

# REDUCING AMERICANS' VULNERABILITY TO ECSTASY ACT OF 2002

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## HEARING BEFORE THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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## REDUCING AMERICANS' VULNERABILITY TO ECSTASY ACT OF 2002

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THURSDAY, OCTOBER 10, 2002

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CRIME, TERRORISM,  
AND HOMELAND SECURITY  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Subcommittee met, pursuant to call, at 11 a.m., in Room 2237, Rayburn House Office Building, Hon. Lamar S. Smith [Chairman of the Subcommittee] presiding.

Mr. SMITH. The Subcommittee on Crime, Terrorism, and Homeland Security will come to order. Before we get to opening statements I would like to make a couple of announcements that will be of interest to Members and those in the audience as well. The first is that we are going to, of course, proceed with our hearing right now. We may be missing a few Members in action because there is a mandatory Republican Conference meeting going on right now. However, we can expect some more Members shortly.

The other is that we tentatively had scheduled or moved the markup to 1:30 this afternoon, and we are not going to have that markup for a couple of reasons. First of all, the hope was that if we were going to be in session next week, we might have been able to do not only the markup today but get to full Committee or even to the House floor next week. But it looks like we are not going to be in session next week, so having a markup really won't serve any purpose. In addition to that, we are expecting a series of votes at 2 o'clock and that would interrupt things for some time.

So we are going to have a hearing and let this get us off to a good start not only today but in the next Congress as well.

The other thing I want to mention is this might well be, therefore, our last meeting of the Subcommittee this year, and I want to recognize the hard work and the very capable work that has been done by all members of the staff of the Crime, Terrorism, and Homeland Security Subcommittee. They are hardworking. They have put in more hours than we ever had a right to ask them to do. And as most people on the Hill already know, they are overworked and underpaid, but that makes me appreciate their work during the course of this Congress even more.

I also want to acknowledge the Ranking Member, Mr. Scott, and say to Mr. Scott—and this is an overworked word but it doesn't mean I don't mean it all the more—it has been a real pleasure to have been able to work with him as Ranking Member of the Subcommittee this year. Bobby Scott is an honorable individual of keen

intelligence and strong convictions. And that has made him a ideal Ranking Member, I am sure from his point of view and as well as my point of view, and I don't want to underestimate that. While there are many honorable Members of Congress who have integrity, I really do put Bobby Scott at the top. And it has, as I say, been a privilege to work with him this year.

I will also say in regard to the strong convictions, I wish they weren't always quite so strong. And I wish we had gotten a few more votes, but that is totally aside from my high regard for him.

And I should say, too, since he is the only other Member present, Adam Schiff of California has been a joy to have on the Committee as well. He is thoughtful. He too has a keen intellect and has been willing to work with us to do what is best for the country and that is appreciated more than I can say. I happen to think that Adam Schiff is one of the outstanding new Members of Congress, and hope he will be around for many years to come, although that is not necessarily an official endorsement, Adam, but we appreciate all that you have contributed as well.

With that, we will go to opening statements and I will acknowledge myself first.

Today the Subcommittee on Crime, Terrorism, and Homeland Security examines H.R. 5519, the "Reducing Americans' Vulnerability to Ecstasy Act of 2002."

Each year, tens of thousands of young people are initiated into the drug culture at Rave parties. Raves are one of the most popular venues where club drugs are distributed. Because some club drugs are colorless, odorless and tasteless, they can be added, without detection, to beverages by individuals who want to intoxicate or seduce others.

Studies overwhelmingly confirm that club drugs are not harmless fun party drugs as they are often portrayed. While users of club drugs often take some of these drugs for energy to keep on dancing or partying, research reveals these drugs can have long-lasting negative effects on the brain, altering memory and behavior.

One of the more disturbing drugs being used at Raves is GHB. It is a powerful central nervous system depressant that is also known as a date rape drug. Overdoses tend to be more frequent with GHB than with other club drugs, especially when used in combination with alcohol. Reported GHB-related emergency episodes in the United States have increased dramatically in recent years from just 56 in 1994 to 4,969 in the year 2000 according to the Drug Abuse Network Survey.

This legislation directs the Sentencing Commission to review and amend the penalties for offenses that involve GHB. Although there may be Rave promoters who discourage drug use, there are others who seek to profit from the drug activity at their events. Some promoters actually distribute drugs, get kickbacks from drug sales at their events, have thinly veiled messages on their promotional fliers, and tell their security guard to ignore drug use or sales.

H.R. 5519 will ensure that these criminals who portray their events as alcohol-free parties that are safe places for young adults to go to dance with friends will not be able to use any loophole in the law to escape prosecution.

The most important thing we can do to win the war on drugs is to keep our young people from ever using drugs to begin with. The goal of the Drug Enforcement Administration's demand reduction program is to educate the public about the dangers of drugs. This is accomplished by educating community leaders, parents, teachers, and counselors in implementing drug prevention and education programs.

H.R. 5519 provides funds for the DEA to assign a demand reduction coordinator in every State in order to provide leadership and support to local agencies and organizations as they develop drug prevention and education programs. The purpose of this bill is not to suppress any type of music or lawful gathering of teenagers, as some critics have suggested. Its only purpose is to deter illicit drug use and protect our Nation's children.

I appreciate the witnesses who are here today. They are all experts on the subject and we very much look forward to their testimony. And that concludes my opening statement and I will recognize the Ranking Member, the gentleman from Virginia, Mr. Scott, for his.

Mr. SCOTT. Thank you, Mr. Chairman. I am pleased to join you in convening this hearing on the RAVE Act of 2002. It didn't occur to me that this might be the last Subcommittee meeting of the session, so I want to thank you for the dignity with which you have been able to conduct these hearings. I think it is a matter of public record that the Judiciary Committee is probably the most contentious Committee of all, dealing with some of the most controversial issues, with people who have very strongly-held ideas, and being able to conduct hearings in this Committee with dignity is sometimes quite a challenge.

So I want to thank you for that and I want to thank our staffs because of their ability to work together even when there are profound disagreements on the issues. Being able to work through, I think, is an example of how you can disagree without being disagreeable, and that atmosphere in this Committee is set pretty well by the Chairman. So I want to thank you for your hard work and dedication and for setting an appropriate tone so that we can get through some very controversial issues without some of the problems that have occurred in other Committees in the House.

Mr. SMITH. Thank you, Mr. Scott.

Mr. SCOTT. I am pleased to also join you in welcoming our colleague from Arkansas, Mr. Hutchinson, as a witness at the hearing in his relatively new role as director of an agency that owes so much of its present strength to his service on this same Subcommittee when he was a Member of Congress and the full Judiciary Committee. And we welcome him back to this room where he served very ably.

Mr. Chairman, you have outlined a significant problem caused by drugs generally and by Ecstasy specifically, and I hope we can work together to address this issue. I am particularly supportive of your focus on prevention as an integral part of that strategy.

The issue before us, this bill, deals with an area in which many of the activities covered in the bill are already illegal. It is illegal for someone to control and operate a building for the purpose of illegal drug distribution. This bill would leave no doubt about that.

However, I am aware there are concerns that it paints with too broad a brush. So I look forward to the testimony of witnesses to see how that issue works.

One point I would like to be enlightened on: Why is it necessary for the Federal Government to be involved in what appears to be a local issue, and how that complies with the Lopez or Lopes decision, which essentially asked Congress to stay out of local issues? But there is little doubt that we have jurisdiction under most drug control laws. Given the obvious local impact of the problem the bill seeks to affect, it is not clear why it might not be better dealt with with local law enforcement rather than Federal agents. I can see the Federal Government lending assistance to local officials or even prosecuting the more serious violations of existing Federal drug laws, but the issue before us seems to be something that could be handled by public nuisance laws if the affected locality and State do not have more specific laws.

With all the mandatory minimum sentences and lengthy maximums that we have directed under the sentencing guidelines, Federal intervention should be reserved in my view for those situations which are not conducive to State and local prosecution and control. So I hope to hear more about that during the hearing.

There are allegations of potential constitutional issues, unfairness to legitimate club owners and special event operators posed by the legislation, and we seek to get information on that. The bill goes a long way in trying to prevent those from being problems, so we will hear from witnesses.

I am impressed with the list of witnesses we have at our hearing and I look forward to their testimony and on other issues raised by this legislation. So thank you again, Mr. Chairman, for holding the hearing and for your hard work over the past 2 years.

Mr. SMITH. Thank you Mr. Scott.

Are there other Members who have an opening statement. The gentleman from California, Mr. Schiff?

Mr. SCHIFF. Mr. Chairman, I really just wanted to echo the sentiments that the gentleman before me echoed, and thank you for the way you conducted the Subcommittee in an extraordinarily professional manner. And it is a joy to be on this Subcommittee. And having served on a public safety committee in the State legislature and recognizing that the difficulty of these issues often provoke very bitter exchanges, I think it is wonderful that we have an absence of that kind of incivility. And it is really a credit to your leadership and I appreciate it very much.

Mr. SMITH. Let me proceed and introduce our witnesses and we will begin with them. First is the Honorable Asa Hutchinson, Administrator, Drug Enforcement Administration, and, as Mr. Scott mentioned a while ago a former colleague of ours on this Subcommittee and on the full Judiciary Committee as well; Andrea Craparotta, Investigator, Middlesex County Prosecutor's Office, New Jersey; Judy Kreamer, President, Educating Voices, Inc; and Graham Boyd, Director of Drug Policy Litigation Project, American Civil Liberties Union.

And we welcome you all and we will begin with the Honorable Asa Hutchinson who I understand has a short video for us to watch before he begins his official testimony.

**STATEMENT OF HONORABLE ASA HUTCHINSON,  
ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION**

Mr. HUTCHINSON. Thank you, Mr. Chairman, Ranking Member Scott, Mr. Schiff. Thank you for the comments that you have made, and we do have a brief video that might be illustrative of the points of discussion before I begin my testimony.

[Video shown.]

Mr. HUTCHINSON. I believe that concludes the presentation, Mr. Chairman, if I might proceed.

Thank you for holding this important hearing on the problems of club drugs, a variety of things, including predatory drugs, and also delving into the issue of Raves. Many people think that these club drugs are exclusively used at Raves but they are also available on the streets of America to our youth.

First, as the Chairman indicated, the health hazards pertaining to Ecstasy and the club drugs are substantial. They include long-term neurological damage and addiction. There are clearly numerous instances of sexual assaults, overdoses, and deaths attributed to the use of Ecstasy and the predatory drugs.

In a recent DEA drug-facilitated training conference, Gail Abarbanel, founder of the nationally recognized Rape Treatment Center, estimated that 15 to 20 percent of all rapes were facilitated with drugs, which is why GHB and other such drugs are referred to as predatory drugs. Consider the fact that of every 100 rapes in the United States, 32 are reported to the police, 16 result in an arrest, only 13 defendants will face prosecution, only 7 will be convicted, and out of the 100, only 5 will go to prison. And the reason only 1 out of every 20 rapists will go to jail: Predatory drugs which can incapacitate victims and impair memory have an impact on that, and make the successful prosecution of sexual predators that much more difficult.

Ecstasy and its popularity has increased in recent years along with the emergency room visits associated with its use. As the Chairman pointed out, the Drug Abuse Warning Network estimates of nationwide hospital emergency room mentions for Ecstasy have increased substantially since 1997 when there were 637 mentions versus over 5,000 mentions in 2001. And 77 percent of the Ecstasy room mentions were attributed to patients 25 years of age and under.

So why have Ecstasy and the predatory drugs become so popular among America's youth? Well, in part it may be the youthful impulse to experiment, but this vulnerability is preyed upon by market-savvy promoters and drug distributors.

Raves, which appeared in the United States in the late eighties and early 1990's, act as a gateway for the introduction of Ecstasy and predatory drugs to America's youths. Raves are organized, promoted, and financed by local and national enterprises to advertise through word of mouth, fliers, posters, telephone, radio and the Internet. Many Raves are advertised as drug- and alcohol-free to give party-goers and parents a false sense of security. While many of these parties may be alcohol-free, the open distribution of these drugs is common. And the Internet is used by having colorful and creative Web sites set up to advertise the Raves.

The dealers are equally creative with how they package the drug itself. Colorful die stamps and tablets with designer labels and colors are utilized. The profit incentive attracts the criminal organizations and the criminal entrepreneurs. The vast majority of Ecstasy is synthetically manufactured in clandestine labs in The Netherlands and in Belgium. A typical clandestine lab is capable of producing 20 to 30 kilograms of Ecstasy per day and the profit margins are substantial. The cost of producing one Ecstasy tablet is between 25 cents and \$1. Wholesale price is \$1 to \$2. But once in the United States, it can be distributed by a bulk distributor who will charge 6 to \$12 per tablet, and an Ecstasy retailer in a club very often will charge 20 to \$30 per tablet. So you are going from a very minimal cost of production to the street value of up to \$30 per tablet.

Even if you considered it at \$20 per tablet, one kilogram of Ecstasy would generate \$140,000 in profit. And so there is a profit motive in people moving to that.

We are concerned that other criminal organizations will expand the network of the distribution of Ecstasy. We have seen instances in which Colombian cocaine traffickers will exchange cocaine for Ecstasy. We do not want the Colombian traffickers to get involved in Ecstasy distribution. The threat of Ecstasy and predatory drugs is clear.

The DEA at the direction of Congress has taken significant steps to address it. We have enhanced our enforcement operations. DEA offices report a significant escalation in Ecstasy seizures worldwide.

In 2001, DEA alone seized approximately 9½ million dosage units compared to less than 1 million in 1997.<sup>1</sup> Our cases have increased, with the arrests going from 443 in 1999 to almost 1,800 in 2001.

A couple of examples of some of the investigations and enforcement actions: In February of this year in Idaho, we conducted a lengthy investigation that resulted in the arrests of 23 defendants, including the Rave promoter Jaime Collins who pleaded guilty to the crack house statute for a Rave he sponsored in the year 2001.<sup>2</sup> In Houston Texas, we dismantled an organization responsible for the distribution of over 1 million Ecstasy tablets. Just last month, we brought down Operation Webslinger in which we targeted the illegal Internet trafficking of predatory drugs from GHB to GBL to 1,4-BD. This unprecedented operation marked the most significant national operation targeting those using the Internet to peddle their drugs.

What was particularly disturbing was that many of these individuals were people who hold positions of trust in our society, such as an emergency room physician, a former high school teacher and a former police officer. These Internet Web sites were located out of operations from Sparta, Tennessee to Festus, Missouri. So they could be operated in rural America as well as urban America. We made arrests of over 136 defendants in over 100 cities, seized over 3,600 gallons of the predatory drug GBL/1,4-BD.

<sup>1</sup> In FY2001, the DEA seized approximately 8 million dosage units.

<sup>2</sup> The investigation took place in 2001, not this year.

And in addition to our domestic operation, we have enhanced our international operations. I traveled personally to The Netherlands to work with our Dutch officials who I have been pleased to learn have enhanced their operations. They have invested a substantial amount of Government money to create five synthetic drug units to enhance their investigations in The Netherlands. And this increased activity by The Netherlands law enforcement and increased DEA presence there hopefully will yield substantial benefits for an area that produces over 80 percent of the world's supply of Ecstasy.

Finally, as Ranking Member Scott mentioned, we have not just concentrated our enforcement actions, but we developed a national awareness program. We have combined with the National Association of Women Legislators to enhance our education efforts in our schools and our communities with young people, and this will be an ongoing effort into next year. And so we are grateful for this Committee's leadership on looking at legislation that will be helpful, but also enhancing the public awareness of the problem of Ecstasy, club drugs and predatory drugs. And I thank the Chair.

Mr. SMITH. Thank you Mr. Hutchinson.

