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REPORT OF THE COMPTROLLER GENERAL OF THE UNITED STATES

Federal Drug Enforcement: Strong Guidance Needed

Departments of Justice
and the Treasury

Federal drug law enforcement efforts have for years suffered from problems of fragmented organization and resulting interagency conflicts. Efforts to resolve the problem have not been successful.

This report addresses this problem and several other issues related to Federal drug law enforcement.

GAO made recommendations to the Attorney General concerning:

- Cooperation and coordination between Drug Enforcement Administration and Customs Service on intelligence.
- The role of the FBI in Federal drug law enforcement.
- Funds for purchase of evidence and information.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-183363

The Honorable Henry M. Jackson
Chairman, Permanent Subcommittee
on Investigations
Committee on Government Operations
United States Senate

R Dear Mr. Chairman:

This report on Federal drug law enforcement was made in accordance with your March 6 and May 1, 1975, requests.

As requested by the Subcommittee staff, we did not submit the report to the Federal agencies involved for their official comments. However, we did discuss our findings with officials of the Drug Enforcement Administration, the U.S. Customs Service, and the Federal Bureau of Investigation and their comments were considered in preparing this report.

We invite your attention to the fact that this report contains recommendations to the Attorney General which are set forth on pages 42 and 56. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We will be in touch with your office in the near future to arrange for release of the report so that the requirements of section 236 can be set in motion.

Sincerely yours,

James A. Stacks

Comptroller General
of the United States

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ACRONYMS

BNDD	Bureau of Narcotics and Dangerous Drugs
DEA	Drug Enforcement Administration
DECS	Drug Enforcement Coordinating System
EPIC	El Paso Intelligence Center
FBI	Federal Bureau of Investigation
G-DEP	Geographic Drug Enforcement Program
GAO	General Accounting Office
INS	Immigration and Naturalization Service
LAPD	Los Angeles Police Department
LEAA	Law Enforcement Assistance Administration
NADDIS	Narcotics and Dangerous Drugs Information System
ODALE	Office for Drug Abuse Law Enforcement
OMB	Office of Management and Budget
ONNI	Office of National Narcotics Intelligence
PE	Purchase of Evidence
PI	Purchase of Information
RIU	Regional Intelligence Unit
TECS	Treasury Enforcement Communication System
UID	Unified Intelligence Division

COMPTROLLER GENERAL'S REPORT
TO THE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS, SENATE
COMMITTEE ON GOVERNMENT
OPERATIONS

FEDERAL DRUG ENFORCEMENT:
STRONG GUIDANCE NEEDED
Department of Justice
Department of the Treasury

D I G E S T

For years Federal drug law enforcement in the United States has not been as effective as it could have been if the agencies responsible had worked together to enforce the drug laws.

The price paid in this country for the lack of a concerted effort in attempting to control illicit drug activities cannot be measured.

The Federal agencies concerned--primarily the Drug Enforcement Administration and the U.S. Customs Service--have statistics on drug arrests, convictions, and seizures. However impressive these appear, they are not necessarily accurate indicators of how effective drug enforcement is.

True, statistics show increased arrests, convictions, and seizures. Law enforcement has not necessarily improved. Drug abuse is considered one of the most serious and most tragic problems in this country.

In his Reorganization Plan No. 2, of 1973, the President intended the Drug Enforcement Administration, the U.S. Customs Service, and the FBI to cooperate and coordinate their forces into a cohesive and powerful instrument for drug enforcement. They did not do so.

The Drug Enforcement Administration must obtain more valuable and reliable intelligence to assist the U.S. Customs Service in catching smugglers at border inspection posts. (See pp. 23 to 28.)

Since the 1973 reorganization, the Drug Enforcement Administration and the FBI have interpreted the FBI role in a narrow sense and have not materially changed their working relationship.

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The Drug Enforcement Administration headquarters has not provided the FBI with names and information about drug traffickers. If the FBI was supposed to play a larger role in drug enforcement, it seems logical that the Drug Enforcement Administration would have provided the FBI with names and information about certain major traffickers. (See pp. 34 to 41.)

4/ A recommendation that problems be solved by action at the highest level was made by the Domestic Council Drug Abuse Task Force in September 1975. Its chief recommendation said:

"The task force recommends that the President direct the Attorney General and the Secretary of the Treasury to settle jurisdictional disputes between DEA and Customs by December 31, 1975, or to report their recommendations for resolution of the matter to the President on that date."

GAO endorses this recommendation. History shows, however, that establishing inter-agency agreements alone usually will not solve problems.

It is questionable whether such agreements ever will work without a clear directive on the part of someone acting on the President's behalf to compel agencies to comply.

The Drug Enforcement Administration considers the purchase of evidence and information as one of the most effective tools available in narcotics investigations.

The use of funds for purchase of evidence and information has been controversial. The effectiveness of the use of these funds is difficult to assess. GAO recommends that the Attorney General develop better policy and criteria governing their use. (See pp. 43 to 57.)

GAO did not obtain written comments from either the Department of Justice or the Treasury; however, the Drug Enforcement Administration, FBI, and U.S. Customs Service reviewed the report and their comments and suggestions were considered.

CHAPTER 1

INTRODUCTION

The Permanent Subcommittee on Investigations of the Senate Committee on Government Operations began hearings in June 1975 on the effectiveness of the Drug Enforcement Administration (DEA). The goal was a thorough analysis of DEA's ability to effectively deal with the ever-increasing narcotics and dangerous drugs problem. By letters of March 6 and May 1, 1975, the Chairman requested that we review certain areas which are of major concern to the Subcommittee. (See app. I.)

Specifically, the Subcommittee wanted us to provide:

1. "An analysis of purchase of evidence/purchase of information (PE/PI) funds used by DEA as an approach to drug law enforcement focusing on the number of convictions and significance of violators convicted, including (a) a study of the amounts of Federal dollars allocated to PE/PI over the last five years and to whom these dollars flow, and (b) an accounting of all such money so used since the creation of DEA."
2. "An analysis of the results of the BNDD[1]/DEA, U.S. Customs Service, and the former Office for Drug Abuse Law Enforcement efforts in drug enforcement, from fiscal year 1970 to present, focusing on the number of convictions, nature of the case, significance of violators convicted, and the nature, quantity, quality and/or street value of illicit drugs seized as well as an analysis of the law enforcement methodology utilized by each agency."
3. "An analysis of DEA enforcement and intelligence manpower allocations to various activities and functions in the agency."
4. "An analysis of the exchange of information between Customs and DEA, including the frequency and nature of requests for information or assistance by one agency or the other and the disposition of such request."

1/Bureau of Narcotics and Dangerous Drugs

5. "An analysis of the controls exercised by DEA over narcotics seized, including any information available on the nature, quantity, quality and/or street value of any narcotics unaccounted for after original seizures."
6. "An analysis and accounting of any "confidential fund" maintained by DEA, including the purposes for which the funds were expended."
7. "An analysis of the program of cross designation of DEA agents to allow them the same search and seizure authority as U.S. Customs agents, to include the number of DEA agents so designated and the number and quality of arrests made and convictions obtained by them in this capacity."
8. "An analysis of the quantity and quality of intelligence information exchanged between DEA and the U.S. Customs Service since July 1, 1973, which would enable both agencies to function in the manner intended by Reorganization Plan No. 2."
9. "A study and analysis of the type and quality of cooperation that exists between the Federal Bureau of Investigation and the Drug Enforcement Administration since Reorganization Plan No. 2 was implemented on July 1, 1973."
10. "A study and analysis of how Federal money from LEAA [1] is allocated, by DEA, to the various narcotics Task Forces currently in operation in the country."
11. "A study and analysis of the Unified Intelligence Center, a federally funded narcotics related operation in the New York City area."

The Chairman also requested our views on the results of DEA compliance programs.

On June 9, 1975, our representatives testified before the Subcommittee on work in progress on this request and other work done in recent years to develop several reports to the Congress. This report presents the final results of our work pursuant to the Subcommittee's request.

1/Law Enforcement Assistance Administration

As part of our testimony at the June hearings, we provided copies of the digests of our prior reports on drug enforcement. Since then, we have issued another report which gives our most recent views on DEA's compliance program: "Improvements Needed In Regulating And Monitoring The Manufacture And Distribution Of Licit Narcotics" (GGD-75-102, Aug. 28, 1975).

We were denied access to DEA's "confidential fund" by the Department of Justice. Certain funds appropriated to Department of Justice agencies are outside the scope of our audit authority. DEA's annual appropriation acts authorize DEA the use of not more than \$70,000 to meet unforeseen emergencies of a confidential nature. According to the act, these confidential funds are to be expended under the direction of the Attorney General and accounted for solely on his certificate. We were told by the Department that it had internal auditing procedures to insure the propriety of expenditures from these funds.

PRINCIPAL AGENCIES INVOLVED

Federal drug law enforcement from fiscal year 1970 to the present has been shared by several agencies.

Before July 1, 1973, Federal effort in drug law enforcement was characterized as "fragmented" and having "serious operational shortcomings." The criminal investigative and intelligence functions were shared by (1) BNDD and the Office for Drug Abuse Law Enforcement (ODALE) in the Department of Justice and (2) the U.S. Customs Service, as part of its antismuggling functions, in the Department of the Treasury. The Office of National Narcotics Intelligence (ONNI), also in the Department of Justice, was responsible for developing and maintaining a national narcotics intelligence system and for serving as a clearinghouse for Federal, State, and local agencies needing access to such intelligence.

This fragmentation of effort was one of the principal reasons leading to Reorganization Plan No. 2 of 1973 (effective July 1, 1973), which created a single comprehensive Federal agency, the Drug Enforcement Administration, within the Department of Justice and abolished BNDD, ODALE, and ONNI. The functions and resources of these agencies together with the investigative and intelligence-gathering functions and resources of the Customs Service relating to drug law enforcement were transferred to the new DEA. The Customs Service's antidrug role was limited to interdiction of illicit drugs at U.S. borders and ports of entry. Reorganization Plan No. 2 of 1973 also intended a more

significant role for the Federal Bureau of Investigation (FBI) in drug enforcement.

