c/ Data* based on 3 of 4 cutters.

The above table shows that a low percentage of crew members who were on boarding parties received little law enforcement training. However, most boarding parties

included at least one crew member, usually the boarding officer, who is qualified.

The Coast Guard has a rotation policy for its staff among various duty stations (e.g., search and rescue, buoy tenders, high- and medium-endurance cutters) every 2 to 3 years. Staff are trained to perform specialized jobs (e.g., boatswain mate, machinery technician), so that as members rotate, trained and experienced individuals will be available as replacements. Promotions are based on experience, performance, and expertise in a specialized job.

The Coast Guard has not established a specialized job classification for its law enforcement mission activities. As a result, the Coast Guard cannot ensure that sufficient numbers of experienced and trained staff are in the enforcement area. Because promotions are based on expertise, performance, and experience in areas other than enforcement, such duty can be detrimental to staff members' Coast Guard careers. Staff often rotate to other duty which does not effectively use their enforcement experience and training. As staff rotate out of the enforcement area their experience is lost, especially since replacement staff need training and the Coast Guard has not been able to meet their training needs.

The Coast Guard has a special billet qualification system. Through this system the Coast Guard can keep track of individuals who develop expertise in a special area and the various billets requiring such expertise.

We recognize that there are alternative approaches for retaining qualified personnel in the enforcement program. We believe improvements should be realized from the new system now in use to (1) keep track of qualified personnel who develop expertise in a special area and (2) use such information to reassign personnel to billets needing law enforcement expertise. We believe that establishing a separate enlisted rating for the law enforcement mission position, however, would be a more effective method of retaining experienced personnel for such activities because the individuals would have (1) professional advancement opportunities in their speciality and (2) an incentive to maintain job knowledge even when not on law enforcement assignments. We believe that individuals with this speciality rating--when reassigned to law enforcement areas--would provide continuity of required skills as others leave and would provide such continuity without additional training.

CONCLUSIONS AND RECOMMENDATIONS

The Coast Guard does not have a sufficient number of trained personnel who are performing duties in the law

enforcement mission relating to drug interdiction. Although steps have been taken to provide this training, the Coast Guard is currently in a catchup status and may remain so for an extended period of time. Further acceleration of training efforts is warranted, particularly in view of the anticipated increase in drug interdictions. As drug trafficking increases, more boardings will occur and crew members will encounter increased risk of injury or death. To minimize this, they must be formally trained in the techniques of law enforcement to deal with those problems related to boarding, search, seizure, and arrest. In addition to training, and in recognition of the results of the studies describing the magnitude of the Coast Guard's enforcement mission (see ch. 2), it may seem reasonable to establish a specialized law enforcement job classification. At a minimum, standards should be established whereby personnel who are used in boarding operations are qualified through an accepted level of training.

We recommend that the Secretary of Transportation direct the Commandant of the Coast Guard to

- further accelerate training efforts, in particular those provided at the Maritime Law Enforcement School;
- consider establishing a specialized law enforcement job classification to provide the expert leadership needed in drug enforcement activities--a level of skill above that of other personnel; and
- establish a standard by which personnel may be considered qualified for boarding operations.

APPENDIX I

GENERAL CHARACTERISTICS OFSELECTED COAST GUARDCUTTERS AND AIRCRAFT

<u>Cutters</u>	<u>Length</u> (feet)	<u>Maximum range</u> (nautical miles)	<u>Economical speed</u> (knots)	<u>Maximum speed</u> (knots)
WHEC	311 to 378	8,000 to 20,000	10 to 11	19.8 to 29.0
WMEC	143 to 230	6,100 to 22,000	7 to 14	13.5 to 18.0
WPB	82 to 95	1,200 to 3,000	8 to 9	20.0 to 23.7

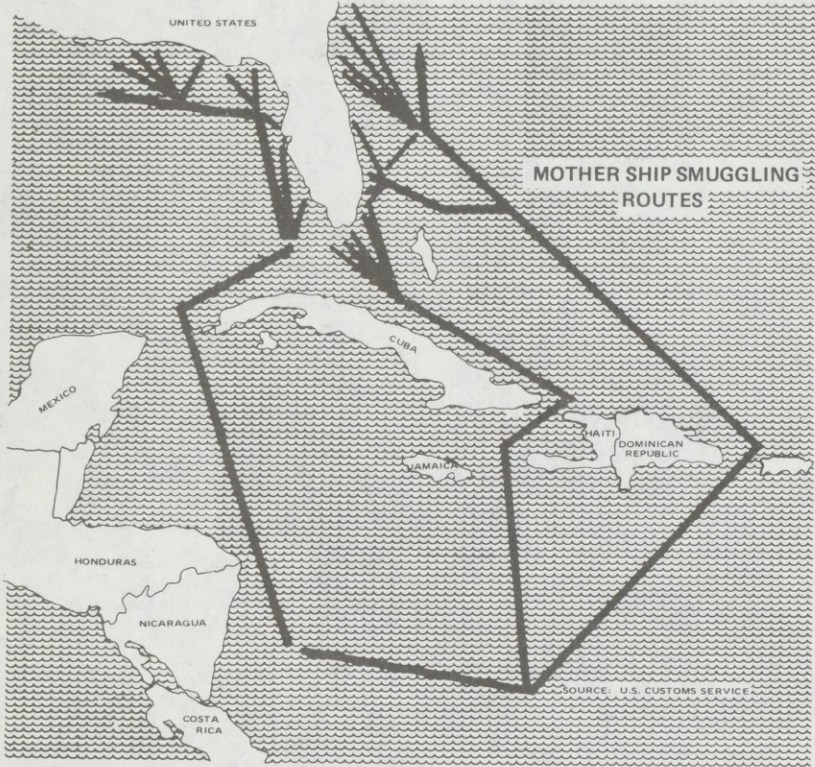
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APPENDIX I