[The prepared statement of Mr. Hutchinson follows:]

#### PREPARED STATEMENT OF ASA HUTCHINSON

##### EXECUTIVE SUMMARY

*MDMA (3,4-methylenedioxymethamphetamine), commonly referred to as ecstasy, and the predatory drugs GHB (gamma hydroxybutyrate), GBL (gamma butyrolactone), and 1,4-BD (1,4-butanediol) pose an enormous threat to America's teens and young adults. These drugs, formerly distributed almost exclusively at "Raves", can now be found in America's high schools, colleges, and many other social setting. Scientific studies have shown that use of these drugs cause significant health hazards, including long term neurological damage and addiction. Numerous instances of sexual assaults, overdoses and deaths are attributed to the use of ecstasy and predatory drugs.*

*To address this threat, the Drug Enforcement Administration (DEA) has initiated numerous enforcement successes and generated various innovative demand reduction programs including:*

- Targeting and dismantling major international ecstasy and predatory drug organizations, curbing the shipment of these drugs into the United States*
- Continuing to collect, analyze, and distribute vital intelligence information concerning the ecstasy and predatory drug trade to state, local, and international law enforcement entities*
- Developing a national ecstasy and predatory drug awareness campaign*
- Working in conjunction with associated local, state, federal, and community groups, DEA advances education and prevention strategies of ecstasy and predatory drugs*

Chairman Smith, Ranking Member Scott, distinguished members of the Subcommittee, it is a pleasure for me to appear before this Subcommittee for the first time as the head of the DEA regarding the effects that ecstasy and predatory drugs have on our country. As always, I would like to personally express my gratitude to the Subcommittee for your unwavering support for the men and women of the DEA.

##### THE THREAT

###### *Ecstasy*

Ecstasy is the one of the most significant emerging drug threats facing America's youth today. Its popularity, along with emergency room visits associated with its use, has skyrocketed in recent years. The Drug Abuse Warning Network (DAWN) estimates that nationwide hospital emergency room mentions for ecstasy rose sharply from 637 in 1997 to 5,542 in 2001.

Ecstasy users experience both hallucinogenic and stimulant effects which last several hours. Abusing ecstasy can produce a number of adverse effects including se-

vere dehydration, exhaustion, nausea, hallucinations, increase in body temperature, tremors, heart attack and ultimately death. Ecstasy may also create after-effects, such as anxiety and depression. Ecstasy related deaths have been recorded with users' core body temperatures reaching 107 to 109 degrees.

Visibly less dramatic, but of equal concern, is the potential long-term harm the drug may cause to the brain. A study conducted by researchers at Johns Hopkins Medical Center revealed that habitual ecstasy abusers suffer long-term neurological damage. The study indicates that recreational ecstasy users may be in danger of developing permanent brain damage that might manifest itself in the form of depression, anxiety, memory loss, or neuro-psychiatric disorder. In a second study just published in the *Journal of Science* and conducted by scientists at Johns Hopkins University, primates were injected with two or three doses of ecstasy over a few hours. The study discovered evidence that severe brain damage occurs to the nerve cells, which produce the neurotransmitter dopamine in the area of the brain controlling movement. The study concluded that neurological damage could stay hidden for years and increase the risk of Parkinson's disease and associated movement-related disorders.

In addition, numerous major scientific studies published in peer reviewed journals have shown significant impairments in memory and learning in individuals who have ingested ecstasy. The fact that all of these drugs are clandestinely produced in unsanitary laboratories results in uncontrolled purity, an immense threat to public health and safety. Those most at risk are our kids. In 2001, 77 percent of the 5,542 Ecstasy emergency room mentions were attributed to patients age 25 and under.

#### THE PREDATORY DRUGS

##### *GHB/GBL/1,4-BD*

In a recent DEA drug-facilitated sexual assault training conference, Gail Abarbanel, founder and director of the nationally recognized Rape Treatment Center, estimated that 15%–20% of all rapes were facilitated with drugs, which is why GHB and other such drugs are referred to as predatory drugs. Consider the following:

Of Every 100 Rapes in the US:

- 32 are reported to the police
- 16 result in an arrest
- 13 defendants will face prosecution
- 7 will be convicted
- 5 will go to prison
- Bottom Line: Only 1 out of every 20 rapists will go to jail. Predatory drugs, which can incapacitate victims and impair memory make the successful prosecution of sexual predators that much more difficult.

Illicit GHB (gamma hydroxybutyrate), a Schedule I central nervous system depressant, was banned by the FDA for sale as a dietary supplement in 1990. GHB generates feelings of euphoria and intoxication. It is often used with ecstasy and other drugs and mixed, sometimes without the victim knowing, in carbonated, alcoholic, or health food drinks. GHB is popular among adolescents and young adults. At lower doses, GHB causes drowsiness, nausea, and visual disturbances. At higher dosages, unconsciousness, seizures, severe respiratory depression, coma and death can occur.

In 1994, there were 56 emergency room admissions nationwide related to GHB. In 2000, there were almost 5,000 GHB emergency room admissions.

#### THE MARKETING SCHEMES

So why have ecstasy and predatory drugs become so popular among America's kids and young adults? In part, it may be the youthful impulse to experiment. But this vulnerability is preyed upon by marketing-savvy promoters and drug distributors. Raves, which appeared in the United States during the late 1980s and early 1990s, acted as a gateway for the introduction of ecstasy and predatory drugs to America's youth. Raves are organized, promoted, and financed by local and national enterprises that advertise through word of mouth, fliers, posters, telephone, radio, and the Internet. Many raves are advertised as "drug and alcohol-free" to give partygoers and parents a false sense of security. While many of these parties may be alcohol-free, the open distribution of ecstasy, predatory drugs and other club drugs is commonplace at many of these venues.

Promoters reach kids using their own language and their own medium, the Internet for example. Colorful and creative web-sites are setup to advertise raves as well as drugs. How can you spot a web-site or advertisement promoting ecstasy? It is not hard, if you know what you are looking for: the letter E (for ecstasy), talk of "rolling" (or getting high on ecstasy) and other references are used to promote the drug. The dealers are equally creative with how they package the drug itself. Colorful die stamps and tablets with designer labels and colors are utilized. In addition, enhancement products including fluorescent light sticks, lollipops, pacifiers, menthol nasal inhalers, surgical masks, Vicks Vapor Rub and various other items increase the stimulation of the drug's effects. None of these things are, or should be, illegal. Only the selling of this illicit drug is illegal. But parents should be aware of some of the signs of potential drug use.

One alarming fact about ecstasy and predatory drugs is the increased popularity among high school and college students. These are not simply "club" drugs. There are clear indicators that these drugs are used, not just at nightclubs and raves, but have spread to other social settings and are widely available on the streets. Recent findings from SAMHSA's 2001 National Household Survey on Drug Abuse are not encouraging. In 2001, 8.1 million Americans aged 12 and older had used ecstasy, up from 6.5 million in 2000.

#### THE SOURCE

So, how are these drugs getting into the country? After all, ecstasy is not generally made in America. Ecstasy is synthetically manufactured in clandestine laboratories predominately in the Netherlands and Belgium, which produce the vast majority of the ecstasy consumed worldwide. A typical clandestine laboratory is capable of producing 20–30 kilograms of ecstasy per day, with one kilogram of ecstasy producing approximately 7,000 tablets. Dutch Police reported the seizure of one laboratory capable of producing approximately 100 kilograms of ecstasy per day.

Think about these numbers and the enormous profit margins they represent. Although estimates vary, the cost of producing one ecstasy tablet is between \$.50–\$1.00. The wholesale price for ecstasy tablets ranges from \$1.00–\$2.00, contingent on the volume purchased. Once the ecstasy reaches the United States, a domestic cell distributor will charge from \$6 to \$12 per tablet. The ecstasy retailer, in turn, will distribute the ecstasy for \$20 to \$30 per tablet. At \$20 per tablet, one kilogram of ecstasy would generate \$140,000. At \$30 per tablet—\$210,000.

The transportation and distribution of ecstasy trafficked in the United States are controlled by various factions of Israeli and Russian Organized Crime groups. These groups recruit and utilize American, Israeli and western European nationals as couriers. Couriers can smuggle 2 to 5 kilograms on their persons and 10 kilograms of ecstasy in specially designed luggage. In addition to the use of couriers, these organizations commonly exploit commercial mail services to arrange delivery of their merchandise.

Although Israeli and Russian ecstasy trafficking organizations dominate the ecstasy market in the United States, other drug trafficking organizations based in Colombia, the Dominican Republic, Asia, and Mexico have entered the ecstasy trade. Dominican and/or Colombian nationals smuggling cocaine to Europe have exchanged their cocaine for ecstasy pills, a significant quantity of which will be destined for U.S. cities. Indonesia authorities recently seized a large-scale ecstasy laboratory in Jakarta, which resulted in the seizure of over 300 pounds of ecstasy. As ecstasy proves more profitable and as law enforcement pressures force the traffickers to regroup, the U.S. ecstasy trade will become increasingly diverse.

#### THE SOLUTION

The threat presented by ecstasy and predatory drugs is clear. Therefore, so is the need for action. To this end, DEA has established a pro-active, balanced strategy that combines enforcement efforts with educational and demand reduction tactics. First, let's look at the enforcement side:

DEA established the Dangerous Drugs Unit within the Office of Domestic Operations Section at DEA Headquarters that specifically addresses the abuse and trafficking of GHB and other controlled substances. The Dangerous Drugs Unit provides management, funding, guidance, and support to domestic and foreign investigations that target organizations and individuals involved in the manufacture and distribution of ecstasy, predatory drugs and club drugs. This specialized unit also coordinates investigations concerning the use of controlled substances in the facilitation of sexual assault.

DEA offices report a significant escalation in ecstasy seizures worldwide. In 2001, the DEA seized approximately 9.5 million dosage units of ecstasy in the United

States, compared to 661,702 dosage units in 1997. The number of DEA cases has also increased substantially, with ecstasy arrests increasing from 443 in 1999 to 1,792 in 2001.

#### DOMESTIC OPERATIONS

Beginning in February 2001, DEA in Idaho and local law enforcement conducted a lengthy investigation concerning the sale of ecstasy in the Boise, Idaho area. This investigation led to the arrest of over 23 individuals for the distribution of ecstasy, ketamine, and other predatory drugs. Rave promoter Jaime Collins pleaded guilty to the "crack house statute" in this investigation for a rave he sponsored during 2001. In May of this year, five additional defendants were indicted in this case for various federal drug violations.

On August 28, 2002, a federal grand jury in Houston, Texas returned two indictments, charging 34 individuals and two corporations with a variety of drug and money laundering offenses. This organization was responsible for the distribution of more than one million ecstasy tablets in Houston and elsewhere. In September of this year, arrests were initiated regarding targets of the investigation. The indictment sought forfeiture action against 7 million dollars in assets, including two nightclubs and three residences in the Houston area.

Just last month, Operation Webslinger, a two-year investigation, targeting the illegal internet trafficking of predatory drugs such as GHB and its analogues, GBL and 1,4 BD, was concluded. This unprecedented operation, involving several federal, state, and local law enforcement agencies, marked the most significant national operation targeting organizations and individuals using the Internet to peddle their drugs. What was particularly disturbing was that many of these individuals were people who hold positions of trust in our society—such as an emergency room physician, a former high school teacher and a former police officer.

The conclusion of this operation resulted in enforcement operations in over 100 cities, the arrest of 136 individuals, the seizure of approximately 3,600 gallons of predatory drugs (GBL / 1,4-BD), which equates to 25, 000,000 dosage units, over \$1 million in assets, as well as 44 weapons.

Last week, a two-year multi-agency investigation was culminated in the criminal indictment of 10 individuals charged with participating in a conspiracy to import and distribute ketamine. The lead defendant of the investigation, Jorge Chevreuil Bravo, was also charged with engaging in a continuing criminal enterprise (CCE).

Details of this investigation indicated that members of the Bravo organization solicited orders of ketamine and other pharmaceuticals from United States customers and distributors through an Internet website. The website provided contact numbers for Bravo and other distributors of Ttokyo products in Mexico, a pharmaceutical manufacturing company. Ttokyo brand ketamine produced in Mexico was being smuggled into the United States and provided to distributors in California, Florida, Pennsylvania, Massachusetts, and New York.

As a result of this investigation, DEA seized approximately 70,000 vials of ketamine and \$500,000.00. Nine defendants were arrested. Mexican law enforcement authorities seized approximately 400 kilograms of ketamine.

#### INTERNATIONAL OPERATIONS

Mr. Chairman, a great deal of ecstasy coming to the United States is produced in the Netherlands, so earlier this year, I traveled there to see firsthand what we, working with our international colleagues, can do to stop this threat. During a meeting with Dutch police officials, we discussed their efforts to address the synthetic drug problem in their country. Five years ago, the Dutch Police initiated the Synthetic Drug Unit (SDU) pilot project, created to target ecstasy and synthetic drug organizations. An evaluation of the SDU was completed last year and due to the need, the SDU was expanded and five teams, comprised of 15–25 Dutch police, were added. These teams have been assigned to different areas of responsibility within the Netherlands. The SDU also was allocated approximately \$90 million, over five years, to fund synthetic drug enforcement, as well as to improve international cooperation.

DEA enforcement operations with host countries are substantial and have resulted in the seizure of millions of dosage units of ecstasy destined for the U.S. In February 2002, Dutch authorities, while executing a search warrant in Ankeveen, the Netherlands, seized approximately 350 kilograms of ecstasy powder, a tableting machine and 80 different die-cast stamps. Intelligence information indicated this ecstasy was intended for distribution in the U.S. In addition, over the last four-month period, DEA and the Brussels Country Office have seized approximately 4 million ecstasy tablets, also destined for the U.S.

Last month, DEA met with European law enforcement agencies in Berlin, Germany, to coordinate worldwide investigative activity related to the international trafficking of ecstasy. Each participating agency prepared a list of goals and targets that was used to identify members operating for the purpose of disrupting and dismantling these drug trafficking organizations. DEA has also implemented plans to reallocate resources from other offices to the Netherlands to better confront the ecstasy threat.

Our domestic efforts are paying off in the international arena as well. Besides the domestic cases I outlined earlier, just this summer, two large-scale ecstasy traffickers, Meir Ben David and Josef Levi, were extradited from Israel, as a result of being charged in Miami for conspiracy to import and possession with intent to distribute ecstasy. This marked the first extradition of any Israeli citizen to the United States for a drug crime.

#### THE ECSTASY AND PREDATORY DRUG AWARENESS CAMPAIGN

Despite these encouraging enforcement successes, DEA recognizes that enforcement alone is not enough to stop this new threat. We also must raise awareness and educate the public about the dangers of ecstasy and predatory drugs. That's why DEA is developing a national awareness campaign. The focus of the campaign is three fold:

- 1) Educate kids, parents, health and law enforcement communities
- 2) Demonstrate DEA's broad based commitment to fighting the impact these drugs have on our society by building coalitions nationwide to fight this threat in our communities and reduce demand for the drug
- 3) Fulfill the Attorney General's responsibilities as defined in the 2002 Annual Report Regarding Date-Rape Drugs; National Awareness Campaign

One example of DEA's commitment toward a national campaign can be found in our recent partnership with the National Foundation of Women Legislators (NFWL). DEA has joined with NFWL in a common cause: educating the American public about the dangers of ecstasy and predatory drugs. Robin Read, President and CEO of the NFWL, called the partnership, "one of the most innovative programs the NFWL has embarked upon in its 64 year history."

#### THE TRAINING VENUES

Finally, another important aspect of DEA's efforts to combat ecstasy and predatory drugs is to train other organizations to join the fight. In fact, DEA has been out front on this effort for a few years now. In the summer of 2000, the agency hosted the first-ever *International Conference on Ecstasy and Club Drugs* in partnership with approximately 300 officials from domestic and foreign law enforcement, judicial, chemical, prevention and treatment communities.

And earlier this year, DEA held its first-ever training class on drug-facilitated sexual assault. DEA also has prepared training aides concerning drug-facilitated sexual assault for law enforcement in the field. In addition, the Department of Justice has developed and posted on the Federal Bureau of Investigations (FBI) intranet forensic training material to enhance the collection and testing of evidence for these cases. This material is accessible to thousands of federal, state, and local law enforcement officers.

#### CONCLUSION

Ecstasy, predatory drug and club drug trafficking and abuse will continue to be a priority for the Drug Enforcement Administration. Through the development of our national ecstasy and predatory drug campaign, DEA will work with educators, prevention specialists, and community action groups to raise awareness and educate America's youth about the dangers of ecstasy and predatory drugs. At the same time, our agents, in conjunction with our Dangerous Drugs Unit, will continue to target and dismantle the criminal organizations that produce, transport and distribute these drugs. As with DEA's overall strategy in fighting drug abuse, crime and addiction, we will continue to focus on a balanced approach that combines prevention, education, enforcement and treatment. And we will continue to depend upon individuals like you, respected members of Congress, to join with us and attack this threat from all angles.