DEA's State and local task force program is partially funded through grants by the Department of Justice's LEAA.

CHAPTER 2

RESULTS AND METHODOLOGIES OF FEDERAL

DRUG LAW ENFORCEMENT

In the March 6, 1975, letter, the Subcommittee Chairman asked us to perform:

"An analysis of the results of the BNDD/DEA, U.S. Customs Service, and the former Office for Drug Abuse Law Enforcement efforts in drug enforcement, from fiscal year 1970 to present, focusing on the number of convictions, nature of the case, significance of violators convicted, and the nature, quantity, quality and/or street value of illicit drugs seized as well as an analysis of the law enforcement methodology utilized by each agency."

We found that each agency had made numerous arrests, convictions, and seizures, but the statistics are difficult to interpret and are not necessarily true measures of enforcement effectiveness. Increased arrests, convictions, and seizures could be due to increases in trafficking and amounts of illicit drugs available rather than more effective law enforcement. Heroin seizures by Customs and DEA declined during fiscal year 1974, the first year following the reorganization. DEA stated that the decline was due to the combined effects of the Turkish opium ban and the intensified enforcement in France. Customs said its drop in heroin seizures was due, in part, to a decline in the overall smuggling of the drug and to diminished intelligence available.

DEA, Customs, BNDD, and ODALE used various enforcement methodologies to carry out their respective missions. BNDD and Customs, when each performed drug intelligence and investigative functions, had different approaches. Customs focused on the borders and ports and used resultant seizures as springboards for investigations. BNDD and ODALE used extensive undercover activities, relying heavily on the purchase of evidence and information. It should be pointed out that BNDD and Customs worked together on many cases.

DEA has adopted and used methodologies of BNDD, ODALE, and Customs. The U.S. attorneys and assistant U.S. attorneys we talked to in New York, California, and Washington support the intent of Reorganization Plan No. 2 of 1973.

RESULTS DIFFICULT TO INTERPRET

In transmitting the Domestic Council Drug Abuse Task Force report on drug abuse to the President in September 1975, the Vice President stated that drug abuse is one of the most serious and most tragic problems this country faces.

Federal agencies responsible for drug law enforcement have looked at arrests, convictions, and seizures as indicators of progress and results. These statistics, however, can be deceptive and are not necessarily true measures of enforcement effectiveness. Increases in arrests, convictions, and seizures may have little impact on drug availability if the arrests and convictions are for easily replaceable traffickers and if seizures, regardless of quantity or purity, do not result in disruption of the traffic. Changes in drug trafficking patterns are viewed as indicating the impact of enforcement efforts.

Furthermore, although law enforcement has a major responsibility for reducing the availability of illicit drugs, it cannot be held solely accountable. In addition to law enforcement, other elements of the criminal justice system, such as prosecution, the Courts, and treatment programs for drug abusers, together with U.S. diplomatic actions abroad, all affect the overall U.S. effort to reduce illicit drug availability.

DEA, Customs, BNDD, and ODALE routinely reported statistics on arrests, convictions, and seizures; however, the reporting systems did not relate these statistics to particular enforcement methods and jurisdictions. These systems did not and do not routinely provide, for example, statistics on the number of arrests and convictions from conspiracies, undercover penetrations, or convoy operations. DEA maintains statistics, as did BNDD during its last year of existence, on the significance of violators arrested. Customs, however, is the only agency that routinely reports on the average purity of its seizures. This reporting precludes misrepresentation, and Customs believes it should become an integral part of reporting all drug seizures.

Since the agencies operated under different legal authorizations and had different roles and responsibilities, the results are not comparable. For example, it would be difficult to compare ODALE's efforts, which were geared to reducing availability at the street level, with BNDD's efforts, which were geared toward reducing availability at the highest levels in drug trafficking networks.

BNDD/DEA arrests, convictions and drug removals

Since DEA adopted the BNDD enforcement program (about 75 percent of DEA's enforcement personnel were former BNDD

agents) and continued BNDD's reporting system for arrests, convictions, and seizures, we will discuss BNDD and DEA efforts together.

Arrests and convictions

Arrest statistics are of limited value if the significance and importance of the arrestees are not included. Total arrests reported by BNDD and DEA from fiscal year 1970 to 1975 are shown in appendix II. As shown, arrests have increased over the years. DEA's Geographic Drug Enforcement Program (G-DEP), which ranks violators into four classes, has the added dimension of providing arrest statistics by significance of violator. Upper level traffickers are identified as class I and class II violators, while middle and lower level traffickers are identified as classes III and IV. The number of upper level traffickers (classes I and II) arrested has increased. The number arrested domestically increased from 459 in fiscal year 1973 by BNDD to 832 and 1,328 in fiscal years 1974 and 1975 by DEA. Likewise, the number of classes I and II traffickers arrested by foreign law enforcement agencies with BNDD/DEA assistance increased from 106 in fiscal year 1973 to 221 and 239 for fiscal years 1974 and 1975, respectively.

If there are arrests without convictions, little has been gained. DEA's effectiveness in immobilizing drug traffickers depends not only on the speed and quality of arrests but also on the conviction and incarceration of the violators. Although factors other than the sufficiency of DEA evidence may influence the outcome of a case, its responsibility does not end at the time an arrest is made. DEA has a responsibility to present high-quality cases for prosecution. As pointed out in our report "Difficulties In Immobilizing Major Narcotic Traffickers" (B-175425, Dec. 21, 1973), DEA should evaluate cases after court proceedings to see where improvements in enforcement could be made.

BNDD/DEA's convictions in Federal and State courts for fiscal years 1970 through 1975 are shown in appendix II. Convictions, like arrests, have increased over the years.

Our analysis of the 6,126 defendants arrested by DEA, including task force arrests, whose court cases were concluded in fiscal year 1975, showed that

--80.6 percent were convicted,

--15.9 percent were dismissed, 1/ and

1/Includes dismissals due to defendants' cooperation with the prosecutors.

--3.5 percent were acquitted.

Drug removals

DEA maintains information on the purity of every drug seizure and purchase that the agency makes and seizures turned over to DEA by other agencies. DEA uses this information for intelligence but does not report purity in routine statistics made available to the Congress, other Government agencies, and the public. We believe that information on the average purity of illicit drugs, such as heroin and cocaine, would be beneficial and should be included in DEA external statistical reports.

DEA believes that removal statistics can be deceptive in evaluating effectiveness. For example, a considerable amount of time may be spent in arresting and convicting a major trafficker on a conspiracy case based on a small seizure. The seizure in itself is not significant; but the fact that a major trafficker capable of supplying large quantities of drugs is no longer operating is important.

Drug removals reported by BNDD/DEA for fiscal years 1970 through 1975 are shown in appendix II. According to DEA, its removals of heroin from the domestic market were down in its first year of existence because of the Turkish opium ban and the intensified enforcement in France. At the same time, however, supplies of heroin from Mexico started to increase substantially.

Customs' arrests, convictions, and drug removals

The Customs drug enforcement and control efforts for fiscal year 1970-75 can be conveniently separated into two basic periods--before and after Reorganization Plan No. 2 of 1973. Before the reorganization, Customs, in carrying out its antismuggling responsibilities, used all phases of enforcement, including interdiction, inspection, intelligence, and investigation. Customs strategy was to interdict illicit drugs at the border before the drugs entered the United States. Border seizures were the focal point for its drug investigations.

Following the reorganization, Customs antidrug smuggling activities were curtailed to include only inspection and interdiction. Its drug intelligence collection and investigation capabilities were transferred to the newly formed DEA. The reorganization plan reaffirmed Customs' traditional role of interdicting contraband, including illicit drugs, at ports of entry and along the land and sea borders of the United States.

Statistics on Customs seizures, arrests, and convictions for fiscal years 1970-75 are shown in appendix III.

Drug removals

More than to anything else, Customs looks to seizures as indicators of its progress and success. As shown in appendix III, from fiscal year 1970 to 1973, Customs seized large quantities of illicit drugs. Cocaine seizures steadily increased year by year, while heroin seizures peaked in 1971 and declined in fiscal years 1972 and 1973.

After the July 1973 reorganization, Customs heroin seizures dropped from 389 pounds in fiscal year 1973 to 97 pounds in fiscal year 1974. Customs believes that the drop in heroin seizures was partly due to a decline in the overall smuggling of the drug but also to diminished intelligence available to Customs. The problem of intelligence to support interdiction functions is discussed in detail in chapter 3.

Arrests and convictions

Customs arrests steadily increased over the years from 5,872 in fiscal year 1970 to 10,825 in fiscal year 1973. Following the reorganization, Customs arrests dropped to 8,208 in fiscal year 1974 but were at a high of 16,214 for fiscal year 1975.

Customs pointed out that, when it had drug smuggling investigation and intelligence responsibilities, it arrested at least 299 major traffickers and disrupted many drug smuggling conspiracies. Customs did not have a classification system to readily show the significance of violators arrested.

Before the reorganization, Customs was responsible for preparing its drug arrest cases for court action. Its convictions on arrests for all violations, including drugs, increased from 2,006 in fiscal year 1970 to 4,334 in fiscal year 1973. Our analysis of the defendants arrested by Customs for all violations, the majority of which were drug violations, whose court cases were concluded in fiscal years 1972 and 1973, showed

--76.5 percent were convicted,

--17.8 percent were dismissed, 1/ and

--5.7 percent were acquitted.

1/Includes dismissals due to defendants' cooperation with the prosecutors.

ODALE arrests, convictions, and drug removals

The Office for Drug Abuse Law Enforcement in the Department of Justice was established by Executive Order 11641, January 28, 1972, and was abolished 17 months later by Executive Order 11727, July 6, 1973. Its functions were transferred to the new DEA. As discussed in chapter 6, DEA continued the ODALE concept through its State and local task force program.

ODALE's primary mission was to attack the low and middle levels of the domestic heroin distribution systems to reduce its availability on the street. An underlying objective was to bring a Federal presence to the street level. To carry out its mission, ODALE established task forces made up of Federal, State, and local enforcement personnel in selected target cities.

