

DRUG TRAFFICKING ON THE SOUTHWEST BORDER

HEARING
BEFORE THE
SUBCOMMITTEE ON CRIME
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS
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DRUG TRAFFICKING ON THE SOUTHWEST BORDER

Thursday, March 29, 2001,

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:11 a.m. in Room 2237, Rayburn House Office Building, Hon. Lamar Smith [chairman of the subcommittee] presiding.

OPENING STATEMENT OF CHAIRMAN SMITH

Mr. SMITH. The Subcommittee on Crime will come to order. I am going to have an opening statement, as will the ranking member, Mr. Scott, and then, we will look forward to hearing from our witnesses today.

Today, the Subcommittee on Crime holds its first hearing on a subject that will be a major focus of the Crime Subcommittee's work: the drug trade, especially drug trafficking along the Southwest border. Illegal drug use is still a terrible problem in this country, and according to a recent study by the Princeton Survey Research Association, it is a top concern of many Americans. Drug trafficking and the violence that accompanies the drug trade are responsible for much of the nation's crime.

An overwhelming amount of the drugs that destroy the lives of so many Americans begins its journey to the United States by crossing the U.S.-Mexico border. Over the last several years, we have seen a significant escalation in the amount of narcotics seized along the Southwest border of the United States. Despite the efforts of Federal, State and local law enforcement agents who diligently perform their duties in a dangerous environment, drug traffickers are sending greater quantities and larger loads of drugs into the U.S.

During the late 1980's and early 1990's, drug trafficking routes in South Florida and the Caribbean were substantially restricted by successful law enforcement efforts. Unfortunately, one of the side effects of that success was to make the U.S.-Mexico border more attractive for smuggling marijuana, cocaine, heroin and methamphetamine. The Drug Enforcement Administration's statistics show that almost two-thirds of all drug seizures occur along the Southwest border.

Drug trafficking affects not only those who live in the States along the border, but all Americans. The National Institute on Drug Abuse estimates that illegal drugs account for \$110 billion in

expenses and revenue each year in the United States. Furthermore, the Office of National Drug Control Policy estimates that 50,000 drug-related deaths occur annually.

The increase in trafficking along the U.S.-Mexico border not only has burdened law enforcement agencies protecting the border but also has had a significant impact on the Federal court system. Today, courts along the border handle an unprecedented number of cases, a number that could never have been predicted 5 years ago. Because of this, I am concerned that prosecutors may give less attention to cases of lower level drug smuggling that would certainly be prosecuted in any other judicial district outside the Southwest border. This undermines the deterrent factor and, of course, encourages repeat offenders.

Today, we will hear from four witnesses who know first hand the problems caused by the increase in drug smuggling along the Southwest border. They will testify about steps the Federal Government can take to reduce drug trafficking and ensure that law enforcement resources along the border are adequate.

That concludes my opening statement, and I will recognize the gentleman from Virginia for his.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman, and I am pleased to have the opportunity to learn through this hearing about the problem of drug trafficking on the Southwest border and what is being done about it and what more needs to be done. I am aware that in recent years, this area has become a major port of entry for importation of illegal drugs such as cocaine, marijuana, heroin, methamphetamine and others into this country. And while I believe there is much room for debate over what the most effective means may be, clearly, anyone in the area where illegal drugs are streaming across the border need to look at the program from a local impact first and then engage in larger debates about what can be done about drug trafficking.

In the local situation such as the Southwest border, we clearly have to apply effective law enforcement strategies to keep the problems associated with drug trafficking from getting worse in the immediate area. In the general context of illegal drug distribution and use, we need to do what is most effective, and because of that, we must be cognizant of other strategies of dealing with drug abuse.

We know one strategy is prevention and drug rehabilitation. We have results in a number of well-documented studies showing how much more effective drug treatment is as compared to tougher or more law enforcement in reducing drug abuse. One study in California, for example, showed that drug rehabilitation is so effective that it reduced not only drug abuse but also health care costs, welfare and crime. Specifically, that study showed that the State saved \$7 for every dollar that it spent in drug treatment, because it was so effective in the other areas as well as drug abuse.

Yet, we spend billions of new dollars on law enforcement efforts without any increase in funds for doing those strategies which have been proven to be more effective. Putting an additional \$1.6 billion into the Colombian drug interdiction effort while ignoring the long list of those who are waiting to get drug treatment is a typical example of this approach.

While I think we ought to look at doing what we can do to alleviate the distress on communities directly impacted by the massive drug trafficking efforts such as we are experiencing on the Southwest border, we also have to look at other proven abuse prevention and rehabilitation programs if we are ever going to get control over the drug abuse problem. But today, Mr. Chairman, I look forward to the testimony from the witnesses.

Mr. SMITH. Thank you, Mr. Scott.

I also want to recognize two other members who have just joined us. They are the gentleman from North Carolina, Mr. Coble, and the gentleman from Arkansas, Mr. Hutchinson. And do you all have an opening statement? The gentleman from North Carolina?

Mr. COBLE. Thank you, Mr. Chairman. I have no prepared statement, Mr. Chairman, but I will commend you and the gentleman from Virginia for having staged this hearing. I said, Mr. Chairman, 15 years ago that it is the belief that the trafficking of illegal drugs and the abuse of illegal drugs has the potential to bring our country to its knees. That was 15 years ago. I hope we have a better handle on it now. I think we do. But it is by no means resolved, and I think hearings such as this serve to illuminate the problems—we have a panel of experts in this field, and I look forward to hearing their testimony.

I have two other hearings simultaneously conducted, so if you and Mr. Scott will cut me some slack, I may have to leave here before the end of this one. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Coble.

Mr. Hutchinson?

Mr. HUTCHINSON. Thank you, Mr. Chairman. I just want to thank you for holding this hearing and to remark that in looking at the major corridors in the United States, obviously, the Southwest border region is critical to our efforts to slow the flow of drugs coming into our country. I just recently returned from Colombia, Venezuela and Ecuador looking at the impact of our Plan Colombia. Obviously, it is a difficult and daunting task that we all face. I think it is a good implementation, important to securing democracy in that region. Whenever you look at the flow of drugs coming in, if we can slow it down at that point, at the source where it is being grown, I think we will hear today the difficulties of the Southwest border—we have a porous country as far as points of entry. And so, we have got to have a multifaceted approach to this. And what we are doing in Colombia makes a difference; what we are doing on the Southwest border is important.

I do hope that we will hear some success stories today. You know, the American public, particularly after the movie *Traffic*, has a cynical attitude about what we are doing, and we do this year after year after year, and I believe there are success stories to tell, and I just want to encourage in advance that we need to let the public know not only the needs that are out there but the good that is being done. And so, I hope that you all will keep that in mind as you present your testimony. I look forward to it.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Hutchinson.

We have also been joined by the gentlewoman from Texas, Ms. Jackson Lee, and do you have opening remarks?

Ms. JACKSON LEE. I thank you, Mr. Chairman. I would ask that the entire statement be submitted into the record and ask unanimous consent to do that.

Mr. SMITH. Without objection, so ordered.

Ms. JACKSON LEE. Thank you very much. I would simply like to acknowledge an appreciation for the presence of these gentlemen in this hearing. I would, however, note that I am not sure if art follows reality or reality art. I am not sure if Traffic has gotten the attention of the American public. We have been studying this issue, particularly those of us who live in Texas, those of us on the Judiciary Committee, for a very long time, and I would offer to say, though I will remain open, I certainly think that it is important to have a comprehensive discussion on the border concerns dealing with illegal drug problems.

I do think that we must, for the sake of openness and inclusiveness, note that treatment is equally a prominent role or has an equally prominent role to play. As I said, I am not sure if art follows reality or vice versa, but it is well-known that all of the enforcement that you may have is not the only solution to our problem.

In addition, I would note that I am very interested in whether the increase of funds also comports with the increase of court capacity in terms of getting these cases tried. Are we getting the tip of the iceberg, or are we actually going to the source? I need to be convinced of that. And then, as I indicated, Mr. Chairman, I hope that even though we are the crime subcommittee that we will realize that this problem has to be a major, comprehensive national effort, because we are repeatedly reviewing and having hearings on the drug war, and the question is have we even begun?

So I look forward to hearing from the witness who is here this morning, and Mr. Chairman, I would also say that it might be worth our while to actually have a field hearing looking at some of the particular operations that are being represented here today.

I conclude by simply thanking those who are engaged in this effort. My words are not without appreciating the jeopardy that you put yourselves in and that of the many others who have done such an able job, a committed job, for their country, and my inquiry today will be focusing on the reality of whether we are succeeding, and if we are not, what do we need to do to succeed, and how do we help people who are without hope and are addicted in a manner that seems to create this need and this supply source, the supply source and the need for it?

So I thank the gentleman, and I yield back the balance of my time.

[The prepared statement of Ms. Jackson Lee follows:]

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

Thank you Chairman Smith and Ranking Member Scott for convening this critical hearing before the Subcommittee on Crime regarding drug trafficking on the southern border. While we are focusing so much on courts and enforcement, with such a caseload, I hope we also hear some discussion about the broader solutions that concern drug trafficking.

According to the Drug Enforcement Administration (DEA), the ever-increasing legitimate cross-border traffic and commerce between the U.S. and Mexico border has grown. Several international organized crime groups have established elaborate

smuggling infrastructures on both sides of the border, which has made the Southwest border the smuggling corridor of preference for flow of marijuana, cocaine, heroin, and methamphetamine. Recent evidence indicates, apparently, that drug trafficking organizations have grown even more powerful. This hearing will examine not only the increased drug trafficking, but also the effects that the increase has on the safety of the surrounding communities and the burden placed on the judicial districts along the border.

There is little question that organized crime syndicates in Mexico have grown significantly more powerful and wealthy over the past six years. Organized drug crime has become particularly harmful along the U.S.—Mexico border and many U.S. cities, including the major metropolitan cities.

The concentration of law enforcement counter-drug activities as part of the HIDTA and SBI programs has produced record important numbers of federal prosecutions in the last several years. Consequently, the five federal district court whose combined jurisdictions include the entire southwest border now handle 27% of all federal court criminal filings in the United States. The other 73% of federal criminal filings are spread among 89 other judicial districts. Since 1994, drug cases filed in the border courts have more than doubled from 2,864 to 6,116 in 2000, and all criminal cases filed has increased by 161%. During this same time period, unfortunately, there has only been a 12% increase in the number of federal district judgeships in areas encompassing the border courts. Accordingly, more funds are surely needed to given to the courts.

If we put this much emphasis on law enforcement along the border, Mr. Chairman, when will provide real solutions for the communities? Providing additional funds for growing caseloads is only part of the story.

As it appears to be more of a “field hearing” in a Washington type hearing as opposed to a hearing to address the drug problem in general, we have not sought to expand the scope of the hearing and discussion to a comprehensive border approach of addressing the illegal drug problem in this country. Such an approach would include a witness to discuss demand side strategies such as drug treatment and other alternatives to incarceration, and the development of social support systems for moving addicted persons to more healthy lives. These kinds of issues cannot be simply dismissed when talking about the rampant drug trade problem in this country in terms of enforcement.

If you increase funds for enforcement, you must increase capacity of courts to do the work. As the Representative from the 18th Congressional District of Texas, I am concerned with the range of issues that relate to drug trafficking but the demand side cannot be simply excluded. Surely, we must all wonder what the effect of drug trafficking organizations in general have within our communities.

Mr. SMITH. Thank you, Ms. Jackson Lee.

Once again, we welcome our panel of not just witnesses today but experts in their own right and first hand observers of the problem that we are here to discuss. Let me introduce our panelists. Donnie R. Marshall is the administrator of the Drug Enforcement Administration. Mr. Marshall began his career in law enforcement in 1969 as a special agent with the Bureau of Narcotics and Dangerous Drugs, a predecessor agency of the DEA. He is a member of the executive committee of the International Association of Chiefs of Police, serving as chairman of their Narcotics and Dangerous Drugs Committee. Mr. Marshall received his bachelor of science degree from Stephen F. Austin State University.

John C. Varrone is the assistant commissioner for the Office of Investigations of the United States Customs Service. Mr. Varrone began his law enforcement career in 1977 as a Customs patrol officer, and he has served as the Customs representative to the Office of National Drug Control Policy, special agent in charge of Customs’ New York office and executive director of domestic operations for the East Coast. Mr. Varrone received a bachelor of science degree and a master’s in public administration from the John Jay College of Criminal Justice.

Mike Scott is the chief of the Criminal Law Enforcement Division of the Texas Department of Public Safety, a position that he has

held since 1996. Chief Scott began his law enforcement service as a Highway Patrol officer in 1974. He has risen through the ranks and has served as a narcotics investigator and commander of their Narcotics Service. He is chairman of the executive board of the Houston High-Intensity Drug Trafficking Area and former president of the National Alliance of State Drug Enforcement Agencies. He received his bachelors degree in law enforcement and police sciences from Sam Houston State University.

Lastly, the Honorable Royal Furgeson is the United States District Judge for the Western District of Texas, a position he has held since 1994. Prior to his appointment, Judge Furgeson practiced law in El Paso, Texas for 25 years. Judge Furgeson is a decorated Vietnam War veteran; a past president of the El Paso Bar Association and currently serves on several boards and foundations. He graduated from Texas Tech University and the University of Texas law school.

I don't know if it was intentional, but I notice that three of you all have connections to Texas universities, and that gives you added credibility. [Laughter.]

Mr. SMITH. Let us begin, if we may, Mr. Marshall, with your testimony.

**STATEMENT OF DONNIE R. MARSHALL, ADMINISTRATOR,
DRUG ENFORCEMENT ADMINISTRATION**

Mr. MARSHALL. Good morning, Chairman Smith, Ranking Member Scott and all the subcommittee members. I appreciate the invitation to be here this morning, and on behalf of all of the very dedicated and professional men and women of DEA, I want to thank the entire subcommittee for your outstanding support for drug law enforcement and for law enforcement in general over the years, and thanks to each of you for your comments and your presence here to look at this pressing issue in our society today.

I have submitted a written statement for the record, and I would like to briefly summarize that if I could. The hearing on Southwest border drug trafficking is certainly a very timely hearing, because it is safe to say that the majority of drugs entering this country right now come across that Southwest border. I believe, Mr. Chairman, you said almost two-thirds. I believe our statistics show 62 or 63 percent coming across that Southwest border.

Also, Mexico-based drug traffickers are one of the major if not the major force in illegal drug trafficking market in the entire United States today. These organizations are very wealthy. They are very violent. They are corrupting public and private institutions. They are involved in the distribution of all four of the major drugs: heroin, cocaine, methamphetamine and marijuana, and further, they operate in markets in virtually all parts of the United States.

Now, the Mexico-based drug traffickers were in business when I began my law enforcement career in Texas about 30 years ago, but they became a predominant force in the market within the last decade primarily as a result of law enforcement successes in the Southeastern United States and against the Colombian cartels. Now, these Mexico-based organizations now do the dirty work for

the Colombian organizations throughout the country in more and more U.S. markets.

Over the last 5 years, we at DEA have increased our special agent staffing in Southwest border divisions by about 25 percent, and we have almost doubled our funding to the Southwest border areas. We have also increased staffing in other parts of the country which are affected by the Mexico drug trafficking organizations, because we believe that in attacking these Mexico-based organizations, we have to act against them both at the border and by building cases backward from places in drug markets like Chicago or New York, New Jersey, Des Moines, Iowa, even Rocky Mount, North Carolina and other places throughout the U.S.

We have increased our staffing in our Special Operations Division, which plays a major role in coordinating national investigations, and many of those focus against the Mexico-based organizations. We have increased our intelligence support to the high-intensity drug trafficking area intelligence centers. Those are another key to cooperative interagency investigations, and we have done 16 deployments of our mobile enforcement teams to Southwest border areas.

Now, U.S. law enforcement over the last several years has really had a lot of successes against cells of these Mexico-based organizations which operate here in the United States. Working together, DEA and Customs and State and local agencies like the Texas DPS and others have taken out these U.S. cells of Mexico-based organizations time and time and time again, and I believe that law enforcement has made a difference. The drug situation, I am convinced, would be far worse in this country without the cooperative law enforcement efforts along the Southwest border and indeed throughout the country.

What we haven't been able to do with equal success, though, is to apprehend the command and control figures of these drug trafficking organizations, the people that control the drug trade from Mexico. And since we are never going to be able to completely shut off the flow across the border, I believe that the key to success here lies in destroying the trafficking organizations by arresting, extraditing and sending to U.S. prisons those leaders or the kingpins who operate so freely just out of our reach on the other side of the border.

And in most cases, we know who those leaders are. We know how their organizations operate. And in many of the cases, we even have those kingpins indicted in the United States. Now, I have believed for quite some time now that extradition of these Mexico drug kingpins is a prerequisite to real success against this Southwest border and Mexico-based drug trafficking organization problem. That action would remove those people from their own arena, their own sphere of influence, where they continue to bribe and intimidate and corrupt and even continue to run their drug organizations, sometimes actually from prison cells there.

Extradition worked in Colombia against the Medellin Cartel. It worked in Thailand against the heroin kingpins, and it is an essential tool that we need in order to successfully address the problem with the Mexico organizations. Now, the new administration in Mexico, President Fox, has said personally that corruption and

drugs are his top two priorities. He and others have spoken favorably about extradition, and we look forward to working with that new administration in Mexico.

But in the meantime, we have to continue to attack these drug organizations, the cells, that are operating here in the United States, and as I said, we have done that very successfully time after time. We are making a difference. We will continue to make a difference. And I thank you again for the opportunity to be here. I thank you for your interest, and I will be happy to take questions at the appropriate time.

[The prepared statement of Mr. Marshall follows:]

PREPARED STATEMENT OF DONNIE R. MARSHALL, ADMINISTRATOR, DRUG
ENFORCEMENT ADMINISTRATION

Good Morning Chairman Smith, Ranking Member Scott, and other distinguished members of the Subcommittee. I am pleased to have this opportunity to appear before you today for the purpose of discussing our continuing efforts to address issues and concerns associated with Drug Trafficking on the Southwest Border. As always, I would first like to preface my remarks by thanking the Subcommittee for its unwavering support of the men and women of the Drug Enforcement Administration (DEA) and overall support of drug law enforcement.

The border that joins the United States to Mexico is currently an extremely porous part of the nation's periphery. In Fiscal Year (FY) 2000, 293 million people, 89 million cars, 4.5 million trucks, and 572,583 rail cars entered the United States from Mexico. Unfortunately, the growing volume of commercial and pedestrian traffic that plays an integral role in our nation's economy creates an infinite number of opportunities for drug trafficking organizations to introduce their illegal goods into the commerce of the United States. Illegal drugs are hidden in all modes of conveyances, including the compartments of cars and trucks, and the bodies and baggage of pedestrians. Some organizations may employ couriers who cross the desert in armed pack trains, or who act as human "mules" by strapping the drugs onto their bodies. The means by which illegal drugs enter the United States range from extremely sophisticated concealment methods to simply tossing the drug laden package over border fences to be whisked away on foot or by vehicle. Drug trafficking organizations also utilize boats and ships to position their stash of drugs close to the border for eventual transfer to the United States.

Illicit drugs are smuggled in record levels into the United States via the 2,000-mile U.S./Mexico border. Over the past few years, Mexican based trafficking organizations have succeeded in establishing themselves as the preeminent poly-drug traffickers of the world, using our shared border to smuggle illicit drugs into the United States. These organizations present an increasing threat to the national security of this country, with voluminous amount of drugs, violent crime, and the associated corruption of public officials in Mexico. Mexico is the largest transshipment point of South American cocaine destined for the United States, and 65% of this cocaine reaches American cities via the U.S./Mexico border. Mexico also remains a major source country for heroin and marijuana, and many of these Mexican based trafficking organizations are utilized by Colombian Cartels to transship drugs destined for the United States.

ASSESSING THE THREAT: THE ROLE OF THE U.S./MEXICO BORDER IN THE DRUG TRADE

The drug threat presented by the U.S./Mexico Border is fairly consistent with the national drug threat, and to a certain extent, defines the overall drug threat against our nation. Clearly, the most distinguishable threat is the transformation and emergence of Mexican based trafficking organizations, whose activities now reach the highest echelons of the cocaine trade. Previously limited to marijuana and Mexican heroin smuggling, Mexican based groups have expanded and profited by maintaining a mutually beneficial relationship with Colombian based traffickers.

The U.S./Mexico Border continues to be the preferred corridor to smuggle cocaine, black tar heroin, methamphetamine, and marijuana into the United States. Overland smuggling constitutes a primary threat by secreting among the millions of pedestrians, cars, and trucks that the U.S. Customs Service (USCS) estimates cross the 39 legitimate crossing points from Mexico. There are 24 ports of entry (POEs) at the border as well as 15 additional crossing points. Some of these POEs include multiple crossing points. Preliminary El Paso Intelligence Center (EPIC) statistics

indicate that smuggling levels remained high: in CY-2000, authorities seized 17,660 kilograms of cocaine, 619 kilograms of heroin, 1,645 kilograms of methamphetamine, and 998,180 kilograms of marijuana along the U.S./Mexico Border.