Again, I would like to thank the Subcommittee for the opportunity to testify today and I would be happy to answer any questions at this time.

Mr. SMITH. Ms. Craparotta.

**STATEMENT OF ANDREA CRAPAROTTA, INVESTIGATOR,  
MIDDLESEX COUNTY PROSECUTOR'S OFFICE, NJ**

Ms. CRAPAROTTA. Chairman Smith and Members of the Subcommittee, I appreciate the opportunity to testify before you today. My name is Andrea Craparotta. I am an investigator with the Middlesex County Prosecutor's Office in New Jersey. Over the course of my career I have been assigned to various units, including sex crimes, homicide, and narcotic enforcement. Having worked as an undercover operative in the field of narcotic enforcement for over 10 years, I have purchased illegal drugs on hundreds of occasions and have participated in thousands of investigations involving county, State and Federal agencies. During this time, I have witnessed many drug trends develop that involve illegal drugs.

I was part of a team that initiated an undercover operation into the world of Ecstasy use and its culture. What I observed was shocking and many of the images were covertly captured on surveillance tape. Ecstasy has emerged as a favorite among today's youth. Unlike the well-known dark images of heroin and cocaine addiction that the public has become familiar with, many still think that Ecstasy is a harmless pill that has no adverse effects on society. Young adults who would not consider sticking a needle in their arm or smoking from a crack pipe are now popping Ecstasy at an alarming rate. What was once an underground drug only seen at Rave parties has now infiltrated our nightclubs, house parties and even our schools.

Ecstasy hit New Jersey with a frightening impact that had not been seen before. From suburban towns to popular vacation communities, there was an alarming increase in the number of drug overdoses. During 1 weekend, Ecstasy use impacted the New Jersey shore, resulting in over 30 drug overdoses associated with Ecstasy and club drugs.

The following week an undercover operation was initiated inside the popular nightclubs in Ocean County. I was one of the undercover officers who for the entire summer spent most Thursday and Saturday nights inside the clubs where Ecstasy was purchased and ingested. As undercover officers we would enter these clubs around 10 p.m., mingle with patrons and buy Ecstasy. The scenes within the clubs were bizarre. After sometimes waiting hours in line and spending up to \$40 cover charge to enter the establishments, young adults would line up at the bars and pay \$5 to \$10 for 14-ounce bottles of water. The temperature inside the club in the beginning of the evening would be that of a meat locker. Within a short period of time, the clubs would fill up, young adults would take Ecstasy and begin gyrating oddly to the pulsating techno-music. No one on Ecstasy stood still. Because Ecstasy raises a body's core temperature, the clubs would soon become extremely hot. Dehydrated patrons consumed large amounts of bottled water and began to strip off their clothes. It was not unusual to see most of the men shirtless, and on several occasions women would dance in their bras or bare chested.

Because Ecstasy heightens one's senses, patrons would constantly touch one another regardless of gender. Sex acts were often simulated on the dance floor. The rapid movement of glow sticks and laser lights inside the bar seemed to put Ecstasy users in a

hypnotic trance. It was not uncommon to see glow sticks coiled up inside the mouths of the Ecstasy users. When they spoke, the inside of their mouths would glow bright neon colors.

Young adults sucking on pacifiers and lollipops were also a common site. They did this to keep from grinding their teeth, which is a side effect of Ecstasy use. Patrons who would overload their bodies on club drugs would sometimes fall limp at the bar. Young men and women were often carried out in a semiconscious state. By night's end, Ecstasy transforms the dance floor into a mass of sweaty young bodies moving in a surreal state of endless motion.

Users who mixed their club drugs could be seen standing around in a trance-like noncommunicative state. I witnessed well-groomed young adults vomiting on the dance floor and standing in their own vomit, either unable to or uninterested in moving. A particularly disturbing case occurred when a young woman overdosed. Her body temperature exceeded 107 degrees when she died later at a local hospital.

As an undercover operative I purchased Ecstasy for up to \$20 per pill. Buys were made in bars, phone booths, stores, parking lots. No location was exempt from an Ecstasy deal. Most dealers were young adults who traveled to source cities such as New York and Philadelphia and purchased Ecstasy in mass quantities for 5 to \$10 per pill.

The typical Ecstasy dealer and user looked like any middle-class, clean-cut young adult. Most appeared to be in their early twenties. Unlike the thin pale look of many heroin and crack cocaine users, Ecstasy users are primarily well-built, well-groomed young adults with healthy outward appearances. It was not until much later that I heard many complain of depression and memory loss, as well as express fear of what brain damage they may have already incurred.

I thank you for the opportunity to testify before the Committee and I look forward to answering any questions you may have.

Mr. SMITH. Thank you Ms. Craparotta.

[The prepared statement of Ms. Craparotta follows:]

#### PREPARED STATEMENT OF ANDREA CRAPAROTTA

Chairman Smith and members of the Subcommittee: I appreciate the opportunity to testify before you today. My name is Andrea Craparotta. I am an investigator with the Middlesex County ( New Jersey) Prosecutor's Office. Over the course of my career, I have been assigned to various units including Sex Crimes, Homicide and Narcotic Enforcement.

Having worked as an undercover operative in the field of narcotic enforcement for over 10 years, I have purchased illegal drugs on hundreds of occasions and have participated in thousands of investigations involving county, state and federal agencies. During this time I have witnessed many trends develop that involve illegal drugs. I was part of a team that initiated an undercover operation into the world of Ecstasy use and it's culture. What I observed was shocking and many of the images were covertly captured on surveillance tape.

Ecstasy has emerged as a favorite among today's youth. Unlike the well-known dark images of heroin and cocaine addiction that the public has become familiar with, many still think that Ecstasy is a harmless pill that has no adverse effects on society. Young adults who would not consider sticking a needle in their arm or smoking from a crack pipe are now popping Ecstasy at an alarming rate. What was once an underground drug only seen at "Rave" parties has now infiltrated our night-clubs, house parties and even our schools.

Ecstasy hit New Jersey with a frightening impact that had not been seen before. From suburban towns to popular vacation communities, there was an alarming in-

crease in the number of drug overdoses. During one weekend, Ecstasy use impacted the New Jersey shore resulting in 30 overdoses associated with Ecstasy and "Club" drugs. The following week an undercover operation was initiated inside the popular nightclubs in Ocean County. I was one of the undercover officers, who, for the entire summer, spent most Thursday and Saturday nights inside the clubs where Ecstasy was purchased and ingested.

As undercover officers we would enter these clubs around 10:00 p.m., mingle with the patrons and buy Ecstasy. The scenes within the clubs were bizarre. After sometimes waiting hours in line and spending up to a \$40 cover charge to enter the establishments, young adults would line up at the bars and pay \$5 to \$10 on fourteen ounce bottles of water. The temperature inside the clubs in the beginning of the evening would be ice cold.

Within a short period of time the clubs would fill up, young adults would take Ecstasy and begin gyrating oddly to the pulsating "techno" music. No one on Ecstasy stood still. Because Ecstasy raises the body's core temperature, the clubs would soon become extremely hot. Dehydrated patrons consumed large amounts of bottled water, and began to strip off their clothes. It was not unusual to see most of the young men shirtless and on several occasions women would dance in their bras or bare chested. Because Ecstasy heightens one's senses, patrons would constantly touch one another, regardless of gender. Sex acts were often simulated on the dance floor.

The rapid movement of glow sticks and laser lights inside the bars seemed to put Ecstasy users in a hypnotic trance. It was not uncommon to see glow sticks coiled up inside the mouths of the Ecstasy users. When they spoke, the inside of their mouths would glow bright neon colors. Young adults, sucking on pacifiers and lollipops, were also a common sight. They did this to keep from grinding their teeth, which is a side effect of Ecstasy use. Patrons who would overload their bodies on "Club" drugs would sometimes fall limp at the bar. Young men and women were often carried out in a semi-conscious state.

By night's end, Ecstasy transforms the dance floor into a mass of sweaty bodies moving in a surreal state of endless motion. Users who mixed their "Club" drugs could be seen standing around in a trance like, non-communicative state. I witnessed well-groomed young adults vomiting on the floor and standing in their own vomit, either unable to or uninterested in moving. A particularly disturbing case occurred when a young woman overdosed. Her body temperature exceeded 107 degrees when she died later at a local hospital.

As an undercover operative, I was purchasing Ecstasy for up to \$20 per pill. Buys were made in bars, phone booths, stores and parking lots. No place was exempt from an Ecstasy deal. Most dealers were young adults who traveled to source cities such as New York and Philadelphia, and purchase Ecstasy in mass quantities for \$5 to \$10 per pill. The typical Ecstasy dealer and user look like any middle class, clean cut, young adult. Most appeared to be in their early to mid twenties.

Unlike the thin, pale look of many heroin and crack cocaine users, Ecstasy users are primarily well-built, well-groomed, young adults with healthy outward appearances. It was not until much later that I heard many complain of depression and memory loss, as well as express fear of what brain damage they might have already incurred.

I thank you for the opportunity to testify before the Committee and look forward to answering any questions you may have.

Mr. SMITH. Ms. Kreamer.

Oh, we have a video, Ms. Craparotta?

Ms. CRAPAROTTA. What we have here is some footage taken covertly inside a club and you will see a young woman in this tape. This was a very common occurrence. You will see a young woman here, basically overdosing right at the bar.

Mr. SMITH. This is, what, about 30 seconds long?

Ms. CRAPAROTTA. Yes.

[Video shown.]

Ms. CRAPAROTTA. You notice she has a water in her hand. You can cut it if you are pressed for time. It is a typical example of someone overdosing.

Mr. SMITH. Thank you again.

Ms. Kreamer.

**STATEMENT OF JUDY KREAMER, PRESIDENT,  
EDUCATING VOICES, INC.**

Ms. KREAMER. This is an honor indeed to appear before you. Society has been duped with fallacious statements about the safety and efficacy of drugs and has heard little about the dangers. The need for extensive education on the dangers of Ecstasy is imperative.

Porter County, Indiana was the site of a Labor Day weekend Rave party. Last March, the organizers went there and rented the fairgrounds under the auspices of having a drug-free youth weekend. Two weeks before Labor Day, the sheriff's office finally figured out that the event was going to be a Rave party. By that time it had already been promoted over the Internet and people were coming from coast to coast. They expected thousands. They estimated the crowd to be between 3- and 5,000 but, interestingly, there were only 40 cars that held Indiana license plates on them.

In only a 2-week period, Sheriff David Reynolds was able to organize an aggressive strategy to handle the situation. According to Sheriff Reynolds, the most alarming fact they uncovered was the extent of the behind-the-scenes organization. It was essential to police the event as it was being set up, because once it got started it was very difficult to police. Ten dogs were used to inspect everything that was taken into the fairgrounds. Sheriff Reynolds calls the Rave organization and promoters organized crime. The Rave party incensed the county of 150,000 people. They didn't want their children exposed to the drugs and they didn't want the traffic that it generated.

There needs to be an educational network that informs all communities about the tactics used by Rave promoters. The Internet lured people to Porter County for the Rave weekend, and every day it lures this generation into using Ecstasy with a reasoning that is superficially plausible but dangerously fallacious.

There are very few who are out there challenging the misinformation. Young people do not understand how dangerous Ecstasy is. They need to be confronted with the reality of these dangers, and the best way to do that is with an aggressive educational campaign that tells the facts, using true and graphic stories.

I asked a number of young heroin addicts: What would have stopped you from ever using heroin? They told me that the only approach would have been to have shown them what the life of a \$300-a-day heroin addict was like, showing before-and-after pictures of the addict, the abscesses on their arms, their life on the streets, and an addict in withdrawal.

The same is true of Ecstasy users. I was in the audience for the Oprah Winfrey Show when the topic was Ecstasy. And by far the most compelling arguments for not using Ecstasy was the picture of a young woman whose brain looked like Swiss cheese.

Last week I spent 2 days with six people from the Partnership for a Drug-Free America in Illinois, visiting the Kane County drug court. The Partnership people heard story after story from addicts and family members and are now going to attempt to tell those stories. This will go a long way toward educating the general public.

A high school held an assembly on 9/11 to mark the day with great speeches and patriotic music, but then glow sticks synony-

mous with Rave parties were passed out. They were then used as they would be used at a Rave party. We can't be giving mixed messages. We can't be giving uninformed messages. Educators need to be educated. Presently there are many demands for school funds, but drug prevention is not really one of them.

Most adults have no idea what Ecstasy is. If you queried your peers about Ecstasy, what it looks like, how it works and what it can do, I imagine that most of them would not know. Virtually no parents have any idea what the drug is, what the signs and symptoms of its use are, and how dangerous it is. Years ago we used to have a standardized first aid chart detailing what should be done in the case of bites, burns, cuts, et cetera. Today we need a standardized chart listing the signs and symptoms of illegal drugs, the effects, and what to do when someone is using.

It is a travesty that the public is so poorly educated about life-threatening illegal drugs. We are in desperate need also of national leaders who will use their bully pulpits to educate the public about the dangers of illegal drugs. The director of ONDCP, John Walters, is rarely seen. The director of the DEA, Asa Hutchinson, and retired Lieutenant Colonel Robert Maginnis are the most visible in the drug debate and are considered by prevention people throughout the country to be our leaders. There are Members of Congress who are champions of the cause, but we need more.

For the most part, the medical community has been very quiet about the harms associated with Ecstasy, and this is because most physicians know nothing about it. Physicians should be one of the first lines of defense against illegal drug use by alerting patients and family members to the possibility that an individual is using drugs. Dismayingly, physicians are not taught the pharmacology of illicit drugs and are unable to identify the signs.

On another challenging note, the media is conflicting in their reporting of Ecstasy. And on the nightly news last week, Peter Jennings told about new research from Johns Hopkins showing serious risks associated with as little as a single dose of Ecstasy. But then he qualifies it and goes on and says they have had other stories that have said it is safe.

Society, and most importantly our children, are being duped into believing that illegal drugs are safe. They do not understand the dangers associated with their use. This can only be countered through education, networking, leadership and a national determination. Thank you.

Mr. SMITH. Thank you Ms. Kreamer.

[The prepared statement of Ms. Kreamer follows:]

#### PREPARED STATEMENT OF JUDY KREAMER

History will show that drug use was allowed to flourish in the late 20th-century and early 21st-century in part because society did not grasp the tremendous harm associated with the use of illegal drugs. Society has been duped with fallacious statements about the safety and efficacy of drugs and has heard little about the dangers.

An unsuspecting county rented its fairgrounds out for a Labor Day Weekend rave party, an uninformed high school staff permitted "glo-sticks," synonymous with rave parties, to be distributed at a "9/11" memorial assembly, and a conflicted Peter Jennings, on the "Nightly News" reported on new Ecstasy research which associated serious risks with a single dose of the drug but then added that they have had other

stories about the safety of Ecstasy. The need for extensive education on the dangers of Ecstasy is imperative.

Porter County, IN was the site of the Labor Day Weekend rave party. The organizers rented the county fairgrounds under the auspices of having a drug-free youth weekend. Two weeks before Labor Day the Sheriff's office determined that the event was going to be a rave party. The party was promoted coast to coast on the Internet (*www.liveonthedecks.com*) and thousands were expected. The crowd was estimated to be 3,000–5,000, and only 40 cars with Indiana license plates were counted.

In only a two week period, Sheriff David Reynolds, was able to organize an aggressive strategy to handle the situation. According to Sheriff Reynolds, the most alarming fact they uncovered was the extent of the behind-the-scene organization. There were event vendors and local vendors. The Sheriff found that the event vendors were involved in drug trade. It was essential to police the event as it was being set up because after it got started it was almost impossible to police. Ten dogs were used to inspect everything that was brought into the fairgrounds. Undercover enforcement officers reported being approached by event vendors to bring in drugs. With this aggressive law enforcement approach taken by the Sheriff there were only three overdoses and seven arrests.

Sheriff Reynolds calls the rave organization and promoters organized crime. He is very concerned about the organizers being allowed to “pray upon our children,” and insists that the federal government must investigate the promoters. The rave party incensed the county of 150,000. They didn't want their children exposed to the drugs and didn't want the traffic that the event generated. There needs to be an educational network that informs all communities about the tactics used by rave promoters.

The Internet lured young people to the Porter County rave weekend and everyday it lures this generation into using Ecstasy with a reasoning that is superficially plausible but dangerously fallacious. There are very few who are challenging their misinformation.