On July 5, 1973, the Director of ODALE highlighted the agency's results. He stated that, during its relatively short existence, ODALE made more than 8,000 narcotics arrests, removed 230 pounds of heroin from the illicit traffic, and had a conviction rate of more than 90 percent. Appendix IV shows the available statistics on ODALE arrests, convictions, and seizures during its 17-month existence.

METHODOLOGIES

The U.S. approach toward reducing drug abuse and the many related problems comprises a variety of domestic and international efforts to curb the supply and reduce the demand for illicit drugs. As stated in the Federal Strategy for Drug Abuse and Drug Traffic Prevention 1973: 1/

"A major strategic issue is whether we should attempt to affect the entire chain of production and distribution or focus exclusively on what are postulated to be the more vulnerable links in the chain. After considering a wide range of options from exclusive focus on border inspections and domestic control, to increased penalties on simple possession, to eradication of opium productions, we have concluded that we must attempt to break the chain of supply in as many places as possible."

1/Prepared for the President by The Strategy Council on Drug Abuse pursuant to The Drug Abuse Office and Treatment Act of 1972.

The success of investigation and intelligence techniques in reducing the availability of drugs are, to a considerable extent, dependent upon and affect the drug traffickers' methods, routes, and organizations. The difficulty and changing nature of the problem is illustrated in the following statement from the 1975 Federal Strategy.

"Although important reductions in the supply of narcotics and dangerous drugs have been achieved, there is widespread recognition that more extensive, sophisticated, and coordinated efforts are needed if the availability of abuse-prone drugs is to be sufficiently restricted. The sharp reductions in east coast heroin traffic and illicit diversion of dangerous drugs, for example, have been countered by drug traffickers' producing new routes and new organizations. The decentralization, smaller-sized amounts, and multiple sources of supply that replace the relatively centralized, wholesale European connection for heroin have made detection and seizures more difficult. The achievements in reducing licit dangerous drug availability have similarly been countered by traffickers in those drugs." (Underscoring provided.)

Overall, DEA, Customs, and the former BNDD and ODALE used a wide variety of tactics and methods in enforcing the drug laws. Many similarities in methods and tools did exist among these agencies, but there were some significant differences.

Customs drug law enforcement was predicated on the premise that hard drugs, such as heroin and cocaine, being contraband, had to be smuggled into the United States. Therefore, over the years, Customs developed methods for enforcing antismuggling laws.

On the other hand, BNDD, like its principal predecessor, the Federal Bureau of Narcotics, believed the enforcement of U.S. criminal drug laws required enforcement action similar to that for vice-type crime, such as gambling and prostitution, which is characterized principally by the lack of a complainant. This often necessitates the participatory involvement of enforcement personnel.

DEA, being an amalgamation of BNDD, ODALE, and the drug investigative and intelligence activities of Customs, would be expected to adopt some of their various methods.

The ODALE approach

ODALE's primary mission was to attack the low and middle levels of the domestic heroin distribution systems to reduce availability on the street. ODALE's task force approach, using the enforcement expertise of personnel detailed from various law enforcement agencies, along with the legal expertise of assigned attorneys, was somewhat unique for drug law enforcement. Because of its street enforcement objective, ODALE relied heavily on purchases of drug evidence and payments to informants. One method used extensively by ODALE was the investigative grand jury. The participation of attorneys made available many avenues of investigation which the working agent would not ordinarily have.

The BNDD approach

As discussed in our report on "Difficulties In Immobilizing Major Narcotics Traffickers" (see p. 7), BNDD's primary objective was to reduce drug availability in the United States. Through an enforcement program called the "systems approach," BNDD attempted to identify illicit drug distribution systems and immobilize domestic and international drug traffickers operating within the systems. BNDD had some success with the systems approach in disrupting the activities of several major systems; however, several BNDD regions continued to pursue targets of opportunity--mostly low-level traffickers. By 1972, BNDD realized that the systems approach was not producing the desired results and in July modified that approach into G-DEP.

The DEA approach

DEA continued with BNDD's G-DEP and other programs of the former BNDD and ODALE. Unlike BNDD, which shared drug investigative responsibilities with Customs, DEA was charged as the single Federal agency with this responsibility. Its main objective is to reduce drug abuse in the United States by controlling the availability of illicit drugs. DEA, because of its broad mandate from Reorganization Plan No. 2 of 1973, has been building up drug intelligence operations (see ch. 5) and has continued the ODALE task force program with certain modifications (see ch. 6).

DEA's operational strategy is to collect, analyze, and disseminate information identifying major drug traffickers and their organizations and to initiate and develop investigations toward the apprehension and prosecution of major traffickers. In carrying out its broad enforcement mandate, DEA employs a variety of enforcement methodologies--from simple purchases of drug evidence to complex conspiracy

investigations with primary emphasis on eliminating the sources of illicit drugs and disrupting the highest levels of trafficking. DEA relies heavily on purchases of evidence and information and tries to "buy" in at middle and lower levels and work up to upper level traffickers. (See ch. 4.) Also, DEA, in its overseas program in some countries, has assumed a broad operational posture, including international casemaking, strengthening local capabilities, intelligence gathering, and, in some countries, undercover work.

The Customs approach

Customs has long had responsibility for interdicting all types of contraband and preventing the smuggling of contraband into the United States. Although drug investigation and intelligence functions of Customs were transferred to DEA by Reorganization Plan No. 2 of 1973, the plan reaffirmed Customs' responsibilities for interdicting all contraband, including illicit drugs, through inspection and enforcement activities at ports of entry and along the land and sea borders. Before the reorganization, when it had drug smuggling investigation and intelligence functions, Customs used a variety of enforcement methodologies--interdiction, investigation, and intelligence--which it considered to be fully integrated. Customs stressed the importance of stopping illicit drugs at the border when the drugs were of high purity and using border seizures as a focal point for drug smuggling investigations. Customs maintained that drug interdiction and investigative functions should be linked and were mutually supportive.

After the reorganization, Customs' methodologies were limited to a border interdiction program, and Customs was dependent on DEA for the investigation and intelligence required. Both before and after the reorganization, the Customs Service focused on port and border interdiction.

Numerous methodologies used

The following table displays the methodologies most frequently used in narcotics enforcement by the four agencies discussed. They fall into two categories--investigative/intelligence, which pertains to the drug enforcement functions that DEA has assumed sole responsibility for as a result of the reorganization, and interdiction, which pertains to the drug enforcement function carried out primarily by Customs prior to the reorganization and which continues to be a responsibility of Customs today.

Narcotics Enforcement Methodologies

	<u>Prior to reorganization</u>			
	<u>ODALE</u>	<u>Customs</u>	<u>BNDD</u>	<u>DEA</u>
<u>Investigative/Intelligence</u>				
Purchase of evidence--Funds used to buy drug evidence. (See ch. 4.)	X	Limited	X	X
Purchase of information--Funds paid to cooperating individuals for information, expenses, and rewards. (See ch. 4.)	X	X	X	X
Conspiracy--Indepth investigations attempting to surface all links between two or more persons who have agreed to commit an offense in violation of drug laws.	X	X	X	X
Convoy--Monitored passage of drugs to point of delivery.		X	X	X
Undercover activity--Agents disguised as drug traffickers in order to penetrate drug organizations.	X	X	X	X
Surveillance--Keeping a close watch on targeted drug traffickers.	X	X	X	X
Title III electronic interception-- Court ordered wiretaps against suspected drug violators.	X	X	X	X
Intelligence/information systems-- Organized programs for collecting and disseminating data related to drug law enforcement.		X	X	X
State and local cooperative programs--Organized joint operations with State and local law enforcement agencies.	X		X	X
Overseas cooperative programs-- Cooperative assistance with foreign law enforcement agencies.		X	X	X
Financial investigations--Tracking large international transfers of currency as they relate to drug smuggling.		X		
Flash rolls--Large sums of money shown to drug traffickers as proof that the undercover agent can make a substantial purchase of illicit drugs.	X	X	X	X

type task forces have been continued with certain modifications. The extent to which DEA uses ports and borders as a focal point for a drug investigation, as Customs formerly did, cannot be precisely determined, although we did find that it had been used in some cases.

The following case illustrates how DEA used a "cold" 1/ seizure to develop a major case just as Customs would have done if it still had drug smuggling investigative authority. It also shows the use of numerous enforcement methodologies.

Following the cold seizure of approximately one kilo of heroin, one-half kilo of cocaine, and 25,000 units of dangerous drugs by Customs from a lower level trafficker, DEA initiated an intensive investigation, using the resources of and in cooperation with the Los Angeles Police Department (LAPD) and Los Angeles County Sheriff's Office. The initial defendant in this case had been placed in the Treasury Enforcement Communications System (TECS) as a trafficker and was the subject of a LAPD narcotic investigation. The coordinated action on the part of the three agencies, at the time of our review, had resulted in about 30 arrests (10 in Mexico and 20 in the United States), including the head of a major heroin trafficking organization in Mexico, and additional seizures of 4 pounds of heroin, 3 pounds of cocaine, and 100,000 dosage units of dangerous drugs. Included in the 30 arrests were 17 upper-level violators (class I or II). This organization was estimated to be supplying about 25 percent of the heroin used in the Los Angeles area as well as a major portion of heroin and cocaine in other large U.S. cities.

Various techniques were employed during the investigation besides the normal undercover penetrations, including a \$240,000 flash roll. Several of the defendants were arrested on conspiracy charges. Telephone toll analysis and a joint prosecution agreement with Mexico, in which evidence was exchanged for prosecution of defendants in their respective countries, were also used.

This case also illustrates the coverage DEA obtained--from a lower level trafficker to the major supplier abroad--when a variety of techniques were used in working with domestic and foreign counterparts.

1/A seizure made without any advance information.

In its overseas program, DEA has continued BNDD's broad operational and intelligence-gathering activities. Although the operational posture continued by DEA, which has included casemaking and undercover work in some countries, has its risks and is subject to controversy, it has had some success in increasing foreign drug arrests and seizures, developing domestic conspiracy cases, and improving the capabilities of foreign government enforcement personnel.