These recent trends illustrate the vulnerability of the U.S./Mexico Border to Colombian and Mexican based trafficking organizations intent on introducing drugs into the United States market:

- Cocaine is primarily transported from South America by vessel to the West Coast of Mexico and, to a lesser extent, the Yucatan peninsula, which is situated in the southeast portion of Mexico adjacent to the Gulf of Mexico. The use of vessels to transport bulk shipments of cocaine represents a departure from the use of such modes of transportation as private aircraft and trucks utilized by drug transporters over the past two decades. From Mexico, bulk shipments of cocaine are then trucked to the United States, oftentimes sequestered in produce and other perishable shipments.
- Mexican black tar heroin is being smuggled into the United States in larger quantities than in the past; multi-kilogram seizures of heroin are becoming increasingly commonplace.
- South American heroin is transported by courier on commercial airlines or by private aircraft from South America to Mexico, and then by commercial airline or by private or commercial vehicle to the United States.
- The DEA Tijuana Resident Office (TJRO) reported that 13 methamphetamine labs had been seized in Baja, California in Fiscal Year 2001 as compared with three (3) seizures in Fiscal Year 2000.
- MDMA is being smuggled into Mexico for ultimate transshipment to the United States.
- On February 26, 2001, U.S. Customs and DEA investigated the discovery of a 25-foot tunnel that took advantage of drainage lines that connect the U.S. and Mexico. A total of 375 kilograms of cocaine were recovered as a result of this effort.

COCAINE TRAFFICKING ACROSS THE U.S./MEXICO BORDER

Through the 1980s, most of the cocaine that entered the United States did so through the Caribbean and South Florida. Increased enforcement and interdiction efforts, however, forced traffickers to shift the majority of their smuggling operations to Mexico, a move that led DEA and other Federal agencies to mobilize along the U.S./Mexico Border. According to a recent interagency intelligence assessment, approximately 65 percent of the cocaine smuggled into the United States in 2000 crossed the U.S./Mexico Border.

Colombian based organizations rely on Mexican based groups in locations such as Guadalajara, Juarez, Matamoros, Sinaloa, and Tijuana to convey their cocaine into the United States. Mexican trafficking organizations have established themselves as transportation specialists for smuggling drugs across the U.S./Mexico Border. Frequently, these trafficking organizations are comprised of poly drug smugglers who transport marijuana, methamphetamine, and heroin in addition to cocaine.

Over the past decade, Colombian based drug lords and Mexican based trafficking organizations have entered into a symbiotic relationship that has resulted in the Mexican based traffickers playing an increasing role in the cocaine trade. Under this arrangement, Mexican based traffickers often receive shipments of cocaine directly from Colombian based organizations, and contract with the source to deliver a portion of the shipment to a contact of the Colombian based network operating in the United States. The Mexican based traffickers are allowed to keep the balance of the cocaine shipment as payment for their services, transporting the shipment to Mexican-controlled wholesale distribution networks that principally operate in the Western United States.

By the mid-1990s, Mexican based transportation groups were receiving up to half of each cocaine shipment they smuggled into the United States on behalf of the Colombian based traffickers. By relinquishing a portion of the cocaine destined for the U.S. market to Mexican based drug organizations, as opposed to attempting to unilaterally control every aspect of importation and distribution, Colombian based drug lords radically changed the role and sphere of influence of Mexican based trafficking organizations in the cocaine trade. In doing so, the Colombian based traffickers have minimized their risk of exposure to U.S. law enforcement authorities, and provided Mexican based traffickers with a valuable source of revenue and domestic customers.

As a consequence of this development, traffickers operating from Mexico now control a substantial proportion of wholesale cocaine distribution throughout the Western and Midwestern United States. Distribution of multi-ton quantities of cocaine once dominated by the Colombia-based drug traffickers is now controlled by trafficking groups from Mexico in cities such as Chicago, Dallas, Denver, Houston, Los Angeles, Phoenix, San Diego, San Francisco, and Seattle. In addition to cocaine transportation, some drug trafficking groups operating from Mexico appear to offer a range of services, including wholesale cocaine distribution and money laundering for Colombian clients, and direct delivery to wholesale-level customers on behalf of the major Colombian based cocaine groups.

Routes and General Methods

Over the past two decades, cocaine was primarily moved by air and land into Mexico from Colombia. During the late 1980s and early 1990s, traffickers used large commercial aircraft, such as 727's and 737's, to move cocaine from South America to Mexico. Currently, maritime vessels are the most frequent method used to transport bulk shipments of cocaine to Mexico for ultimate distribution in the United States. Colombian based traffickers utilize fishing vessels to move cocaine usually to the West Coast of Mexico, and, to a lesser extent, the Yucatan peninsula. The cocaine is then off-loaded to "go-fast" watercraft for final delivery to shore. Once secured on land, the drug shipments are consolidated for overland movement to the U.S./Mexico Border.

Traffickers continue to use trucking routes through Central America and Mexico to the U.S./Mexico Border. Cocaine shipments transported through Mexico or Central America are generally moved overland to staging sites in or near northern Mexico, although intelligence suggests that small aircraft may play a role in moving some cocaine to the border area. At these staging sites, the cocaine is broken down into smaller loads for smuggling across the U.S./Mexico border.

Three of the four primary cocaine importation points within the United States are located along the U.S./Mexico Border in Arizona, Southern California, and Texas. Cross-border cocaine shipments generally are smuggled across the U.S./Mexico border in concealed compartments within cars, trucks, and recreation vehicles, or commingled with legitimate tractor-trailer cargo. Typically, the land vehicles are driven across the U.S./Mexico Border, and then either left in parking lots for subsequent pick-up, or driven directly to storage sites in the United States. Using this method, traffickers are able to shroud their illegal activities in the tremendous numbers of people and vehicles crossing the U.S./Mexico Border. These cocaine shipments typically consist of 20 to 50 kilogram loads secreted in concealed compartments that are primarily located under floorboards and/or in gas tanks of passenger cars, pickup trucks, and vans. Larger quantities, however, have also been seized. For example, in October, 2001, 109 kilograms of cocaine were seized at a U.S. Immigration and Naturalization Service (INS) checkpoint in Falfurrias, Texas. The cocaine was found inside boxes onboard a tractor-trailer, commingled with a shipment of tee shirts.

Cocaine also is carried across the U.S.-Mexico border by couriers known as *mules*, who cross into the United States either legally through U.S./Mexico Border ports of entry, or illegally through undesignated points along the border. The couriers typically carry small, kilogram quantities of cocaine, thus minimizing the losses incurred by the courier's controller in the event of robbery, theft, or law enforcement intervention.

HEROIN TRAFFICKING ACROSS THE U.S./MEXICO BORDER

The U.S./Mexico Border is a significant transit point to the U.S. heroin market, not only for the Mexican black tar and brown heroin that dominate the markets west of the Mississippi River, but increasingly for South American heroin destined for the primary markets in the Northeast. Moreover, Nigerian and Southeast Asia based traffickers have been known to move opiate/heroin products across the U.S./Mexico Border.

Mexican Heroin

Mexican Black tar and brown heroin has been a threat to the United States for decades. It is produced, smuggled, and distributed by poly-drug trafficking groups, many of which have been in operation for more than 20 years. Mexican based heroin distributors operating within the United States have historically been Mexican nationals with familial and/or geographical ties to the States of Durango, Michoacan, Nuevo Leon, and Sinloa.

Mexican heroin primarily is smuggled overland and across the U.S./Mexico Border. Traffickers take advantage of easy border access and store bulk quantities of heroin in Mexico, where the perceived risk of discovery and seizure is low. When

a transaction is arranged, the contracted amount, usually 1 to 2 kilograms, is smuggled into the United States, frequently by illegal aliens and migrant workers. By keeping quantities small, traffickers hope to minimize the risk of losing a significant quantity of heroin in a single seizure. Even large poly-drug Mexican organizations, which smuggle multi-ton quantities of cocaine and marijuana, generally limit smuggling of Mexican heroin into the United States to kilogram and smaller amounts. Nevertheless, trafficking organizations employing this "piecemeal" strategy are capable of regularly smuggling significant quantities of heroin into the United States.

Recent intelligence indicates that some heroin traffickers are smuggling 5 to 30 kilograms of Mexican heroin in tar and powder form from the interior of Mexico, representing a departure from the previous practice of Mexican based traffickers, who smuggled heroin into the United States in 1–2 kilogram amounts.

As recently as January 2, 2001, 92 pounds of black tar heroin was seized by the U.S. Customs Service in Del Rio, Texas. In December, 2000, the U.S. Customs Service seized 59 pounds of black tar heroin at the Laredo port-of-entry. The U.S. Customs Service also reported several large seizures of black tar heroin at Arizona ports-of-entry. On October 3, 2000, for example, U.S. Customs Service Inspectors seized 101 pounds at the San Luis port-of-entry. This seizure ranks as one of the largest ever made along the U.S./Mexico Border.

Once heroin is smuggled into the United States, transportation is arranged to metropolitan areas in the western and southwestern states with sizeable Hispanic populations. Mexican heroin has also been transported to primary markets in Chicago, Denver, and St. Louis. Periodically, Mexican traffickers have attempted to find markets for black tar heroin in East Coast cities such as Boston and Atlanta. However, this effort at market expansion has, for the most part, met with failure. Although recent DEA cases have involved Mexican black tar heroin trafficking groups operating east of the Mississippi River, there has been no successful, long-term penetration of the East Coast heroin market by organizations selling Mexican-produced heroin.

South American Heroin

The availability of South American heroin, produced almost exclusively in Colombia, has increased dramatically in the Eastern United States since 1993. Despite having relatively limited production capacity and relying on unsophisticated smuggling techniques, traffickers of South American heroin have had a substantial impact on the U.S. market. The traffic of South American heroin has been characterized by the production of modest quantities of the drug in small laboratories in Colombia, the smuggling of heroin in quantities of 500 grams to 1 kilogram by numerous couriers aboard commercial airlines, and distribution of the drug through traditional retail outlets in northeastern cities, primarily New York City, Newark, Boston, and Philadelphia.

In response to increased drug law enforcement presence at eastern ports of entry, some South American based heroin traffickers have sought out alternative routes. Recent seizures in 2000 and 2001 reflect an increasing use of Mexico to smuggle South American heroin into the United States. In February 2001, for example, two separate seizures of South American heroin, totaling 4.9 kilograms, were made at the airport in Tijuana, Mexico.

METHAMPHETAMINE TRAFFICKING ACROSS THE U.S./MEXICO BORDER

Over the last decade, the methamphetamine trafficking and abuse situation in the United States changed dramatically. In the mid-1990s, methamphetamine trafficking and abuse increased in the United States, primarily in the West and Midwest. In 1997, this trend started to spread, to a lesser extent, to the Southeast. The entry of Mexico-based trafficking organizations into the methamphetamine trade contributed to this resurgence.

Historically, outlaw motorcycle gangs and many independent dealers dominated methamphetamine manufacturing and trafficking. Although independent trafficking groups continue to produce methamphetamine, in 1994, Mexican national drug trafficking organizations operating in California and Mexico began to take control of the production and distribution of methamphetamine in the United States. From their experience in the trafficking of cocaine, heroin, and marijuana, the Mexican organizations already had well established transportation routes.

The entree of Mexican traffickers into the methamphetamine production and distribution trade in the early 1990s resulted in a significant increase in high-purity supplies of the drug.

In 1994, Mexican national drug trafficking organizations operating out of Mexico and California began to take control of the production and distribution of the methamphetamine in the United States. What was once controlled by independent, re-

gionalized outlaw motorcycle gangs was taken over by major Mexican organizations and independent operators based in Mexico and California. Mexican national trafficking organizations now dominate wholesale methamphetamine trafficking, using large-scale laboratories based in Mexico and the western and southwestern United States. Outlaw motorcycle gangs are still active in methamphetamine production, but do not produce the large quantities that are distributed by Mexican groups.

In the early to mid-1990s, Mexican organizations had ready access to precursor chemicals on the international market. These chemicals had fewer controls in Mexico and overseas than in the United States. The Mexican national organizations further developed existing international connections with chemical suppliers in Europe, Asia, and the Far East, and were able to obtain ton quantities of the necessary precursor chemicals, specifically bulk ephedrine and pseudoephedrine.

From their experience in the trafficking of cocaine, heroin and marijuana, the Mexican organizations already had well-established transportation routes. Initially offering inexpensive, high-purity methamphetamine, the Mexican organizations ultimately gained a foothold in the existing United States market and expanded their operations. Since they produced their own drug, they maintained greater control of the methamphetamine market and reaped greater profits than with the distribution of other drugs. It should be noted that high-purity methamphetamine produced by the Mexican groups, in combination with the marketing strategy of providing free samples, created new population of addicts.

Until 1999, the methamphetamine problem was increasing at an alarming rate. International chemical control efforts, particularly the international "letter of non-objection" program enacted in 1995, reduced the supply of those chemicals needed to produce high-quality methamphetamine. As a result, the national purity level for methamphetamine, as well as amphetamine, has gone down dramatically. The average purity of methamphetamine exhibits seized by DEA dropped from 71.9 percent in 1994 to 30.7 percent in 1999, rising slightly to 34.6 percent in 2000. Emergency room mentions and overdose deaths involving methamphetamine show an analogous decrease.

With the success of the international efforts to control the flow of bulk ephedrine and pseudoephedrine, such as bi-lateral meetings and the letter of non-objection program, Mexican traffickers turned to tableted forms of the precursors in the U.S. In 1997 and 1998, the vast majority of methamphetamine laboratories operated by Mexican organizations that were seized in California obtained their precursor chemicals from sources in the United States. The Mexican organizations obtained their precursors from chemical wholesalers, rogue chemical companies, and back door/blackmarket sales of large quantities of ephedrine/pseudoephedrine tablets from unscrupulous retail and convenience store operators.

MARIJUANA TRAFFICKING ACROSS THE U.S./MEXICO BORDER

Drug trafficking organizations operating from Mexico have smuggled marijuana into the United States for over 20 years and are responsible for supplying most of the foreign marijuana available in the United States. Virtually all the marijuana smuggled into the United States, whether grown in Mexico or shipped through Mexico from lesser sources such as Central America, is smuggled across the U.S./Mexico Border.

Drug trafficking organizations employ a wide range of methods to transport the marijuana. The most common method is to smuggle marijuana in bulk quantities by truck and smaller quantities in vehicle tires, fuel tanks, seats, or false compartments. Traffickers use various vehicles to cross POEs: commercial vehicles, private automobiles, pickup trucks, vans, mobile homes, and horse trailers. Marijuana also is hidden inside agricultural products, and is smuggled across the border by horse, raft, and backpack. There are also sporadic reports of marijuana being smuggled via private aircraft; however, field offices do not consider border crossings by air to be a significant threat. They do report that private aircraft are used to smuggle marijuana up to the border on the Mexico side where large quantities of marijuana are stockpiled. The primary routes for marijuana, however, remain the overland routes.

MDMA TRAFFICKING ACROSS THE U.S./MEXICO BORDER

In the future, Mexico may increasingly be used as a transit zone for MDMA entering the United States. In the year 2000, several seizures of MDMA en route or in Mexico were reported. For example, in September, 2000, Dutch authorities seized a 1.25 million-tablet shipment of MDMA destined for Mexico. On November 20, 2000, approximately 64,000 Ecstasy pills were seized at the Mexico City Airport.

CONFRONTING THE THREAT: A BALANCED RESPONSE

Given the expanse of the U.S./Mexico Border, it is clear that no single agency can “control” the border or completely filter illegal drugs from the massive quantities of legitimate commercial cargo that flow across our borders each day. Accordingly, DEA continues to implement a balanced approach to confronting the drug threat posed by the criminal organizations exploiting our U.S./Mexico Border. The elements of this approach range from capitalizing on the latest advances in telecommunications technology, to our adhering to basic, time-honored principles of interagency cooperation.

As evidenced by the following program descriptions, DEA is continuously working to generate innovative enforcement initiatives that will serve to immobilize the most sophisticated international drug trafficking organizations operating today.

DEA’s strategic approach to targeting major drug trafficking organizations is to initiate and pursue high impact, intelligence-driven, multi-agency, multi-jurisdiction/multi-nation investigations that employ a combination of intelligence, investigative technology support, and the coordinated efforts of DEA and its federal, state, local and foreign law enforcement counterparts. By strategically and comprehensively targeting international command and control centers of drug syndicates based overseas in conjunction with their domestic entry and transshipment routes and local distribution points, DEA has been able to dismantle drug organizations in virtually all arenas. This approach requires DEA’s foreign and domestic enforcement, intelligence, and technology elements to work collectively to transform isolated investigations into large-scale, multi-agency, multi-jurisdiction/multi-nation investigations.

In 1991, DEA established the Special Operations Division (SOD), a program that utilizes sophisticated technology to coordinate the investigative and intelligence resources of the DEA, the Federal Bureau of Investigation (FBI), the U.S. Customs Service (USCS), and the Internal Revenue Service (IRS) to target the command, control, and communications of major drug trafficking organizations. These investigations are also coordinated with attorneys from the Department of Justice’s Narcotics and Dangerous Drugs section. SOD performs the following mission-critical functions:

- Provides significant up-to-date, real-time intelligence to field investigators;
- Coordinates and supports complex investigations and prosecutions of multi-agency, multi-jurisdiction, and international targets;
- Focuses sophisticated Title III technology and assets against specific targets;
- Manages and oversees DEA’s contract linguist program and prioritizes use of limited Title III resources; and
- Links and transforms isolated, local investigations conducted by single agencies into multi-agency, coordinated enforcement operations against multiple targets operating at regional, national, and international levels.

As the lead agency, DEA performs mission oversight responsibilities and provides the primary administrative services necessary to support the program’s overall operations. DEA works closely with its partner agencies to set priorities and ensure a continued high degree of coordination and information sharing on supported investigations. SOD is currently staffed with a total of 228 personnel from DEA and other federal agencies. Of these personnel, 102 are DEA employees (48 Special Agents).

Southwest Border Initiative

One of DEA’s primary functions is to coordinate the many drug investigations taking place along America’s roughly 2,000-mile border with Mexico, an effort that involves literally thousands of federal, state and local law enforcement officers. As the threat from Mexican based poly-drug trafficking organizations continues to escalate, the workload steadily increases. Much of this increased workload is due to expansion by Mexican based traffickers into new geographic regions of the U.S., particularly the Midwest. Mexican based traffickers have become the world’s preeminent drug traffickers, and their organizations are generally complex in nature and characterized by a high propensity for violence.

To counter this threat, federal drug law enforcement has aggressively pursued drug trafficking along the U.S./Mexico border. Through a cooperative and coordinated enforcement effort, DEA, the FBI, U.S. Border Patrol, U.S. Attorney’s Office, U.S. Customs Service, and state and local law enforcement agencies have worked together to reduce the amount of illicit drugs entering the United States through the U.S./Mexico Border. The Southwest Border Initiative is intended to counter drug

activity by identifying, penetrating, disrupting, and dismantling the major Mexican and Colombian based drug trafficking organizations using the border to smuggle illegal drugs into the United States. The strategy is to attack major Mexican based trafficking organizations on both sides of the border simultaneously, employing enhanced intelligence and enforcement initiatives, and cooperative efforts with the Government of Mexico.

As indicated by the case examples below, the Southwest Border Initiative has built a record of success in targeting, immobilizing, and dismantling major drug trafficking organizations.

Operation Green Air (Marijuana) was a multi-jurisdictional investigation targeting a Mexican/Jamaican marijuana smuggling and distribution organization with ties to Traditional Organized Crime. The organization smuggled multi-thousand pound quantities of marijuana by trucks and other conveyances from Mexico through U.S. Ports of Entry in Southern California to warehouses in the greater Los Angeles area. Several corrupt warehouse employees shipped the marijuana via Federal Express to distribution cells on the East Coast. Operation Green Air culminated in April, 2000 with a nationwide takedown that resulted in the seizure of more than 15.25 tons of marijuana, \$4,546,384 in U.S. currency, and the arrest of 106 individuals.

Operation Impunity II (Cocaine) was a multi-jurisdictional investigation targeting a Mexican drug trafficking organization responsible for the transportation and distribution of multi-hundred kilogram shipments of cocaine from Mexico to cities throughout the United States. This investigation targeted remnants of the Carrillo-Fuentes Organization and the Gulf Cartel Organization. Operation Impunity II culminated in December 2000 with a nationwide takedown that produced the seizure of 5,266 kilograms of cocaine, 9,325 pounds of marijuana, \$9,663,265 in U.S. currency/assets, and the arrest of 141 individuals.

Operation Tar Pit (Heroin) was a multi-jurisdictional investigation targeting a Mexican heroin transportation and trafficking organization based in Tepic, Nayarit, Mexico. Primarily, this organization imported multi-kilogram quantities of black tar heroin from Mexico into the United States. The heroin was transported to the greater Los Angeles area and distributed to organization cell heads throughout the U.S., including San Diego, CA; Bakersfield, CA; Honolulu, HI; Portland, OR; Denver, CO; Cleveland, OH; Columbus, OH; Pittsburgh, PA; Phoenix, AZ; Yuma, AZ; Albuquerque, NM; and Charleston, WV. In June 2000, a multi-nation takedown was conducted against Operation Tar Pit targets that included the principal Mexican command and control members in Mexico; U.S. based cell heads, workers for each cell, and couriers. This investigation culminated in the seizure of 64 pounds of black tar heroin, 10 weapons, \$304,450 in U.S. currency, and the arrest of 249 individuals.

Operation Mountain Express (Pseudoephedrine) was a DEA operation that targeted traffickers of the methamphetamine precursor, pseudoephedrine. Existing regulations allowed DEA registrants to obtain multi-ton quantities of tablet pseudoephedrine from gray-market importers. California-based Mexican production organizations took advantage of this fact by purchasing ton quantities of pseudoephedrine for use in methamphetamine production. Since January 2000, several multi-jurisdictional investigations targeting pseudoephedrine traffickers have been conducted. For the first time in U.S. drug law enforcement history, the illicit trafficking of pseudoephedrine was traced from bulk importers to rogue registrants and eventually to pseudoephedrine extraction laboratories. Operation Mountain Express resulted in the arrest of 189 individuals and the seizure of more than 12.5 tons of pseudoephedrine, 83 pounds of finished methamphetamine, \$11,100,000 million in U.S. currency, and real property in excess of \$1,000,000.