Young people do not understand how dangerous Ecstasy is. They need to be confronted with the reality of these dangers, and the best way to do that is with an aggressive educational campaign that tells the facts, using true and graphic stories.

In response to the question, “What would have stopped you from ever using heroin?,” young heroin addicts told me that the only approach would have been to show them the life of a \$300-a-day heroin addict, before and after pictures of the addict, the abscesses on their arms, their life on the streets and an addict in withdrawal. The same is true of Ecstasy users. I was in the audience of the Oprah Winfrey Show when the topic was Ecstasy and by far the most compelling arguments for not using Ecstasy was the picture of a young woman whose brain looked like Swiss cheese.

Last week I spent two days with six people from the Partnership for a Drug-Free America in Illinois visiting the Kane County Drug Court. The Partnership people heard story after story from addicts and family members and are now going to attempt to tell their stories. This will go a long way toward educating the general public.

Educators, parents, members of the faith community, government workers, business people and politicians have little to no understanding of the dangers of Ecstasy. Most don't even know what it is and most don't want to be bothered.

A high school held an assembly on 9/11 to remember the day with great speeches and patriotic music; but then “glo-sticks” were passed out and some students started using them as they would at a rave party. We can't be giving mixed messages; we can't be giving uninformed messages. Educators need educating. Presently, there are so many demands for school funds that drug education is not a priority. There is little money spent on drug prevention and little understanding of how heavily it impacts learning and the school's success.

Most adults have no idea what Ecstasy is. If you queried your peers about Ecstasy, what it looks like, how it works and what it can do, I imagine that most would not know. Virtually no parents have any idea what the drug is, what the signs and symptoms of its use are, and how dangerous it is. Years ago we used to have standardized “First Aid” charts detailing what should be done in the case of bites, burns, cuts, etc. Today, we need a standardized chart listing the signs and symptoms of illegal drug use, the illegal drugs, the effects, and what to do when someone is identified as using an illegal drug. It is a travesty that the public is so poorly educated about life-threatening illegal drugs.

We are in desperate need of national leaders who will use their bully pulpits to educate the public about the dangers of illegal drugs. The Director of ONDCP, John Walters, is rarely seen. The Director of the DEA, Asa Hutchinson, and retired Lt. Col. Robert Maginnis are the most visible in the drug debate and are considered

by prevention people throughout the country to be our leaders. There are some members of Congress who are champions of the cause, but we need more.

For the most part, the medical community has been very quiet about the harms associated with Ecstasy and this is because most physicians know nothing about it. Physicians should be one of the first lines of defense against illegal drug use by alerting patients and family members to the possibility that an individual is using a particular drug. Dismayingly, physicians are not taught the pharmacology of illicit drugs and are unable to identify signs and symptoms of Ecstasy and other illegal drug use. The medical community needs to be educated about illegal drugs. Unfortunately, the few physicians who do speak out are politically active in the pro-legalization efforts.

On another challenging note, the media is conflicted in their reporting on Ecstasy and their messages. On the "Nightly News" last week, Peter Jennings told about new research from Johns Hopkins showing serious risks associated with as little as a single dose of Ecstasy. But, he qualified the report by saying that they have had other stories indicating Ecstasy's safety. Earlier, there was a television program done on Ecstasy, which in part featured "Dance Safe," an organization that purportedly checks the Ecstasy pills at rave parties to determine their quality. The message that could be taken from the program was that Ecstasy was safe to use as long as it was quality Ecstasy. It is critical that the media be educated.

Society and most importantly our children are being duped into believing that illegal drugs are safe, and they do not understand the dangers associated with their use. This can only be countered through education, networking, leaders, and a national determination.

Mr. SMITH. Mr. Boyd.

**STATEMENT OF GRAHAM BOYD, DIRECTOR, DRUG POLICY  
LITIGATION PROJECT, AMERICAN CIVIL LIBERTIES UNION**

Mr. BOYD. Chairman Smith, Ranking Member Scott, Mr. Schiff, thank you so much for having me here today. It really is a pleasure. I thought I was here to express the other point of view but the subject today is the RAVE Act, and what I have heard from the three witnesses so far is about international control efforts, about arresting drug dealers at Raves in New Jersey.

And I couldn't agree more about aggressive public education. This act doesn't do any of that. This act makes new law which allows going after innocent business owners. Nobody here disagrees about the dangers of drugs or really most of what has been said here, but I want to be the one witness to talk about the legislation that is before this Committee and what is wrong with it and some of what is right about it, too.

I think there is a recognition here that there are some Rave promoters who are drug dealers. Mr. Smith, your opening statement referred to a couple of those cases. Those people were arrested and convicted. And you know they were charged under the drug conspiracy laws, because when you deal drugs, of course you are guilty of that crime. We don't need this act to get those people. But there are other situations, too, where you have people who are putting on an event, who aren't themselves involved in drugs in any way at all. They aren't drug dealers and aren't hiring drug dealers and aren't getting paybacks from the drug dealers, but they do have some inkling that drug use may go on at their event, just as would be true if you put on a Rolling Stones concert, a reggae concert, any number of different concerts. If you are putting on that concert, you know some of the people are going to be using drugs, and in truth, there is probably not anything you could do to absolutely guarantee that that would not happen. You can take reasonable steps.

And that is what the State Palace Theater case in New Orleans was about. There are four cases that the proponents of this bill have sort of been putting forth; three of them involved drug dealers. I don't have a problem with those convictions.

The fourth one in New Orleans is one I was intimately involved in, and I want to tell you a little bit about that case. The prosecution never made any claim that those individuals were dealing drugs or that they were directly involved in the drug activity. What they pointed out, though, was that they should have known that drug use was going on in their property. That is probably true.

But there are a lot of exaggerations that have been given to Congress by the former Administrator of the DEA concerning that case, and they are sort of in circulation out there. There is a claim, for instance, there were 3 to 400 overdoses at a handful of events at the State Palace Theater. That is not true. There was a stipulation entered into by the Department of Justice—and I have attached it to our testimony—saying that there were 30 to 40 people who were treated for possible drug overdose at about 50 different Raves. That is not a good thing. And don't get me wrong; I am not defending that.

But let us stick to the facts in really what is happening here. There are some Raves where you got bad actors and we already have laws that can go after them. You have other ones where people who are legitimate businessmen, who are putting on an event that inherently is going to involve some illegal conduct, and who really do do everything they can to stop it.

Now, the State Palace Theater proprietors had a zero tolerance policy. They met with DEA agent, Peter Rose, and said we are going to stop people and we are going to call you up and we want you to come over and take them away. They did that. Agent Rose never showed up to take any of them away. I understand he probably had other priorities. And again I am not trying to criticize the Agency, but these folks were doing the best they could with the business they were in. They were following the industry standards and yet they were charged under the Federal crack House law.

They faced up to 20 years in prison. They spent over \$100,000 defending themselves to ultimately keep themselves out of prison, which they did. They were terrified. These were people who had never been arrested for anything before in their lives.

If you pass this bill into law, you are giving a green light to that as a drug-enforcement strategy of going after innocent people who themselves aren't involved in drug activity.

I know there have been statements by some of the proponents on the Senate side of this bill saying that is not our intention here, and I believe them. I believe that is the case. But the fact is you put these words into the statute book, then the prosecutorial discretion doesn't rest in the Members who enacted it. It rests in the law enforcement agencies and the Department of Justice.

And what they did in New Orleans was to go after innocent people. And they have now gone around the country—and I have got transcripts from the trial where DEA agents Scutter and Templeton talk about how they have spoken at 25 conferences around the country training other agents in how to infiltrate Raves

and go after and convict people putting on Raves, even if they are not involved in drug activity.

That is not the way we should be enforcing laws in this country. And the civil penalty provision of this law ends up being sort of a back-door repeal of some of the really good work this Committee has done on asset forfeiture reform. It says that the burden of proof is going to be just preponderance of the evidence, and you can end up making a business man pay hundreds of thousands of dollars in fines without benefit of counsel, without benefit of a jury. It is one of the only places in the law that that would be true.

Now, if Raves are a problem, let us not make Ravers the victim. Don't make it music that is the victim of our drug-enforcement strategy. Let us do what these witnesses are saying. Let us identify the importers. Let us identify the dealers. Let us arrest them if we need to, and let us educate the kids. Let us not make innocent business people the victims of this.

Mr. SMITH. Thank you Mr. Boyd.

[The prepared statement of Mr. Boyd follows:]

#### PREPARED STATEMENT OF GRAHAM BOYD

Thank you for inviting me to testify today concerning H.R. 5519, the RAVE Act on behalf of the American Civil Liberties Union (ACLU) and its approximately 300,000 members. I appreciate this opportunity to share with this Subcommittee our analysis of the serious flaws in this proposed legislation.

The ACLU is a non-partisan, non-profit organization dedicated to preserving and advancing civil liberties. We do not accept government funding of any kind.

#### I. OVERVIEW.

The Senate version of the RAVE Act began as a non-controversial, bipartisan effort aimed at reducing drug use. But in targeting legitimate business owners who provide a popular form of musical entertainment, the bill has engendered enormous controversy, landing on the front page of *The Washington Post*, eliciting thousands of letters and calls from constituents, and ultimately causing some Senators to withdraw their sponsorship. The reasons for this turnabout can be summarized in three main points:

1. The language of the bill makes legitimate, innocent businesses into potential targets for a felony charge if the nature of their business makes it impossible to guarantee that no drug use will occur on their property.
2. Beginning with its very name, the bill makes one particular genre of music into a target for federal prosecution. In light of current DEA enforcement strategies, which use the Crack House Statute against innocent rave promoters, it becomes particularly troubling that the bill provides no protection for legitimate rave events. Whether intentional or not, the bill opens the door to decimation of electronic music and dance, one of the most popular and vibrant forms of popular culture today.
3. Rather than eliminating drug use or even entirely eliminating raves, the bill would drive raves underground and discourage basic health precautions. It would have the perverse effect of making drug use more dangerous.

The RAVE Act expands Section 416(a) of the Controlled Substance Act, also known as the "crack house statute", to make it easier for the federal government to fine and/or imprison business owners that fail to prevent their customers from committing drug offenses on their property. Although it is clear that proponents of the RAVE Act are trying to target Ecstasy and raves, the RAVE Act would allow federal prosecutors to target other events, such as Hip Hop concerts, country music events, and anywhere else drug offenses occur—which is essentially everywhere. It would apply to hotel and motel owners, cruise ship operators, stadium owners, landlords, real estate managers, and event promoters. It is so broadly written that anyone who used drugs in their own home or threw an event (such as a party or barbecue) in which one or more of their guests used drugs could potentially face a \$500,000 fine and up to twenty years in federal prison. If the offense occurred in a hotel room or on a cruise ship, the owner of the property could also go to jail.

Before analyzing the problems with this bill, some emphasis must be placed on the history of this issue. The “crack house statute” itself is notoriously broad, giving prosecutors the ability to punish business owners for the offenses of others. The saving grace of this broadly drafted statute has been a uniform practice of targeting only those business owners who commit substantive drug offenses or conspire with those that are committing drug offenses—in other words, criminals who distribute drugs.<sup>1</sup> But, as part of a self-proclaimed anti-rave initiative, the DEA and federal prosecutors have sought to use the crack house law to punish business owners that are not only not involved in drugs but are actively trying to prevent drug offenses on their property.

## II. THE DANGER OF ALLOWING UNFETTERED DISCRETION IN PROSECUTION OF BUSINESS OWNERS.

The proponents of the Rave Act insist that new tools are needed to deal with unscrupulous rave promoters. They point to examples in Idaho and Arkansas, where rave promoters were convicted under drug distribution and conspiracy laws for selling ecstasy at their raves. Such conduct is, of course, illegal under existing laws, and no new laws are needed to deal with it.

The proponents of the Rave Act also argue that new tools are needed for rave promoters who have no connection themselves to drug activity, but who hold a concert where audience members use drugs. The case of the State Palace Theater in New Orleans is held up as the prototype of this kind of prosecution. A close examination of that case—one relying on the actual facts rather than rumors or innuendo—demonstrates the serious danger in allowing drug laws to expand to encompass individuals who have no actual involvement in drug activity. As a federal judge wrote in the closing chapter of the *State Palace* case:

*Although this Court recognizes the perils of drug use, especially by young people, and this Court recognizes that the intentions of the agents and prosecutors involved were pure, when the First Amendment right of Free Speech is violated by the government in the name of the War on Drugs, and when that First Amendment violation is arguably not even helping in the War on Drugs, it is the duty of the Courts to enjoin the government from violating the rights of innocent people.*

Put most simply, the federal government should return to the task of identifying and stopping illegal drug activity, whether it occurs at a rave or elsewhere. The government must not allow for harassment or punishment of innocent business owners who are unable to guarantee absolutely that drug use will not occur on their property.

Robert Brunet manages the State Palace Theater in New Orleans, following a long family tradition of providing movies and live entertainment to the local population. Mr. Brunet hired James Estopinal to arrange and promote electronic music

<sup>1</sup>In the 15 years since its passage, every application of this statute prior to the *State Palace* case involved owners or managers of property who in some way assisted the manufacture, storage, distribution, or use of drugs. The majority of cases under the statute specifically involve the operation of a literal crack house. *e.g.*, *United States v. Morgan*, 117 F.2d 849 (5th Cir. 1997); *United States v. Verners*, 53 F.3d 1400 (9th Cir. 1995); *United States v. Cabbell*, 35 F.3d 1255 (8th Cir. 1994); *United States v. Banks*, 987 F.2d 463 (7th Cir. 1993); *United States v. Church*, 970 F.2d 401 (7th Cir. 1992); *United States v. Roberts*, 913 F.2d 211 (5th Cir. 1990). Beyond these cases, every other case has involved a defendant who was directly involved in the sale or production of drugs. *e.g.*, *United States v. Becker*, 230 F.3d 1224 (10th Cir. 2000) (defendant manufactured methamphetamine in his home); *United States v. Meshack*, 225 F.3d 556 (5th Cir. 2000) (defendant restaurant owner arranged and negotiated drug purchases, ran conspiracy to distribute cocaine, used business to conceal drug trafficking); *United States v. Moore*, 184 F.3d 790 (8th Cir. 1999) (defendant unloaded drug shipments, used his home for storage facility in drug conspiracy); *United States v. Bilis*, 170 F.3d 88 (1st Cir. 1999) (defendant bar owner purchased drugs, warned drug dealers of police surveillance); *United States v. Soto-Silva*, 129 F.3d 340 (5th Cir. 1997) (defendant handled money for drug trafficking enterprise, smuggled drugs, and provided his property for packaging); *United States v. Gibson*, 55 F.3d 173 (5th Cir. 1995) (defendant manufactured and possessed methamphetamine with intent to sell); *United States v. Cooper*, 966 F.2d 936 (5th Cir. 1992) (defendant distributed crack out of his private club); *United States v. Clavis*, 956 F.2d 1079 (11th Cir. 1992) (defendant used his home for temporary storage of drugs, distribution to drug sellers); *United States v. Lancaster*, 968 F.2d 1250 (D.C. Cir. 1992) (defendant arranged for drug sales on his property); *United States v. Tamez*, 941 F.2d 770 (9th Cir. 1991) (defendant used car dealership for cocaine trafficking, used cocaine, and purchased cars for business with proceeds from illegal drug activity); *United States v. Chen*, 913 F.2d 183 (5th Cir. 1990) (defendant motel owner alerted drug sellers of police presence, stored drugs on premises, loaned money for the purchase of drugs for resale); *United States v. Onick*, 889 F.2d 1425 (5th Cir. 1989) (defendant Tolliver manufactured and distributed drugs out of his apartment).

concerts—what the government refers to as “raves”—but which are nothing more than musical exhibitions at which disc jockeys (DJs) perform computer-generated electronic music for a crowd of dancers. Mr. Estopinal is one of the best known, widely popular promoters of electronic music in the southern United States and throughout the nation. The prosecution in this case made no claim that any of these men ever engaged in any drug related activity whatsoever.

DEA officials have implied in other Congressional hearings that the State Palace proprietors somehow condoned or encouraged drug use. This is not the case, nor was any such claim ever made in the actual State Palace case. The State Palace instituted a zero-tolerance policy that absolutely forbid possessing, selling or using drugs on the premises. Signs throughout the venue announced this policy, as well as an offer that free tickets were to be given to anyone who turned in a person with drugs. Security guards refused to admit people who appeared to be intoxicated. Over the past several years, the defendants arranged for many arrests due to their zero-tolerance policy. This includes the arrests of security guards who were found to be selling drugs.