Also, it should be noted that there is within DEA, at the very least, a potential for using those more successful Customs techniques for developing border-type drug investigations. Significant operational authority is vested in DEA regional directors. Of the 13 domestic regional offices, 5 include most of the high-activity ports of entry and border areas. These are the Dallas, Miami, Seattle, Los Angeles, and New York regional offices. These offices, together with the Mexico City, Manila, and Caracas regional offices, are all headed by former senior Customs agents. These regional directors could be expected to be well versed in Customs' drug law enforcement techniques and methods.

U.S. attorneys' views

The assistant U.S. attorney and chief of the criminal division in the eastern district of New York, advised us that the quality of cases presented to him for prosecution by DEA and Customs was excellent. Also, cases presently being submitted by DEA, both substantive and conspiracy, are good; he stated that he had had a high rate of success with these cases.

This official further stated that he had no problems with the cases submitted to him either before or after the reorganization. Both BNDD and Customs used the conspiracy approach successfully. He also stated that prior to the reorganization, international conspiracy cases were easier to prosecute than domestic conspiracy cases because of the documentary evidence, such as passports and tickets, associated with the international travel. He did note that it is easier now because only one agency, DEA, investigates and prepares cases for prosecution; thus, he does not have the problem of having to handle a case with both agencies or becoming involved in the interagency friction which existed.

Other U.S. attorneys and assistant U.S. attorneys that we talked to in California and Washington support the intent of Reorganization Plan No. 2 of 1973.

One U.S. attorney said that the Attorney General's Advisory Committee, consisting of 15 U.S. attorneys, had unanimously recommended in June or July of 1975 that drug enforcement should continue under the direction of DEA. It was the Committee's belief that any major reorganization would seriously disrupt the drug enforcement effort.

CONCLUSIONS

DEA and Customs and the former BNDD and ODALE had impressive statistics on drug arrests, convictions, and seizures. These statistics, however, can be deceptive and are not necessarily accurate measures of enforcement effectiveness. Increases in arrests, convictions, and seizures can occur with little impact on reducing drug availability if the arrests, convictions, and incarcerations are for easily replaceable traffickers and if seizures, regardless of quantity or purity, do not result in the disruption of the traffic.

DEA, and BNDD during the last year of its operations, provided an added dimension by routinely reporting on the significance of violators arrested and convicted.

BNDD and Customs, when it had drug investigative responsibilities, adopted enforcement approaches and drug investigative methodologies that fit their respective authorities. Customs capitalized on its port and border authorities, including warrantless border search and seizure authority, and used the border as the focal point for its drug smuggling investigations. The former BNDD, which had authority to enforce Federal laws dealing with interstate trafficking and limited authority at ports and borders, concentrated its efforts overseas and in the interior of the United States to immobilize international and interstate drug trafficking networks. BNDD relied heavily on purchase of evidence and information and undercover penetrations. Customs purchased information and used other methodologies but was generally opposed to purchases of drug evidence as a means of apprehending drug traffickers.

Whether the BNDD approach was superior to the Customs approach or vice versa is difficult to determine. Both approaches have merit and have had some proven success. DEA has adopted the BNDD and ODALE approaches and, on some cases that we reviewed, has used Customs' approach.

CHAPTER 3

MORE INTERAGENCY COOPERATION NEEDED

IN FEDERAL DRUG LAW ENFORCEMENT

The Subcommittee expressed concern that Federal agencies' cooperation and coordination on drug-related intelligence and enforcement might not be adequate. Specifically, the Chairman's letters requested:

- "An analysis of the quantity and quality of intelligence information exchanged between DEA and the U.S. Customs Service since July 1, 1973, which would enable both agencies to function in the manner intended by Reorganization Plan No. 2."
- "An analysis of the exchange of information between Customs and DEA, including the frequency and nature of requests for information or assistance by one agency or the other and the disposition of such request."
- "An analysis of the program of cross designation of DEA agents to allow them the same search and seizure authority as U.S. Customs agents, including the number of DEA agents so designated and the number and quality of arrests made and convictions obtained by them in this capacity."
- "A study and analysis of the type and quality of cooperation that exists between the Federal Bureau of Investigation and the Drug Enforcement Administration since Reorganization Plan No. 2 was implemented on July 1, 1973."

Responsibility for enforcing Federal drug abuse laws has long been shared. The Customs Service has traditionally been responsible for the control of smuggling. Other agencies have, at one time or another, been responsible for controlling narcotics, marihuana, and dangerous drugs. The intersection of these responsibilities--smuggled narcotics, marihuana and, to a lesser degree, dangerous drugs--has been the primary source of conflict. The executive branch, many years ago, recognized the operational and organizational shortcomings that resulted from this basic conflict. Various reorganizations and Presidential directives have attempted to resolve problems stemming from this conflict. The problem, however, continues to exist due, in part, to the lack of a focal point with sufficient authority and information to resolve agency conflicts. Clearly one cabinet officer does not have authority to dictate the solution to a conflict with a fellow cabinet officer.

The impact of these problems on the effectiveness of drug control activities cannot be measured. Our analyses show that much more needs to be done to achieve the coordination among law enforcement agencies that was intended by Reorganization Plan No. 2.

DEA needs to place greater emphasis on obtaining intelligence data to assist the Customs Service in its interdiction function, and both agencies should cooperate on enforcement activities along the border. About 2 years have passed without these two agencies' reaching operational agreements at either the national, regional, or district level regarding the exchange of data and cooperation in enforcement activities. Since June 1975, both agencies have taken steps to strengthen cooperation.

Customs was originally opposed to designating DEA agents the search and seizure authority of Customs agents. Customs believes the designation to be illegal since DEA agents would be using it to perform DEA functions rather than Customs functions. Eventually, a limited number of DEA agents were granted the designation. To date, DEA has made little use of this authority.

The FBI's role in drug law enforcement needs to be clarified. Both agencies have interpreted the FBI's role to mean routine exchange of information and intelligence at the operating level and have not materially changed their working relationship since the reorganization.

WHAT HAS BEEN DONE

Since 1968 numerous actions have been taken to strengthen Federal drug law enforcement, including:

- Reorganization Plan No. 1 of 1968, creating BNDD.
- Presidential directive of February 1970, requiring guidelines to settle jurisdictional disputes between BNDD and Customs.
- The Comprehensive Drug Abuse Prevention and Control Act of 1970, consolidating fragmented Federal laws governing narcotics and dangerous drugs.
- The creation of ODALE and the Office of National Narcotics Intelligence (ONNI).

--Reorganization Plan No. 2 of 1973, which transferred the functions and resources of BNDD, ODALE, ONNI, together with the investigative and intelligence-gathering functions and resources of the Customs Service relating to drug law enforcement, to the new DEA.

--Domestic Council report on drug abuse of September 1975, containing recommendations for improving Federal drug abuse programs.

The Office of Management and Budget (OMB) proposed a solution to the problems of cooperation among Federal law enforcement agencies along U.S. borders. However, OMB's proposal was rejected by the Congress.

Reorganization Plan No. 1 created BNDD within the Department of Justice. This agency consolidated the resources and functions formerly directed by the Secretary of the Treasury, through the Federal Bureau of Narcotics, and the Secretary of Health, Education and Welfare, through the Bureau of Drug Abuse Control. One purpose of this plan was to unite previously fragmented investigative and enforcement functions of Federal narcotics and drug laws and to locate this new organization in the Department of Justice.

After this plan was implemented, jurisdictional problems arose between BNDD and Customs. Customs was charged with the control of smuggling; BNDD was charged with the control of narcotics. The interface of the two elements--smuggled narcotics--was a source of conflict between the two agencies. The jurisdictional problem became serious enough to require Presidential action.

In February 1970, the President directed the Attorney General to prepare guidelines to settle the jurisdictional dispute between BNDD and Customs. The President approved the guidelines in June 1970; and in July the Director of BNDD and the Commissioner of Customs entered into an implementing agreement. In our report on "Heroin Being Smuggled Into New York City Successfully" (B-164031(2), Dec. 7, 1972), we reported that at the operating level cooperation and coordination called for in the guidelines had not been fully realized.

Jurisdictional problems were further aggravated by the establishment of two additional agencies--ODALE and ONNI--in 1972. These agencies were established by Executive order on the basis of an urgent need for strong antidrug measures. The order creating ODALE provided that it should be headed

by a director, having the title of Special Assistant Attorney General. The director also served as Special Consultant to the President for Drug Abuse Law Enforcement to advise the President on all matters relating to more effective enforcement by all Federal agencies.

In 1973 it was again recognized that the Federal drug control effort was fragmented with no overall direction, and Reorganization Plan No. 2 was enacted. The President envisioned a more effective involvement of the FBI in Federal drug law enforcement, particularly in attacking the relationship between drug trafficking and organized crime.

The President also envisioned the Attorney General having authority and responsibility for coordinating the collection of drug trafficking intelligence from all Federal departments and agencies. Specific language for accomplishing this was not spelled out in the plan. Executive Order 11727, July 6, 1973, did authorize the Attorney General "to the extent permitted by law" to coordinate all activities of executive agencies related to drug law enforcement. However, the Senate Government Operations Committee's report on the reorganization plan said that the Attorney General had no statutory authority to direct other Cabinet officers even when so authorized by Executive order of the President; only the President himself has such authority.

The reorganization plan also reaffirmed the role of the Department of the Treasury in the total Federal drug law enforcement program.

In June 1974, the Director of OMB informed the Attorney General and the Secretary of the Treasury of the conclusions reached in its analysis of Federal law enforcement along the southwest U.S. border. This analysis pointed out continuing competition, conflicts and overlaps in functions, and duplicative expenses in multiagency operations.

OMB directed that Customs be the lead agency for air interdiction and routine air enforcement; that Customs assume single-agency management at U.S.-Mexican border ports on a test basis; and that the Immigration and Naturalization Service (INS) be the single agency for land patrols between ports of entry. Subsequent congressional action has precluded implementation of OMB's recommendations.