Operation Gas Mask (Precursor Chemicals) is a recently completed investigation targeting a California based supplier of HCL gas to Mexican national methamphetamine production organizations. This investigation resulted in the seizure of 10 operational methamphetamine Super Labs, 5 pseudoephedrine extraction labs, 497 gallons of methamphetamine in solution, 140 pound of finished methamphetamine, and assets totaling \$1.5 million. Additionally, Operation Gas Mask resulted in the arrest of 48 individuals including Mexican National laboratory operators, chemical brokers, the California based supplier of HCL gas and two suppliers of solvents and reagents.

Eduviko Garcia Organization (Mexican Methamphetamine) Recently, DEA concluded an investigation which targeted the Eduviko Garcia methamphetamine organization. Garcia received methamphetamine through a Nuevo Laredo, Mexico based facilitator who in turn received methamphetamine from a variety of Mexican based sources. Methamphetamine seized in the Garcia investigation has been tied to Francisco Zarragoza, a methamphetamine source based in Guadalajara, Mexico. The Garcia investigation resulted in enforcement actions in the states of Texas, Indiana,

Washington, North Carolina, Oklahoma, Kansas and Kentucky and resulted in the seizure of 53 pounds of methamphetamine, 18 kilograms of cocaine, and the arrest of 50 individuals.

Other Enforcement Operations

Highway interdiction is central to drug enforcement, especially on the U.S./Mexico Border, since a vast number of seizures occur at checkpoint stops within 150 miles of the border in Arizona, California, New Mexico, and Texas. In addition to their drug and money seizures, state, local, and federal agencies generate valuable intelligence on trafficking patterns, concealment methods, and cell membership and structure. Presently, there are drug interdiction programs promoted and monitored by the El Paso Intelligence Center (EPIC), but carried out by state and local law enforcement officials. The operations are carried out along the highways and interstates most often used by trafficking organizations to move illegal drugs north and east, and illicit money south and west.

With DEA support, state and local highway officers are able to execute controlled deliveries of the drug shipments that they seize, thereby expanding the scope of their own investigations. These programs consist of three elements: training, real-time communication, and analytical support. With support from EPIC, training schools in support of these programs are designed and delivered to state and local highway officers across the nation. The training and implementation of these programs are conducted in accordance with the Attorney General's guidelines for Fairness in Law Enforcement, and prohibit the use of race, ethnicity or nationality as the sole basis for initiating law enforcement interdiction of suspected drug traffickers.

High Intensity Drug Trafficking Area (HIDTA) Task Forces

The mission of ONDCP's High Intensity Drug Trafficking Area (HIDTA) program is to reduce drug trafficking activities in the most critical areas of the country, thereby lessening the impact of these areas on other regions of the country. The HIDTA program strengthens America's drug control efforts by intensifying the impact of drug control agencies through the development of partnerships between federal, state, and local drug control agencies in designated regions and by creating effective systems for them to synchronize their efforts.

There are 28 established HIDTA's and 43 Investigative Support Centers (ISC's) with EPIC serving as the "national hub" for the HIDTA ISC's. EPIC has re-organized to implement this mission and has created a new HIDTA Coordination Unit that serves as the focal point for EPIC's relationship with the HIDTA ISC's. DEA recently approved the placement of 14 supervisory Intelligence Analyst positions in selected HIDTA ISC's and has proposed additional Intelligence Analyst positions in the FY 2002 budget to further enhance intelligence support to the HIDTA program.

Since the initiation of the program in 1990, the HIDTA program has expanded to 28 areas around the country, including one HIDTA that is comprised of five partnerships along the U.S./Mexico Border. These HIDTA Southwest Border Partnerships are located in San Diego, Tucson, Las Cruces, W. Texas, and San Antonio, and address important local issues such as methamphetamine trafficking, commercial interdiction, and intelligence collection.

With a strong infusion of DEA intelligence analytical resources, guidance, and expertise, the HIDTA intelligence program has become part of the nationwide effort to develop effective mechanisms for the collection and sharing of intelligence information that can be applied in the enforcement arena.

Intelligence Operations

The intelligence collection process is critical to the interdiction of drugs. Each time we dismantle an organization, DEA gains vital intelligence about the organization to use, both to further additional investigative efforts, and to increase the accuracy of intelligence information provided to the interdiction operations conducted by other law enforcement agencies. The domestic and international aspects of trafficking organizations are inextricably woven together. U.S. law enforcement must be able to successfully attack the command and control functions of these international drug trafficking syndicates on all front if ultimate success in diminishing the operational effectiveness of these organizations is to be achieved.

Collocation of Law Enforcement Assets

In addition to conducting numerous joint investigations with the United States Customs Service (USCS), DEA is working to optimize the operational efficiency and cost-effectiveness of U.S./Mexico Border operations conducted with other DOJ components, such as the Federal Bureau of Investigation (FBI) and Immigration and Naturalization Service (INS). Public Law 106-553, which was signed by the Presi-

dent on December 12, 2000, states, "DEA is also directed to better coordinate its operations with other Federal Agencies, including INS and FBI, along the U.S./Mexico Border, and to pursue co-location of offices wherever practical."

A Memorandum of Understanding (MOU) has been drafted and is currently pending endorsement by administrative program managers from DEA, FBI, and INS. By adhering to the provisions of this MOU, the enforcement components of the Justice Department will coordinate the review of their respective facility lease terms, and determine compatible opportunities for collocation.

CONCLUSION:

Drug trafficking organizations operating along the U.S./Mexico Border which are controlled by Mexican based kingpins continue to be one of the greatest threats to communities across this great nation. As a result of their alliances with Colombian organizations, Mexico based drug trafficking organizations increasingly have become organized, specialized and efficient, with individual components steadily consolidating power and control over well-defined areas of responsibility and geographic strongholds. The power and influence of these organizations is pervasive, and continues to expand to new markets across the United States.

The DEA is deeply committed to intensifying our efforts to identify, target, arrest and incapacitate the leadership of these criminal drug trafficking organizations. The combined investigations of DEA, FBI, the U.S. Customs Service and members of other federal, state, and local police departments continue to result in the seizure of hundreds of tons of drugs, hundreds of millions of dollars in drug proceeds, and the indictments of significant drug traffickers, and the dismantling of the command and control elements of their organizations.

Cooperative investigations will continue to serve to send a strong message to all drug traffickers that the U.S. law enforcement communities will not sit idle as these organizations threaten the welfare of our citizens and the security of our towns and cities.

The principal leaders of major drug trafficking organizations fear the threat of extradition to the United States more than any other law enforcement or judicial tool. Extradition of significant traffickers ensures that those responsible for the command and control of illicit activities, including drug smuggling and money laundering, will be held totally accountable for their actions and serve a prison sentence commensurate with their crimes.

In Mexico, the newly installed Fox Administration has given every indication of their intention to work as equal partners with American drug law enforcement, and we look forward to our future endeavors with optimism. Hopefully, these new endeavors will include the successful extradition of major Mexican based traffickers to the United States.

Mr. Chairman, thank you for the opportunity to appear before the Subcommittee today. I would be happy to answer any questions that you or other members of the Subcommittee may have at the appropriate time.

Mr. SMITH. Thank you, Mr. Marshall.
Mr. Varrone?

STATEMENT OF JOHN C. VARRONE, ASSISTANT COMMISSIONER, OFFICE OF INVESTIGATIONS, UNITED STATES CUSTOMS SERVICE

Mr. VARRONE. Thank you, Mr. Chairman and members of the subcommittee. I thank you for the opportunity to appear on this important issue and to discuss the efforts of the United States Customs Service in combatting the drug threat along the Southwest border. Mr. Chairman, with your concurrence, I have a detailed statement that I would like to submit for the record.

Before presenting specifics on the Southwest border, I would like to first give the committee a sense of the overall challenges faced by U.S. Customs. Nationally, on a typical day, Customs personnel process an average of 1.3 million travellers and 410,000 conveyances. As a result, Customs averages 65 arrests, 118 narcotics seizures, 11 currency seizures and 128 other enforcement seizures, ranging from weapons to counterfeit merchandise to child pornog-

raphy. This translates into the daily seizure of approximately 4,302 pounds of narcotics and \$560,000 in U.S. currency.

Notwithstanding Customs' other enforcement responsibilities, drug interdiction and investigation is, without a doubt, our highest priority, and the Southwest border is the front line for this ongoing challenge. The windows of opportunity for would-be drug smugglers along the Southwest border are staggering. Specifically, a total of 293 million people, 89 million automobile and 4.5 million trucks crossed the Southwest border in fiscal year 2000.

To combat this enormous challenge, Customs dedicates approximately 4,000 inspectors, agents, analysts, pilots and marine enforcement officers.

Individual violators as well as complex criminal organizations operating on both sides of the border have been engaged in drug trafficking and drug-related money laundering for many years. Historically, Southwest border drug trafficking organizations principally smuggled marijuana and black tar heroin into the United States. Based upon successful law enforcement operations in the Caribbean and South Florida, Colombian-based cocaine traffickers expanded their drug smuggling operations to utilize the Southwest border.

The interagency cocaine assessment indicates that upwards of 50 percent, as Mr. Marshall said, up to approximately 65 percent of all the cocaine destined for the United States, we believe, enters via the Southwest border. Multi-agency investigative and seizure activity indicates that cocaine is being transferred from Colombian freighters and fishing vessels in the Eastern Pacific to go-fast boats destined for Mexico. This cocaine is ultimately smuggled into the United States via the Southwest border. Customs, along with DEA, FBI, Coast Guard and State and local law enforcement officers have been involved in the seizure of approximately 78 metric tons of cocaine in the Eastern Pacific during the last two fiscal years.

Sophisticated, well-financed and well-organized drug transportation groups are utilizing a wide variety of modes of conveyance and methods of concealment along the Southwest border. Customs records indicate that 79 percent of all Customs narcotics seizures in fiscal year 2000 occurred at the Southwest border. Marijuana seizures are up 12 percent, totalling 1.1 million pounds and accounted for 86 percent of the marijuana seized nationally by Customs. Thirty-five percent of the methamphetamine seized by Customs was identified as being produced in Mexico.

Our Southwest border enforcement efforts focus on the following areas: improved coordination of Federal interdiction efforts; utilization of advanced technology; effective intelligence gathering and multi-agency investigative operations. These collective enforcement operations have proven to be the most effective way to combat the threat.

To address the problem of drug smuggling, Customs has developed an investigative bridge strategy. The strategy involves greater integration of the Customs enforcement disciplines, which would be our investigative, intelligence, interdiction and air-marine operations; electronic surveillance operations; increased development of confidential sources of information; and the placement of additional

U.S. Customs agents and intelligence personnel with the Drug Enforcement Administration in Mexico.

In addition, Customs participated in numerous multi-agency initiatives and task forces which complement the strategy, to include the Border Coordination Initiative; the high-intensity drug trafficking area; organized crime drug enforcement task forces; Special Operations Division and, most recently, the bulk cache HIFCA or high-risk money laundering and financial crimes area.

A very recent drug enforcement success which demonstrates both the threat of what our collective law enforcement efforts are challenged by occurred on February 26, 2001, when special agents from Customs and DEA executed a search warrant at a residence in Nogales, Arizona. The search warrant resulted in the discovery of a tunnel leading to a local drainage system. This drainage system was accessible from the international border. A search of the residence led to the seizure of approximately 840 pounds of cocaine. I believe we have a chart here, sir, in the room showing that photo right there to my right.

From an outbound currency threat perspective, Mexico remains one of the top 10 countries of concerns for the United States Customs Service. To combat the illicit movement of drug proceeds from Mexico, Customs routinely develops and employs currency interdiction initiatives. For example, last year, Customs developed and implemented two anti-money laundering operations called Power Play and Pressure Point. These initiatives resulted in the seizure of more than \$16 million and 286 arrests, demonstrating our commitment to the interdiction of outbound drug proceeds.

To improve our drug interdiction efforts, Customs is aggressively pursuing a variety of technologies designed to complement one another and present a layered defense to smuggling attempts. These include mobile and fixed x-ray and gamma ray inspection systems for use in processing large trucks, cargo containers and rail cars. We currently have 36 of these systems deployed in the field.

Customs also continues to train canine teams at our national training academy to assist enforcement efforts in processing passengers, vehicles and cargo. We currently have 543 canine teams nationally, 366 of which are deployed along the Southwest border. Our aviation assets continue to support Mexican authorities as part of Operation Halcon. In this initiative, Customs air assets and air crews assist Mexican law enforcement in airborne drug interdiction activities.

On behalf of the men and women of the United States Customs Service who are engaged on a daily basis in the counternarcotics activities along the Southwest border, I thank you and your committee for all your support, Mr. Chairman, and the opportunity to briefly describe our challenges, operations and successes. At the appropriate time, I would be glad to answer any questions, sir.

[The prepared statement of Mr. Varrone follows:]

PREPARED STATEMENT OF JOHN C. VARRONE, ASSISTANT COMMISSIONER, OFFICE OF INVESTIGATIONS, UNITED STATES CUSTOMS SERVICE

Mr. Chairman and Members of the Subcommittee, thank you for this opportunity to appear before the committee on this important issue and to discuss the efforts of the U.S. Customs Service to combat the drug threat along the Southwest Border (SWB).

Before presenting specifics on the SWB, I would first like to give the Committee a sense of the overall challenges faced by Customs. On a typical day in Fiscal Year 2000, Customs personnel processed an average of 1.3 million travelers and 410,000 conveyances. As a result, Customs averaged 65 arrests, 118 narcotics seizures, 11 currency seizures, and 128 other enforcement seizures ranging from munitions and arms to commercial merchandise and child pornography. This translates into the daily seizure of approximately 4,302 pounds of narcotics and \$560,000 in U.S. currency.

In Fiscal 2000, Customs seized approximately 1.5 million pounds of illegal narcotics, conducted 39,000 investigations, effected more than 24,765 arrests, and seized over \$587 million in currency and ill-gotten assets.

Customs is responsible for enforcing more than 600 Federal statutes on behalf of 60 Federal agencies. In addition to seizing narcotics and dismantling smuggling organizations, Customs enforcement actions protect domestic manufacturing industries from unfair foreign competition, and help ensure the health and safety of the American public. Through our Strategic Investigations and Anti-terrorism initiatives, Customs continuously fights the battle to prevent proliferant countries, terrorist groups, and criminal organizations from obtaining sensitive and controlled commodities, such as Weapons of Mass Destruction. Customs is also a recognized leader in the investigation of cyberspace-related violations, including child pornography, stolen art and antiquities and intellectual property rights violations.

Notwithstanding Customs' other enforcement responsibilities, drug interdiction and investigation is without a doubt our highest priority, and the SWB is a frontline in this ongoing challenge. The windows of opportunities for would-be drug smugglers along the SWB are staggering. A total of 293 million people, 89 million automobiles, and 4.5 million trucks crossed the SWB in Fiscal Year 2000. These numbers climb each year as trade increases with our southern neighbor.

Individual violators, as well as complex criminal organizations operating on both sides of the border have been engaged in drug trafficking and drug related money laundering for many years. Historically, the drug trafficking organizations primarily smuggled marijuana and black tar heroin into the U.S. Based upon successful law enforcement pressure in the Caribbean and South Florida, Colombia-based cocaine traffickers expanded their drug smuggling operations to utilize the SWB to import their drugs. Intelligence information indicates that more than 50 percent of the cocaine available in the U.S. enters the country via the SWB.

Several factors make Mexico an attractive location for drug trafficking: the 2,000-mile land-border with the United States that is comprised of difficult terrain, making it hard to regulate; the powerful criminal organizations that exploit weaknesses in Mexico's law enforcement and judicial systems; and, the rural and mountainous expanses throughout the country that are ideal for the cultivation, processing and manufacturing of illegal drugs.

Sophisticated, well-financed and well-organized drug transportation groups are utilizing a wide variety of modes of conveyance and methods of concealment along the SWB. Customs enforcement records indicate that 79% of all Customs narcotics seizures in FY00 occurred at the southwest border. Marijuana seizures were up 12% to 1.1 million pounds, accounting for 86% of the marijuana seized nationally by Customs. Approximately 14 percent of the heroin seized in the United States comes from Mexico. An independent study indicates that Mexico is the source of 29 percent of the heroin used in the United States today. Thirty-five percent of the methamphetamine seized by Customs was identified as having been produced in Mexico. Mexico-based organizations have become the most significant distributors of methamphetamine in the U.S.

Recent seizure activity in fiscal years 1999 and 2000 indicates that cocaine is being transferred from Colombian freighters/fishing vessels in the Eastern Pacific (EastPac) to "go-fast" boats destined for Mexico. This cocaine is ultimately smuggled into the U.S. via the SWB. Customs has been involved in the seizure of approximately 78 metric tons of cocaine in the EastPac during the last two fiscal years.

While the total size of our workforce has remained relatively stable in recent years, Customs has been able to reinforce locations on the SWB through the re-direction of resources. These hardworking men and women face an ever-increasing tide of people, vehicles, trucks, trains, planes and cargo.

Our SWB efforts focus on the following areas: improved coordination of federal interdiction efforts; utilization of advanced technology; effective intelligence gathering; and investigative operations. Our actions in these areas have proven to be a more effective response to the drug trafficking organizations that threaten the SWB of the United States.

Smuggling organizations operating along the southern border are abundant, innovative and resilient. Successful dismantling of these organizations requires a com-

prehensive strategy, one that interfaces the functions and expertise of all enforcement disciplines. Customs has developed the "Investigative Bridge Strategy" to address this problem. It involves:

The integration of the Customs enforcement disciplines, investigations, intelligence, interdiction and air/marine operations in an effort to exploit the inter-relationship of drug transportation and distribution. By building an "Investigative Bridge" between border smuggling activity and criminal organizations located inland, further dismantling of these groups is possible.

The bridge is built when a drug seizure at a Port of Entry (POE) leads to the identification of an organization's inland command and control center and/or additional co-conspirators. Similarly, a bridge is also built when the investigation of an organization develops information leading to a drug interdiction at the border. Through this focus on integration and cohesion, the Investigative Bridge Strategy maximizes enforcement results.

Controlled deliveries and Title III wire-tap investigations are an integral part of the strategy. These tools have proven to be extremely effective in identifying members of these organizations, locating narcotic consolidation locations, and uncovering persuasive evidence of criminal activity.

Controlled deliveries and cold convoys require close cooperation between inspectors, agents, and local law enforcement, at the interdiction site, along delivery routes, and at the ultimate destination. Timely notification and response by agents, coupled with a seamless hand-off are necessary elements to ensure success of the operation and a "building of the bridge".

Develop confidential sources of information and intelligence.

The placement of additional U.S. Customs resources in Mexico.

The following enforcement successes demonstrate both the threat and what is being done utilizing our investigative strategy:

On February 26, 2001, special agents from Customs and DEA executed a search warrant at a residence in Nogales, AZ, resulting in the discovery of a tunnel leading to the local drainage system. This drainage system is accessible from the international border. A search of the residence led to the seizure of approximately 840 pounds of cocaine.

On March 5, 2001, Customs Special Agents from the Office of the Resident Agent in Charge, Charlotte, SC, arrested four members of a Mexican smuggling organization and seized approximately 8,125 pounds of marijuana discovered in an Allied Van Lines moving truck. In addition, special agents seized \$1,411,568 in U.S. currency.

On March 22, 2001, an investigation conducted by the Office of the Resident Agent in Charge, Brownsville, TX, resulted in the seizure of approximately 1,450 pounds of marijuana discovered on a train inbound from Mexico. Eight Mexican males were arrested in connection with this seizure.

Between March 15 and March 17, 2001, the Customs Service, Border Patrol and state/local law enforcement conducted a joint operation targeting smuggling activity at Falcon Lake located near Falcon Heights, TX. The operation culminated in the seizure of approximately 8,783 pounds of marijuana that had been smuggled by vessel from Mexico.

Numerous initiatives and task forces exist which embrace the concept of cooperative efforts to enhance our SWB interdiction and investigative efforts, and Customs actively participates whenever possible. Some specific examples of participation include:

The Border Coordination Initiative (BCI) ensures comprehensive sharing of border intelligence and the coordination of enforcement operations between Customs and the Immigration and Naturalization Service (INS).

The High Intensity Drug Trafficking Area (HIDTA) program concentrates Federal, state, and local law enforcement efforts in 28 high-threat areas, such as the Southwest border.

The Organized Crime Drug Enforcement Task Force (OCDETF) focuses combined Federal, state, and local law enforcement efforts on significant, high-level drug trafficking and money laundering organizations.

The Special Operations Division, a multi agency initiative led by the Department of Justice, acts as a Headquarters based case coordination program. This unit, comprised of investigators and analysts from Customs, DEA, FBI and IRS, has three sections which concentrate on SWB narcotics and money laundering activities.

In the area of International Money Laundering, Customs has established the Money Laundering Coordination Center. This unit has been established to coordinate all Federal money laundering enforcement efforts, which have been mandated in the Treasury/Justice Money Laundering Strategy.

From an outbound currency threat perspective, Mexico remains one of the top ten countries of concern for the U.S. Customs Service. Intelligence indicates that large amounts of currency, in excess of tens of millions of dollars, continue to be smuggled out of the U.S. to Mexico.