During the recent federal trial (the transcript of which is attached to this testimony), Robert Brunet described how he had invited the DEA into the State Palace Theater, helping them dress as undercover “ravers” and allowing them to pose as security guards. Additionally, he had an arrangement whereby anyone caught with drugs would be detained, and the DEA and New Orleans Police Department (NOPD) would be notified of the situation and asked to arrest the detainee. Mr. Brunet enforced the zero-tolerance policy, repeatedly detaining those caught with drugs and arranging for their arrests. However, agents from the DEA and officers from the NOPD repeatedly ignored the notifications, and on more than one occasion, the detainee had to be released after the drugs were destroyed, because no one came to arrest them. Furthermore, the State Palace on multiple occasions requested the service of an NOPD detail to assist in the prevention of drug use at their rave concerts, but their requests were denied.

Despite the history of efforts to cooperate with law enforcement, the DEA decided to conduct a prolonged undercover investigation of electronic music concerts at the State Palace Theater. DEA Agents purchased what purported to be drugs from 82 individuals over the course of four or five events. As detailed in the attached testimony of two DEA agents, almost half of the purchases did not test positive as a controlled substance. The agents did not pursue investigations or prosecutions for any of the sales at the State Palace. The usual method of arresting drug dealers themselves was shunted aside in favor of pursuing the businessmen who provide the music that some drug users and non-drug users alike find entertaining.

The State Palace case has been justified by DEA officials as a last-resort response to a dire crisis. In testimony before the Committee that proposed the Senate’s version of the Rave Act, the past DEA Administrator claimed that “400 to 500 teenagers and young adults” had suffered drug overdoses at the State Palace raves. In truth, the Department of Justice has stipulated that, over the course of some 50 rave events, only 30–40 individuals needed medical attention because of possible drug use. (See attached trial testimony.) This is not to suggest that even a single incident is trivial, but the accurate facts simply do not support the extraordinary move of seeking a felony conviction against entertainment providers who are not themselves involved in drug activity.

The owner of any venue where a concert takes place knows that a concert involves some risk of injury from overheating, exhaustion or fights, as well as some risk that some members of the audience may suffer the effects of drugs or alcohol. For these reasons, the State Palace ensured that medical personnel were on hand to assist or transport anyone in need. Again, the attached trial transcript includes Mr. Brunet’s description of his actions in this area. He hired the City’s own ambulance service and followed a protocol common for any large entertainment event. Yet prosecutors maintained that his reasonable precautions reveal connivance in running a drug operation. Finally, the government points to the fact that defendants sold bottled water (at the same \$3 price as the nearby SuperDome) and provided an air-conditioned cooling-off room at an event involving thousands of energetic dancers as evidence of a crime.

In short, a businessman who had never been charged with any crime in his life and who was following the business practices standard in his industry suddenly faced the prospect of up to 20 years in prison. No doubt Robert Brunet could have predicted that some drug use would take place at a concert (rave or otherwise), and he probably realized his sensible precautions could not prevent all such drug use. Yet, because he went ahead with holding a concert where drug use might occur, he was branded a criminal. Surely the Crack House Statute was never intended to reach so far, and yet this is precisely how federal agents used it.

Further compounding the harms of the State Palace case, DEA decided to make it the centerpiece of its newly declared “Anti-Rave Initiative,” described in the attached Department of Justice Bulletin. Taking New Orleans as the model, DEA agents are told to identify and then investigate rave promoters. The DEA agents who led the State Palace investigation describe in the attached trial transcript how they have traveled around the nation, training other agents at dozens of seminars in the techniques of shutting down raves using the Crack House Statute. Even as the proponents of the Rave Act assure legitimate businesses that the law is not aimed at them, the clear practice of DEA has been to select and pursue targets, not based on information about drug activity, but based on the fact that the event is a rave. Even the most law-abiding promoter of a rave can expect to be investigated, and in many cases threatened with prosecution unless he can perform the impossible feat of guaranteeing that no drug use will occur at his event. The passage of a law entitled the Rave Act will only bolster this misguided approach.

### III. THE RAVE ACT DOES NOT PROTECT INNOCENT BUSINESS OWNERS

The RAVE Act is disturbing because at the very time it is expanding the applicability of a law that already lacks adequate protection for innocent business owners, it lowers the standard of proof needed to punish them. It is quite simply too broadly written and could subject innocent business owners to enormous fines or prison sentences, especially restaurant and nightclub owners, concert promoters, landlords, and real estate managers.

The RAVE Act would enact provisions allowing the federal government to bring civil suits against alleged violators, instead of filing criminal charges. This is a remarkable reduction of the standard of proof that the government will have to meet to punish people and is clearly designed to compensate for the fact that federal prosecutors are having a difficult time making their cases. The bill’s addition of the word “temporarily” undermines the very purpose of the “crack house statute” which was targeting property that was being used primarily for drug offenses, not making property owners liable for isolated actions that occur on their property, whether they are there or not.

Under the existing crack house law, several courts have accepted the argument that “knowingly” should apply to the business owner (as in knowingly opening your place of business to the public) and “for the purpose of” should apply to the customers (as in using a club or hotel room for the purpose of using or selling drugs). Aside from the State Palace Case, the prosecution has also presented evidence that the defendant was directly involved in drug activity, usually as a supplier or conspirator. Any adjustment to the law needs to make clear that such nexus to drug activity is a prerequisite, that an innocent person with no intent to violate the law cannot be punished—yet this is precisely how the language of the bill now reads.

Complicating the lives of business owners is the fact that there is simply no way for them to know what is legal or illegal until a court or jury decides. They will not know what steps they can take to protect themselves from fines and imprisonment. They will not even know what activities are suspect or not. On the one hand, such legal and mundane activities as selling bottled water, allowing people to dance with glow sticks, or hiring an ambulance service can become “proof” that they were encouraging drug use. On the other hand, such extraordinary measures as training DEA agents how to dress like ravers, hiring security guards, and holding suspected drug offenders until police arrive, offers no protection from prosecution.

If a realistic and fair effort were made to ensure appropriate business conduct, it would certainly include guidance about how to comply with the law. It is not sufficient to say that a businessman, like Robert Brunet of the State Palace, can fight his case in court. The cost and anxiety of doing so are enormous. What is critically needed is a “safe harbor” for business owners. What it means to knowingly make one’s place of business available for drug offenses needs to be clearly defined. Property owners need to know what steps they can take to prevent being fined or prosecuted and those responsible owners that take those steps should not be fined or prosecuted. Business owners need to clearly know what is legal and illegal and what will and will not be used against them.

### IV. RAVE ACT WILL CURTAIL FREE SPEECH AND MUSICAL EXPRESSION.

The RAVE Act serves as a clear assault on raves and electronic music. The reality is that property owners, promoters, and event coordinators could be fined hundreds of thousands of dollars or face up to twenty years in federal prison if they hold raves or other events on their property—even if they work hard to deter drug use. Although the substance of this law is neutral and would apply equally to all events and all locations, it is clear that it will not be enforced equally. If the bill becomes

law, property owners may be too afraid to rent or lease their property to groups holding raves, other all-night dance parties, rock or Hip-Hop concerts, or any other event that federal prosecutors do not like. This will have a definite chilling effect on free speech and musical expression.

As noted by the Supreme Court in evaluating the impact of improper prosecutions of civil rights advocates in the 1960's, *"the chilling effect upon the exercise of First Amendment rights may derive from the fact of the prosecution, unaffected by the prospects of its success or failure."* *Dombrowski v. Pfister*, 380 U.S. 479, 487 (1965). *The same holds true today. The mere threat of prosecution will surely serve to eliminate protected expression, even if that is not the intent of Congress in enacting the measure.*

This chilling effect is made all the more likely by the bill's vagueness, the fact that there is no safe harbor that lets business owners know what they can do to prevent prosecution, and the lack of criteria for them to know what is legal and illegal. The bill's addition of the word "temporarily" will allow business owners to be punished for isolated incidents, as opposed to patterns of abuse. Thus, the RAVE Act will likely be used against business owners that host controversial or unpopular events on their property simply because a drug offense occurs despite good security. They could be punished for this one event, and other business owners may be too afraid to host such events in the future. That this bill allows punishment without the guarantees available in criminal cases makes the stifling of free speech and musical expression a certainty.

#### V. THE RAVE ACT WILL HARM THE PEOPLE IT IS MEANT TO HELP.

The RAVE Act will likely make youth less safe and put them in greater danger. At the very time that rave culture is becoming mainstream and holding events at some of the most reputable and safe nightclubs in the nation, this bill will have the perverse effect of driving raves and other events underground and away from emergency care and hospitals. If legitimate and responsible business owners are scared away from holding raves and other all-night dance parties, raves will simply move back into abandoned warehouses and cornfields. Moreover, because this law will allow prosecutors to insinuate that selling bottled water, offering air-conditioned "cool off" rooms and having ambulances present is proof that owners are encouraging drug use, the bill may make business owners too afraid to implement the kind of safety measures that will save lives. Such health measures as freely available water and air-conditioned rooms are common sense for any large gatherings.

#### VI. RECOMMENDATIONS

The RAVE Act expands an already problematic law while lowering the standard of proof needed to punish people. It will chill free speech and make our youth worse off. It is so flawed that the best thing to do is reject this law altogether, allowing all interested parties to come together to build more constructive approaches. Short of tabling this bill, there are a number of amendments that would greatly improve the bill.

- The RAVE Act should be amended to ensure that the term "For the specific purpose of" relates to the intent of the manager or controller of the location and not to the intent of patrons or attendees.
- The civil provisions (Section 3) should be removed. If not removed, it should be amended to provide a conviction before civil penalties can be applied.
- An amendment should be added stating out what business owners can do to prevent being prosecuted under this law (a "safe harbor" provision) and declaring that business owners should only be punished for illegal activity, not legal activity. Such an amendment is essential to protecting free speech, public health, and innocent business owners.
- The RAVE Act should be amended to ensure that substance abusers do not receive twenty years in federal prison for using drugs. Essentially, the word "use" needs to be dropped from the bill's addition of "lease, rent, use". Under the current RAVE Act, any one who uses any place (their apartment, motel room, park) to use an illegal drug could potentially be subject to 20 years in jail and hundreds of thousands of dollars. Federal law already provides for punishment of drug users. The RAVE Act would enact penalties out of line with the actual offenses.
- The addition of the word "temporary" to the crack house law should be removed. This addition fundamentally changes the nature of the law from one meant to target property that was being used primarily for drug offenses to one that makes property owners liable for isolated actions that occur on their

property, whether they are there or not. It is also one of the additions to the crack house law that will do the most damage to the First Amendment, by chilling property owners from allowing events based on the kind of music or expression taking place.

#### CONCLUSION

The RAVE Act is overly broad, targets innocent business owners, and endangers the health of our youth by driving raves and other events underground.

The RAVE Act is also unnecessary. The federal government already has the ability under existing law to prosecute music promoters, nightclub owners or their employees who sell or distribute drugs. Prosecutors are already using the existing “crack house statute” to target nightclub owners and rave promoters that fall into this category.

We all want to protect our children, but it is essential that we find solutions that really work to keep our children safe. Enacting legislation such as the RAVE Act that does more harm than good is a step in the wrong direction and only puts the safety of our children in jeopardy.

**EXHIBIT A**  
**"Information Bulletin on Raves" by the U.S. Department of Justice, April 2001**

Product No. 2001-L0424-004



# INFORMATION BULLETIN

APRIL 2001

U. S. D E P A R T M E N T O F J U S T I C E



## **History**

Raves evolved from 1980s dance parties, aided by the emergence of European techno music and American house music. (See Rave Music text box.) European clubs that sponsored raves in the 1980s tried to limit the exposure of attendees to the public and to law enforcement. Raves were

secretive, after-hours, private dance parties and were often held in gay clubs where attendance was restricted to invitees or friends of invitees. The site of the party was often kept confidential, and invitees usually were not told the location of the host club until the night of the party. Because of the restricted access and the secrecy surrounding the locations, the growing rave culture was often described as an "underground" movement.

By the mid-1980s, rave parties overseas had developed such a following among youths and young adults that by 1987, London raves had outgrown most dance clubs. It then became common to hold all-night raves—which drew thousands of people—in large, open fields on the outskirts of the city. As the movement continued to grow in the late 1980s, the first rave parties emerged in U.S. cities such as San Francisco and Los Angeles.

Rave parties and clubs were present in most metropolitan areas of the United States by the early 1990s. Teenagers overtook the traditional young adult ravers and a new rave culture emerged; events became highly promoted, heavily commercialized, and less secretive. Many new U.S. rave promoters were

## **Introduction**

High energy, all-night dance parties and clubs known as "raves," which feature dance music with a fast, pounding beat and choreographed laser programs, have become increasingly popular over the last decade, particularly among teenagers and young adults. Beginning as an underground movement in Europe, raves have evolved into a highly organized, commercialized, worldwide party culture. Rave parties and clubs are now found throughout the United States and in countries around the world. Raves are held either in permanent dance clubs or at temporary venues set up for a single weekend event in abandoned warehouses, open fields, or empty buildings.

Attendance can range from 30 "ravers" in a small club to tens of thousands in a sports stadium or open field. While techno music and light shows are essential to raves, drugs such as MDMA (3,4-methylenedioxymethamphetamine), ketamine, GHB (gamma-hydroxybutyrate), Rohypnol, and LSD (lysergic acid diethylamide), have become an integral component of the rave culture.

## Raves

career criminals who recognized the profitability of organizing events tailored to teens. Capitalizing on the growing popularity of raves, specialized industries were developed to market clothes, toys, drugs, and music. Private clubs and secret locations were replaced by stadium venues with off-duty police security.

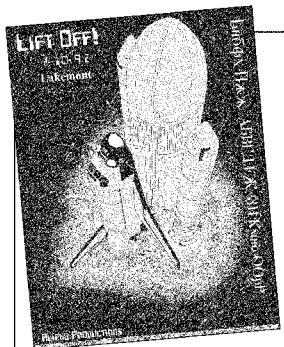
By the late 1990s, raves in the United States had become so commercialized that events were little more than an exploitation of American youth. Today's raves are characterized by high entrance fees, extensive drug use, exorbitantly priced bottled water, very dark and often dangerously overcrowded dance floors, and "chill rooms," where teenage ravers go to cool down and often engage in open sexual activity. Moreover, many club owners and promoters appear to promote the use of drugs—especially MDMA. They provide bottled water and sports drinks to manage hyperthermia and dehydration; pacifiers to prevent involuntary teeth clenching; and menthol nasal inhalers, chemical lights, and neon glow sticks to enhance the effects of MDMA. In addition, rave promoters often print flyers featuring prominent and repeated

use of the letters "E" and "X" (E and X are MDMA monikers) or the word "rollin'" (refers to an MDMA high), surreptitiously promoting MDMA use along with the rave.

The increasing notoriety of raves has caused the rave culture to spread from major metropolitan areas to more rural or conservative locations. Rave parties are emerging in areas of Colorado, Iowa, Louisiana, Michigan, Minnesota, and Wisconsin that are not always prepared to manage unexpected crowds of teenagers.

### Rave Promotion

Despite the commercialization of raves through the 1990s, many promoters have preserved the tradition of rave location secrecy, more as a novelty than as a necessity. In this tradition, raves are rarely promoted in open media but are advertised on flyers found only at record stores and clothing shops, at other rave parties and clubs, and on rave Internet sites. The flyers or Internet advertisements typically provide only the name of the city where the rave will be held and a phone number for additional information.



Rave flyers and posters promote upcoming events. Information on the flyer usually is limited to the date, city, and theme of the event. Some flyers also include the name of the rave promoter, the DJs scheduled to play, and a phone number to call for more information.

### Rave Music

Rave music evolved from 1980s techno, house, and New York garage music. The mix of these different styles of dance music helped mold the modern version of electronic rave music. Today, rave music falls into several categories: ambient, techno, trance, progressive trance, cybertrance, house, jungle, drum 'n' bass, techstep, garage, and big beat.