In September 1975 the Domestic Council presented a white paper on drug abuse control to the President. This white paper contained many recommendations, including, in particular, a recommendation that the President direct the Attorney General and the Secretary of the Treasury

"* * * to settle jurisdictional disputes between DEA and Customs by December 31, 1975, or to report their recommendations for resolution of the matter to the President on that date."

IMPROVED COOPERATION NEEDED
BETWEEN DEA AND CUSTOMS

The conflicts between DEA and Customs have affected the exchange of intelligence and other information and the coordination and cooperation of enforcement activities.

Intelligence is used for strategic, operational, and tactical purposes. Strategic intelligence provides a situational overview on the magnitude of the problems, for use in formulating broad policy and strategy. Operational intelligence provides an overview and insight on the modes of operation, traffic patterns, and principal personalities involved in the illegal operations. It is used in allocating law enforcement resources. Tactical intelligence identifies specific traffickers and their methods of operation. This data is used to plan and conduct specific and imminent law enforcement.

Intelligence information may also be referred to as "finished" or "raw." Finished intelligence represents reports, publications, or studies. Raw intelligence represents undeveloped information that has not been analyzed.

Exchange of intelligence
and other information

We were unable to obtain accurate statistics on the extent to which data and intelligence information have been exchanged between DEA and Customs. Neither agency systematically and routinely maintains such statistics at the national, regional, or local level. Their records provide only limited assurance that supplied input is attributed to the other agency.

DEA has provided Customs with intelligence and other information in a variety of forms, depending on the nature and urgency of the information. While the data Customs has attributed to DEA is less than the amount claimed by DEA, DEA has demonstrated a willingness to share data with Customs.

About 2 years have passed since the reorganization without Customs and DEA reaching a formal agreement on exchanging information and intelligence. Since the reorganization, these agencies have held meetings to discuss the matter. Proposed agreements were exchanged in 1974; however,

the problem was not resolved. In June 1975 Customs proposed language for a circular to be issued by DEA defining Customs' continuing role in the narcotics effort and directing DEA agents to collect and forward interdiction-related narcotics information. Shortly thereafter, in response to Customs' proposal, DEA stressed the need to develop such data to its agents in the field, issued instructions for relaying intelligence on drug trafficking to Customs, and established a special liaison unit with Customs in its Office of Intelligence.

Intelligence information systems

The Narcotics and Dangerous Drugs Information System (NADDIS) was designed by DEA to further investigations on drug violators. It provides agents with biographical information on known violators and references to case files. The data includes

- the trafficker's residence, phone number, and such identifying characteristics, as height, weight, and age;
- the drug involved and the level of the case;
- the trafficker's passport data, vehicles, boat, and aircraft numbers; and
- the trafficker's associates.

The El Paso Intelligence Center (EPIC) is a prototype for a national narcotics intelligence system intended to serve Federal, State, and local law enforcement agencies with data from various sources. Its purpose is to provide a complete and accurate picture of drug trafficking, immigration violations, and smuggling--by land, sea, or air--between Mexico and the United States. Raw data is acquired and analyzed, and the resulting intelligence is disseminated to agencies with border enforcement responsibilities.

The Treasury Enforcement Communication System (TECS), operated by the Customs Service, makes enforcement-related data available instantly at border crossing points, airports, and seaports throughout the country. This capability has been used successfully to intercept known or suspected traffickers and associates and cargoes of firms engaged in smuggling. The types of information on individuals which can be entered into the system are

- name, race, sex, height, weight;
- date and place of birth;
- address information; and
- such identifying numbers as social security, driver's license, passport, National Crime Information Center, license plate(s), and aircraft.

Narcotics case records in TECS are increasing. One month after the reorganization, TECS contained 149,547 narcotics case records and, as of June 5, 1975, contained 152,730, an increase of 3,183.

The TECS system is accessible to DEA and the NADDIS system is available to Customs by computer terminals installed in each agency. One NADDIS terminal is located at Customs headquarters, and one TECS terminal is located at EPIC.

In the early stages of EPIC, DEA anticipated a joint effort by DEA, INS, and Customs, with DEA maintaining overall responsibility. It further anticipated that including Customs' personnel would be a substantial contribution toward accomplishment of EPIC's mission and prove mutually beneficial to all concerned. However, Customs did not feel its participation during the early stages of EPIC would be mutually beneficial. In July 1975 Customs agreed to send an observer to EPIC for 6 months to determine if participation with DEA and INS would now be beneficial for Customs. At the time DEA and Customs were negotiating to assign the observer to EPIC, Customs was placed on the distribution list to receive EPIC's weekly briefing report. With the exception of these reports and 156 pieces of drug information placed in TECS, EPIC has furnished intelligence information to Customs only on specific requests. Customs, as of June 30, 1975, had requested drug intelligence information from EPIC 47 times.

Finished intelligence

At the headquarters level, finished intelligence, such as the periodic intelligence bulletin, are disseminated on a relatively wide basis. DEA's Office of Intelligence reported forwarding 53 finished intelligence items to Customs since the reorganization. These items included operational data on traffickers, trafficking trends and routes, smuggling methods relating to concealment of narcotics, and drug prices and availability.

A review of available files by Customs headquarters identified 12 finished intelligence reports received from DEA over a 22-month period. Customs characterized some of these products as helpful and informative while additional information was required on others.

According to Customs, formal DEA requests for information are received on the average of two per month, while informal working level requests vary in frequency, depending on ongoing projects.

Raw intelligence

Raw intelligence information is disseminated between DEA and Customs both in the field and at the headquarters in Washington. According to field personnel interviewed, most intelligence sharing is the result of interpersonal relationships rather than formal exchange agreements or mechanisms. The exchanges are seldom documented by either agency or formally attributed to the providing agency by the other.

Customs' review of products, reports, cables, and letters available in headquarters files identified 83 items of raw intelligence received from DEA headquarters during a 22-month period. Of these, 60 were TECS entries. Customs' officials said that time constraints precluded their acquiring a meaningful assessment of DEA products available at Customs field offices. It was their belief that the exchange of intelligence information between Customs field offices and DEA was minimal and had been informal and uncoordinated.

DEA has committed its resources almost entirely to identifying major traffickers and eliminating sources of supply. Intelligence efforts are geared toward these goals rather than the gathering of intelligence information to interdict drugs at ports of entry and along the U.S. border. Information developed to assist domestic enforcement to interdict drugs is a byproduct of investigation. For instance, the DEA Mexico City regional office in June 1975 had no programs designed for developing information to assist in intercepting drugs at the borders. Except for several instances, such as developing data on aircraft and pilots landing at an airport in Southern Mexico or responding to a request from EPIC regarding aircraft registered in Mexico, no such data had been compiled.

According to DEA officials, DEA headquarters had provided many items of specific tactical intelligence, both formally and informally, to Customs headquarters. They pointed out that DEA's International Intelligence Division from January through June 30, 1975, referred 13 items to Customs involving 350 individuals and 20 different methods of smuggling. In addition, DEA headquarters has on five occasions turned over NADDIS tapes to Customs. These tapes contained approximately 123,000 records relating to more than 200,000 individuals. Initially, in mid-1974, DEA provided tapes to Customs containing approximately 110,000 records, which, after screening by Customs for adequacy and duplication, added about 40,500 records to TECS. In July 1975, Customs obtained about 13,700 additional records from NADDIS. How much of that information had previously been transmitted by letter, telephone, or teletype to Customs from DEA headquarters was not known.

DEA reported that, from the implementation of the re-organization through May 1975, its domestic regional offices transmitted about 3,700 referrals of specific tactical intelligence to their local Customs counterparts. These referrals ranged from a high of 1,195 for the New York region to a low of 40 for the New Orleans region. According to DEA, a substantial number of additional referrals to Customs offices were not documented.

Along the borders of the United States and at the ports of entry, the exchange of raw intelligence usually is an informal referral from a DEA agent to a Customs inspector or officer for entering a lookout into TECS. A lookout usually consists of a name, an automobile registration or license plate number, an aircraft number, or a boat number to help Customs inspectors intercept known or suspected criminal violators and the vehicles they use.

Customs told us that since July 1, 1973, it had turned over to DEA confiscated drugs--with collateral information--from 35,000 seizures having a total street value in excess of \$600 million but had received virtually no feedback. Information from the locations visited in our review generally supported this claim.

Some Customs investigators in the field routinely sent specific pieces of narcotics intelligence to DEA. Although field offices maintain some liaison with each other, they do not automatically make available to each other their files, intelligence, and other information. Such information was exchanged, for the most part, on a specific request or on the basis of need rather than by routine sharing or pooling of such data.

Customs' reports on DEA-provided TECS entries are understated. Customs automatically codes TECS input by the terminal from which the data was received rather than by the agency providing the data. DEA has only one TECS terminal for entering data. Since many DEA lookouts are transmitted at Customs terminals convenient to the source of the information in the field, they are permanently coded as Customs' input. This tends to overstate Customs' TECS input and understate DEA's input. For example, from July 1973 through March 30, 1975, Customs requested the input of 260 lookouts on the TECS terminal at San Pedro, California, while DEA requested that about 390 lookouts be inserted. All 650 lookouts were counted as Customs' inputs.

Customs headquarters reviews daily the TECS entries from the field, by reading each entry to determine whether it meets TECS requirements. As a byproduct they identified approximately 5,000 DEA entries from field offices for the period February 17, 1974, through July 13, 1975. This figure appears to be understated because Customs procedures, according to a regional official, automatically purge such entries every 30 days unless otherwise requested; a Customs-provided printout of June 23, 1975, showed about 4,600 entries which were referred from DEA.