Private vehicles have long been the dominant mode of choice for transporting illicit proceeds into Mexico. Outbound currency seizures (to include negotiable instruments) numbered over five hundred (500) for the years FY99 and FY00 at the southwest border ports of entry in which the majority were discovered within private vehicles. It is believed that Mexican transportation groups are also using other conveyances to move money to include possibly commercial trucks.

Mexico acts as a "funnel" for illicit currency destined for the Colombian trafficking organizations. Intelligence indicates that staging areas have been set up in many SWB locations to facilitate the consolidation and movement of money between the two countries.

To combat the illicit movement of drug proceeds to Mexico, Customs routinely develops and employs currency interdiction initiatives targeting identified currency smuggling trends. For example:

In Fiscal Year 2000, Customs implemented Operation Powerplay, a six-week initiative that resulted in the seizure of \$11,386,875 and 194 arrests. Of these funds, \$3,074,456, or 27 percent, was destined for Mexico.

In FY 2001, Customs implemented Operation Pressure Point, a five-week initiative that took place in November and December. This initiative resulted in the seizure of \$5,535,498 and 92 arrests. Of these funds, \$1,217,810, or 22 percent, was destined for Mexico.

On March 28, 2000, the Departments of Treasury and Justice designated the Texas/Arizona borders with Mexico as a "bulk cash" High Intensity Money Laundering and Related Financial Crime Area (HIFCA). This HIFCA designation focuses not only on the geographic region, but on the system through which large volumes of currency (mainly derived from drug trafficking) is smuggled or moved across the border between the United States and Mexico.

As part of the Bulk Cash HIFCA, Customs is concentrating its efforts not only on the transborder movement of currency involving Mexico, but also on Mexican money remitters and currency exchange houses, or casa de cambios, facilitating this activity.

On January 12, 2000, the governments of the United States and Mexico entered into a written agreement detailing the procedures to share information on reports of the cross border movement of currency. This agreement allows for the sharing of Reports of International Transportation of Currency and Monetary Instruments filed with the U.S. Customs Service, and Mexico's companion form, Article 9.

Mexico recently changed its reporting regulations to require the reporting of \$10,000 U.S. equivalent into or out of Mexico to mirror the United States' currency reporting regulations. Originally, Mexico required only the reporting of \$20,000 U.S. equivalent being imported into Mexico.

Customs seized the following quantities of unreported currency bound for Mexico via the SWB:

Fiscal Year 1998 \$14,466,186

Fiscal Year 1999 \$16,542,761

Fiscal Year 2000 \$17,089,183

Some specific examples of enforcement related seizures at the SWB are as follows:

On March 15, 2001, the U.S. Customs San Diego Financial Task Force conducted a joint southbound operation monitoring vehicle traffic exiting the United States at the San Ysidro, CA Port of Entry. During this operation, a vehicle exam resulted in the seizure of \$449,905 in US currency.

On July 31, 2000, during U.S. Customs Operation Powerplay, a vehicle occupied by two Guatemalan citizens was detained while attempting to exit the United States into the Republic of Mexico. A search of the vehicle resulted in the identification of a false compartment found to contain \$499,640.00 in United States currency. Both individuals were arrested.

Critical to all law enforcement operations is the routine sharing of tactical intelligence. Intelligence Collection and Analysis Teams (ICATs) have been created throughout the country to analyze smuggling trends and concealment methods, and to expeditiously disseminate intelligence to all border ports and Border Patrol checkpoints. The ICATs are comprised of Customs Special Agents, Customs Inspectors, INS agents, INS analysts, the US Border Patrol and the California National Guard.

Analysis by the ICATs and the intelligence community has been successful in identifying a multitude of smuggling and concealment trends. These include:

Current intelligence from all sources continues to point towards a highly diverse and constantly evolving smuggling environment that poses major threats all along the border. These threats continue to suggest strong pressure by major trafficking groups using all forms of transportation and all available means.

Drugs are being smuggled by a wide array of drug transportation groups that are using all major conveyances and concealment methods including cars, trucks, vans, oversize vehicles, rail cars, private aircraft and vessels, and pedestrians. A continuing problem that Customs faces is the use of sophisticated tunnels along the border.

One of the continuing trends is the proliferation of smaller, more tightly knit organizations that smuggle 100–150 kilos at a time in a rapid fashion. These groups are subsequently storing the drugs in warehouses and other locations, in preparation for the movement of large quantities to the interior of the United States for distribution.

Once a sufficient quantity of drugs is acquired, the groups then move the illegal drugs to major urban areas in the interior of the United States for distribution. These areas include Chicago, Los Angeles, Miami, and New York.

Like the criminal drug trafficking groups from the United States and Colombia that preceded them, organized crime syndicates from Mexico are extremely violent and routinely employ intimidation and the corruption of public officials to achieve their objectives. Much of the drug-related violence that has become commonplace in Mexico has spilled over to communities within the United States.

Traffickers are attempting to design compartments that are impervious to detection. This includes identifying specific conveyances that are difficult for Customs to inspect and pose unique problems from an operational standpoint. Customs also has determined that traffickers along the border are using specific types of trailers called "low boy trailers", which due to their structure are difficult to examine, may pose problems for some x-ray machines, and are not easily searched by canine units. Recently, a meeting was held in El Paso with officials from railroad firms that conduct cross border trade. These firms indicated they are experiencing a large increase in false compartments discovered in railroad cars used in cross border trade.

The development of new and innovative technology has risen to the forefront of Customs' counter drug efforts. Customs is currently on the second year of a Five-Year Technology Acquisition Plan for the Southern Tier and continues to increase the smugglers risk of detection across the Southern Tier from Los Angeles, California, to San Juan, Puerto Rico. Without this across-the-frontier approach, our enforcement efforts in one area will be mitigated by the smugglers' ability to rapidly displace their criminal activity to an area where the threat of detection is lower.

Some of our efforts in the field of non-intrusive technology include:

Aggressively pursuing a variety of technologies designed to complement one another and present a layered defense to smuggling attempts. Such attempts are the direct result of increased funding that began in Fiscal Year 1999.

We are currently employing 36 pieces of Non-Intrusive Inspection (NII) equipment, including:

- eight (8) mobile truck x-ray systems
- nine (9) fixed-site truck systems
- sixteen (16) relocatable Vehicle and Cargo Inspection Systems (VACIS)
- two (2) mobile truck VACIS
- one rail VACIS. This rail VACIS is the first system of its kind.

We are continuing the development of a higher energy x-ray system to examine sea containers as they arrive on our shores, as well as a system to examine large palletized cargo in the air, sea, and land environments.

Customs officers also have a wide range of hand-held tools at their disposal, including:

- 284 Portable Contraband Detectors (a.k.a. Busters)
- 135 Optical Fiber Scopes
- 67 Laser Range Finders

Without consistent funding to operate and maintain these technologies (large and small), benefits will be short-lived.

To assist our enforcement efforts, Customs continues to train Narcotics Detector Dogs at our national training academy. We currently have 543 K-9 teams operating in the field, 368 of which are assigned to the SWB.

In terms of making our land border operations more efficient at narcotics detection, while facilitating the flow of traffic, we have implemented several new programs. In conjunction with the Immigration and Naturalization Service, Customs has installed 236 license plate readers (LPR).

By automating the entry of the license plate data, the LPRs allow the inspecting officer to spend more time examining and questioning the vehicle and its occupants. LPRs have the capability to count the number of vehicles, identify stolen cars, and identify those that are positive IBIS and National Crime Information Center (NCIC) hits. LPRs will also allow Customs and INS to gather intelligence through data mining in order to enhance both inbound and outbound targeting.

The Customs Air and Marine Interdiction Division (AMID) plays a valuable role in interdiction efforts along the SWB. Customs continues to see short landings of drug-laden aircraft in Northern Mexico. To combat this threat, Customs has positioned Citation aircraft in Hermosillo and Monterrey, Mexico, to assist Mexican ground forces in the apprehension of these aircraft and their crews.

Some of the programs currently administered by AMID are:

The Air and Marine Interdiction Coordination Center (AMICC). AMICC, located in Riverside, California, provides command, control, communications and intelligence for counter-narcotics and designated homeland defense operations. It utilizes a wide variety of civilian and military radar sites, aerostats, airborne reconnaissance aircraft and other detection assets to provide 24-hour, seamless radar surveillance along the entire southern tier of the U.S., Puerto Rico and into the Caribbean.

Training to improve coordination between U.S. and Mexican assets on Interceptor Operations.

AMID currently has two advisors assigned to the U.S. Embassy in Mexico to enhance in-country coordination, communication and safety.

A Mexican liaison has been assigned to the AMICC to further enhance coordination, communication and safety.

The Customs Service relies on the Tethered Aerostat Radar System (TARS), which is currently operated by the Department of Defense, to identify suspect aircraft and vessels inbound to the U.S. The DOD has recently reduced the system by 21% and plans to make another 38% reduction in the system in FY 2002.

The answer to the narcotics smuggling challenge at the SWB border is effective coordination, joint planning and joint implementation. This is precisely what the Border Coordination Initiative (BCI) does and does effectively. The BCI is an approach to integrating the efforts of several of the U.S. Government's border law enforcement agencies. Customs and INS began BCI as a means of creating a seamless process of managing cargo and travelers at our nation's SWB. A process which incorporates the multitude of skills and expertise within each of our organizations, in order to more effectively interdict the flow of narcotics, illegal aliens and other contraband.

The structure of BCI is founded upon the officers at our frontlines. Their input and daily actions have always provided the basic building blocks for this initiative and continue to keep our efforts focused on those challenges presently facing us along the SWB. We have been able to build upon this information by establishing a solid foundation for the program through:

The establishment of an Office of Border Coordination, Co-Managed by a "Border Coordinator" from Customs and INS

Setting eight (8) priority areas for the field to focus on: Port Management, Investigations, Aviation/Marine Support, Intelligence, Communications, Technology, Integrity and Performance Measurement

Selecting national Co-Team Leaders from Customs and INS for each of these priority areas and requiring jointly prepared action plans from BCI field managers addressing these topics,

Stressing Community involvement by providing and exchanging information with the trade and community groups relating to our enforcement effort.

Addressing the concerns of these groups regarding service and the movement of goods and people.

Eliminating conventional bureaucratic barriers between agencies in terms of equipment and technology sharing, joint enforcement efforts and procurement

Integrating local and state law enforcement entities into the national interdiction effort.

Establishing a scheduled, multi agency reporting system which tracks success, failures and support requests from all SWB areas

Providing funding in support of the innovative and creative means to apprehend violators of our nation's laws along the SWB

Providing overall coordination at and between ports of entry to address drug and alien smuggling.

On behalf of the men and women in Federal law enforcement who are engaged on a daily basis in counter-narcotics activities on the SWB, and specifically our U.S. Customs officers, I thank you and your committee for all your support, and the opportunity to present our enforcement activities and recent successes here today.

This concludes my remarks. I will be glad to answer any questions the Committee may have. Thank you.

Mr. SMITH. Thank you, Mr. Varrone.
Mr. Scott?

**STATEMENT OF MICHAEL D. SCOTT, CHIEF, CRIMINAL LAW
ENFORCEMENT DIVISION, TEXAS DEPARTMENT OF PUBLIC
SAFETY**

Mr. SCOTT. Thank you, Mr. Chairman and members. I appreciate very much you holding these hearings today to discuss the problems of drug trafficking along the Southwest border. I realize also that there is a degree of disenchantment spreading throughout this country with the progress or perceived lack thereof with our drug control efforts. However, the drug problems facing this country are problems of morality mixed with socioeconomic and health issues, and I believe we will be fighting those problems for many years to come, but I applaud the committee for holding these hearings and for bringing attention to this problem.

In 1993, a former DEA administrator testified before Congress that in the late seventies, the majority of all cocaine entering this country entered through South Florida. He also testified that there was a great infusion of Federal resources into South Florida to address that problem. The result was to cut off the flow of cocaine through South Florida, but by the mid-1980's, Colombian drug traffickers had countered by developing a Mexican connection, and the flow of cocaine and other illegal drugs into the United States shifted from Florida to Mexico.

Mexican traffickers that were once known only as mules for the powerful Colombian cocaine cartels today are drug lords in their own rights. We have heard a lot of estimates this morning about the flow of cocaine across the border. My estimates are between 50 and 70 percent of cocaine entering this country comes across the Southwest border. More importantly, approximately 55 percent of that cocaine, we believe, enters in South Texas alone.

Sixty-eight percent of the Border Patrol seizures along the Southwest border occur in Texas. It is an important thing, however, to note that the vast majority of the drugs crossing the Southwest border do not stay in the border region. These drugs are shipped across the country to places like Marietta, Georgia; Greensboro, North Carolina and Fort Smith, Arkansas, not to mention many other cities in this country. Suffice it to say that drugs smuggled into this country from Mexico ultimately flows into the streets and schools across the country.

Although many agencies at the Federal, State and local level have increased their resources along the border, I suggest that we have not seen an equivalent infusion of resources that were used to address the problem in South Florida in the seventies. The North American Free Trade Agreement, NAFTA, was passed in 1994 to facilitate open trade between the United States, Canada and Mexico. The approximately 365 million consumers in these North American countries are expected to benefit in many ways economically from NAFTA.

We in Texas share rich cultural, social and economic ties with our neighboring country of Mexico. Many citizens on each side of the border cross over to visit family members, to shop and to attend school. While I believe strongly that the economic benefits produced by the NAFTA concept are good for all three countries involved, it is clear that there have been some serious unintended or overlooked consequences of NAFTA.

The United States and Mexico share a 2,000-mile border. It is the busiest border in the world. In 1999, an estimated 295 million pedestrian, 88 million passenger vehicles and 4 million commercial trucks crossed our border from Mexico, and these numbers are only expected to increase. Texas has a 1,248-mile border with Mexico, and along that border, there are 10 ports of entry; 26 international bridges. In the year 2000, over 48 million passenger vehicles and 3.1 million commercial vehicles crossed our border. That is approximately 75 percent of all commercial traffic entering this country from Mexico crosses in Texas.

U.S. Customs officials estimate that only 5 or 10 percent of the commercial trucks entering this country are subjected to any type of search or inspection. This is a prescription for failure. Mexican drug trafficking organizations have exploited our inability to inspect vehicles and pedestrians entering this country. They have purchased trucking companies and maquiladoras in Mexico in an effort to promulgate their illegal drug industry. It is critically important that with continued implementation of NAFTA, we must not overlook the need to improve methods for our inspection. There must be a balance between free trade and the undesirable consequences of little or no inspection on the trucks.

In spite of these overwhelming numbers, our interdiction efforts continue to outpace our ability to conduct followup investigations and to prosecute the violators. Simply interdicting drugs along the border is not the answer. Each interdiction case made by the Customs Service or the Border Patrol must be investigated. Oftentimes, DEA, because of a lack of resources, are forced to simply process the mules apprehended by the Customs agents or Border Patrolmen. Furthermore, the volume of drugs along the Southwest

border has had significant impact on our State prosecutors as well as Federal prosecutors and the courts.

Over the past year, State prosecutors along the border have complained that handling smaller drug cases generated by the Federal officers have cost local taxpayers millions of dollars. I am not suggesting that additional funding is the only solution to this problem. However, appropriate levels of funding across the board in the areas of interdiction, investigation, prosecution and the courts is critical for us in the criminal justice system to be able to maintain a holding action.

Drug-related violence along the border has increased significantly over the last several years. In August 1997, four suspected drug traffickers entered a popular restaurant in Ciudad Juarez, just across the border from El Paso. They opened fire, killing five and wounding four others. On their way out of the restaurant, they killed an off-duty Mexican police official who was approaching the restaurant. Although violence among rival drug gangs is commonplace in Mexico, rarely has it spilled over into public places. This gangland style killing at a restaurant in Ciudad Juarez may have ushered in a new era in drug-related crime along the border.

Saul Martinez Gutierrez was a newspaper editor in Matamoros, Mexico, just across from Brownsville. His newspaper often published articles attacking the drug traffickers. Last weekend, his body was found with four bullet holes to the head. His press credentials were thrown on his body. He may be the latest casualty in a drug war that turns the Texas-Mexico border into a violent intersection of supply and demand.

Mr. SMITH. Mr. Scott, are you reaching the end of your testimony? We are going to need to go vote momentarily?

Mr. SCOTT. Yes, sir, I will get right to the closing.

Mr. SMITH. I am glad I said something. [Laughter.]

Mr. SCOTT. In closing, I recognize that law enforcement efforts alone cannot solve the problem. However, our collective efforts in supply reduction, combined with successful demand reduction and treatment efforts, can have a positive effect. Anyone who has seen the recent movie *Traffic* or has watched the *Nightline* news series last week could easily be discouraged. It is oftentimes that our successes along the border are overshadowed by the enormity of the problem. I can tell you that our officers along the border are totally committed to the problem, and I will close and be happy to answer questions at any time.

[The prepared statement of Mr. Scott follows:]

PREPARED STATEMENT OF MICHAEL D. SCOTT, CHIEF, CRIMINAL LAW ENFORCEMENT
DIVISION, TEXAS DEPARTMENT OF PUBLIC SAFETY

Chairman Smith and distinguished members of the Subcommittee on Crime, my name is Michael D. Scott and I am the Chief of the Criminal Law Enforcement Division for the Texas Department of Public Safety. It is with great appreciation that I appear before you today not only on behalf of the Texas Department of Public Safety, but also on behalf of the dedicated men and women of the South Texas High Intensity Drug Trafficking Area (HIDTA) program.

Before I begin, I would like to express my appreciation to the entire committee and particularly to Chairman Smith for calling attention to the drug threat along the southwest border by holding these hearings today. Additionally, I was extremely please to hear that Attorney General Ashcroft has declared drugs as one of his top three priorities. I realize that there is a degree of disenchantment spreading throughout this country with the progress, or perceived lack thereof, in our drug

control efforts. However, the problem with drug trafficking and drug abuse in this country is far-reaching and multi-faceted. I believe the drug problems facing this country are problems of morality mixed with socioeconomic issues and they are problems we will be dealing with for many years to come. Again, I applaud this committee for its commitment to facing these drug problems in an ongoing effort to provide solutions.

My goal in presenting testimony today is to convey to the committee some of the issues and concerns faced by the federal, state, and local drug enforcement agents along the south Texas border and to share with the committee some of the successes we have achieved. My remarks today will cover several issues related to the drug trafficking along the border including the general drug threat along the border, the effects of NAFTA in our efforts, drug-related violence and crime along the border, corruption, and various law enforcement initiatives including the South Texas HIDTA initiatives.

BACKGROUND

In 1993, former DEA Administrator Robert Bonner testified before a congressional committee that, in the late 1970s, the majority of all cocaine entering this country was smuggled through south Florida. He went on to say that to counter this threat, there was an "infusion" of federal law enforcement resources into the south Florida region. The effect of this infusion of resources into Florida was to cut off the flow of cocaine through south Florida. By the mid-1980s, Colombian drug traffickers had countered by developing a "Mexican Connection" and the flow of cocaine and other illegal drugs into the United States shifted from Florida to Mexico and across our southwest border. Mexican traffickers were once known only as "mules" for the powerful Colombian cocaine cartels. Today, however, drug traffickers in Mexico have grown into drug lords in their own right. In essence, the front line of the drug war has shifted from the jungles in South America to our own doorstep. Recently retired DEA Administrator Tom Constantine told a congressional committee, "These sophisticated drug syndicate groups from Mexico have eclipsed organized crime groups from Colombia as the premier law enforcement threat facing the United States today."

To demonstrate the accuracy of this concept, it is now estimated that between 50-70% of the cocaine in this country is smuggled across the US-Mexico border. Federal seizure statistics indicate that in CY 2000, approximately 55% of all the cocaine smuggled across the southwest border actually crossed the South Texas border. A review of statistics provided by the US Border Patrol indicates that approximately 68% of their drug seizures along the entire southwest border occurred in Texas. Drug seizure statistics for the Department of Public Safety (DPS) follow this same trend. From FY 1996 to FY 2000, the seizure of cocaine has increased by 71%, marijuana seizures have increased by 130% and methamphetamine seizures are up 400%. It is important to note that the vast majority of drugs crossing the south Texas border, or the entire southwest border for that matter, do not remain in the border region. These drugs are shipped across this country to places like Marietta, GA; Greensboro, NC; Ft. Smith, AR; and many other cities throughout the country. Suffice it to say that the drugs smuggled into this country from Mexico ultimately flow into the streets and schools across our nation.

Although many agencies at the federal, state, and local levels have increased their resources along the border, I suggest that we have not seen an equivalent "infusion" of resources that were used to address the drug threat in southern Florida in the late 1970s.

EFFECTS OF NAFTA ON DRUG TRAFFICKING

Trade is, of course, dependent on the efficient movement of legitimate commerce and people between countries. The North American Free Trade Agreement (NAFTA) was passed in 1994 to facilitate open trade between the United States, Canada, and Mexico. The approximately 365 million consumers in these North American countries are expected to benefit in many ways economically from the blurring of the borders for trade purposes. We in Texas also share rich cultural, social, and economic ties with our neighboring country of Mexico. Many citizens on each side of the border cross over to visit family members, shop and attend school. While I believe strongly that the economic benefits produced by the NAFTA concept are good for all three countries involved, it is clear that there have been some serious unintended or overlooked consequences.

The United States and Mexico share a 2,000-mile border. This international border is the busiest border in the world. The office of National Drug Control Policy reports that in 1999, approximately 295 million people, 88 million passenger vehi-

cles, and 4 million commercial trucks crossed the border. As the provisions of NAFTA are implemented over the next several years, these numbers are expected to increase significantly.