<u>Aircraft</u>	<u>Maximum range</u> (nautical miles)	<u>Cruise speed</u> (knots)	<u>Maximum speed</u> (knots)
Long-range search (HC-130B)	2,900	290	325
Long-range search (HC-130H)	4,600	300	325
Medium-range search (HC-16)	1,500	170	266
Medium-range search (HC-131)	1,800	145	254
Medium-range recovery (HH-3F)	850	126	142
Short-range recovery (HH-52A)	300	80	109

APPENDIX II

APPENDIX II



APPENDIX III

APPENDIX III

NINETY-FIFTH CONGRESS

JOHN M. MURPHY, N.Y., CHAIRMAN
 THOMAS L. ASHLEY, OHIO
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U.S. House of Representatives
 Committee on
 Merchant Marine and Fisheries
 Room 1334, Longworth House Office Building
 Washington, D.C. 20515

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June 30, 1978

Honorable Elmer B. Staats
 Comptroller General of the
 United States
 441 "G" Street
 Washington, D.C. 20548

Dear Mr. Staats:

The epidemic rise in international narcotics trafficking into the United States has focused attention on the Coast Guard's role as the primary Federal maritime law enforcement agency with border management responsibilities along the nation's sea frontiers and superjacent airspace. The Subcommittee on Coast Guard and Navigation has been conducting an intensive investigation into the present and future operational requirements placed upon the Coast Guard by virtue of the necessity for increased efforts in seaborne drug interdiction.

The Subcommittee is especially concerned that the operational capabilities of the present mix of Coast Guard assets (including ships, aircraft, and equipment) and the present state of Coast Guard training and readiness may be inadequate for the conduct of effective law enforcement.

Specifically, our investigation has revealed that existing high-endurance and medium-endurance cutters, slated for eventual replacement by a new class of vessels -- even when deployed with helicopters, may lack the speed necessary to intercept fast "load boats" and "mother ships" on the high seas. In addition, the sensor, navigation, and communication suite used by drug traffickers is in many instances far superior to standard Coast Guard equipment.

Further, of more serious concern is the lack of a common covered law enforcement frequency for use by Drug Enforcement Administration, Customs Service, and Coast Guard ships and aircraft while engaged in drug law enforcement. The Subcommittee, therefore, is interested in having the General Accounting Office assist us in evaluating Coast Guard operational capability in the conduct of effective maritime law enforcement.

APPENDIX III

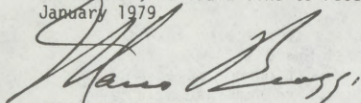
APPENDIX III

Honorable Elmer B. Staats
June 30, 1978
Page Two

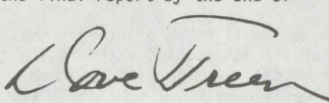
Such a determination should include an analysis of the performance characteristics of the present and future inventory of 253 Coast Guard cutters over 65 feet in length, 55 fixed-wing aircraft, and 115 helicopters -- and of the adequacy of ancillary sensor, communication, and navigation equipment. This evaluation should also address overall Coast Guard operational ability to detect, classify, track, board, and capture suspected contraband-carrying vessels and aircraft on the high seas. Identification of limitations in performance of such assets and equipment and recommendations for their modification or replacement, or the recommended addition of new types of assets or equipment, would be especially useful to the Subcommittee. An appraisal of the current status of Coast Guard law enforcement training and readiness should also be included in this requested review.

It is anticipated that, while you may need to rely on the expertise of other Federal and non-Federal sources, the scope of the study should be limited to Coast Guard law enforcement capability.

We would like to be periodically briefed on your efforts. In order to incorporate the findings, conclusions, and recommendations of your report into our consideration of the Fiscal Year 1980 Coast Guard budget submission, we would like to receive the final report by the end of January 1979.



MARIO BIAGGI, Chairman
Subcommittee on Coast Guard
and Navigation



DAVID C. TREAN, Ranking Minority Member
Subcommittee on Coast Guard
and Navigation

MB:DCT:mm

[Whereupon, at 1:06 p.m., the subcommittee adjourned, subject to the call of the Chair.]

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