Although a casual listener may not be able to distinguish between techno and trance, ravers know the music well, and several DJs and bands—unfamiliar to most people—are internationally famous within the rave community. Today's rave DJs are skilled stage performers and are considered artists much like musicians. They mix electronic sounds, beats, and rhythms, often synchronizing the music to a laser program. Popular DJs sell their music and perform live at the largest rave parties and clubs around the world. Rave organizers announce the appearance of famous DJs on their flyers and on the Internet to promote upcoming raves.

The location of the rave often is given to the caller over the telephone, but many promoters further maintain secrecy by providing only a location, called a "map point," where ravers go the night of the rave. At the map point, ravers are told the actual location of the rave. The map point is usually a record or clothing store within a 20-minute drive of the rave.

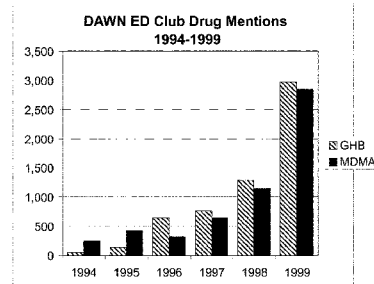
### Raves and Club Drugs

Drugs like MDMA, ketamine, GHB, Rohypnol, and LSD—known collectively as "club drugs"—are an integral part of the rave culture. Many ravers use club drugs and advocate their use, wrongly believing that they are not harmful if they are used "responsibly" and their effects are managed properly. Many of the commercially designed rave clothes display pro-drug messages, and rave posters and flyers often promote drug use.

Members of private drug education and drug testing organizations, called "harm reduction organizations," have appeared at raves over the past 10 years. They attend rave events to test samples of illegal drugs so they can inform ravers of purity levels. Members of these organizations believe that they help reduce the number of overdoses by educating users on the physical effects of specific drugs. Conversely, many law enforcement agencies believe that the practices of harm reduction organizations encourage drug use, and they support their position with national statistics that show an increase in club drug overdoses as harm reduction organizations have become more active.

Club drug use accounts for increasing numbers of drug overdoses and emergency room visits. According to the Drug Abuse Warning Network (DAWN), the number of emergency department (ED) mentions for MDMA and GHB, often associated with the crime of drug-facilitated rape, more than doubled between 1998 and 1999. (See DAWN chart.) DAWN data for 1999 further indicate that young people are the primary users of MDMA and GHB. For instance, whereas 29 percent of all DAWN ED cases involved patients aged 25 and

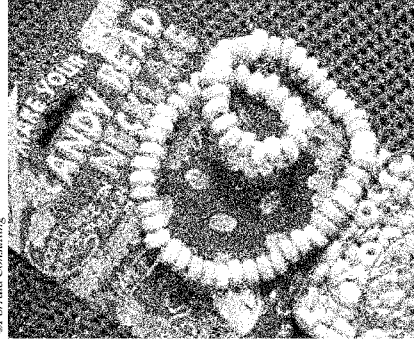
under, at least 80 percent of ketamine, LSD, MDMA, and Rohypnol ED mentions and 59 percent of GHB ED mentions were aged 25 and under.



MDMA is unquestionably the most popular of the club drugs, and evidence of MDMA use by teenagers can be seen at most rave parties. Ketamine and GHB also are used at raves, as is Rohypnol, although to a lesser extent. A recent resurgence in the availability and use of some hallucinogens—LSD, PCP (phencyclidine), psilocybin, and peyote or mescaline—has also been noted at raves and dance clubs and may necessitate their inclusion in the club drug category. Inhalants like nitrous oxide are sometimes found at rave events; nitrous oxide is sold in gas-filled balloons called "whippets" for \$5–\$10.

Rampant use of club drugs at raves may be leading to the use of other and highly addictive drugs by youths. There have been widespread reports of increasing availability and use of Asian methamphetamine tablets (frequently referred to as "yaba") at California raves and nightclubs. Heroin is being encountered more frequently at raves and clubs in large metropolitan areas, especially in the eastern United States. A wider variety of visually appealing and easy-to-administer forms of MDMA, LSD, heroin, and combination tablets are also found at raves and on college campuses.

## Raves



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*Candy necklaces may disguise MDMA.*

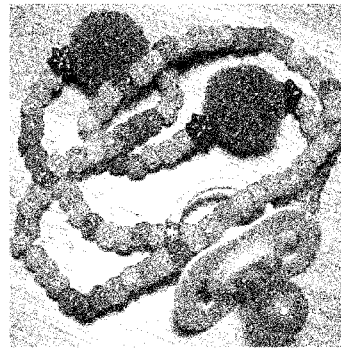
### Rave Clothing and Paraphernalia

Many young ravers wear distinctive clothing and carry paraphernalia commonly associated with club drug use and the rave culture. Ravers dress for comfort. They usually wear lightweight, loose-fitting clothes and dress in layers, allowing them to remove clothing as they become overheated from dancing for hours. Many wear loose shorts or very wide-legged or baggy pants. Ravers wear T-shirts, bikini tops, tank tops, tube tops, and open-back halter tops to help keep cool. After hours of dancing and often after using MDMA—which elevates body temperature—many ravers have removed most of their clothing. Some ravers, especially females, wear costumes to rave events, dressing as princesses, cartoon characters, or other fantasy figures that match the theme of the rave (e.g., futuristic, space, mystic).

Ravers often wear bright accessories like bracelets, necklaces, and earrings made of either plastic beads or pill-shaped sugar candies. MDMA users sometimes use these accessories to disguise their drugs, stringing MDMA tablets mixed with the candies. Many ravers chew on baby pacifiers or lollipops to

offset the effects of involuntary teeth grinding caused by MDMA. Pacifiers are worn around the user's neck, often on plastic beaded necklaces.

Many people bring various items to rave events to enhance the effects of MDMA. Ravers use bright chemical lights and flashing lights to heighten the hallucinogenic properties of MDMA and the visual distortions brought on by its use. Chemical glow sticks, bracelets, and necklaces are commonly worn at raves and waved in the eyes of MDMA users for visual stimulus. Ravers often insert flashing red lights in their belly buttons (held in place with a mild adhesive) and pin blinking lights in the shape of hearts, stars, and animals to their clothing to provide additional visual stimulation to MDMA users. Ravers that use MDMA often wear painter's masks with menthol vapor rub applied to the inside of the mask. MDMA users believe that by inhaling the menthol fumes, they are enhancing the effects of the drug. They may be adding to their risk of hyperthermia, however, because the fumes cause eyes and nasal passages to dry out.



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*Beaded necklace with pacifier.*

## Anti-Rave Initiatives

In the late 1990s, many communities began attempts to reduce the number of raves in their areas and to curb the use of club drugs. Several cities passed new ordinances designed to regulate rave activity, while others began enforcing existing laws that helped authorities monitor raves more closely.

Cities such as Chicago, Denver, Gainesville, Hartford, Milwaukee, and New York took deliberate steps to combat raves. These cities reduced rave activity through enforcement of juvenile curfews, fire codes, health and safety ordinances, liquor laws, and licensing requirements for large public gatherings. Many communities also began requiring rave promoters to retain, at the promoters' expense, onsite ambulance and emergency medical services and uniformed police security for large rave events. Because of these measures, many rave promoters and organizers moved their operations to other areas.

Perhaps the most successful anti-rave initiative was "Operation Rave Review," which was initiated in January 2000 in New Orleans. Following the overdose death of a 17-year-old girl at a rave party in 1998, the Drug Enforcement Administration (DEA) assessed the extent of rave activity in the New Orleans area. The assessment indicated an apparent correlation between rave activity and club drug overdoses resulting in emergency room visits. For example, in a 2-year period, 52 raves were held at the New Orleans State Palace Theater, during which time approximately 400 teenagers overdosed and were transported to local emergency rooms.

Following this assessment, the DEA, New Orleans Police Department, and U.S. Attorney's Office developed a methodology for the potential prosecution of rave promoters who allowed open, unabated drug use at the events. They used 21 U.S.C. § 856 as a basis to investigate rave promoters and to gather evidence that the promoters knowingly and intentionally allowed the distribution and use of numerous controlled substances during rave events. (See statute box.) As a result of this investigation, several rave promoters were arrested and the largest rave operation in New Orleans was closed.

### 21 U.S.C. § 856

#### § 856 Establishment of Manufacturing Operations

(a) Except as authorized by this subchapter, it shall be unlawful to

- (1) Knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance.
- (2) Manage or control any building, room, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, and knowingly and intentionally rent, lease, or make available for use, with or without compensation, the building, room, or enclosure for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

(b) Any person who violates subsection (a) of this section shall be sentenced to a term of imprisonment of not more than 20 years or a fine of not more than \$500,000, or both, or a fine of \$2,000,000 for a person other than an individual.

Since the completion of Operation Rave Review, the number of overdoses and emergency room visits caused by club drug use has dropped 90 percent, and MDMA overdoses have been eliminated, according to the DEA and New Orleans hospital officials. The law enforcement agencies that participated in Operation Rave Review developed a five-step process that might be employed effectively in other areas experiencing high levels of rave activity, club drug overdoses, and related emergency room visits. The process employed consisted of the following steps:

1. **Identify rave promoters.** Potential subjects for investigation included all parties responsible for managing the production and promotion of the raves, including the owners of the property where the event was held.

**2. Compile emergency medical service (EMS) records.** Records of medical transports from the rave venue to local emergency rooms were collected. Retrieval of medical records sometimes required grand jury or administrative subpoenas or court orders.

**3. Conduct undercover operations inside the venue during rave events.** Undercover investigators purchased paraphernalia (chemical light sticks, pacifiers, and drug test kits) at the venue and filmed ravers using drugs and using the paraphernalia to enhance or manage the effects of the drugs. Undercover investigators filmed drug purchases by undercover officers who purchased drugs from as many different people as possible and as quickly as possible to clearly demonstrate the availability of drugs at the venue. Undercover investigators filmed the actions or inaction of security personnel hired by the rave promoter, and they also filmed patrons being treated or transported to local emergency rooms.

**4. Place an undercover officer.** Undercover agents or officers posed as job applicants for security positions and obtained interviews with the rave promoter. The undercover officers asked for the promoter's general expectations of security personnel and specific expectations of security personnel observing drug use or distribution.

**5. Execute search warrants.** Search warrants were executed at the rave venue, at offsite offices, and at the home of the rave promoter. Officers and agents seized all documents and items relating to the ownership, advertisement, promotion, and operation of the rave venue, including but not limited to purchase orders for rave paraphernalia, water, and other stock. Officers and agents also seized employment records identifying security personnel and any memoranda detailing their responsibilities, correspondence or contracts with EMS services, and financial records that detailed costs and profits associated with raves.

## Conclusion

Raves have developed over the past decade from a small subculture to the highly commercialized and widespread exploitation of young people by large-scale rave promoters. The growing awareness of the nature of rave activity and the effects of club drug use have moved many communities to action. In order to curtail rave activity, communities and law enforcement agencies are enforcing existing fire codes, health and safety ordinances, and liquor laws, and are establishing juvenile curfews and licensing requirements for large public gatherings. They are requiring rave promoters and club owners to pay for building or liquor licenses, medical services, and security for their events, all in an effort to force rave promoters to move or cease their operations.

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Cover photo NDIC, background ©Images 4 Communication

## EXHIBIT B

"Transcript of Permanent Injunction Hearing" in McClure v. Ashcroft,  
U.S. District Court Eastern District of Louisiana, December 17, 2001

|    |                                               |
|----|-----------------------------------------------|
| 1  | UNITED STATES DISTRICT COURT                  |
| 2  | EASTERN DISTRICT OF LOUISIANA                 |
| 3  | *****                                         |
| 4  | STEVEN McCLURE, CLAYTON SMITH                 |
| 5  | AND MICHAEL BEHAN                             |
| 6  | v.                                            |
| 7  | Docket No. 01-257 (T)                         |
| 8  | New Orleans, Louisiana                        |
| 9  | Monday, December 17, 2001                     |
| 10 | 10:00 a.m.                                    |
| 11 | JOHN D. ASHCROFT, sued in                     |
| 12 | his capacity as Attorney                      |
| 13 | General of the United States                  |
| 14 | *****                                         |
| 15 | TRANSCRIPT OF PERMANENT INJUNCTION HEARING    |
| 16 | HEARD BEFORE THE HONORABLE G. THOMAS PORTEOUS |
| 17 | UNITED STATES DISTRICT JUDGE                  |
| 18 | APPEARANCES:                                  |
| 19 | FOR THE PLAINTIFF:                            |
| 20 | AMERICAN CIVIL LIBERTIES UNION                |
| 21 | FOUNDATION                                    |
| 22 | BY: GRAHAM BOYD, ESQ.                         |
| 23 | 160 Foster Street                             |
| 24 | New Haven, Connecticut 06511                  |
| 25 | - AND -                                       |
| 26 | BOOTH & BOOTH                                 |
| 27 | BY: VINCENT BOOTH, ESQ.                       |
| 28 | 138 North Cortez Street                       |
| 29 | New Orleans, Louisiana 70119                  |
| 30 | FOR THE DEFENDANT:                            |
| 31 | UNITED STATES ATTORNEYS OFFICE                |
| 32 | BY: SANDRA E. GUTIERREZ, ESQ.                 |
| 33 | 501 Magazine Street, Room 210                 |
| 34 | New Orleans, Louisiana 70130                  |
| 35 | - AND -                                       |
| 36 | U.S. DEPARTMENT OF JUSTICE                    |
| 37 | CIVIL DIVISION                                |
| 38 | FEDERAL PROGRAMS BRANCH                       |
| 39 | BY: CAROLE JEANDHEUR, ESQ.                    |
| 40 | JENNIFER PAISNER, ESQ.                        |
| 41 | 901 East Street, N.W.                         |
| 42 | Room 812                                      |
| 43 | Washington, DC 20530                          |

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2 (WHEREUPON, ROBERT BRUNET, was called as a witness by  
3 the defendant and, having been duly sworn, testified as  
4 follows.)

5 THE COURT: Mr. Brunet has been sworn, Ricky?

6 THE DEPUTY CLERK: Yes, sir, your Honor.  
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1 (PHONETIC)?

2 A. Yes. Some distant time prior to that, but, yes, a year  
3 and a half, two years prior to that.

4 Q. And isn't it true that you offered to provide some  
5 assistance to the DEA in trying to root out and prevent drug  
6 use in events at the State Palace Theater?

7 A. Yes.

8 Q. Did you instruct the DEA agent in how to dress as a raver?

9 A. I personally did not, but my manager at the theater at the  
10 time Doug Castro did meet with the DEA and as he told me they  
11 asked him the profile of --

12 MS. GUTIERREZ: Objection, your Honor, hearsay.

13 MR. BOYD: I'm not sure what he's going to say, your  
14 Honor. Maybe we can say what he has to say.

15 THE COURT: He started off he told me.

16 MS. GUTIERREZ: He's quoting Doug Castro.

17 BY MR. BOYD:

18 Q. If you could testify without telling us exactly what Doug  
19 Castro told you but from what you know.

20 MS. GUTIERREZ: Objection, your Honor, I would like the  
21 foundation laid that he himself was at the meeting with the DEA  
22 agent.

23 THE COURT: All right. Were you there?

24 BY MR. BOYD:

25 Q. Did you ever meet with Peter Grose?

1 A. Yes, once.

2 Q. I'd like you to focus on that meeting. Was the topic of  
3 discussion, again going back to what I was doing before, was  
4 the topic of discussion there how you could cooperate with the  
5 DEA in weeding out drug use?

6 A. Yes, the topic of the conversation was that I was willing  
7 to cooperate.

8 Q. And isn't it true that you ended up allowing DEA agents to  
9 work the State Palace T-shirt security?

10 A. We made the offer, but as far as I know that never  
11 happened.

12 Q. And isn't it true that you also established a process for  
13 cooperating with DEA when you observed drug use in terms of  
14 what you would do if you caught somebody dealing drugs?

15 A. That was my understanding that Doug Castro made the deal.  
16 I wasn't involved in that.

17 Q. And to your knowledge was there ever an occasion in which  
18 an attempt was made to contact, I'm sorry, to contact Peter  
19 Orose of the DEA and inform him that a person had been detained  
20 by your security, did that ever happen?

21 A. On two occasions I instructed again Doug Castro to make a  
22 phone call to Peter Orose when we had detained someone that we  
23 had caught with drugs at the facility.