Texas shares a 1,248-mile border with Mexico. Along the Texas border, there are 10 ports of entry and 26 international bridges. In 2000, over 48 million passenger vehicles and 3.1 million commercial trucks entered Texas from Mexico. It is important to emphasize that of the approximate 4 million commercial trucks entering this country from Mexico each year, 3.1 million, over 75% enter through Texas. US Customs officials estimate that due to this ever increasing volume of traffic crossing the border, combined with a significant lack of resources, only 5–10% of the commercial trucks and passenger vehicles are subjected to any type of search or inspection. This is a prescription for failure. Mexican drug trafficking organizations have exploited our collective inability to inspect vehicles and pedestrians entering this country. They have purchased trucking companies and “maquiladoras” in Mexico in an effort to promulgate the illegal industry. It is critically important that, with the continued implementation of the provisions of NAFTA, we must not overlook the need to provide improved levels of inspection. There must be a balance between free trade and the undesirable consequences of little or no inspections on the cross border vehicular traffic.

In spite of these overwhelming numbers, our interdiction efforts continue to outpace our ability to conduct the follow-up investigation and to adequately prosecute the violators. Simply interdicting the drugs along the border is not the answer. Each interdiction case made by the US Customs Service or by the Border Patrol requires follow-up investigation and the DEA is inadequately staffed to meet these investigative demands. Oftentimes, DEA agents are forced to simply process the “mules” apprehended by Customs and Border Patrol because they have little or no time to conduct the critical follow-up investigation that might lead to the origin of the illegal drug shipment.

Furthermore, the volume of drug cases along the border has had a significant impact on federal and state prosecutors in south and west Texas, and on our courts as well. Over the past year, state prosecutors along the border have complained that handling the smaller drug cases generated by federal officers have cost local taxpayers millions of dollars. They have requested reimbursement for these costs from the federal government. Even a federal judge in Texas commented that there is a “caseload crisis” in US courts along the border that has not been adequately addressed by additional resources.

I am not suggesting that additional funding is the only solution to this problem. However, appropriate levels of funding across the board in the areas of interdiction, investigation, prosecution and the courts are critical in order for the criminal justice system to maintain a “holding” action. At the same time, prevention, education and treatment professionals should develop and implement successful demand reduction strategies.

DRUG-RELATED VIOLENCE AND CRIME

In August 1997, four suspected drug traffickers entered a popular, crowded restaurant in Ciudad Juarez, just across the border from El Paso, and opened fire. Three men and two women were killed and four others were wounded. While making their escape, they also shot and killed an off-duty Mexican police officer who had heard the gunfire and was responding to the scene. Although violence among rival drug gangs is commonplace in Mexico, rarely had it spilled over into public places. This gangland-style killing at the restaurant in Ciudad Juarez may have ushered in a new era in drug-related crime along the border.

Mexican drug trafficking organizations rely on violence and the threat of violence to carry out their trade. Since the summer of 2000, there has been a significant increase in drug-related violence in the contiguous border area with Mexico. Mexican law enforcement officials and the media in Mexico have reported numerous drug-related homicides of drug traffickers and police officials in northern Mexico. The Mexican media also reports that 60% of the drug-related homicides occurred in the region bordering South Texas.

Much of this drug-related violence is now being aimed at US law enforcement personnel. Violent assaults against federal agents along the southwest border have increased from 156 just five years ago to 500 in 1999. In January 2000, US officials learned that leaders of the Carillo-Fuentes cartel offered a \$200,000 bounty to anyone who murdered any US law enforcement official. Border Patrol agents find it increasingly difficult to patrol the US-Mexico border, especially when we learn of these bounties being offered by the drug cartels. With our knowledge of the high

levels of drug-related violence in Mexico, we must always take these threats seriously.

Drugs present the leading crime challenge in the border region but other crimes are also a problem. In 1996, there was an average of 60 violent crimes and 654 property crimes each and every day along the Texas border. In other words, a border resident in Texas became the victim of a violent crime every 24 minutes while a property crime occurred in the border region every 2.2 minutes.

CORRUPTION

Corruption of public officials has been a way of life in Mexico for many decades. Corruption in Mexico extends into almost all walks of life, from driving a taxi to operating a business. Mexican drug organizations, such as the Carrillo-Fuentes, Arellano-Felix, and Caro-Quintero cartels, have built their multi-billion dollar drug trafficking networks after making impressive strides buying up the government of Mexico through the exploitation of corruption. These and other drug organizations alike, have the resources and the motivation to take any measures necessary to facilitate their trade including bribery, corruption, violence, and intimidation. Corruption in Mexico is not always voluntary or motivated by cash payments. It is documented that if a local official refuses to take "mordida" or bribery money, he or his family members are terrorized or murdered by the drug organizations.

Corruption has not stopped at the border. Now, the drug traffickers are looking for US officials who might be for sale and, unfortunately, they are finding them. During 1999 and extending into 2000, an FBI-led public corruption task force in Arizona resulted in the arrest of ten federal officers, three local and county officers, and one local judge on drug-related corruption charges. The increase in public corruption, particularly as it relates to drugs, has and will continue to have a negative impact on the public trust and confidence our citizens have in elected officials—government in general and law enforcement in particular. Whether it is paying off a Customs inspector to pass a vehicle through without an inspection or paying a local sheriff's deputy to help get a load of drugs through the Border Patrol checkpoint, everyone agrees that the problem of corruption in this country is bad and only getting worse.

The FBI has made public corruption one of its top priorities. Just last week, the San Antonio office of the FBI announced the arrest of eight San Antonio police officers and one deputy sheriff all on charges of drug-related corruption. The four-year investigation revealed that the officers accepted cash payments from purported drug traffickers to provide protection for their drug shipments. Some of the officers were on duty, in uniform, when involved in the alleged corrupt conduct. After the arrests were made, San Antonio Police Chief Al Philippus was quoted as saying, "We are sickened and shocked by the inexcusable actions of these officers. They have betrayed the honor of every San Antonio police officer who wears the uniform, every law enforcement officer in this nation, but mostly the community who they swore to serve and protect."

LAW ENFORCEMENT INITIATIVES

In spite of the outcry in recent years that the drug war has been a failure, drug enforcement officers across the southwest border, and particularly along the Texas border, are more committed than ever. While it would be easy to get frustrated and discouraged, I continually observe a total commitment among the officers charged with enforcing the drug laws of this country. It is important to point out that our effort along the border is focused on the interdiction of drugs at the border and on the investigation of major drug smuggling organizations. We do not focus our efforts on the user or abuser of drugs.

The overall success of our national enforcement efforts to combat the availability of illegal drugs in this country depends heavily on the coordination and cooperation of the many law enforcement agencies involved. This coordination and cooperation is enhanced by the willingness to share intelligence and other drug-related information across jurisdictional lines. The High Intensity Drug Trafficking Area (HIDTA) program has helped create an atmosphere in the drug enforcement arena that promotes this coordination and cooperation among law enforcement agencies. It allows agencies at the federal, state, and local level to leverage their resources and maximize intelligence sharing capabilities for the common goal of reducing the flow of drugs into this country. The South Texas HIDTA is a partnership between law enforcement agencies and prosecutors from all levels that serves as a model for other HIDTAs across the country. The multi-agency, multi-jurisdictional initiatives sponsored by the South Texas HIDTA have proven to be extremely successful in our overall drug enforcement effort in South Texas. This success is exemplified by the

drug seizure statistics referred to earlier in this report. I am appreciative of the support we continually receive from this committee and from the Congress as a whole for the HIDTA program.

I would also like to express my appreciation to the members of Congress for the continued support of the Southwest Border Anti-Drug Information System (SWBSADIS). With your support, we have built a secure, automated intelligence network across the southwest border that connects the criminal databases in the states of California, Arizona, New Mexico, and Texas, along with the Regional Information Sharing System. Additionally, we are working with the El Paso Intelligence Center (EPIC) to further expand the capabilities of this system. In Texas, access to this system is being made available to drug enforcement agents within DPS, drug task forces, and the HIDTAs.

CLOSING

I recognize that all the law enforcement efforts in the world cannot solve the drug problem in this country. However, our collective efforts across the spectrum of supply reduction combined with successful demand reduction and treatment efforts can have a positive impact on this problem. We may have declared a “war” on an unconventional enemy that we cannot completely defeat. However, we must not listen to the nay sayers and the advocates for legalization. We must stay the course. We all recognize and accept the fact that to deal with the problem of drug abuse and the related drug trafficking, we must deal with it on all fronts simultaneously. We should further recognize that the solutions require initiatives from a variety of mutually exclusive sources, including public health and treatment providers, schools, churches, community organizations, the military, as well as law enforcement.

Anyone who has seen the recent movie *Traffic* or who watched the “Nightline” news series last week could be easily convinced that our drug enforcement efforts along the border are failing. It is clear that oftentimes, our success along the border is overshadowed by the enormity of the problem. There is no question that federal, state and local drug enforcement agents along the border often feel overwhelmed and frustrated by the challenges they face trying to reduce the flow of drugs into this country. However, I commit to you today that the officers along the border charged with the interdiction, investigation, and prosecution of drug traffickers have not admitted defeat and continue to risk their lives daily in an effort to reduce the availability of drugs in this country.

This concludes my prepared statement regarding our drug control efforts along the border. I am encouraged that these hearings and future hearings will serve to enlighten members of the Committee, your colleagues in Congress, and the new Administration on the formidable challenges faced by the law enforcement community along the border. I appreciate the opportunity to address the Committee today and I will attempt to answer any questions the members may have.

Thank you.

ACKNOWLEDGEMENTS:

I would like to thank the following agencies and entities for their help in providing research and statistical information in the preparation of this testimony:

- DPS Post Seizure Analysis Team
- El Paso Intelligence Center
- DEA—San Antonio
- FBI—San Antonio
- South Texas HIDTA Director’s Office

Mr. SMITH. Thank you, Mr. Scott, and let me say to the witnesses, although they came earlier than we expected, we do have two votes on the floor, and so, we will need to stand in recess for about 20 minutes, and then we will resume, Judge Furgeson, with your testimony. And let me encourage all members to return after these two votes.

Thank you very much.

[Recess.]

Mr. SMITH. We are going to resume the hearing and hear from our last witness and then get to questions by members. As mem-

bers and others have seen today, we sort of started with the interdiction and the seizure, and now, we are moving to the enforcement and judging. And that, we will welcome Judge Furgeson's testimony.

STATEMENT OF HON. ROYAL FURGESON, UNITED STATES DISTRICT JUDGE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS

Judge FURGESON. Thank you very much, Mr. Chairman and members of the subcommittee. I appreciate so much this invitation to come before you and discuss the challenges facing Federal courts on the Southwest border. I have submitted a written statement and a fact sheet, and I would ask that they be included in the record of these proceedings.

Mr. SMITH. Judge Furgeson, without objection, both your complete statement and the complete statement of the other witnesses today will be made a part of the record.

Judge FURGESON. Thank you so much, Mr. Chairman, and I would be remiss if I didn't bring greetings from our chief judge, Jim Nowlan, to his good friend, Mr. Chairman.

Mr. SMITH. Thanks.

Judge FURGESON. May I begin by asking you to consider 10 facts? Fact number one: since 1993, marijuana seizures on the Southwest border have increased fivefold. Fact number two: since 1993, cocaine seizures on the Southwest border have increased 50 percent. Fact number three: since 1993, alien apprehensions on the Southwest border have increased 35 percent, to a record 1,644,000 illegal entries. Fact number four: since 1993, the number of criminal cases filed in Southwest border courts, the number has increased by 161 percent. Fact number five: since 1993, drug prosecutions in border courts have almost doubled. Fact number six: since 1993, immigration prosecutions in Southwest border courts have increased sevenfold.

Fact number seven: our Federal courts are divided into 94 districts. Of these 94, five are located on the Southwest border. These five now handle 27 percent of all Federal court criminal filings in the nation. The other 73 percent are divided among the remaining 89 districts. Fact number eight: our Southwest border courts are basically beyond capacity to handle our increasing criminal dockets.

As the fact sheet which is attached to my testimony illustrates, the average criminal caseload per district judge outside the border courts is just over 75 cases. However, the caseloads of our border courts by district are Southern Texas, 205 as compared to 75; Arizona, 282 as compared to 75; New Mexico, 343 as compared to 75; Western Texas, 442 as compared to 75; and Southern California, almost 500, 492, as compared to 75.

Fact number nine: lack of judgeships on the Southwest border is hampering the successful, really successful, law enforcement efforts of Federal and State agencies involved in the Southwest border initiative. We simply can't handle any more of their cases. Here are two examples of the problem: on the immigration side, in El Paso, while Federal law enforcement officers stopped almost 20,000 illegal aliens last year with false documents, only 664, or about 3.3

percent, were prosecuted, and all across the Southwest border, while 1,644,000 illegal aliens were apprehended, less than 1 percent were prosecuted.

Fact number 10: since 1993, when this explosion of filings began, only one of the five Southwest border districts, Arizona, has received more than one new judgeship. At the end of last year, three, New Mexico, Western Texas and Southern Texas, each received one new judgeship, and thusfar, Southern California has received no new judgeships since 1993.

Now, will you please consider these three predictions? Prediction number one: Federal law enforcement efforts along the Southwest border will continue the same or increase. Prediction number two: narcotics seizures and alien apprehensions along the Southwest border, if they do not remain the same or increase, will not diminish significantly; and prediction number three, criminal filings in the Southwest border districts will remain the same or increase. The Congress has done some things to address our problems, and we are deeply appreciative. You have increased our budget; you have helped us with probation and pretrial services officers. We appreciate that very much.

The last piece of the puzzle, we believe, is to give us more judgeships so that we can expand our capacity and therefore be available to handle the larger number of prosecutions that we see mandated by the Federal law enforcement efforts here. There are two bills pending which we believe will do the job that is needed. One is Senate 147, and the other is H.R.272. Those bills, we believe, meet our needs, and we wholeheartedly support them.

We appreciate what Congress has done to support the courts over the years, and we will tell you that we are going to do our part to make sure that the quality of justice expected from our system remains high. We do hope that you are able to respond to this final piece of the puzzle for us. I am deeply grateful for the opportunity to speak to you, and I will be glad to answer your questions when appropriate.

[The prepared statement of Judge Furgeson follows:]

PREPARED STATEMENT OF THE HONORABLE ROYAL FURGESON, UNITED STATES DISTRICT JUDGE, UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS

Mr. Chairman, and Members of the Subcommittee, my name is Royal Furgeson. I am a United States District Judge for the Western District of Texas. I appreciate the opportunity to testify before you today about how drug trafficking on the U.S./Mexico border affects the criminal justice system in the federal judicial districts along the border.

To be frank with you, our criminal justice system along the Southwest Border is at a crossroads. Since 1995, the Southwest Border Initiative, the national strategy designed to crack down on illegal immigration and drug smuggling, has produced record numbers of federal prosecutions along the border. Operating under a congressional mandate and increased funding, the Department of Justice has significantly expanded its presence along the U.S./Mexico border, stationing thousands of additional Border Patrol, INS and DEA agents there since 1994.

As a result of the Southwest Border Initiative, the five district courts that span the border with Mexico, the Southern District of Texas, the Western District of Texas, the District of New Mexico, the District of Arizona, and the Southern District of California (the "Border Courts") have experienced unprecedented, massive increases in their criminal dockets. As the Crisis in the Border Courts Fact Sheet that I have provided to you shows, those five Border Courts now handle 27% of all federal court criminal filings in the United States. The other 73% of federal criminal

filings are divided among 89 other district courts. The number of criminal cases filed in the Border Courts has increased by 161%. Drug prosecutions in the Border Courts more than doubled between 1994 and 2000, and immigration prosecutions increased more than seven-fold during that time.

Unfortunately, in contrast to the skyrocketing caseload and massive expansion of prosecutorial resources, judicial resources in the Border Courts have fallen far behind. The average criminal caseload per district judge in the Border Courts is more than quadruple the average for the rest of the nation. We have, in short, reached our limits to how many criminal cases can be prosecuted in the five Border Courts with the current number of authorized federal judgeships. We are desperately outmanned and underfunded. In fact, insufficient judicial resources already drastically restrict the numbers of cases that could most likely be prosecuted if we had more judges. For example, as I will discuss later in my testimony, last year Immigration and Border Patrol agents encountered 19,531 illegal aliens in the El Paso area. Of this number, 13,929 had some form of false or fraudulent document, and the remaining 5,602 made false claim to United States citizenship. However, only 664 of these illegal aliens were prosecuted. The remaining illegal aliens were returned to their country of origin. While 3.3% of the apprehensions were prosecuted, all could have been. In fact, almost all could have been prosecuted as felonies. Indeed, last year the Border Patrol alone made 1,644,000 apprehensions along the Southwest Border. Yet, less than 1% of those cases were prosecuted. One significant factor retarding our ability to prosecute more of these cases is that we simply do not have enough federal judges in those districts.

My message here today is simple: the Border Courts are beyond their capacity to handle their caseloads. Washington cannot increase the crackdown on illegal drugs and immigration along the Southwest Border without more judges to allow these cases to be prosecuted. I will discuss my specific situation in Texas as well as the general situation along the entire border. I will also discuss alien smuggling as well as narcotics trafficking because both go hand in hand to cause a logjam effect on the Border Courts. Finally, I will end with a recommendation about how to alleviate the problem.

I. THE SOUTHWEST BORDER INITIATIVE

The United States and Mexico share a 2,000-mile open border. To the concern of both nations, the Southwest Border has become such a crossroads for narcotics trafficking and alien smuggling that the very security of the region is threatened. The Congress and the President recognized the problem in the early Nineties and, in 1994 and 1995, set up the Southwest Border Initiative to deal with it. In 1993, before the Initiative began, 1,213,000 persons were apprehended for illegal entry into the United States, along the entire border from Brownsville, Texas to San Diego, California.¹ During the same year, narcotics seizures on the Southwest Border totaled 512,000 pounds of marijuana and 34,000 pounds of cocaine.² Much lesser amounts of heroin and methamphetamine were seized.

To implement the Southwest Border Initiative, the Congress and the President significantly increased federal law enforcement efforts along the border. Between 1994 and 2000, the number of Border Patrol agents almost doubled, the number of INS agents increased by 93%, the number of Customs agents increased by 28% and the number of DEA agents increased by 155%. In addition to these tremendous increases in law enforcement personnel, there have been significant increases in equipment of all kinds, including technology-enhanced equipment, and increases in infrastructure, such as fences, lights and access roads.

The Southwest Border Initiative has resulted in substantial drug seizures and illegal alien apprehensions. Indeed, the numbers are huge. As I have previously stated, in 2000, 1,644,000 persons involved in some violation of our immigration laws were arrested by the Border Patrol alone, a 35% increase over 1993.³ In 2000 as well, marijuana seizures amounted to 2,478,300 pounds, an increase of almost five times over 1993; cocaine seizures amounted to 49,900 pounds, an increase of almost 50% over 1993; and heroin and methamphetamine seizures also increased, to 520 pounds and 3,060 pounds, respectively.⁴

¹Border Patrol figures only.

²Combined figures from all federal law enforcement agencies.

³Border Patrol figures only.

⁴Combined figures from all federal law enforcement agencies.

II. QUANTIFYING THE RESULTS OF THE SOUTHWEST BORDER INITIATIVE

As impressive as these figures are, we know that the federal law enforcement effort has not shut down narcotics trafficking and illegal alien smuggling on the Southwest Border. There is, of course, no way to quantify how much or little success the effort has achieved. We do know, however, that in the areas where there has been a maximum federal law enforcement presence, local crime rates have dropped considerably. For example, phase one of the Southwest Border Initiative focused on the two areas that had the highest volume of illegal entries: San Diego and El Paso. From 1994 to 1998, local crime in San Diego dropped 60% and local crime in El Paso dropped 19%. The next phase of the Initiative centered in Brownsville and McAllen, which saw local crime decline more than 20%. Thus, while narcotics traffickers and alien smugglers continue to ply their trade on the border, it seems clear that the federal law enforcement effort is making the trade more and more of a risky business. Unfortunately, so long as the demand for drugs and cheap labor in our country remains so high, the risks will apparently be worth it.

It should also be observed that narcotics smugglers are not without their own strategies for minimizing risks. In the Pecos Division of the Western District of Texas, there is a Border Patrol checkpoint on Interstate 10 just west of Sierra Blanca, stopping all eastbound traffic. Every day, ten or more passenger buses come through the Sierra Blanca checkpoint. Routinely, the buses are diverted to a secondary location so that agents can check the citizenship of the passengers. While this is being done, drug sniffing dogs circle the outside of the buses in an effort to detect drugs in the baggage stored in the luggage bays underneath the buses. The agents inside the bus are also alert for evidence of narcotics smuggling, as they perform their immigration checks.

Before 2000, Border Patrol agents at the Sierra Blanca checkpoint made it a practice of touching and manipulating the passenger carry-on bags in the overhead bins of the buses. After a court challenge to the practice, the United States Supreme Court determined it to be a violation of the Fourth Amendment's proscription against unreasonable searches. See *Bond v. United States*, 529 U.S. 334, 120 S.Ct. 1462 (2000). Of course, narcotics traffickers have access to our court decisions. Within months after the decision in *Bond*, the Border Patrol agents at the Sierra Blanca checkpoint noted a steep decline in drug dog alerts to the luggage bays under buses and a substantial increase in the volume of carry-on bags in the overhead bins. It appears that narcotics traffickers adjusted their strategies to reduce their risks of detection by placing their drugs on buses in the one place where law enforcement inspection had been restricted.