Seizures based on prior information

On March 28, 1974, in testimony before a House Appropriations Subcommittee on Customs' budget for fiscal year 1975, the Commissioner of Customs said that before reorganization, less than 90 percent of their drug seizures were cold seizures. He stated that, after the reorganization and the creation of DEA, the cold seizures rose to over 95 percent because the volume of information Customs obtained from DEA to enter into the Customs' intelligence network was low. We found that the 90-percent figure cited was a rough estimate. A recent Customs survey of 11 major districts or ports, representing close to half of Customs seizures for fiscal year 1973, indicated the percentage of cold seizures before the reorganization was about the same as Customs' current estimate--about 95 percent. In commenting on this report, Customs officials stated that Customs was not receiving as much seizure producing information from DEA as that previously produced by its own agents and was becoming increasingly dependent on narcotics information from sources other than DEA.

Coordination and cooperation of enforcement activities

DEA and Customs are not fully coordinating their efforts along the U.S.-Mexican border. Since the reorganization, there have been disputes about officers of the two agencies going beyond their jurisdictional boundaries and instances

of each agency's thwarting the other's law enforcement efforts. At some ports sharp rivalries and infighting still occur between DEA and Customs.

Acceptable agreements regarding coordination have not been worked out. Each agency headquarters published its own instructions on this subject without agreement from the other. At some ports of entry, informal understandings between DEA and Customs have improved the daily working relationship. Some of the problems experienced between DEA and Customs are described below.

Methods of operation
hinder cooperation

Customs procedures provide that all drug seizures must be weighed and marked for identification before being delivered to DEA. Customs officials at two ports of entry in Texas commented that, when drugs were located and seized, the Customs inspectors would photograph the seizures in unusual places of concealment, would remove the seizure from the vehicle or persons and weigh it, and would arrest and obtain certain information from the suspect before DEA arrived. DEA officials at these locations believe this practice destroys the force of DEA's standard investigation techniques, such as locating fingerprints on drugs, taking picture of drugs while still in place, and having the advantage of surprise in interrogating the suspects. This practice also hinders or may preclude the opportunity to convoy 1/ a load of drugs to the intended receivers in the United States. At a major port of entry in California, officials of both agencies acknowledged such problems existed but stated that some had been solved through interagency meetings.

The frequency of convoys was significantly reduced after reorganization. Initially, Customs instructed its officers not to participate in convoys due to lack of personnel. With the reappearance of the Customs Patrol, convoying is being used again at some locations along the border. For instance, from October 1973 through May 1975, 34 convoys were conducted from the California border. DEA initiated 26 and Customs 8. Some convoys were successful, resulting in arrests on both sides of the border and in seizures of large quantities of narcotics.

1/Monitored passage of narcotics to a point of delivery.

DEA officials cited a case where a convoy of 55 pounds of marihuana resulted in closing down a close-knit family smuggling operation that had been operating for several years. Nine violators were arrested in California and six in Mexico. A total of 65 kilos of marihuana, 10 ounces of heroin, \$14,200 in cash, and numerous items of stolen property were seized in California. In Mexico, 109 kilos of marihuana were seized. In contrast to this, at certain locations along the Texas border, a mood of distrust continues to limit the use of convoys. At some locations Customs officers' actions have been so restrictive that conveying does not occur.

Both DEA and Customs agents said that analyses of seized drugs were duplicated in some cases because the respective regulations required it. This could raise prosecution problems when analyses differ. Also, examples were cited by DEA where Customs had refused DEA's request to release vehicles found with illicit drugs, and Mexican authorities would not investigate or prosecute in such cases since they require the vehicle as evidence.

Jurisdictional disputes

Disputes regarding investigation versus interdiction have occurred. DEA agents work the border to interdict drugs without Customs assistance, and the Customs Patrol works away from the border on surveillance and investigation without DEA assistance.

DEA officials commented that they work on an interdiction case when it is based solely on specific intelligence developed by DEA and pertains to moving narcotics across the border. Customs Patrol officials acknowledge that they have worked other than interdiction cases. When DEA refuses to respond to calls from the ports of entry pertaining to drug suspects, the Customs Patrol provides surveillance from the ports. This sometimes requires surveillance of motels for several hours and leads to seizures several miles from the port. Customs officials consider it within its jurisdiction to conduct surveillance of suspects from the ports of entry.

One Customs port director commented that DEA was no longer called for surveillance of suspects from the port of entry because DEA had not responded to previous calls and Customs assumed that DEA was not interested. In responding to the port director's comment, DEA personnel said that, when called on by Customs inspectors to follow a suspected drug smuggler, they were not provided with all the important facts. Consequently, DEA did not consider some of the suspects worthy of surveillance.

For example, DEA received a call from a port of entry on a narcotic suspect carrying about \$4,800 in cash. The agent did not respond because the amount of cash did not appear excessive since Customs allows an individual to pass through the port with as much as \$5,000. What DEA had not been told, which would have changed the decision, was that the suspect was a drug user as shown by the needle marks on his arm. The Customs Patrol followed the suspect and seized about 4 ounces of heroin.

Cooperative efforts have been successful

Cases were noted where cooperative efforts between DEA and Customs were successful. The following examples illustrate what can be done.

Between January 1974 and June 1975, DEA agents and Customs Patrol officers cooperated in three narcotic cases in the McAllen, Texas, area which resulted in 13 arrests and seized about 2,000 pounds of marihuana. In another instance, the Customs Patrol in El Paso was alerted to an air shipment of possible narcotics and requested DEA's participation. A Customs dog gave a positive alert on the shipment, and arrangements were made to let the shipment go through. Because of this effort, DEA agents at the shipment's destination seized about 300 pounds of marihuana and arrested one suspect.

Lookouts placed by DEA agents at the Hidalgo, Texas, port of entry helped Customs inspectors make seven narcotic seizures consisting of about 817 pounds of marihuana; 114 grams of heroin; and 1 gram of cocaine. Nine defendants were arrested.

CUSTOMS SEARCH AUTHORITY

When Reorganization Plan No. 2 became effective, DEA requested the Commissioner of Customs to designate all DEA agents with U.S. Customs search and seizure authority. The designation of other Federal agency personnel as Customs officers is authorized by law, and employees of several agencies, including INS, the Department of Agriculture, and the Department of Defense, hold Customs officer designations. The Customs Service maintains, however, that this authority is given only when necessary to perform the duties of a Customs Officer in discharging Customs responsibilities.

The Justice Department claimed that the use of Customs authority for search without warrant by DEA was necessary in making border-related narcotics investigations, particularly when convoy techniques were used to follow drug shipments away from border areas. Justice maintained that this technique was used successfully by the Customs Service in narcotics investigations before the reorganization and that DEA did not intend to use this authority at ports of entry in competition with ongoing Customs activity.

The Treasury Department's position was that use of this authority by DEA agents would be illegal since the authority was not going to be used to assist in carrying out Customs responsibilities and since narcotics investigation searches away from the border in convoy situations were legally supportable on grounds of probable cause and not dependent on Customs authority. The request was therefore denied.

DEA insisted, however, that this designation was essential to its mission and proposed a compromise that only former Customs agents with training and experience in the use of this authority and now assigned to DEA because of the reorganization be granted this designation. Customs and DEA signed an agreement to this effect on January 11, 1974.

Approximately 350 DEA agents were so designated, and DEA issued policy and procedure guidance in a March 1974 notice. The procedures outlined the agreed-upon terms governing the use of the authority and instructed DEA agents to formally notify local Customs regions of their assignment to an area, give advance notice when possible and/or immediate followup notice for each use of the authority, submit written reports on the results of the search, and exchange information obtained. The designation, however, was to be used only when Customs officers were not immediately available; when requested by Customs; or when the search, seizure, or arrest could not be justified except by using the authority. Infrequent use was anticipated. Only about 250 agents holding this designation remain with DEA.

According to Customs headquarters, the use of this designation has been reported on only three occasions, although requested and refused on two additional occasions because Customs officials were available. Customs maintains that DEA does not need this authority as evidenced from the lack of use.

DEA, on the other hand, has documented 19 instances in which this designation has been used. Although we were unable to determine if all these instances had been properly reported to Customs, we did find that sometimes notification was given at the local level and not passed along to Customs headquarters.

DEA Use of Customs Search Authority
as of August 1975

<u>DEA region</u>	<u>Number of times used</u>	<u>Arrests</u>	<u>Seizures</u>
I. Boston	-	-	-
II. New York	7	5	Cocaine (1.1 lbs.)
III. Philadelphia	-	-	-
IV. Baltimore	-	-	-
V. Miami	-	-	-
VI. Detroit	3	9	Hashish (unspecified) Cocaine (38 grams) Marihuana (27.5 grams)
VII. Chicago	1	-	-
VIII. New Orleans	-	-	-
IX. Kansas	-	-	-
X. Dallas	4	5	Marihuana (166 lbs.) Hashish oil (4 oz.) Cocaine (4 oz.)
XI. Denver	-	-	-
XII. Seattle	4	-	-
XIII. Los Angeles	-	-	-

As illustrated above, DEA has made little use of this designation during the past 2 years. Officials believe the designation has been of little value because of Customs' administrative restrictions.

In Texas, New York, and California, we found DEA officials and field agents who believe DEA's enforcement would not be hampered in the absence of the Customs authority. DEA had relied on Customs agents to assist and make searches when necessary and was satisfied with Customs' ability to respond. In addition, DEA field agents usually had sufficient probable cause to obtain a warrant and conduct a search on their own authority.

DEA headquarters officials, on the other hand, do not want DEA agents denied this enforcement tool. They would like to have all DEA agents given this designation and obtain a relaxation of the administrative restrictions imposed upon its use by Customs.

We believe that DEA, as the focal point for Federal drug law enforcement, should have at its disposal any appropriate enforcement tools that are legally justified and properly used. Customs' search and seizure authority is one of these tools. We believe that only DEA agents working in a border situation should have the designation, and it should be used only in the event Customs assistance is not readily available. It is recognized, however, that Customs needs to protect and control this authority to insure prudent utilization.