24 Q. And did Mr. Castro generally follow instructions such as  
25 that in your experience?

1 A. Yes, he does.

2 Q. And did he -- do you have any knowledge as to whether or  
3 not the instructions were followed in this instance?

4 A. I believe the instructions were followed and he did not  
5 get a response or Mr. Orose never did come to pick up the  
6 person.

7 Q. Let me make sure I understand that. The DEA agent did not  
8 take up this offer to cooperate, did not respond when you tried  
9 to work with him; is that right?

10 A. That's correct.

11 Q. Did you ever see Peter Orose again after this attempt to  
12 cooperate with him?

13 A. The only time I ever saw him again was the night of the  
14 DEA raid on August 26 of 2000.

15 Q. Do you feel like you cooperated as fully as was possible  
16 with their effort to address any drug use that might be  
17 occurring?

18 A. In my initial meeting with Mr. Orose a year and a half  
19 prior to the DEA raid we offered what I feel to be a fair offer  
20 to stop drug use and it was never followed up on by the DEA.

21 Q. Didn't you also at one point try to -- let me go back a  
22 bit.

23 Was there a time when you had off duty New Orleans  
24 police officers providing security?

25 MS. GUTIERREZ: I'm going to object to both the outside

1 Q. Was there a time, Mr. Brunet, when security was provided  
2 by off duty police officers?

3 A. We did have off duty police officers working for the  
4 theater at one point, yes.

5 Q. And were they withdrawn at a certain point?

6 A. Yes, they were.

7 Q. Was the reason ever given to you for their withdrawal?

8 A. We were never given a straight answer, except that just  
9 our details were denied.

10 Q. Did you, in fact, write a letter to the New Orleans police  
11 chief requesting specifically that there be official police  
12 security at your events, including electronic music events?

13 A. Yes. I wrote a letter to the police requesting police  
14 detail for our events, which included electronic music events  
15 and children shows and hip hop shows and television  
16 productions.

17 Q. And again, that request was specifically denied?

18 A. It was denied on a continuing basis. It was stated in the  
19 letter though that we were allowed to make specific event  
20 requests and they would make a decision on that specific event  
21 case by case.

22 Q. There was also discussion in your testimony earlier today  
23 about contacting emergency medical services, do you recall that  
24 testimony?

25 A. Yes.

1 Q. And do you also recall that there have been allegations  
2 that the fact that you hired private ambulance services somehow  
3 or another was evidence of wrongdoing on your part?

4 A. During the criminal case it was stated that us having EMTs  
5 there indicated that we were aware that there was drug use  
6 within the facility.

7 \* Q. Isn't it true that the EMTs you hired were companies that  
8 worked for many other public facilities in New Orleans?

9 A. Yeah, it's actually the city of New Orleans' emergency  
10 medical services.

11 Q. Somebody whose in the business of providing entertainment  
12 in a public venue, do you have any knowledge about whether or  
13 not this is a common practice for other kinds of facilities?

14 A. It's an industry standard, when I say industry usage and  
15 facility industry, that any event that you have over 1,500 to  
16 2,000 people that you should have some type of medical services  
17 available.

18 Q. And so sports events, concerts of all genres, it's  
19 standard practice to hire private emergency services in New  
20 Orleans; is that right?

21 A. That's correct. \*

22 Q. Are you able to recount as you sit here, and I realize  
23 this my not be an entirely fair question, but are you able to  
24 recount how many electronic music concerts were held at State  
25 Palace between December 1997 and March 2000?

1 A. We did approximately 12 to 15 a year, so depending on that  
2 figure could be, you know, 40, 50, 60.  
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12 (WHEREUPON, JOHN SCUDDER, was called as a witness by  
13 the defendant and, having been duly sworn, testified as  
14 follows.)

15 THE DEPUTY CLERK: Take the stand, please, state your  
16 name and spell it for the record.

17 THE WITNESS: John Scudder, S-C-U-D-D-E-R.

18 DIRECT EXAMINATION

19 BY MS. JEANDHEUR:

20 Q. Mr. Scudder, could you tell us how you're employed?

21 A. Yes. I'm employed as a special agent with the Drug  
22 Enforcement Administration.

23 Q. And how long have you held that position?

24 A. I since July of 1987.

## CROSS-EXAMINATION

BY MR. BOYD:

Q. Agent Scudder, you testified that there were purchases made of how many exhibits?

A. Approximately 82 exhibits.

Q. Were those tested to determine their chemical analysis?

1 A. Yes, they were.

2 Q. And how many of them turned out to be Ecstasy?

3 A. It was approximately half of the 82.

4 Q. And how many turned out to be not a controlled substance?

5 A. Approximately 40 percent.

6 Q. And what sort of other substances turned up?

7 A. Other controlled substances?

8 Q. Yes.

9 A. MDA and other derivatives of Ecstasy, as well as  
10 prescription pills Xanax. I believe Xanax was the only  
11 prescription.

12 Q. Were you able to identify any of the individuals from whom  
13 you purchased pills?

14 A. Two of the individuals I actually identified, yes.

15 Q. And I'm not asking for identity, but I would like to ask  
16 you how were you able to identify them?

17 A. Asked for a pager number or telephone number and that I  
18 could get in touch with them after the party if I wanted to buy  
19 some more controlled substances.

20 Q. And from that you could derive the person's name, address  
21 and that sort of information?

22 A. Yes, through subpoenas and surveillance.

23 Q. And have either of those individuals been arrested?

24 A. Yes.

25 Q. Were they convicted?

1 A. They were actually both -- one was not and one was  
2 arrested in a separate investigation involving Ecstasy.

3 Q. So one of them was not convicted?

4 A. Correct.

5 Q. And were the charges dismissed, did he cooperate, what  
6 happened?

7 A. He sold what was purported to be LSD, it turned out to be  
8 colored water, so there's no federal statute.

9 Q. So the charges were dismissed?

10 A. Yes, that's correct.

11 Q. Voluntarily by the government?

12 A. Yeah.

13 Q. And the second individual was not arrested because of his  
14 interaction with you at the State Palace Theater but for some  
15 other reason; is that correct?

16 A. Yes, for distributing Ecstasy outside of the State Palace  
17 Theater.

18 Q. By outside you mean on the street outside or far away?

19 A. Far away.

20 Q. What efforts did you make to ascertain the identity of  
21 other people from whom you purchased pills?

22 A. Just basically trying to get a pager number or telephone  
23 number and to follow-up, you know, that way. It's very  
24 difficult at best to identify anybody in these theaters. To  
25 purchase from them and attempt to follow them around for the

next ten hours in a crowd of 3,000 kids is impossible.

Q. You did have at your disposal the ability to take on, I guess this covert video or pictures of people, right?

A. Yes.

Q. Did you attempt to do so for the people?

A. Yes, we did.

Q. And did that not provide a basis for identifying them?

A. It did, however, it was just a photograph of an individual that may have come from any of four or five different states from around here.

Q. Was any attempt made to use those photographs to apprehend people at future events at the State Palace on the theory that they might attend again?

A. No.

Q. Were any efforts at all made to apprehend these people?

A. No.

Q. Have you given any presentations at conferences concerning the State Palace Theater case?

A. Yes.

Q. How many times?

A. Approximately two dozen maybe.

Q. Two dozen. To the extent you can, can you list the locations and approximate dates of these conferences?

MS. JEANDHEUR: Object to this, your Honor. I'm not sure what the relevance is. Also appears to be beyond the

scope of direct.

THE COURT: What's the purpose, counselor?

MR. BOYD: Your Honor, the government has made an argument that it is allowed to incidentally suppress speech and expression and art as long as its purpose is not to do so, as long as it's purpose is something else. I believe that we can demonstrate today, and this is part of our attempt to do so, that the federal government has a plan to eliminate raves and rave culture in America. Not Ecstasy but raves, which is protected by the First Amendment.

I have specific knowledge that this agent has testified or rather has given a presentation entitled Targeting Rave Promoters at a conference that took place in Idaho, I believe. It was titled Dancing with Darkness, Raves and Ecstasy.

What I intend to prove to you today is that the purpose of the ban on items in this case is not connected with drug use, I think the expert testimony, if it ends up coming in, is going to fall apart.

THE COURT: I'll allow you some nominal leeway here.

BY MR. BOYD:

Q. How many of these conferences, sir?

A. Approximately two dozen, Atlantic City, New Jersey; Chicago; Atlanta, Georgia; Miami; Houston; Austin, Texas; San Francisco; San Diego; Los Angeles; Portland; Idaho; here in New

1 Orleans; Monterey, California. That's about all I can recall.

2 Q. Over what time frame have you given these presentations?

3 A. Over about the past year.

4 Q. And have they consistently used the title that you used in  
5 Idaho "Targeting Rave Promoters"?

6 A. Yes.

7 Q. And you have basically discussed the details of this State  
8 Palace Theater case as a model for law enforcement initiatives  
9 elsewhere in the country; isn't that right?

10 A. Yes, that's correct.  
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(WHEREUPON, MICHAEL E. TEMPLETON, was called as a witness by the defendant and, having been duly sworn, testified as follows.)

THE COURT: Have a seat, give us your full name, please, sir.

THE WITNESS: Michael E. Templeton.

DIRECT EXAMINATION

BY MS. PAISNER:

Q. Mr. Templeton, what is your current occupation?

A. I'm a special agent with the Drug Enforcement Administration.

Q. And where are you currently employed?

A. My post of duty right now is Johnson City, Tennessee.

1 Q. How long have you been there?

2 A. Two months.

3 Q. Where were you employed previously?

4 A. New Orleans field office.

5 Q. And how long were you with the New Orleans field office?

6 A. Approximately five years. I've been on with the DEA for  
7 five years.

8 Q. And what was your role when you were with the New Orleans  
9 field office?

10 A. I was a special agent and criminal investigator.

11 Q. While you were with the New Orleans field office were you  
12 involved in the investigation into the State Palace there?

13 A. Yes.

14 Q. What was your role in this investigation?

15 A. I was the lead investigator and I was the case agent.

16 Q. And how long were you involved in the investigation for?

17 A. We initiated the investigation December '99 and probably  
18 through January 2001.  
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3 A. I have assisted other agents throughout the country who  
4 ask me questions as to my experiences within raves while  
5 they're beginning to initiate their own investigations of rave  
6 promoters throughout the country.

7 Q. Let me refer you specifically to before the State Palace  
8 investigation, had you investigated other rave promoters whose  
9 purpose in your view was distributing drugs?

10 A. Prior to even initiating that investigation, no.

11 Q. Okay. And now the time frame after or since the  
12 investigation was initiated. I think you were saying that you  
13 have been in contact with law enforcement officials in other  
14 part of the country concerning their investigations; is that  
15 right?

16 A. Correct.

17 Q. And have you suggested the possibility that they use the  
18 crack house law as part of their approach?

19 A. Yes.

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| 24 | Q. How many surveillance videos, undercover drug buys has DEA   |
| 25 | conducted during any concert in New Orleans that is not a rave? |

1 A. Concerts speaking of local clubs in the French Quarter or  
2 concerts that are at the Superdome or are you talking  
3 specifically Jazz Fest or entertainment in general?

4 Q. I'm talking about events in which music is performed.

5 A. Which would include all clubs I take it. To answer your  
6 question, I don't know. I'm not privy to every investigation  
7 in the office. I was in the New Orleans office for five years,  
8 prior to that they may have done it, while I was there they may  
9 have done it. But I wouldn't be privy to every investigation  
10 that was carried out.

11 Q. But in terms of what you're aware of the answer is none?

12 A. That's correct.

13 Q. Have you spoken at any conferences around the country in  
14 which you have described Operation Rave Review, the State  
15 Palace Theater investigation?

16 A. Yes.

17 Q. How many?

18 A. I estimate just in the last year alone probably 25  
19 conferences.

20 Q. Are these spread all around the United States?

21 A. Yes.

22 Q. Were they targeted at law enforcement officers?

23 A. Law enforcement officers and probation and parole, school  
24 officials, community leaders, basically all encompassing, not  
25 just law enforcement officers.

1 Q. Is one of them in May of 2000 a training conference of the  
2 New England Narcotics Enforcement Officers Association that  
3 took place in Maine?

4 A. Hyannis Port, Maine, correct.

5 Q. And I described it correctly as to who the audience was  
6 for that?

7 A. That's correct. That was strictly narcotic enforcement  
8 officers.

9 Q. And at that conference and others did you offer training  
10 on techniques that would basically mimic the investigation and  
11 approach of the State Palace Theater?

12 A. Yes.

13 THE COURT: Have a seat. It's my understanding that  
14 you all have a stipulation as to some open.

15 MS. GUTIERREZ: Yes, sir. Your Honor, we have revised  
16 stipulation z in the pretrial order. It now should read: "The  
17 ambulance records obtained by DEA revealed that between  
18 December 1997 and March 2000, 30 to 40 individuals identified  
19 by emergency personnel as suffering from possible drug  
20 overdoses were transported by ambulance from the State Palace  
21 Theater to local emergency rooms.

Mr. SMITH. Let me address my first couple of questions to Mr. Hutchinson. And just to follow up on some of the statements we just heard, Mr. Hutchinson, I wanted to ask you to respond to these statements. First is that the language of the bill makes legitimate innocent businesses potential targets for a phony charge if the nature of their business makes it impossible to guarantee that no drug use will occur on their property. Would you respond to that assertion?

Mr. HUTCHINSON. Thank you, Mr. Chairman. And that is certainly, I think, the purpose of the legislation called the RAVE Act that is being introduced before this Committee. If you look at that legislation, there is a very important requirement in there that there is a burden of proof to establish any wrongdoing on the part of a property owner or user of property, and that is that they knowingly use or maintain the property for the purposes of unlawful distribution of drugs. And that "knowing" requirement in there is typical, whether it is the mail fraud statute that sets a burden of proof of knowing conduct, or a whole host of other criminal statutes.

So it is typical of criminal statutes to put a culpability burden of proof in there and in this case it is knowing. So it would be impossible to convict an innocent property owner or an innocent user of property that has no knowledge of the drug use that might take place on the property.

And so to argue that, well, this could be used to go after any concert promoter because there might accidentally be drug use there, is totally fallacious. It only goes after those people who knowingly use the property for drug use and promotion.

Mr. SMITH. One other statement, if you will respond to this, and I thank you for that answer. Rather than eliminating drug use or even entirely eliminating Raves, the bill would drive Raves underground and discourage basic health precautions. It would have a perverse effect and make drug use more dangerous.

Mr. HUTCHINSON. I don't think the intent of the legislation, at least my reading of the legislation or the conduct of law enforcement, is to eliminate all Raves. I think the purpose is to make sure that if there is a venue for music, that the promoter of that does not facilitate and encourage and knowingly allow for drug use on the property. And that is what I understand would be the intent of the legislation and certainly the intent of law enforcement.

In regard to what would be the impact of aggressive pursuit of that connection and that wrong conduct would be to discourage Ecstasy distribution and criminal conduct. And I think that is the impact of it. And actually I think there has been a significant change in the last couple of years. I noticed here in Washington, D.C. A significant operation really was canceled because of the extensive drug use that was there and the promoter shut it down. So I think there has been some progress made in this whole endeavor.

Mr. SMITH. Very good. Thank you, Mr. Hutchinson.

Ms. Craparotta, I would like to ask you a question in regard to the statement in your testimony when you said that Ecstasy has emerged as a favorite among today's youth. Explain a little bit more why you think that is the case. What are the dangers?

Ms. CRAPAROTTA. Many of today's youth look at this drug as almost the perfect drug. It causes very little hangover the next day.

These men and young women come home, they don't smell of alcohol. It is very hard to tell that someone has been using Ecstasy the day after, or even later on. It is as easy to buy as candy. It is everywhere. It looks like something you would want to ingest. There is nothing ominous about an Ecstasy pill. And because it causes them to dance and hug, it has this whole love-drug type effect, I just believe that they are not thinking in terms of what damage it is causing to their brains at the time. They are thinking of this in terms of how much fun they are having when they are on it.

Mr. SMITH. Thank you.

Ms. Kreamer, you mentioned in your testimony—and I thought this was interesting—the media is conflicted in their reporting on Ecstasy and their messages. Is that to say the media is not helpful in trying to eliminate the use of the drug? Or what do you mean by the media is conflicted?

Ms. KREAMER. They are not helpful in most situations. Sometimes it is presented under the guise that we need to present both sides. A little more than a year ago, they did a special and they featured DanceSafe. And by the time you were done watching the program, you thought that DanceSafe, if they were there they would assure you that this drug was safe to use.