The *Bond* case is an example of the challenging Fourth Amendment jurisprudence that has developed on the border. More about this will come later in this testimony. As far as assessing or quantifying the results of the Southwest Border Initiative, however, it is clear that the effort is very much a work in progress. While the numbers indicate that the Initiative has had a major impact on illegal activity on the border, whether the ultimate objective of the entire strategy will be realized remains to be seen.

III. SEIZURES AND APPREHENSIONS VS. PROSECUTIONS

Every narcotics seizure and illegal alien apprehension on the border by a federal officer does not turn into a federal prosecution. For example, 1.6 million apprehensions of illegal aliens in 2000 does not equate to 1.6 million prosecutions thereafter. The vast majority of persons apprehended are photographed, fingerprinted and taken back across the border and dropped off in Mexico. The practices along the Southwest Border with respect to the decision to prosecute vary considerably. In some areas, if an alien is not a smuggler of aliens or drugs and does not have a criminal history, he is not prosecuted for entering the United States in violation of the immigration laws until he has entered illegally at least four times. In other places, it requires more than ten illegal entries before an alien is prosecuted. As I have stated earlier in my testimony, of the 1.6 million apprehensions along the border last year, less than 1% were prosecuted. There are multiple reasons why: (1) the Department of Justice does not have enough prosecutors to prosecute all who enter illegally, (2) the U. S. Courts do not have enough judges to handle the ensuing cases, and (3) the Bureau of Prisons does not have enough prison space to imprison those convicted. That latter point is not hard to understand when you compare the 1.6 million apprehensions in 2000 with the federal prison population for the entire United States in the preceding year of 130,000. If most of the people who were apprehended were charged, convicted and imprisoned, our federal prison population would increase more than tenfold in just one year.

The illegal entrants who are prosecuted in the federal courts are persons whose entries involve possession of drugs, alien smugglers or persons with criminal histories, many with lengthy and aggravated criminal histories. The illegal entrants who are actually prosecuted are not simply persons who entered looking for work; they are frequently very dangerous people.

The same prosecution disparity holds true with federal narcotics seizures as well. In the past, federal prosecutors on the Southwest Border have coordinated with local state prosecutors to divert low-level seizures (sometimes less than a pound of marijuana) to state courts, where they could be handled more efficiently and expeditiously. With the significant increase in caseload, however, these diverted cases began to overload the border counties that were cooperating in the diversion program. While they wanted to do their share, these counties (which are among the poorest in the nation) simply could not afford to deal with the rising crush of extra cases and the corresponding increases in costs for housing, investigation, prosecution and trial. So that the diversion program could continue, the Congress appropriated funds for these counties so that the cooperation could continue. It is hoped by all that these appropriations can continue. The costs are between \$10 million and \$15 million each year and, when considered in the context of the overall expenses to prosecute the smaller cases on the federal level, are well worth it.

IV. THE GROWING DOCKET OF CRIMINAL CASES ON THE BORDER

While not all seizures and apprehensions on the Southwest Border have resulted in federal prosecutions, there have been enough to dramatically grow the criminal dockets of the Border Courts. As stated in the Introduction, the Border Courts cover five federal judicial districts: Southern California, Arizona, New Mexico, Western Texas and Southern Texas. Today, these five districts handle 27% of the criminal filings in all federal courts throughout the nation. That means that less than 6% of the federal judicial districts (5 out of 94) handle 27% of all criminal case filings.

This large percentage is attributable to the increase in filings since the beginning of the Southwest Border Initiative. From 1994 to 2000, criminal filings have increased in the Southern District of California by 112%; in the District of Arizona by 193%; in the District of New Mexico by 95%; in the Western District of Texas by 212%; and in the Southern District of Texas by 179%. Because of sheer numbers, the Western District of Texas, the Southern District of California and the Southern District of Texas rank first, second and third in the nation in criminal case filings in the United States.

It is the goal of the federal courts to process all criminal cases in a fair, just and expeditious manner, according to the Constitution and the rule of law. This goal is increasingly difficult to achieve on the Southwest Border, because of the sheer volume of filings. For example, while the national average of weighted filings in the United States per federal judgeship is 479 (including both criminal and civil cases), the weighted filings for Southern California are 978 (more than double the national average); for Arizona, 589 (23% above the national average); for New Mexico, 668 (39% above the national average); for Western Texas, 864 (80% above the national average); and for Southern Texas, 581 (21% above the national average).⁵

Local examples are instructive, too. When I took over the docket of the Pecos Division in 1995, 45 criminal cases were filed. Last year, in 2000, 447 criminal cases were filed, a tenfold increase, without a corresponding increase in any judgeships. It is also revealing to examine the number of trials border judges try as compared with those tried elsewhere. For the fiscal year ending September 30, 2000, for example, the federal judges of the Southern District of California completed 55 trials per judge, compared with 11 trials per judge in the Central District of California, 15 in the Eastern District and 13 in the Northern District.

Numbers alone are not adequate to tell the tale. As the case of *Bond v. United States* illustrates, Fourth Amendment issues abound on the Southwest Border. Questions constantly arise about the limits of search and seizure law and answers are not self-evident. The matter is even more complicated because the statutes defining the authority of the Border Patrol do not reflect the growing responsibility of the Border Patrol for federal drug law enforcement. For instance, in *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976), the Supreme Court upheld the constitutionality of the brief seizure of travelers at permanent immigration checkpoints by Border Patrol agents for the purpose of making brief immigration inquiries. Though

⁵ These figures incorporate the four new judgeships that were created at the end of 2000 for the Border Courts, one each for the District of Arizona, the District of New Mexico, the Western District of Texas and the Southern District of Texas. None of these judgeships has yet been filled. These figures also included civil cases, so the full impact of criminal cases is diluted to some extent.

not a deciding issue in the case, the Court noted that the authority for the Border Patrol to establish such checkpoints and to make such inquiries of travelers was expressly authorized by Title 8 of the United States Code, section 1357(a). Subsection (a) states that:

Any officer or employee of the [Border Patrol] Service authorized under regulation prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

. . .

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens . . . any railway, car, aircraft, conveyance, or vehicle . . . for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States.

Most would assume that the Border Patrol is charged with the detection of narcotic smuggling in the same manner that it is charged with the interception of illegal aliens. Indeed, the smuggling of illegal aliens and illegal narcotics are the two problems inherent in law enforcement challenges on the Southwest Border. However, the authority for Border Patrol agents to take actions to enforce narcotics laws is derived largely from their cross-designation by the Attorney General, not by any express provision of the United States Code. This difference in the creation of authority raises legal questions as to whether Border Patrol agents enjoy the same scope of powers to enforce narcotics laws as to enforce immigration laws. Accordingly, what actions the Border Patrol may take within their authority to enforce federal drug laws is somewhat ambiguous. Because of the statutory void, the actions of the Border Patrol in connection with narcotics seizures raise recurring questions for Border Courts assessing Fourth Amendment issues. None of these difficult legal problems confront courts outside the border.

V. A NOTE OF THANKS

Before I share the recommendation of the federal judiciary about how we think this problem of escalating dockets can be addressed, I first wish to thank the Congress for what you have already done for the Border Courts. Last year, we came to you and expressed our concerns about the stress being experienced by our courts on the Southwest Border. We asked for an increase in the Judiciary's budget to fund the needs of the Border Courts for more probation officers, pretrial services officers and clerks. You responded with help. We asked for adequate compensation for court-appointed counsel on the border. You responded with help. We asked for more Deputy Marshals on the border. You responded with help. We asked for support for local border prosecutors to take the overflow of cases from federal prosecutors. You responded with help. We asked for the new construction of needed courthouses on the border. While this is a long-term item, you were responsive. Finally, we asked for new judgeships along the border. While you were unable to provide all the help we asked for, you did add one judgeship each to the District of Arizona, the District of New Mexico, the Western District of Texas and the Southern District of Texas.

To complete the remarkable start that you have provided, we now come forward with the recommendation for what is the most critical piece of the fix for the Border Courts. We have assessed what has been done and we see clearly what remains to be done.

VI. A RECOMMENDATION FROM THE COURTS

The federal judiciary believes that the problems on the Southwest Border require the addition of new judgeships in order to meet the challenges posed by successful law enforcement efforts along the Southwest Border. The new judgeships would be a combination of permanent and temporary judgeships, in the very unlikely event that caseloads would decrease over time. However, it seems safe to predict that the problems on the Southwest Border with narcotics trafficking and alien smuggling will not go away anytime soon. Accordingly, it also seems safe to predict that Border Court dockets will not decrease. Indeed, since there are so many seizures and apprehensions that do not go prosecuted, even a substantial decrease in the numbers would not mean that court dockets would fall. It would simply mean, in all likelihood, that a greater percentage of seizures and apprehensions would be prosecuted. Let us use El Paso as an example.

As I described earlier in my testimony, in 2000, Immigration and Border Patrol agents encountered 19,531 illegal aliens in the El Paso area. Of this number, 13,929 had some form of false or fraudulent document, and the remaining 5,602 made false

claim to United States citizenship. During this same period, only 664 of these illegal aliens were prosecuted either in the Western District of Texas or the District of New Mexico. Of those cases, 321 cases were for felonies, either for violations of 8 U.S.C. § 1326 (Illegal Reentry), 18 U.S.C. § 911 (false claim of U.S. Citizenship), or 18 U.S.C. § 1546 (document fraud), and 343 misdemeanors either for violations of 8 U.S.C. § 1325 (illegal entry) or 18 U.S.C. § 1028 (identification document fraud). The remaining illegal aliens were returned to their country of origin either through voluntary return or formal removal. Again, as I have already related to you, while only 3.3% of the apprehensions were prosecuted, all of them could have been. Almost all could have been prosecuted as felonies.

All of us who live and work on the Southwest Border are perpetually hopeful that improving conditions in Mexico will ultimately result in a decline in illegal entries into the United States. But we are in the unfortunate situation (El Paso is a good example) that a drop in apprehensions would undoubtedly have no impact on prosecutions, given the huge census of unprosecuted cases entering the system at any given time. Moreover, a significant drop in drug seizures would again have little impact on prosecutions, but would simply diminish the diversion process now in effect. Regardless, however, if we assume *arguendo* that the cases being filed in the Border Courts will level off in the near future (an assumption for which we have no evidence) and if we assume that the Congress will approve this recommendation to increase the number of judgeships on the border, here is how the numbers will look:

	Current Authorized Judgeships	Weighted Filings as of 09/03/00 Based on Current Authorized Judgeships	Additional Judgeships Proposed by Judicial Conference in Current Legislation	Weighted Filings as of 09/03/00 if all Proposed Judgeships Approved
Arizona	12	589	4 Temporary	442
Southern California	8	978	5 Perm. & 3 Temp.	489
New Mexico	8	668	1 Perm. & 1 Temp.	501
Southern Texas	19	581	1 Permanent	552
Western Texas	11	864	2 Perm. & 1 Temp.	679
			National Average of Weighted Filings Per Judgeship	479

This chart illustrates how the proposed creation of new judgeships will bring the dockets of the Border Courts more in line with the dockets of the federal courts across the nation. Since the lead time for creating and filling these judgeships will be two or three years, help will not be immediate. But, it will be important to know that help is on the way. That will make all the difference.

Thank you for this opportunity to discuss with you the needs of the federal courts on the border with Mexico. I am optimistic that we can work together to ensure that our criminal justice system works effectively and efficiently everywhere in this wonderful Nation, to include our border with Mexico.

CRISIS IN THE BORDER COURTS

Impact of Massive Illegal Immigration, Related Drug and Other Criminal Prosecutions Along the U.S. Southwest Border Upon the Federal Courts

FACT SHEET

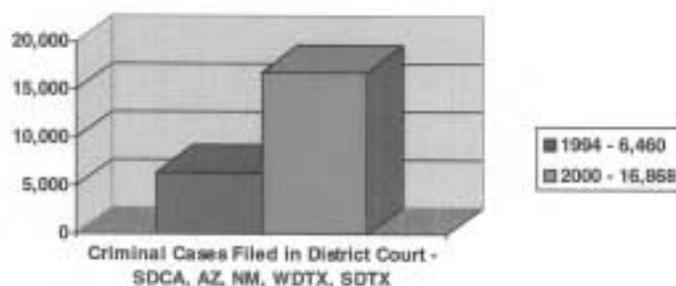
- **The Southwest Border Initiative has dramatically increased federal prosecutions along the U.S./Mexico Border.**

Beginning in 1995, the Southwest Border Initiative ("SBI"), a national strategy designed to crack down on illegal immigration and drug smuggling in Southern California, Arizona, New Mexico and Texas, has produced record numbers of federal prosecutions in those states. Operating under a congressional mandate and increased funding, the Department of Justice has significantly expanded its presence along the U.S./Mexico border, stationing thousands of additional Border Patrol, INS and DEA agents there since 1994, with plans to significantly increase the number of such agents over the next two years.

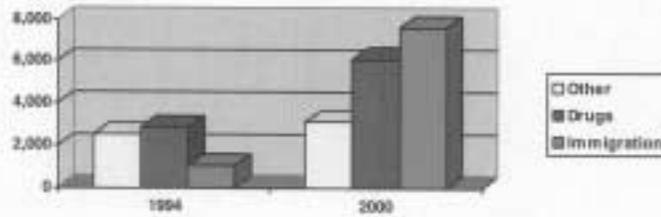
- **The SBI has had an enormous impact upon the workload of the federal courts on the southwest border.**

The five federal district courts of the Southern District of California, the District of Arizona, the District of New Mexico, the Western District of Texas, and the Southern District of Texas (the "Border Courts") **now handle 27 percent of all federal court criminal filings in the United States.** The other 73 percent of federal criminal filings are divided among 89 other district courts.

- **Since 1994, criminal cases filed in the Border Courts have increased by 161 percent.**



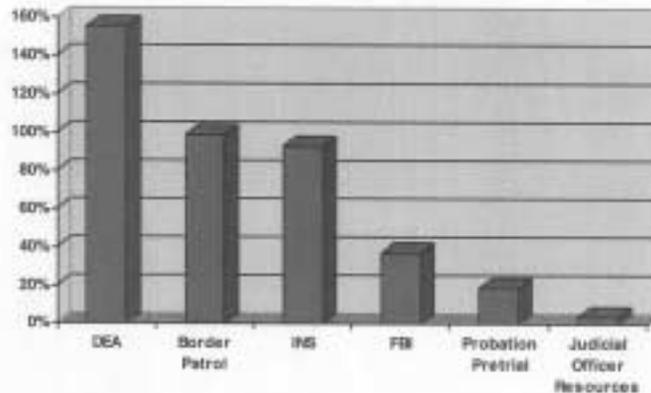
- Drug prosecutions in the Border Courts more than doubled between 1994 and 2000, from 2,864 to 6,116, and immigration prosecutions increased more than seven-fold, from 1,056 to 7,613.



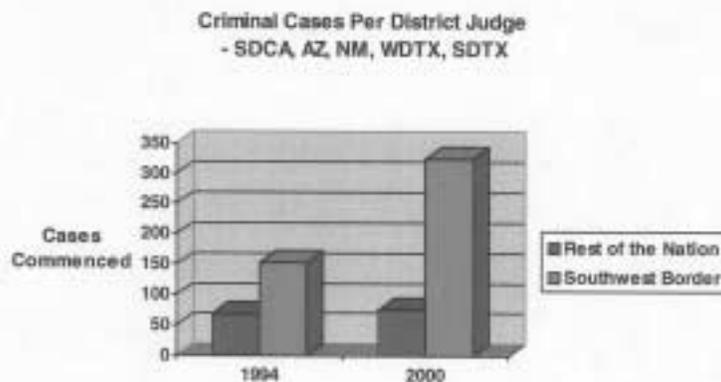
- In contrast to the skyrocketing caseload and massive expansion of prosecutorial resources, judicial resources in the Border Courts have fallen far behind.

Between 1994 and 1998,¹ DEA personnel in the Border Courts surged 155 percent, Border Patrol personnel 99 percent, INS personnel 93 percent, and FBI personnel 37 percent. By contrast, the federal judicial officer resources in these five districts increased only four percent, with probation and pretrial resources increasing 19 percent.

Percentage Increase in Staff 1994 to 1998
- SOCA, AZ, NM, WDTX, SDTX



- The Average Criminal Caseload per district judge² in the Border Courts is more than quadruple the average for the rest of the nation.



In 2000, the average criminal caseload per district judge in the five Border Courts was 324. By contrast, the average criminal caseload in the other 89 federal district courts was 75. Specifically, the criminal caseload per district judge in 2000 for each of the Border Courts was:

Southern District of California:	492
District of Arizona:	282
District of New Mexico:	343
Western District of Texas:	442
Southern District of Texas:	205

1. 1998 is the latest year for which comparative data is available from the Department of Justice. Between 1994 and 2000, probation and pretrial personnel increased 52.2 percent. During that same period, judicial officer resources increased by only twelve percent.

2. This data is based upon the total number of authorized district judgeships.

Mr. SMITH. Thank you, Judge Furgeson.

Let me make an observation, which is that we have heard incredibly discouraging figures today. We have heard everything from 62 percent of the drugs seized in the United States are now seized just on our Southwest border. We have heard, Judge Furgeson, you say that five district courts, five border courts in the United States now handle a quarter of all criminal cases in the entire United States. That looks to me like a bleak future unless we take some action.

What I would like to do is to ask each of you all to respond to two questions. The first question is if we do not change policies, if we do not increase resources, what do you think the future looks

like? And you have touched upon that in some instances already. The second question is, of course, what do we do to reverse the trend? What do we do to stop not just the tide but the flood of illegal drugs coming into the United States, particularly across our Texas and Southwest Mexican border?

Mr. Marshall, would you start off with answers to those two questions?

Mr. MARSHALL. Well, with regard to the first part, if we continue basically with the same level of resources and the same approaches, I think what you are going to see is you are going to see a lot of continued individual successes, and I talked about some of those, and I talked about the fact that law enforcement is, in fact, making a difference, and we will continue to make a difference.

But I think that in order to really change the overall drug picture, you have to do a number of things. I think we need to focus on law enforcement, prevention and treatment if it is the right kind of treatment. Court-supervised treatment is what I believe, and I think that we need to have that kind of a holistic approach. If we don't begin, I think, to move in that direction of a holistic approach, I think we can expect more of the same.

And what was the second part of your question?

Mr. SMITH. Actually, you have answered both questions, and I notice in your testimony you talked about a balanced approach, which I think is a part of the solution.

Mr. Varrone?

Mr. VARRONE. Yes, Mr. Chairman, one thing that strikes me whenever I read these numbers is that the Customs Service has always been projecting what our numbers are going to be, and with NAFTA and with trading increasing so quickly on the Southwest border that we have taken measures to—realizing that resources are static—measures in which to address it as best we can.

Technology has helped us in our search. We still have some technology that can, for example, only do six trucks an hour, and we hope to get more technology. We have a technology plan over the next 5 years in which to address more.

We look at approximately or we screen approximately 18 percent of the trucks that cross the border. We are hoping that some new initiatives with Mexico, possibly some—we have suggested ways of regulating trailers, containers, controlling it on their side of the border; it may tighten up security.

On the second half of the question of what else we can do, we really have to partner here. We have to do more on the front end of the process, and we have to rely, I think, heavily on our counterparts in Mexico and the new administration there to make some noticeable change, sir.

Mr. SMITH. Thank you, Mr. Varrone. And by the way, we are hearing essentially that high tech oftentimes is part of the solution no matter what the area or field we are talking about.

Mr. Scott?

Mr. SCOTT. Well, Mr. Chairman, I would agree with Mr. Marshall. Law enforcement is doing a good job. We know how to investigate; we know how to interdict. We work well with each other across the border. I believe, and it is in my written testimony, that we do have to look at the other areas of the problem: the treat-

ment, and I strongly concur with Mr. Marshall that it has to be the court-mandated treatment, court-monitored treatment, but education and prevention are all important. I don't think there is a law enforcement officer doing drug investigations who believes that law enforcement is the solution.

We believe we are part of the solution, but we know that the other elements have to do their part. I believe also that if those elements are as accountable for their workload as law enforcement has been and continues to be for what we do, then I think we can make a big difference.

Mr. SMITH. Thank you, Mr. Scott.

Judge FURGESON, and I know part of your answer is going to be, as you have already suggested, is more Federal judges. When you get to that question, can you give us a ball park figure as to how many Federal judges you think we need where?

Judge FURGESON. I will talk permanent first. I think we are asking for five permanent in Southern California; two permanent in Western Texas. We are asking for three temporary in Arizona, because Arizona has, of all the border districts, had the best influx of judgeships. They have had four in this period, and we are asking for one permanent in Southern Texas.

Mr. SMITH. You mean you would give California more than Texas? No, no, I—

Judge FURGESON. Well, actually, the reason I do that is because California has not had any new judgeships in this whole period of time.

Mr. SMITH. And I am being partially facetious. I know it is based upon need.

Judge FURGESON. Right, and we are delighted to help our brothers and sisters in California any way we can. The only thing I would say again, Mr. Chairman, is that I think—and I may be biased—I think we have the most wonderful justice system in the world, and it is a product of centuries of effort. The only thing I would ask Congress is to understand the downstream impacts that a substantial increase in law enforcement efforts have into the court system. Border Patrol, for example, has doubled in our area in 5 years, and that kind of an enormous increase in law enforcement efforts is just going to have a final downstream impact on courts.

Mr. SMITH. Right; and as you have more law enforcement, more Border Patrol agents, you are going to have more arrests, more apprehensions, more prosecutions, and then, that is what hits the courts.