FBI ROLE IN DRUG LAW ENFORCEMENT

The role of the FBI in drug law enforcement as intended by Reorganization Plan No. 2 needs to be clarified. The Presidential message transmitting the plan and several statements by officials of the executive branch since enactment of the reorganization indicate that the FBI resources and methods would be used to assist DEA in its drug law enforcement responsibilities. Both agencies have interpreted the expansion role to mean exchange of information and intelligence at the operating level and have not materially changed their working relationship since the reorganization. The FBI is assisting DEA under the same guidelines used to assist State and local law enforcement agencies working on illicit narcotics traffic.

The Subcommittee on Reorganization, Research, and International Organizations of the Senate Government Operations Committee, in its report on the reorganization plan, recommended that the Attorney General prepare, and update at least annually, a formal plan covering the day-to-day coordination and cooperation between DEA and the FBI. No formal plan nor general memorandum of understanding between the two agencies has been developed.

Expanded FBI role needs clarification

The FBI's role in Federal drug law enforcement should be clarified if more is expected than the routine exchange of information and intelligence with DEA at the operating level.

At the time of hearings on Reorganization Plan No. 2 of 1973, various statements were made about FBI involvement in drug law enforcement. The plan itself is not specific and merely requires the Attorney General to provide for maximum cooperation between the FBI and DEA on drug law enforcement and related matters. The Presidential message transmitting the plan contains statements about committing FBI resources to assist in drug law enforcement but is not specific as to what the commitment should be. The message calls for "a more effective antidrug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime." It further states that the President intended "to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration."

The Subcommittee of the Senate Committee on Government Operations, in its report on the reorganization plan was more specific in its comments on an expanded FBI role. The Subcommittee recommended that the Attorney General prepare, and update at least annually, a formal plan covering the day-to-day coordination and cooperation between DEA and FBI. Further, the Subcommittee recommended that this plan should require:

- A close working relationship on the use of informants.
- Daily headquarters liaison at high levels.
- Access to each other's intelligence memorandums relating to crime areas of mutual interest.
- Sharing of laboratory, identification, and training facilities and selected case records.

Since the reorganization plan went into effect, various statements have been made re-emphasizing that the FBI will play a greater role in drug law enforcement. The Federal budget for fiscal year 1975 stated that the FBI will place increased emphasis on drug intelligence collection to support intensified drug enforcement. The Strategy Council on Drug Abuse, consisting of several cabinet members and agency heads, stated in its Federal Strategy for Drug Abuse and Drug Traffic Prevention 1974, that the FBI "will begin systematic collection of domestic drug intelligence for the first time."

Although an expanded FBI role was expected, the nature, extent, and details have been left to the FBI and DEA to define. The FBI has taken steps to increase and formalize the dissemination of drug-related information and intelligence obtained from informants, but little is being done beyond this-- such as having DEA provide the FBI with the names of and descriptive data on selected drug traffickers.

As previously mentioned, DEA and FBI have not developed a formal operating plan covering day-to-day cooperation as recommended by the Subcommittee.

DEA recognizes that there may be a need to clarify the FBI's role.

DEA headquarters' officials reported that the FBI's relationship with DEA (and BNDD before it) had been characterized by the mutual exchange of information and assistance which, over the years, helped both agencies function more effectively. They stated that excellent cooperation was received from the FBI and that the two agencies enjoyed a relationship of mutual respect. Furthermore, they stated that exactly what the Congress expected from the FBI's playing a more significant role was unclear to DEA. It was their feeling that, although the two agencies can and must assist and complement each other, their responsibilities differ and neither can perform the other's functions.

Sharing of information and related arrests and recoveries

The FBI for many years has shared information which could be helpful to other Federal, State, and local law enforcement agencies.

Our work in FBI and DEA field offices shows FBI cooperation and assistance has consisted, for the most part, of the exchange of intelligence information obtained by FBI agents in debriefing informants on drug matters. The exceptions to this have been (1) an occasional joint enforcement effort when violations under the jurisdiction of each agency have occurred and (2) DEA agents speaking to FBI training classes.

In August 1972, 10 months before the reorganization, pursuant to agreements between the Director of BNDD and the acting Director of the FBI, steps were taken by the FBI to provide more effective and expanded cooperation with other law enforcement agencies in the drug abuse field. Specifically, FBI headquarters instructed its field offices to:

- Step up liaison with other law enforcement agencies to speed and facilitate the exchange of data relating to illicit narcotics traffic.
- Designate a special agent in each field office as narcotics coordinator. All narcotics intelligence information was to be channeled through this agent.

--Debrief informants on at least a monthly basis regarding drug matters and pass such information through the narcotics coordinator to BNDD and local law enforcement agencies.

After enactment of the plan, the FBI sent other messages to its field offices reiterating the importance of fully cooperating with and assisting DEA. In addition to disseminating information as required by the August 1972 instructions, subsequent instructions (1) required periodic meetings with their DEA counterparts by the special agents in charge of 16 FBI field offices located in cities with Organized Crime Strike Forces and (2) informed all FBI field offices that progress in cooperating in the drug enforcement area would be monitored. We were informed that, since 1973, the FBI's Inspection Division has been instructed to monitor the effectiveness of drug intelligence work in its annual inspection of field offices. Also, several meetings at the headquarters level have been held between DEA and FBI to determine ways to achieve maximum cooperation without infringing on the jurisdiction of the other agency.

In the exchange of memorandums in 1973 between these agency heads regarding ways of increasing their impact upon the drug problem, the BNDD Director proposed to provide FBI field offices with lists and descriptive data concerning major narcotics violators so that information could be exchanged on these subjects. While the acting Director of the FBI expressed the opinion that this appeared worthwhile, such exchange has not occurred either at the headquarters level or in the Los Angeles area; it did occur to a limited extent in New York. As mentioned in our report on "Difficulties In Immobilizing Major Narcotics Traffickers," (see p. 7) ENDD took various actions to coordinate its enforcement activities with those of other law enforcement agencies. These actions included supplying the names of selected upper level traffickers (classes I and II) to the Internal Revenue Service. In our opinion, information on selected upper level traffickers should also be sent to the FBI.

DEA and FBI officials agreed and stated that DEA should provide the FBI with the names of selected high level subjects who may, because of their methods of operation come, within the jurisdiction of the statutes enforced by the FBI.

FBI statistics

DEA does not tabulate the number of referrals of information and intelligence given to or received from the

FBI. The FBI tabulates the total number of drug-related items disseminated to all other agencies but does not identify those provided specifically to DEA.

Nationally, according to statistics developed by the 59 FBI field offices, the following accomplishments were made in fiscal years 1973 and 1974 by other agencies, both Federal and local, on the basis of narcotics data disseminated by the FBI.

<u>Fiscal year</u>	<u>Arrests</u>		<u>Recoveries</u> (note a)		<u>Items disseminated</u> (note b)
	<u>Federal</u>	<u>Local</u>	<u>Federal</u>	<u>Local</u>	
	(millions)				
1973	215	816	\$ 5.3	\$9.8	19,273
1974	255	989	26.2	3.4	19,897

a/Includes narcotics, automobiles, and weapons seized at street values.

b/Not broken down between Federal and local.

Los Angeles

The statistics pertaining to the FBI's Los Angeles District Office showed the following accomplishments, including the results of information disseminated.

<u>Fiscal year</u>	<u>Arrests</u>				<u>Recoveries</u> (note a)	<u>Items disseminated</u>		
	<u>Other</u>	<u>Federal</u>	<u>Local</u>	<u>Total</u>		<u>Federal</u>	<u>Local</u>	<u>Total</u>
	(millions)							
b/1973	12	6	38	56	\$ 3.3	568	673	1,241
1974	11	25	54	90	14.3	1,694	1,888	3,582
1975	16	2	50	68	4.2	3,761	3,957	7,718
Total	<u>39</u>	<u>c/33</u>	<u>142</u>	<u>214</u>	<u>\$21.8</u>	<u>6,023</u>	<u>6,518</u>	<u>12,541</u>

a/Represents street value of narcotics seized by Federal and local enforcement agencies.

b/Represents the 10-month period which began September 1972.

c/Twenty-three of the arrests were attributed to DEA.

The "items disseminated" figures could be misleading. In the absence of guidelines from FBI headquarters, the Narcotics Coordinator in the Los Angeles District has developed his own criteria for reporting accomplishments or quantifying information disseminated. In quantifying the items disseminated, the Narcotics Coordinator counts a name and physical description; a specific location, such as the city where a drug is distributed; a type of drug; a mode of shipment; and so forth, as separate items. Identical items disseminated to more than one agency are counted separately. For example, if data in a letter to DEA containing four items is also sent to the Internal Revenue Service, the Los Angeles Police Department, and Los Angeles County Sheriff's Office, it would represent 16 items disseminated--8 Federal and 8 local.

In fiscal year 1974, the reported accomplishments for the Los Angeles District represented a large portion of those reported nationally. Specifically, this office reported 19 percent of the items disseminated, 48 percent of the recoveries, and 7 percent of the arrests. A major portion of the arrests and recoveries were the result of only three cases made by DEA. These three cases involved 17 arrests and recoveries of about \$11.5 million.

DEA said that in many instances the information received from the FBI had been vague or sketchy but that the quality was constantly improving. This improvement is attributable, in part, to the training sessions by the DEA's Los Angeles Regional Training Coordinator during 1974 and 1975. According to both DEA and FBI officials, the training was well received by the FBI agents. Approximately 90 percent of the FBI staff attended at least one of the sessions in 1974, and approximately 60 percent in 1975. One of the sessions covered the debriefing of informants on narcotic matters and the type of information that was needed.

Informal understandings exist regarding the exchange of information or intelligence that falls within the other's jurisdictional area. The agencies hold periodic meetings to discuss problems and any special information that one would like the other to obtain. Initially, the meetings were held monthly. At the time of our review, these regularly scheduled meetings were no longer considered necessary by officials of either agency because of frequent contact by telephone. They are held on an as-needed basis.

New York City

The FBI's New York field office sends drug related information to DEA by letter and telephone. FBI officials estimate that DEA is sent 25 pieces of information monthly.

We checked this estimate with DEA and their files generally supported the FBI statement. DEA said FBI information was generally good and had resulted in cases being developed.