That is certainly the wrong impression we want to give young people. If there was good information out there and if there was strong leadership, I believe that what the media would then be reporting would be that information. I don't see that leadership coming forth right now with that strong information.

Mr. SMITH. Thank you, Ms. Kreamer.

The gentleman from Virginia, Mr. Scott, is recognized for his questions.

Mr. SCOTT. Thank you Mr. Chairman.

Mr. Boyd, we presently have crack house legislation in most States. How does this bill differ from someone running a drug house?

Mr. BOYD. Well, I think what is different about this bill, and really also about the enforcement strategy currently of the DEA against Raves, is that it makes it weak, from going after people who are directly involved in drugs to those who aren't. And in my testimony I have a footnote that lists every single Federal crack house case that has ever happened. All of them, every single one of them, involve people who were dealing drugs, who hired drug dealers, who were handling the drugs, who were making money from the drugs. I am not criticizing that. I think most of the horror stories you hear about Raves would also be covered by those existing laws.

What the law does not adequately cover according to the proponents of this bill are those situations where someone is not involved in it.

Mr. BOYD. And I think that examination of the knowing element that Mr. Hutchinson made reference to is very important. It says you have to knowingly make the property available. That is, the knowledge element is making the property available; you didn't accidentally let people in. But for the purpose of using drugs, it is the concert attendee's purpose that matters. It is not that the proprietor meant to use drugs.

Mr. SCOTT. Let me let Mr. Hutchinson respond because it seems though if someone is actually dealing the drugs, they are already guilty under other statutes. Who are we covering that is not already—who is not involved in dealing drugs?

Mr. HUTCHINSON. I think that if you look at the crack house statute as to how it has been used and crafted, it makes it a little bit more workable to go after a property owner or renter who is not directly distributing drugs but knowingly facilitates the distribution of drugs in that particular piece of property.

Mr. SCOTT. That is the knowing part that Mr. Boyd was talking about. You knowingly rented the property. Did you have to know that they are going to use it for the purpose of drug use?

Mr. HUTCHINSON. Well, I am looking at the crack house statute. And it says: It shall be unlawful to knowingly open or maintain any place for the purpose of manufacturing, distributing, or using any controlled substance.

That is pretty clear.

Mr. SCOTT. This bill where you are going after the owner, the RAVE bill—

Mr. HUTCHINSON. The RAVE bill simply amends that particular section that I just read to add, inserting, “open, lease, rent, use, or maintain any place, whether permanently or temporarily.”

So you still have the knowingly requirement for using or maintaining a place for the distribution of drugs. So you still have that heavy burden of proof.

Mr. SCOTT. If you can prove that they are using a place for the purpose of manufacturing or distributing drugs, why can’t you get them convicted under the present statute?

Mr. HUTCHINSON. You might have to talk to some United States attorneys on that. But it is my understanding that it would be a little bit more difficult to bring them in. The only theory would be a conspiracy, conspiracy to distribute drugs. And here the burden is that you facilitated the distribution of those drugs by the knowing maintenance of a particular piece of property. So it is a little bit different standard. Of course, the one big difference in the legislation proposed or introduced is it allows for civil penalties, which certainly is an added tool that can be used.

Mr. SCOTT. I think Mr. Boyd would probably think that is not a good thing.

Mr. BOYD. I also just want the Members to be aware that the courts have interpreted the existing crack house statute consistently with the position I am taking. This isn’t something I am making up. I would refer you to the case of *U.S. v. Tamez*, in which the court said, quote: The person who manages or controls the building and then rents it to another need not have the express purpose in doing so that drug-related activity is engaged in by others; i.e., others have that purpose.

That is a frightening interpretation of the law, and the only saving grace of this statute historically that it has always been applied in the context where the person was actually a drug dealer until the State Palace case, and now by introducing a law calling it the RAVE Act, which seems to want to codify the State Palace approach. It is saying let’s don’t focus just on the drug dealers; let’s expand it and let’s do it with civil asset forfeiture laws that don’t

even have the procedural protections that otherwise exist. It is a very frightening and broad proposition.

Mr. SMITH. Mr. Scott is recognized for an additional question. I also want to say to my colleagues and witnesses, I am going to have to excuse myself. When I leave I will turn over the gavel to the gentleman from Ohio, Mr. Chabot, and appreciate his sitting in as Chairman. Mr. Scott continues to be recognized.

Mr. SCOTT. Ms. Craparotta, if the drugs are being dealt openly, why is there a problem in dealing directly with the drug use? That is to say, people going there, buying drugs. You can have reverse—do you go after the people who are buying drugs as well as those that are selling them?

Ms. CRAPAROTTA. For the most part, we are taking off the users and then in the end of these operations we are then rounding up the dealers.

Mr. SCOTT. And how long do these things stay in operation before you decide to start arresting people?

Ms. CRAPAROTTA. In a case like this, we commenced the operation on Memorial weekend and we ended Labor Day weekend. So we took it through the entire summer.

Mr. SCOTT. Before you arrested people?

Ms. CRAPAROTTA. Before we arrested the dealers. Because we had a team of undercovers in there. You would lose your undercover operatives' ability to work under cover if you were constantly arresting people as buys were being made.

Mr. SCOTT. I would think that people would stop showing up if they knew that the undercover agents were there arresting people on the first day.

Ms. CRAPAROTTA. They won't stop showing up. There is always another dealer waiting in the wings.

Mr. CHABOT. [Presiding.] The gentleman's time has expired. Before I recognize the next member of the panel for questions, I would like to publicly recognize and thank Mr. Hutchinson for his leadership at the DEA. I have heard nothing but good things from all my sources over there, and particularly at a recent announcement where you had a major crackdown on those that were trying to pervade the date rape drugs over the Internet. And I was very impressed with the work that had gone into that. I just wanted to publicly thank you, Asa, for your leadership. It is much needed and much appreciated.

I would next like to recognize the gentleman from California, Mr. Schiff, for the purpose of asking questions for 5 minutes.

Mr. SCHIFF. Thank you, Mr. Chairman. I want to ask a question, Mr. Boyd, and one of Mr. Hutchinson as well. Mr. Boyd, as I read the language in the statute, it requires the prosecution to prove that the defendant leased the property, owned it, et cetera, knowingly and intentionally for the purpose of unlawful manufacturing, storage, distributing, or using a controlling substance.

So there are two requirements: that you have to "knowingly and intentionally," which is stronger than just saying "knowingly," and for the purpose of this illicit use.

As a former assistant U.S. attorney, I would feel if I were going to prosecute anyone with that, I would need to be able to prove, number one, that it was done knowingly and intentionally, not by

accident, not without knowledge of what was going to go on there, and it would have to be for the purpose of this illicit drug manufacture, possession, use et cetera.

So if I had a defendant or a target of an investigation and all I could show was that they rented the premises, a warehouse, a field or whatever, and that they had some inkling that someone there might use drugs, even though it was not their design, that would not be sufficient to charge them. And I want to see if your interpretation of that is different. That is one question.

The other question is, why not use civil liability? It seems to me this bill might be the civil liability. If that is where the profit is, in the rent or the use of the premises, it seems like that might be an effective way to go after it.

And the question I would like to pose to Mr. Hutchinson is not unlike what Bobby Scott asked, and that is: What is it that present law does not allow you to do? The crack house laws, the conspiracy laws, are they not on point so that basically if you had someone who is leasing their premises or allowing it and knowingly allowing it to be used for this purpose, do the current laws not permit to you go after that? Are there elements that you have to prove under current law that you would otherwise not have to prove under this law?

Mr. BOYD. Thank you, Mr. Schiff. To answer your first question concerning your purpose, the Fifth Circuit and Ninth Circuit have already interpreted the language contrary to the way that you would read it. I wish that they did read it the way you suggested, and that is why we have proposed as an amendment that you make clear that the criminal defendant be the one who has the purpose of the illegal activity.

Mr. SCHIFF. Those circuits have interpreted it to mean that you just have to knowingly be renting it to someone and they have—the one you rent it to has to intend to use it for the illicit purpose, but you don't have to know of that purpose?

Mr. BOYD. Yes, sir, that is correct. And it is extraordinary. I imagine you are feeling a bit surprised about that. That is why I say that despite that sort of extraordinary breadth, the reason the statute has not been problematic is because of the charging discretion of the U.S. attorneys around the country where they have gone after people who, in fact, have known of the purpose, have had the purpose, in fact, were dealing drugs themselves.

That was true until they sort of stretched this law or utilized this law to go after Raves in New Orleans.

Mr. SCOTT. Would the gentleman from California—

Mr. SCHIFF. Do you have the same interpretation of what those two circuits have done?

Mr. HUTCHINSON. I am not familiar with that particular Ninth Circuit case that has been referenced by Mr. Boyd. I would be flabbergasted if that is the majority opinion. To me the language of the statute is clear that “knowingly” is a requirement; not just that you knowingly leased the property, but that you have knowledge or in somehow knowingly facilitate the distribution of drugs there. That to me is what the reading of the statute is.

Mr. SCHIFF. I would yield.

Mr. SCOTT. If you can give us a list of all of those cases, we would appreciate it.

Mr. BOYD. Certainly. The first is the Tamez case.

Mr. SCOTT. Afterwards. Thank you. I yield back.

Mr. SCHIFF. Mr. Hutchinson, can you comment on what current law precludes you from doing or why the tools that are out there are insufficient and why this would—

Mr. HUTCHINSON. The proposed legislation, as you pointed out, adds the civil penalty, which is a—could be a very effective tool, short of criminal prosecution, but still a substantial burden of proof in order to go after the unlawful promoters that are really promoting drug use. So that civil penalty is a very significant step.

Secondly, the language that is used in the proposed legislation expands what could be included for the use of property by adding “open, lease, rent, use, or maintain any place, whether permanently or temporarily.” and so the “temporarily” is significant because it could be a one-night rental that I am not sure would be included in the original crack house statute.

Mr. CHABOT. The gentleman’s time has expired. The gentlelady from Texas is recognized.

Ms. JACKSON LEE. I thank the Chairman. And let me just say the—I know the bell has rung on the floor of the House. Let me make some comments. I understand we may have some time on this legislation because I have a sense of unreadiness. But as I do that, might I say to the panelists, we have a gentleman who has been known himself to fight against the illegal use of drugs in the room. I would like to acknowledge Pat Boone is here. I am going to be visiting with him in just a moment. And I appreciate his presence here in the room. And thank you.

Let me just quickly say I took about 3 years to pass legislation on the GHB date rape drug. I thought it was extremely important. I think the Administrator was on the committee at that time. We have spent some time in Houston dealing with these issues. What troubles me is that I think it is important that we balance the fight against drugs. The Rave is a—Rave parties is a situation I am very familiar with, because when we did our GHB date rape drug, the Rave drugs were the underpinnings of it. But I do think we have an opportunity to look at this legislation in the face of questions being raised about whether you knowingly or unknowingly; whether you will be able to decipher that.

I am thinking particularly of senior citizens who have rental property and who, of course, may have no knowledge but there may be some suggestion that the grandson is the manager of the property, and does that attribute notice and knowledge to that senior citizen who just has ownership and the grandson may be engaged? And I think that is a concern that I have.

Mr. Hutchinson, do you want to briefly comment on that potential?

Mr. HUTCHINSON. That is an important potential to eliminate. And I compliment the leadership of this Committee on looking at these, the language very carefully; and you, Ms. Jackson Lee particularly.

But I think what is important in the both the crack house statute and this proposed legislation is the burden of proof of “know-

ingly.” and therefore you are going to avoid the innocent owner. In fact I was looking at the jury instruction coming over here that a jury would be given, and it would advise the jury that an act is done knowingly only if it is done purposely and deliberately and not because of mistake, accident, negligence, or other innocent reason. And that is an important part of the definition of “knowingly.”

Ms. JACKSON LEE. Let me conclude by simply saying—and I am going to yield back and end with that language, and Mr. Boyd I will be looking forward to the case law that you have—let me say to the other witnesses I appreciate—you have my advocacy on the issues of fighting against drugs in young people, but I would like to see the cases and offer an amendment that delineates specifically some of these persons that may be innocent third parties, that I want to delineate clearly that they would not be subject to prosecution because of their innocence. Because we will continue to work on this legislation.

I yield back Mr. Chairman.

Mr. CHABOT. Thank you, I thank the gentlelady for yielding back.

If there is no further business to come before the Committee we would like to thank the panel for their testimony here. And any Members that might not have had the opportunity to hear it in person will have the opportunity to read the testimony. So thank you for your testimony this afternoon. If there are no further questions this Committee is adjourned.

[Whereupon, at 12:15 p.m., the Subcommittee was adjourned.]

## APPENDIX

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF TEXAS

First of all, any time we lose young people it is a tragedy and that is why this bill is so particularly important to Texans and many others in this country. I point out that I have a history of being tough on the use of Ecstasy (or GHB). I have sponsored legislation to crack down on the use of the date rape drug. However, I do have concerns about the bill before the Subcommittee today.

GHB, has been used in innumerable rapes around the country and has been implicated in at least 40 deaths. This drug is very popular on the party scene in many cities and it is widely abused. In my home city of Houston, GHB has become the rage at some Houston area clubs where it is clandestinely being dispensed by party goers in clear liquid form from designer water bottles. This drug which goes by the names of "easy lay," "grievous bodily harm," "gook," "Gamma 10," and "liquid X" cannot be detected with a routine drug screen. That is why the deaths of so many of the victims have remained a mystery.

I was prompted to act to control the illicit use of GHB 3 years ago because of the death of Hillory J. Farias of La Porte, Texas, on August 5, 1996, who was killed by this drug. As most of you know I was the sponsor of the Hillary J. Farias Date Rape Prevention Act which passed this House.

Hillory J. Farias was a 17-year-old high school student, model student and varsity volleyball player, who died as a result of GHB slipped in her soft drink. It was at this time that her family refused to believe that she died of a self-induced drug overdose, and in their persistence they had the new Harris County medical center, Dr. Joy Carter, to again retest or reexamine and determine the death or the reason of the death of Hillory J. Farias.

Her family now, Lydia Farias, her grandmother; and Ray Farias, her grandfather; Rubin Farias, her uncle; Rosey Farias, her mother; and Hernando Farias, her uncle have gathered throughout these 3 years to persist in finding some truth to what happened to Hillory but also to help pass this legislation so that it could not happen to others again.

Hillory and two of her girlfriends went out to a club where they consumed only soft drinks. At some point during the evening, GHB was slipped into Hillory's drink and soon afterwards Hillory complained of feeling sick with a severe headache. She went home to bed, but the next morning Hillory was found by her grandmother unconscious and unresponsive. Hillory was rushed to the hospital where she later died. The cause of Hillory's death remained a mystery until it was finally detected by medical examiners, in this instance Dr. Joy Carter, as I indicated, after receiving a report from the Harris County Organized Crime and Narcotics Task Force about a new date-rape drug that was starting to show up in area nightclubs.

The Houston Poison Control reports consistently indicate that a significant number of young people overdose on the drug and been treated in emergency rooms in the past 6 months. In fact, Mike Ellis, director of poison control, stated in 1996, that the majority of cases that this agency has been seeing over the past few years have resulted from people rushed to the hospitals because they could not breath or they passed out in their cars and nobody could rouse them.

A young man from the Chicago area overdosed and almost died last September of 1999. His family called our office pleading for help. There was also a recent incident in Michigan where four teenagers died. One Houston, Texas, resident by the name of Craig told the media officials that the use of the drug is rampant.

These tragedies underscore the importance of this legislation. However, this legislation before us raises concerns. The RAVE Act is overly broad, targets innocent

business owners, and endangers the health of our youth by driving raves and other events underground.

The RAVE Act needs further study. The federal government already has the ability under existing law to prosecute music promoters, nightclub owners or their employees who sell or distribute drugs. Prosecutors are already using the existing “crack house statute” to target nightclub owners and rave promoters that fall into this category.

We all want to protect our children, but it is essential that we find solutions that really work to keep our children safe. Enacting legislation such as the RAVE Act without further assessment to balance the great need to protect our children against protections of property owners, such as some elderly person who may have innocently rented property that was used improperly seems premature.

Mr. Chairman, thank you for your time. I look forward to working with the Committee to solve the ongoing problem of drug use.