I was particularly concerned, and you may know of my interest in immigration, to see in your written testimony and in your verbal testimony a minute ago your mention of the number of criminal aliens who are not prosecuted. I think it is something like 1 percent of the ones who might otherwise be prosecuted, simply because you don't have the resources. You don't have the judges.

And that is disturbing, because as I have said for a long time, if you don't know who is coming into the country—for instance, illegal aliens—you don't know what is coming into the country, like illegal drugs, and there is a connection between the two. So that is another aspect and another reason why we need more judges.

Thank you all for your responses, and the ranking member from Virginia, Mr. Scott, is recognized for his questions.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman.

Mr. Varrone, I saw the movie Traffic, and I was intrigued with the response of what portion of the illegal drugs attempting to cross the border are actually caught, and I thought I heard the number 50 percent of the drugs trying to get across the border actually make it. Is that figure anywhere close to the ball park?

Mr. VARRONE. Those percents or guesstimates, Mr. Scott, are very, very difficult. I watched the special; I watched the movie; and I also watched the Ted Koppel special, and some of that was a repeat of—our officials repeating that 40 to 50 percent number back to Mr. Koppel. The percentage of what we seize on the border is very difficult, because we don't know what is produced and what is the market share here in the United States. I know that the Office of National Drug Control Policy has a cocaine flows model, for example, where they try to estimate what the cultivation is; what the total U.S. Government seizes; what other countries seize, and then, the balance of the leftover is arguably what is for consumption.

It could always be better, and I can say that the people are working as hard as possible to be effective, but the percentage, I, myself hate to use a percentage or a guesstimate, because I believe there is too much margin of error there, sir.

Mr. SCOTT OF VIRGINIA. Do you think that you are catching anywhere close to 50 percent?

Mr. VARRONE. A personal opinion, sir, I don't think we are catching 50 percent, sir.

Mr. SCOTT OF VIRGINIA. Okay; if you were more effective and were actually catching most of it at the border, would we reduce the supply or just change the routes by which it came in? And as you answer that question, if you were actually able to bust up a kingpin operation, would you, so long as the demand is there, reduce the supply or just have other kingpins or, instead of a ton coming across, having 1,000 people trying to bring a pound so long as the demand was there?

Mr. VARRONE. Well, I echo what my colleagues and what Mr. Marshall said about a holistic approach, and I believe that it has to be—demand prevention has got to be strong in this country. But I think we can have higher expectations of our neighbor, Mexico, and of other countries through Plan Colombia and other initiatives. I think we have to place higher expectation there in the source zones. And as to the organizations responsible, we can only, as you know, sir, control the law enforcement activities or the Customs interdiction activities within the border context. There are so many other variables that are out of our control that I think it is a very difficult question.

Mr. SCOTT OF VIRGINIA. Mr. Marshall?

Mr. MARSHALL. If I may, Congressman, I think that law enforcement, you can have some success, and I think that you can have some impact. As the other witnesses have said—

Mr. SCOTT OF VIRGINIA. On that point, the whole purpose of this operation is to reduce the drug use in the United States. How much more resources would you have to have to have a meaningful

reduction in the amount of drugs consumed, say, in the State of Texas, that is, a drug addict going to a supplier and being told I couldn't get any today, because law enforcement has restricted the inflow of drugs?

Mr. MARSHALL. Probably with law enforcement alone, you are not going to have a widespread, lasting effect of that sort. But what you can have is you can make an impact, as we have in law enforcement. And let me give you a couple of examples. With regard to the cocaine organizations operating out of Colombia, we have seen them, because of law enforcement in this country, we have seen them actually back out of a lot of the U.S. markets and give those markets over to Mexico-based drug traffickers.

Mr. SCOTT OF VIRGINIA. Wait a minute.

Mr. MARSHALL. If I may—

Mr. SCOTT OF VIRGINIA. The drug use, did the supply into the United States, did you just have different suppliers, or did you reduce the amount of drugs available in the United States?

Mr. MARSHALL. In the case of cocaine, we did not reduce the amount of drugs available in the country. In the case of methamphetamine, I believe that we have, and let me give you that example: by attacking the Mexico-based organizations, what we have seen is that they have shifted to a lower purity methamphetamine. They have shifted to amphetamine rather than methamphetamine. The prices have gone up; the purities have gone down, and we actually have seen a decline in emergency room statistics for methamphetamine. So that is one area where we can show that law enforcement has a concrete effect of the kind that you are talking about.

Mr. SCOTT OF VIRGINIA. In terms of the cocaine, how much more money would we have to spend on the border to have a meaningful reduction in the amount of drugs consumed in the United States?

Mr. MARSHALL. I think, well, the amount of drugs consumed, I think you look at it in terms of the amount that we are interdicting, the supply that we are interdicting, and I think that is hard to say how much extra resources, but if you look at the numbers here, the Customs numbers on cocaine, for instance, 34,000 pounds seized, that is 34,000 pounds that did not reach American consumers. To actually give you a number to get that down to zero would be impossible for me, sir.

Mr. SCOTT OF VIRGINIA. I yield back, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Scott.

Let me say to the members that I believe we will have a second round of questions, because there is a lot to discuss today.

The gentleman from Georgia, Mr. Barr, is recognized for his questions.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Marshall—and Mr. Varrone, you may want to comment on this as well—but what is the state of the true relationship, cooperative relationship, with the Government of Mexico in fighting this war generally against mind-altering drugs but particularly cooperation with regard to cross-border trafficking as well as cooperation in terms of dealing with DEA, for example; the ability to carry firearms to protect yourself in Mexico; is that now possible, or is that still a bone of contention?

And if you could also comment on the state of corruption in Mexico, and is that still having a serious negative effect on our ability to address this problem?

Mr. MARSHALL. Well, it is a complicated question, sir, and I will try to give you as brief an answer as I can, but it is hard to be brief. We do work very well with certain elements in law enforcement in Mexico. We have established good cooperative relationships with the Attorney General's office; with some what we refer to as vetted units. We have had some successes there. They have arrested Ismail Higuera and a couple of his top lieutenants. They have seized substantial amounts of drugs; they have made some progress in methamphetamine precursor chemicals.

Overall, however, I would have to say that we haven't had a meaningful and lasting success in destroying any of the drug cartels that operate down there. In order for us to do that, I think we have to have several things: we have to have the continued law enforcement cooperation. We have to see progress by the Government of Mexico on the corruption issues, and I think most importantly, we have to see extradition. I think extradition is kind of the key to helping them get a handle on these problems.

And the reason I say that—

Mr. BARR. Excuse me; along those lines, are you seeing a change in the policy here in this country on that issue? We had a great deal of trouble with the prior administration making that a major policy issue regarding Mexico. Is that changing?

Mr. MARSHALL. Extradition—

Mr. BARR. Yes.

Mr. MARSHALL [continuing]. Policy? Yes, I believe that is, and in fact, I believe we have aggressively pursued extradition for quite some time. We haven't seen the results, but we have recent positive statements out of President Fox and others. We have a Supreme Court decision in Mexico that looks like it is going to allow extradition to move forward.

The reason that is so important is because we know who those people are. We have most of them indicted here in the United States. And as long as they are running around down there either on the streets running their drug organizations or, even, in some cases, in prisons in Mexico but continuing to bribe and intimidate and corrupt and run drug organizations, they are in their sphere of influence down there. They can continue to threaten, to bribe. I mean, it is almost like they were out on the street still.

And in order to break that cycle of intimidation, corruption and violence, we have to get them out of their element and back here in the United States where they can't buy preferential treatment; where they can't communicate freely with their drug lieutenants; where they can't buy escape and those kinds of things. And I am hoping that the new administration down there will move in the right direction and the courts down there.

Mr. BARR. What about the issue of firearms?

Mr. MARSHALL. If I may comment on that only in closed session, please, and I will see you this afternoon, or I would submit a classified answer for the record.

Mr. BARR. Okay; thank you.

Is the U.S. military of any help on the border within its legitimate role?

Mr. MARSHALL. Yes; they provide us a lot of logistical resources and support. They have analysts in many of the law enforcement agencies, not only DEA but Customs and probably the State and local agencies as well. They do not provide direct law enforcement activity. It is all support, logistics, personnel, that sort of stuff.

Mr. BARR. Thank you.

Mr. Varrone, I forget whether it was your testimony, Mr. Scott, or maybe yours, so either of you or both of you can comment on this, but with regard to the border backups, particularly as it relates to trucks, why do we care how much of a backup there is on the other side of the border? If our goal and our policy and our priority here in this country is to stop the flow of illegal drugs across the Southwest border, why do we care if there is a long backup on the other side of the border? Shouldn't we simply—I mean, what would the effect be of just making a policy decision to say we are going to inspect more than 5 or 10 percent of the cars; it is that important, and if people have to sit in their cars or trucks for a little bit longer, that is unfortunate, but that is the price that some folks are going to pay for this problem and addressing it?

Mr. VARRONE. Well, I will give an answer and then pass it over to Mr. Scott if he would like to answer it. I don't think the Customs Service or law enforcement looks at the backlog as an issue. What we look at is, for example, in the year 2000, 4.5 million trucks crossing the border. We search as many of those; we screen as many of those as physically possible, and I believe that our border ports of entry, that is how we approach the issue.

Mr. BARR. But isn't it physically possible to screen every one? But we are not doing that.

Mr. VARRONE. We screen to capacity, and we use technology to capacity, but we are hoping that indicators with the new administration in Mexico is that they do a better prescreening job on the front end there and that that will also help us to raise the numbers of what we can physically examine.

Mr. BARR. Mr. Scott?

Mr. SCOTT. That is a very difficult question, and from a Texas standpoint, we deal with the inspection of trucks for safety reasons. Customs inspects the trucks for the cargo, and DPS has equally as many problems in their ability to conduct the safety inspections on those vehicles.

Mr. BARR. Has NAFTA had an effect on your ability to do that?

Mr. SCOTT. Yes, sir, yes, sir, it has.

Mr. BARR. And it has been a detrimental effect, I presume?

Mr. SCOTT. Well, certainly, it has just opened the flow of vehicles, and there is just—there is a conflict in policy sometimes. When you have a policy that we want to stop the flow of drugs and a policy to open the border up for free trade, sometimes, we have to find the balance of what we can afford in both policies.

Mr. BARR. Have we found that balance yet?

Mr. SCOTT. I don't believe so.

Mr. BARR. I don't think so either. The figures indicate that.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Barr.

The gentlewoman from Texas, Ms. Jackson Lee is recognized.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I am glad that my colleague from Georgia sort of added one of the many fingers that we have to deal with on the hand. I think I want to again reemphasize that the front-line fighters are to be appreciated and recognized.

But just about 10 days ago, I spoke to a mother in my district who has about a 40-year-old child, and for every mother, every child, no matter what age, it still remains their child. Drug-addicted; nonviolent; constantly on the street dealing with the drugs that are available for that person to get; not particularly gainfully employed but able to access those drugs. Crack houses are open in my district, as I might imagine they are in other places. Cocaine is flowing.

And so, this is not so much an indictment as a question of when? We have been engaged in the war against drugs for a very long time. The debate continues to rage about who is right and who is wrong. You gentlemen are constantly in the forefront, and my question becomes a question that is riveted, I hope, by a little emotion. This is frustrating. I am not convinced that we are being successful, even though we can count numbers. When I served in a local municipal court, I signed search warrants, 11:00, 12:00, 1 a.m. in the morning for undercover officers going out on a drug bust.

We have got a coordinated effort in my county between local and Federal authorities. But yet, drug houses are open, and drug users are there. And my concern is that if this is a hearing talking about more funding and enforcement, I don't think we are solving our problem. Enforcement, yes, the very question about military involvement gives me the cringes, because I am not particularly supportive in that effort, though I understand our procedures, and I understand our collaborative work that we have done, and I understand their role, and I understand it has been, in some sense, helpful to you.

But the point is if this is a money-ordering hearing, prioritization of how we should support the dollars, I am not convinced, and I know you have heard this before and have been in other hearings, and some folk, you will get who are really moving you toward enforcement, and others will try to balance it. I don't even know if the balance is appropriate, because we are now in 2001, and we have a raging drug problem, even though we may have a sufficient number of prosecutions.

So let me ask this question. One, before I do that, let me say to Mr. Varrone, let me thank you on your customs work. You all have been very busy over these last couple of weeks on some other issues dealing with our cattle and transporting, and I have watched you work, and I do appreciate it, and let me put in a special request: you will be hearing from us. We need some help down at Intercontinental Airport to suffice for what we don't have with INS. So you will be hearing from our office; I wanted to say that.

But my comments generally to you, all of you all, is to cite some numbers, and the numbers may be skewed, but let me just say that 13,000 immigration-related cases versus 500 immigration-related prosecution cases, and we got this off of a study by Syracuse University, 13,967—these are 1998 figures—versus 522 drug prosecu-

tion cases. Judge FURGESON, with all of this stepped up enforcement on illegal aliens and the drug smuggling, is it not the problem with the illegal alien prosecution versus the drug prosecution? Are you just overwhelmed with cases? Or you are overwhelmed with a particular type of cases?

It seems to me that you are overwhelmed with immigration cases.

Judge FURGESON. Immigration cases certainly are a big part of the docket, and I mean, I don't see how, on a border, those are going to go away for us. We are going to have those cases almost no matter what. And so, I think yes, in fact, the statistics will show that we could easily be overwhelmed with immigration cases. If there was an effort to prosecute 2 or 3 percent of the apprehensions, it would sink us immediately.

Almost all of the cases that are prosecuted as far as illegal immigration cases are cases where people have violent backgrounds. People come over here, and they have been involved in all sorts of violent activity; have been here illegally more than a couple of times, those are the cases that end up getting prosecuted. Where people just enter this country illegally, they are normally just simply returned five to 10 times before anything at all is done about them. So we are swamped with immigration cases, and we could actually be shut down if there was any effort to really prosecute those cases at a greater percentage.

Those cases, however, move much more quickly through the system than drug cases. You have to understand: there is almost no question about your guilt if you are not a citizen of this country, and you are here without authorization. I mean, I have had one case go to trial in 7 years, and of course, the jury was wondering what they were doing, because he was here; he did not have authority to be here. There is no question.

And so, you know, in about 3 minutes, the jury came back. Those cases, at least, are processed with great expedition. The drug cases take longer. They are more complex. We are ground zero for the Fourth Amendment where I am: searches and seizures when people are stopped, roving patrols, checkpoints and so forth, we are ground zero for the Fourth Amendment, and I probably do more search and seizure hearings than—I probably do 100 times more search and seizure hearings than my counterparts to the north.

Ms. JACKSON LEE. Judge, I appreciate it, and I live with the immigration issues every day. Your work that you do, we appreciate it, but you get the tail end. You get the end part. You get the final results. Are you seeing a reduction in drug use and drug trafficking by your work in the courthouse?

Judge FURGESON. No, ma'am.

Ms. JACKSON LEE. And I would just simply close by this. I understand there is a second round; I thank the Chairman for his indulgence to simply say that we tried for the last 8 years to get you more judges. I don't know if we will be more successful—I might imagine under the configuration of this Congress that we will be more successful in appointments, but it was a travesty that we did not respond the way we should have in the necessity of judges, and I hope that we will do a better job in the 4 years and 8 years com-

ing to find some individuals that will be working on the bench as you are doing.

I yield back. I thank the Chairman.

Judge FURGESON. Thank you.

Mr. SMITH. The gentleman from Virginia, Mr. Goodlatte, is recognized.

Mr. GOODLATTE. Thank you, Mr. Chairman.

Judge FURGESON, I am interested in the issue of what may be done by corrupt law enforcement officials to facilitate the entrance of these drugs into the U.S., and I am very familiar with the problems we have had on the other side of the border. I wonder what your experience has been in cases coming through your court. Have you seen many instances of various types of law enforcement officials who have facilitated this entry into the country?

Judge FURGESON. I really have not. I can remember one case, a Customs official in Presidio, who was assisting illegal drug entry into the country. I will tell you, sir—

Mr. GOODLATTE. What was the disposition of that case?

Judge FURGESON. He plead to a felony and was sentenced to prison.

I see day in, day out law enforcement, local, DPS officers from our State troopers, DPS, State troopers, DEA, Customs, Border Patrol officers, immigration. They come into my court and testify day in and day out.

Mr. GOODLATTE. I have no doubt that the overwhelming majority of our law enforcement officials are very dedicated to rooting out this problem.

Judge FURGESON. They are very impressive.

Mr. GOODLATTE. It only takes a few who are corrupt, if you know where to go at the right time with the right thing to get through. I will direct my next question to Mr. Varrone, please tell me how you address this problem and what your experience has been with it.

Mr. VARRONE. Well, recognizing the potential for the problem, sir, what we have done is we have different types of staggered operations within the ports of entry. We have inspectors who don't know what lane they are going to be in, and all of a sudden, a bell goes off, and they have to switch lanes. So the people on the other side of the border, which we routinely are challenged by, we call them spotters who are spotting to see if there is any inspections that are less vigilant than others. We have had some organizations that are operating opposite us trying to detect weaknesses in our inspection process. We do a variety of controls like that to improve our ability, and I would call them anti-corruption measures which we take.

Mr. GOODLATTE. Do you do any backup inspections? In other words, they go through the border, and then, a mile down the road, a sampling of people will get stopped, and if you find drugs, is there a way to check back to see who the inspector was on the front line that let that person get through?

Mr. VARRONE. Yes, sir; yes, sir, we do that all the time.

Mr. GOODLATTE. What has been your experience? How often do you uncover individuals who are engaged in this activity?

Mr. VARRONE. We do uncover it. Our Internal Affairs Division has had several cases at various ports along the Southwest border, but the overwhelming majority of our employees, I feel, have the highest integrity.

Mr. GOODLATTE. I do, too, and it is a shame that they have to get treated with listening to a bell to switch lanes, because I am sure the overwhelming majority of them are dedicated to what they are doing and want to do it with the best interests of their fellow citizens and the country at heart, but in order to root out those who do not when you do apprehend somebody engaged in this, what kind of criminal penalties do you seek when they are prosecuted?

Mr. VARRONE. Our Internal Affairs is relentless, you know. We have a zero tolerance policy for integrity violations, and our Internal Affairs, working with the Justice Department, my understanding—I haven't been directly involved in those type of cases in the last couple years, but it is to the full extent of the law. The punishment is always to the fullest extent of the law.

Mr. GOODLATTE. Okay; thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Goodlatte.

Mr. Marshall and Mr. Varrone, I noticed in both of your written testimonies something that I wanted to ask you about; I am curious about, and that is you both mentioned that the bulk of the illegal drugs coming into the United States were actually coming by boat from South America. It seems to me that if we go to the root, literally, R-O-O-T, not R-O-U-T-E, but if we go to the root problem that we would do more to interdict the shipping coming from South America. Are we doing more on that, and how much of a problem is that?

Mr. MARSHALL. It is the predominant method right now, I would say, and we have a number of programs where DEA gathers intelligence and even conducts counter-vessel operations. We do that in conjunction with the Coast Guard, with the Joint Interagency Task Force West, and we have been quite effective in seizing drugs that way.

Mr. SMITH. We tend to focus on the land border, and here is a water border sort of, and we need to do more on that.

Mr. Varrone?

Mr. VARRONE. We believe that that which we don't capture on the high seas does land in northern Mexico and then does come through the points of entry, Mr. Chairman, so we are challenged both at sea and at the ports of entry.

Mr. SMITH. The sooner we start to interdict, the better before it gets to Mexico, I presume.

Mr. VARRONE. Yes, sir.

Mr. SMITH. Mr. Scott, in your testimony, you talked about corruption on both sides of the border. Now, would you elaborate on that?

Mr. SCOTT. Yes, sir, in my written testimony, just last week, eight San Antonio police officers and one local officer were arrested by the FBI for drug corruption, taking money to protect loads; things that the police chief was just completely insulted by, but it is a fact that corruption is not just across the border in Mexico. They are—

Mr. SMITH. Is corruption a problem in Mexico?

Mr. SCOTT. Absolutely.

Mr. SMITH. And to what extent?

Mr. SCOTT. Well, it is a little bit historic. There has always been a situation in Mexico that has been part of their culture, and my accolades go to the new president, Vicente Fox, for his strong stand against corruption, but it is a problem. It is a real problem, and it has, in fact, crossed the border into the United States also.

Mr. SMITH. Thank you, Mr. Scott.

Judge FURGESON, you mentioned in your testimony in addition to the 10 facts, which were disturbing enough, in your written testimony, you also talked about the impossibility of prosecuting and therefore judging drug crimes that were not of the most heinous sort. They were referred to as low-level drug crimes, although I wonder—the low level can be just as bad and should be prosecuted, and individuals should be apprehended and convicted if they are guilty. And just because they are lower-level drug crimes does not mean we should not be going after the dealers and the traffickers.

How much of a problem is that because of the overload in the district courts?

Judge FURGESON. As you mentioned in your opening statement, Mr. Chairman, what we try to divert to State courts on the border, the lower level kind of cases, would be seen as substantial cases in Kansas City or Des Moines or whatever, because we just have so much coming in. I believe that any violation of the law, I would hope, could be prosecuted, and people could be brought through the justice system for that violation. But what we have done is work out a cooperative effort with the State courts and the State prosecutors to take what I would consider our overflow and handle it through prosecutions.

That has worked very well until our border counties just collapsed, and then, Congress, which I appreciate very much, allocated about \$12 million last year to fund this prosecution effort by the State and the border counties, and that has made a big difference.

Mr. SMITH. And the point again is that because of your overload, a lot of individuals who should be prosecuted for drug crimes are not being prosecuted and not being convicted.

Judge FURGESON. Not being in Federal court, and because the sentencing guidelines—

Mr. SMITH. Right.

Judge FURGESON. When you get into Federal court, you are looking at much more severe penalties than you are when you are in State court. And what is happening is these people are prosecuted, but the penalties are different.

Mr. SMITH. Okay; thank you, Judge Furgeson. By the way, you just reminded me that in the President's budget, he has targeted, I think, \$50 million to reimburse border counties for the cost of prosecution. Now, what we need to do in addition to that is make sure that there are judges so that if people are prosecuted, they can complete the full criminal justice system.

Judge FURGESON. It has been a good cooperation between Federal and State authorities, and I applaud that kind of a budget item very much.

Mr. SMITH. Thank you, Judge Furgeson, and thank you all.
The gentleman from Virginia, Mr. Scott, is recognized.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman.

I think it was Mr. Marshall, and Mr. Varrone was talking about the backup at the border. How long does it take to cross the border now?

Mr. VARRONE. The average processing time? I can't talk as to—when people show up for work, there is a line. The line is long. The average processing time—

Mr. SCOTT OF VIRGINIA. Not processing. If you are trying to cross the border, can you get across the border in 15 minutes? Half an hour? Does it take 3 hours?

Mr. VARRONE. It is really depending on time and volume, which is something we don't control, sir. Time of day—

Mr. SCOTT OF VIRGINIA. Well, you have legitimate businessmen who are trying to get a delivery across the—with NAFTA, and so you don't know how long they have to wait?

Mr. VARRONE. We have a target time of 20 minutes. We also have a program there for frequent travelers where we have license plate readers that as they are approaching, we are doing that prescreening, so there are some places where people who are commuting to work or people who have business and are moving very fast, that we have a process in which to expedite those people. But the target time, sir, is 20 minutes.

Mr. SCOTT OF VIRGINIA. Okay; Mr. Marshall, you, in the last round of questioning, pointed to the seizures where you have seized a lot of drugs. Do you have any evidence that any demand for drugs was not met as opposed to the drug dealers just shipping that much more, figuring some is going to get stopped but the supply actually meeting all of the demand?

Mr. MARSHALL. Sure, that is a problem, and I think the supplies are more than sufficient to meet the demand, and that is why law enforcement alone is not going to permanently impact the problem. That is why we have to do law enforcement in conjunction with education, prevention and treatment.

Mr. SCOTT OF VIRGINIA. If you are losing some by seizure, if a dealer is losing some by seizure, they lose a portion of their product, is it true that the cost of the product itself is a small portion of the cost of the drug when it is sold to the ultimate customer?

Mr. MARSHALL. Well, yes, certainly, the profits are very high, and that is one reason that it is a lucrative market.

Mr. SCOTT OF VIRGINIA. Well, how much more would we have to spend on interdiction to have a meaningful effect on the supply of drugs such that an addict would be less likely—would be unable to get some drugs when the addict wants the drugs?

Mr. MARSHALL. We are already having a meaningful impact on the suppliers and the cartels that are operating here. We will never bring that down to zero, and again, that is why it is so important.

Mr. SCOTT OF VIRGINIA. I am not talking about zero. I am talking about not being able to meet all of the demand. I mean, you are talking about somebody in Dallas who wants some cocaine. How much more would we have to spend so that some of the time, he goes to his dealer, he can't get any?

Mr. MARSHALL. Well, that is almost an impossible question to answer, sir, and again, that is why it is so important that we do law enforcement, treatment, education and prevention in concert with each other.

Mr. SCOTT OF VIRGINIA. We have limited funds. Is it, therefore, your testimony that if we are going to spend another billion dollars on the drug problem that it would be much better spent in drug rehabilitation and education?

Mr. MARSHALL. It would be better spent in a holistic approach of law enforcement, education, prevention and treatment. If you try to make it an either-or proposition, and if you try to do one at the expense of the other, you are going to fail. And I think we have seen over the last 20 years that over the decade of—from the early eighties to the early to midnineties, we did have an impact, because we did those strong four things in concert with each other. We lose sight of the fact that the number of regular drug users now are about half what they were in 1980. If we reinvigorate all legs of that fight, I think we can further impact that.

Mr. SCOTT OF VIRGINIA. Well, we have, like I said, limited funds. If we were going to spend another billion dollars on the drug problem, would it make more sense to spend it not cutting interdiction, but if you had a new billion dollars, would it not be better spent on drug treatment and education?

Mr. MARSHALL. I think it would be better spent on all legs of that triangle. If you do one at the expense of the other, I think you are going to fail.

Mr. SCOTT OF VIRGINIA. Well, I did not suggest you do it at the expense of the other; that you keep law enforcement where it is. The marginal value of another \$100 million on interdiction in my judgment would have almost a negligible effect on drugs, whereas, if you spent it on education and rehabilitation, you could have a meaningful effect on drugs, I mean, on the billion dollar level.

Mr. MARSHALL. Well, that is a legitimate viewpoint, Congressman, but we must not forget that demand is not the total part of the equation. We see the criminal organizations that are actually marketing these drugs. We see it time and time again, and I could get into great detail about how they do that, but I won't. As long as we have one at the expense of the other, if you do only demand reduction or prevention, then, you are still going to have the criminal organizations out there marketing their goods to people that the educational message doesn't get to.

By the same token, if you do education at the expense of law enforcement or vice versa, you just don't have a holistic effect. You have to do all of these things.

Mr. SCOTT OF VIRGINIA. Thank you, Mr. Chairman. Let me just say I wasn't suggesting that we cut back on law enforcement, but usually, a decision is being made if you are going to have an extra billion dollars, where is it placed, and it is just my view that you would have a negligible effect on the border and a significant effect if you put it into rehabilitation and treatment and education.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Scott.

Mr. BARR?

Mr. BARR. Thank you, Mr. Chairman.

Judge FURGESON, I very much appreciate you being here; I appreciate your testimony, and I appreciate your public service very much. The problems that you have identified, occasioned by the tremendous increase in drug trafficking in the Southwest border region and the numbers of investigations and prosecutions I think are very, very striking. Is there anything that can be done short of appropriating money or creating new judgeships? Is there anything within the existing judicial framework, the Administrative Office, to shift resources around to provide maybe even some short-term help in your area?

Judge FURGESON. Yes; first, we are providing short-term help. Our Louisiana judges, for example, in New Orleans, have reduced dockets. The dockets have changed, and they have reduced. In the last, I think, 2 years, those Louisiana judges have come almost en masse to the border. They have tried, I believe, over 100 jury trials and done an enormous amount of sentencing and hearings and so forth.

So we, in the Fifth Circuit, have moved judicial resources to the border voluntarily, and it has been an impressive effort. I will say to me, there is one thing that could be done where we would not have to add one Federal judge to the list, and that is give the Administrative Office the right to close down some judgeships and move them. In other words, in New Orleans, we have wonderful judges, but their dockets are a fifth of my docket. And so, what are they doing? They are coming to help, and bless them for it.

But if we had the ability in the Administrative Office to shut down—in other words, when a vacancy would occur in New Orleans, we wouldn't fill that vacancy. We would move that court to the border; we wouldn't need any new judges. If the Administrative Office had the right to move courts around, we would be fine, but we don't have that right. We don't have that ability at all. But if we had it, you wouldn't have to add one new judgeship. We have the kind of capacity in other areas of the nation where we could bring judges to the border and close them down other places. That could be done.

Mr. BARR. I appreciate that very specific suggestion, and I think that is something that we ought to look into. Thank you very much.

Judge FURGESON. Yes, sir.

Mr. BARR. Looking at the map here, Mr. Varrone, and Mr. Marshall, you may want to comment on this also, obviously, there is a great deal of trafficking in drugs from the entire southern region, the Caribbean region, emanating from Colombia. How well are we coping with that from an intelligence standpoint, not just on the border but a little bit further down, because those drugs that are coming across the border have to come from somewhere, and we try to monitor that. We have closed down, within the last year, all of our capability or virtually all of our capability out of SouthCom, which used to be in Panama.

How are we doing in terms of intelligence to identify and track those drugs that eventually are finding their way across the Southwest border region?

Mr. VARRONE. I think we are doing the best job we have ever done right now. I think that the in-country officers that DEA and Customs have particularly in Colombia is the trend analysis, the

intelligence analysis and trend analysis unit that we are doing here domestically in the United States, I think that those trend patterns have led to a lot of the successes, the joint agency successes that we have had in the last couple of years and particularly, sir, that EastPac operation which we referred to earlier. That has been a tremendous success, and the capability which previously we might not have had the ability to seize 78 metric tons of cocaine on the high seas in the Eastern Pacific.

So seeing it shift onto the both east and west coasts of South America and us to be able to be there and intercept it I think is a tremendous success.

Mr. BARR. Is this an area where cooperation with and involvement of the U.S. military by making units available—what is it, the E-2 and E-3 planes and so forth—is that having a positive impact, and is that working well?

Mr. VARRONE. Very well, sir, the JADF-East, JADF-West and the Customs aviation resources, I think, are having a tremendous impact.

Mr. BARR. Director Marshall, could you comment on that, please?

Mr. MARSHALL. I think we are doing a good job in the area of intelligence. From a DEA standpoint, we look not so much at the individual loads, although we get that information from time to time and pass that to the interdiction agencies. What we look at mostly are the criminal organizations that are responsible for the loads, and then, we try to systematically build cases and prosecute them either in the U.S. or in foreign countries.

We know who most of those organizations are. We certainly know the upper echelon. We have intelligence methods that continually identify the organizations and the cells, and as we take them out, we have methods that will show us who takes their place. I think we are doing a very good job. I think we need to do a better job, however. And one of my budget priorities is to try to increase intelligence capability both for DEA as well as, hopefully, the HDTAs and so that we can do a better job of gathering intelligence information, analyzing that, getting it back in actionable fashion to our partners at the State and local level like the Texas DPS, Customs, Coast Guard, that sort of stuff.

It is very important. I wish that we had more capability. I would like to see more capability, but we know what needs to be done. We do need more resources in that area.

Mr. BARR. Thank you, and I would like to thank all members of the panel, and thank you, Mr. Chairman, for pulling this panel together. It has been a very, very enlightening and informative session today.

Mr. SMITH. Thank you for those comments, Mr. Barr.

Judge FURGESON, I am intrigued by your idea of Congress giving the Administrative Office of the U.S. Courts authority to shift those Federal judges around. That assumes that Congress would act in a way as to make our criminal justice system more efficient, more effective, and I don't know if that is a presumption we can achieve, but I am intrigued by the idea.

Yes, sir?

Judge FURGESON. Can I tell you, Mr. Chairman, that the Administrative Office has made that proposal to Congress before.

Mr. SMITH. We saw how far that went! [Laughter.]

Judge FURGESON. And the Administrative Office was turned down, but I think the judiciary could meet its needs at least over a 10 or 15-year period if we were allowed to shift judgeships. But we have asked for it before, and we have been denied that opportunity.

Mr. SMITH. As I said, it is an intriguing idea. I will consult with Mr. Scott to see what we think we might be able to do.

Judge FURGESON. In the meantime, Mr. Chairman—

Mr. SMITH. He says they are not coming from Virginia. [Laughter.]

Judge FURGESON. That is what we were told. [Laughter.]

Someplace else, not my place.

In the meantime, foreseeing that that reaction would probably occur throughout the Congress, we desperately do need these judgeships if they can be provided.

Mr. SMITH. Okay; thank you again.

Ms. Jackson Lee?

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I can't help but follow up, Judge Furgeson, on that. I said it earlier, but I think I was a little bit too polite. If we had not had the ideological blocking that we had the last 8 years in the Senate, the Republican Senate in particular, we would have gotten you a lot of judges. It is unfortunate that the clock ran out, and a number of very competent, qualified potential jurors were sent packing and home, and it is unfortunate for both them and the qualifications they would have offered. So I hope that—I probably will be getting hit with a lot of judges this time around, and hopefully, they will serve you and your purposes. I am sure that the positions that I take on issues, they obviously will not be dealing with those.

But I am going to move to Mr. Marshall and simply try to get some basic facts along with a comment I think Mr. Scott made, and I think it is a very important one is whether we have balanced our desire for trade, international trade, and I am not sure—Mr. Scott, if it was you; I won't attribute it to you if it was not—but balanced the trade opportunities that we have provided. Certainly, of course, they have merit, but whether or not we moved so quickly to those open opportunities and failed to balance the fight that you are engaged in, which is to ensure that the trading is not done in detrimental products.

What percentage of drugs that has been attempted to be smuggled or smuggled into the U.S. is the SWB enforcement effort capturing? Do you have percentages of your success? What have you been able to keep off the streets or keep out of the southern region or into the United States?

Mr. MARSHALL. Well, we don't have actual percentages of, you know, what percent is coming across that we have seized. Mr. Varrone made reference to an interagency flow estimate, and I don't have those numbers in my head, but I will submit those for the record.

Ms. JACKSON LEE. Would you, please?

Mr. MARSHALL. And that will give you a rough idea, but as far as the balance, I mean, I am not a trade expert, but all I will say is that I know that increased traffic across the border—I mean, ob-

viously, that creates increased opportunities for drug smuggling. Now, that is more of a problem for the Customs than it is for us. We address that, I think, quite simply by going after the criminal organizations that are responsible for doing that smuggling rather than always focusing on the individual loads that are coming across, and we have been quite effective in wiping out many of those organizations both here and, in some cases, overseas.

Ms. JACKSON LEE. Can you give a percentage? Do you know how many of those that you have been effective in—

Mr. MARSHALL. Of the organizations?

Ms. JACKSON LEE. And do you knock them out permanently, or is it a temporary interlude, and they come back in another 5 years in another shape, form or fashion?

Mr. MARSHALL. We have had, I would say, no less than two or three dozen major operations over the last 3 to 5 years where we have wiped out these organizations, their cells operating in the United States, and unfortunately, yes, they are replaced, and they come back. However, I will say that when they do replace them, they replace them with second and third tier level managers. We diminish their skills; we diminish their talent pool, as it were.

Because of the continual wiping out of those cells, we have seen the Colombian and Mexican organizations make fundamental changes in the way they do business. We have seen the Colombians, for instance, back out of certain U.S. markets and give that distribution risk over to the Mexican drug trafficking organizations. What we have not been able to do as successfully is to reach the actual kingpins that control the traffic, located mostly in Mexico, Colombia, to a lesser degree, Dominican Republic.

Ms. JACKSON LEE. In doing that, have you seen a reduction in the price and the quality of the product on the street?

Mr. MARSHALL. There has been no noticeable—

Ms. JACKSON LEE. Or an increase in the price?

Mr. MARSHALL. No noticeable differences except in the case of methamphetamine, where we have seen a reduction in purity, and we have seen somewhat of an increase in prices, and we have actually seen less emergency room incidents with that particular drug.

Ms. JACKSON LEE. Have you all had any initial discussions with the new administration in Mexico, possibly not at the level of the chief executive but any of the law enforcement that has suggested that the pronouncements being made are going to be actually actuated in collaboration with our agencies and efforts down at the border?

Mr. MARSHALL. A number of U.S. officials, myself included, have met with the new Mexican attorney general, Mr. Marcedo. Louis Freeh made a trip to Mexico. I am not sure who he met with down there. I am making a trip to Mexico in a couple of weeks. I expect to meet with several officials down there.

They are pronouncing, I think, a lot of the right things. President Fox has said that he wants to make corruption and drugs his top two priorities. They are moving favorably, or at least it appears that they are, on the question of extradition. Unfortunately, that is not solely an administration issue. That also is in the Mexican court system. I think that if they follow through on their intentions, we will make some progress.

I will say also that they have substantial challenges. Even the best of intentions, they will have to overcome what I think is really systematic problems down there, and it is a tremendous challenge. I don't think that the Fox government can completely fix that in 6 years, but they can make progress toward it.

Ms. JACKSON LEE. Well, Mr. Marshall, let me just say this: I believe that whatever effort that we have been doing, more of an effort that we wage will not be effective without a real foreign policy that works not only with Mexico but the rest of our neighbors; one, the foreign policy that actually produces on the other end an altering in the economy, which we have not mentioned in this hearing, where constituents of those countries are saying that is the only way that I can eat is to produce. We have not answered that at all here. We have not answered the demand question. We have said to Judge Furgeson that we need judges, but we didn't give you any for the last 8 years, though we had 200 or so waiting on the waiting list.

So I am glad that this hearing has been informative, but I will say to you that in addition to the work that you do so ably—and I want to applaud your agents out on the front lines—if we don't grapple with the nonrestricted trade, which brings in the computers or the telephones, and underneath that are the drugs; if we don't deal with the idea of a different economy, and if we don't deal with a foreign policy that says to new leaders or present leaders, you can make pronouncements, but we are going to look for action, then I think we are barking up a tree.

And, of course, finally, I have said before, and a tree that we won't get up—deal with that demand, that mother and that daughter fighting that addiction, nonviolent, walking the streets and having access, then I don't think we are going to get anywhere on the border or anywhere else in this nation.

But I thank you for your work. I thank the Chairman and the ranking member for this hearing.

Mr. SMITH. Thank you, Ms. Jackson Lee, and I do want to point out something that I understand, and maybe you and I should both check, but it is my understanding that the Republican Senate approved both a greater number and a higher percentage of Federal judges nominated by the President—

Ms. JACKSON LEE. I am sorry, Mr. Chairman. I didn't hear what you said.

Mr. SMITH. It is my understanding that the Senate for the last several years has actually approved a greater percentage and a greater number of Federal judge nominees than the previous Senate controlled by Democrats approved nominees by the previous Republican President. But we ought to check our figures.

Ms. JACKSON LEE. We will check our figures. If the gentleman would yield, I would simply say I appreciate that point of information, but I think if we look at the percentage of how many were left behind and not confirmed though competent, I think we will find a higher percentage. But we will look at our numbers on that.

Mr. SMITH. I think my figures go in addition to those who were not confirmed at the end of this administration versus the last Republican administration, but let us check our figures on that.

Ms. JACKSON LEE. We have a Fourth Circuit Judge Gregory, if I have got the correct name. Maybe I don't have the correct name, but I hope he is about ready to be confirmed to help out. This way, Mr. Scott from Virginia can give you one somebody else, because he has got somebody coming on the Fourth Circuit. [Laughter.]

Mr. SMITH. I would like to thank the members for their attendance and also the witnesses for their expert testimony today. It is much appreciated and hopefully will lead to a change in policy and a change in resources for you all.

[Whereupon, at 12:25 p.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE BOB BARR, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF GEORGIA

Thank you, Mr. Chairman.

I commend all of our witnesses in their combined effort to reduce drug trafficking along the southwest border, and I appreciate their coming here today.

Mr. Chairman, the Congress has significantly expanded law enforcement presence along the U.S./Mexican border, and we have provided billions for border control in response to increased trafficking in the southwest region.

Why is that we are finding 60% of cocaine shipments, 92% of marijuana seizures and 85% of methamphetamine production taking place along the U.S./Mexico border? An incredible 63% of all U.S. drug seizures now occur along the southwest border.

We are seeing an increase flow of drugs from Mexican entry points. I am concerned that our drug interdiction policy, particularly with respect to our U.S. borders, continues to suffer from the balloon effect, where we squeeze the balloon at one end, only to have it explode at the other.

We were successful in clamping down the South Florida/Caribbean entry points through vigorous enforcement and investigation. Why aren't we having the same impact along the southwest border that we did in South Florida?

We need to get answers now. This issue is too important to take a "wait and see" approach. The new Administration must seize this opportunity, and develop and implement a comprehensive strategy. The southwest border represents a major factor in the illegal trafficking of drugs into this country, and with 14,000 drug-related deaths occurring each year in the United States, our control of it, or lack thereof, represents a significant national security threat.

I look forward to working with you and our witnesses to resolve these issues.

PREPARED STATEMENT OF THE HONORABLE RANDY "DUKE" CUNNINGHAM, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Chairman Smith, Ranking Member Scott, Members of the Committee, I want to begin by thanking you for holding this hearing today. I am not sure if any of you have seen the movie Traffic but if you have not, I encourage you to do so. The movie is fantasy but the constant struggle that is ongoing on our border is very real. Smugglers, drug and human, constantly threaten our border. Growing cross border trade is forcing us to open our border, while at the same time protecting the children of America from drugs and aliens from dying during their quest to America.

However, I am not here to talk about drugs or crime, instead I want to focus on Judgeships. Mr. Chairman, I have introduced the Southern California Federal Judgeship Act of 2001 (H.R. 261). This important legislation will authorize eight additional federal district court judges, five permanent and three temporary, to the Southern District of California.

A recent judicial survey ranks the Southern District of California as the busiest court in the nation by number of criminal felony cases filed and total number of weighted cases per judge. In 1998, the Southern District had a weighted caseload of 1,006 cases per judge. By comparison, the Central District of California had a weighted filing of 424 cases per judge; the Eastern District of California had a weighted filing of 601 cases per judge; and the Northern District of California had a weighted filing of 464 cases per judge.

The Southern District consists of the San Diego and Imperial Counties of California, and shares a 200-mile border with Mexico. According to the U.S. Customs

Service, as much as 33% of the illegal drugs and 50% of the cocaine smuggled into the United States from Mexico enters through this court district. Additionally, the court faces a substantial number of our nation's immigration cases. Further multiplying the district's caseload is an agreement between the Immigration and Naturalization Service and the State of California that calls for criminal aliens to be transferred to prison facilities in this district upon nearing the end of their state sentences. All these factors combine to create a tremendous need for additional district court judges.

Mr. Chairman, the ability to stop, catch and prosecute criminals along our border depends upon judges. I want to thank you for holding this hearing today and focusing on the Southwest Border. Thank you and God Bless.