While DEA has not provided the FBI with a large number of intelligence items, since 1974 it has made 17 major reports dealing with narcotics trafficking. At least one of these reports included the names of leaders and emerging leaders in narcotics trafficking. It supplied the FBI with the names of black narcotic violators (classes I, II and III) in New York City. DEA also supplies fingerprint cards to the FBI when it makes an arrest.

Dallas, El Paso, and McAllen

The officer in DEA's Dallas regional office responsible for liaison with the FBI told us that the exchange of information with the FBI had been limited and of little investigative or intelligence value. Further, there had been no periodic meetings between the agencies and DEA agents did not have access to FBI files.

According to the agent in charge in El Paso, DEA had very little contact or exchange of information with the FBI. He could recall only one undocumented referral from the FBI since the reorganization. In contrast to this, the intelligence officer at the McAllen district office said that there had been a free exchange of information and that DEA agents had been allowed to look at FBI files regarding information furnished.

Use of informants

FBI policy is to fully protect the informant's true identity and personal safety. No informant is turned over to another agency unless the informant is willing. Neither DEA nor the FBI maintain statistics on using FBI informants. DEA stated it had used FBI informants with increased frequency in the past 2 years, and on many occasions, both before and after the reorganization, FBI informants had been given assignments by DEA.

An FBI informant, used by BNDD in 1972, led to the seizure of nearly 174 kilograms of heroin (ranging from 84 to 100 percent in purity) in Miami, immobilizing a number of foreign and high-level U.S. drug traffickers. This seizure, according to the officials, was the largest ever recorded by a law enforcement agency in the United States.

Our work in Los Angeles, New York, and Texas indicates that only on infrequent occasions has an FBI informant been

made available to DEA. For the most part, the use of informants has been limited to their debriefing by FBI agents, who then provide the information to DEA.

CONCLUSIONS

Federal agencies' cooperation and coordination on intelligence and drug enforcement activities has not materialized to the extent intended by the reorganization plan.

Improved cooperation is needed in enforcement activities along the border so that manpower and other resources can be more effectively deployed. DEA's intelligence gathering has been geared almost entirely to identifying major traffickers and eliminating sources of supply; little effort has been devoted to gathering intelligence to interdict drugs at U.S. borders and ports of entry. DEA and Customs have yet to agree on the routine sharing of drug intelligence and information; however, since June 1975 both agencies have taken steps to increase the flow of information.

Customs gave certain ex-Customs agents, transferred to DEA by the reorganization, its search and seizure authority. DEA has made little use of this authority due, in part, to restrictions placed on DEA field agents that are greater than those placed on agents of other Federal agencies possessing such authority. As the agency responsible for investigating suspects connected with illegal drugs entering the United States, DEA should have at its disposal any appropriate enforcement tools that are legally justified and properly used. The use of Customs' search and seizure authority in border situations is one of these tools and should not be denied to DEA. It is recognized that appropriate training may have to be provided by Customs.

The FBI role in drug law enforcement needs to be clarified if more is expected than the exchange of information and intelligence at the operating level. DEA and the FBI have interpreted the FBI role in a narrow sense and have not materially changed their working relationship since the reorganization. DEA headquarters has not provided the FBI with the names of and descriptive data on major traffickers. Such an exchange would seem to be a basic requisite to the FBI's playing a significant role in assisting Federal drug law enforcement and in exploiting the relationship between drug traffickers and organized crime.

We endorse the recommendation in the Domestic Council's September 1975 report calling for a settlement of the jurisdictional disputes between DEA and Customs. We believe, however, especially in light of the failure of a prior

agreement brought about by a Presidential directive, that establishing such agreements will not solve the problem. It is questionable whether such agreements will ever work without a clear delegation of authority to someone acting on behalf of the President to monitor adherence to guidelines and tell agencies what is expected of them. We discussed this with officials of OMB and they agreed.

RECOMMENDATIONS

We recommend that the Attorney General:

- Require the Director of the FBI and the Administrator of DEA to (1) reach a formal understanding as to the role of the FBI in helping DEA to carry out its drug enforcement responsibilities, (2) develop operational guidelines to insure that agents at the working level are cooperating and exchanging the kind of information that will be useful to each agency, and (3) exchange names of and descriptive data on selected major traffickers.
- Require DEA to place increased emphasis on the gathering of intelligence information to interdict illicit drugs at U.S. ports and borders and make every effort to increase the flow of intelligence to Customs to that end.

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Although we did not request written comments from the agencies involved, our findings were discussed with them; and DEA and FBI generally agreed with the recommendations.

CHAPTER 4

DEA'S USE OF FUNDS FOR PURCHASE OF

EVIDENCE AND INFORMATION

One method for controlling drug traffic of particular interest to the Subcommittee is DEA's purchase of evidence and information. We were asked to make:

--"An analysis of purchase of evidence/purchase of information (PE/PI) funds used by DEA as an approach to drug law enforcement focusing on the number of convictions and significance of violators convicted, including (a) a study of the amounts of Federal dollars allocated to PE/PI over the last five years and to whom these dollars flow, and (b) an accounting of all such money so used since the creation of DEA."

DEA, and BNDD before it, has long considered purchase of evidence and information as one of the most effective tools available to narcotics investigators. Although DEA could not tell us the number and significance of arrests and convictions that have resulted from PE/PI, it has been used successfully in numerous cases. Critics of PE, however, question the rationale for a practice which they claim stimulates the market for illicit drugs by adding to its monetary rewards. They claim that purchase money is being targeted at the street violator and not at identifying and arresting upper level traffickers.

To determine whether PE/PI spent on middle and lower level cases was leading to upper level traffickers, we reviewed case files in DEA's New York and Los Angeles regions. Our review showed:

--Although amounts allocated to PE/PI over the years have increased--to over \$9 million for fiscal year 1976--DEA has never evaluated its effectiveness to determine how it could be used more judiciously.

--In fiscal year 1975, DEA spent about 70 percent of its domestic PE/PI budget on middle and lower level traffickers with the primary objective of identifying and arresting upper level traffickers.

- In the New York and Los Angeles regions, PE/PI spent on middle and lower level traffickers was, to some extent, successful in identifying upper level traffickers. About 11 and 16 percent, respectively, of the middle and lower level cases led to upper level traffickers. Some were very successful in identifying numerous upper level traffickers.
- DEA's success with PE/PI is difficult to assess because DEA has no policy indicating what expected results should be.

AMOUNTS ALLOCATED TO PE/PI
HAVE GROWN SUBSTANTIALY

DEA spends money to purchase evidence from suspected traffickers and information from informants, to pay rewards, and to use as "flash rolls"; that is, large sums of money shown to drug traffickers as proof that DEA agents can purchase substantial quantities of illicit drugs.

The budget for purchasing evidence and information has increased from \$775,000 in fiscal year 1969 for BNDD to \$9 million in fiscal year 1976 for DEA. This increase is consistent with overall budget growth for BNDD and DEA. In addition, beginning in fiscal year 1975, DEA's Office of Intelligence was authorized \$400,000 for special intelligence programs, and of this amount \$213,000 was obligated for the purchase of information. The following table does not include the Office of Intelligence funds but only presents BNDD's and DEA's enforcement program figures.

Fiscal year	BNDD/DEA Planned budget			BNDD/DEA Actual obligations		
	PE	PI	Total	PE (note a)	PI	Total
	(000 omitted)					
1969	\$ 615	\$ 160	\$ 775	\$ 607	\$ 150	\$ 757
1970	1,476	375	1,851	1,449	265	1,714
1971	1,836	939	2,775	1,780	825	2,605
1972	3,090	1,250	4,340	2,914	1,710	4,624
1973	3,400	1,844	5,244	3,228	2,018	5,246
1974	3,600	2,800	6,400	3,975	2,512	6,487
1975	3,700	3,121	6,821	3,958	3,075	7,033
1976	5,024	4,004	9,028	-	-	-

a/PE obligations do not include recovered money spent on PE during the year. This amount has ranged from \$31,000 in FY 1972 to \$122,000 in FY 1975.

One of the reasons for needing the 32-percent increase in purchase funds in fiscal year 1976 is the increased cost of heroin and dangerous drugs in the illicit market. According to DEA, the standard one-eighth-kilogram sample purchase now costs \$5,000 to \$6,000 compared to \$2,000 to \$3,000 a year ago.

In addition to DEA-appropriated funds shown above, LEAA grants are also used for PE/PI by various DEA State and local task forces. The amount budgeted in LEAA grants was \$2.4 million 1/ for fiscal year 1975.

Expenditures for PE/PI have not varied significantly from planned estimates. In the late 1960s and early 1970s, BNDD spent considerably more on PE than on PI; however, in

1/The \$2.4 million is composed of \$1,919,920 for the DEA State and local task force program (former ODALE program); \$300,000 for the New York City Joint Task Force; and \$150,000 for the Unified Intelligence Division located in New York City.

recent years increased emphasis has been placed on purchasing of information, but most of the PE/PI budget still goes for purchase of evidence.

PE expenditures are generally unrecoverable

Little of the money spent on purchases of evidence by DEA is recovered because of DEA strategy to buy and penetrate. Relatively small amounts, generally less than 5 percent, of PE money is recovered because DEA may make several buys on the same case in order to penetrate to higher level traffickers. Any money spent on earlier buys before an arrest is generally unrecoverable. Also, DEA spends some unrecoverable PE money to make sample buys to learn what the drug situation in a given area is. In addition to drug intelligence, these buys are used to make arrests and cultivate informants. BNDD's and DEA's PE obligations and the amounts recovered for fiscal years 1971 through 1975 were:

<u>Fiscal years</u>	<u>Amounts obligated</u>	<u>Amounts recovered</u>	<u>Percent recovered</u>
1971	\$1,780,000	\$174,869	9.8
1972	2,914,000	103,713	3.6
1973	3,228,000	148,290	4.6
1974	3,975,000	160,200	4.0
1975	3,958,000	182,335	4.6

Although most PE money is not recovered, DEA believes that the results achieved far outweigh the expenditures, and DEA identified cases where PE contributed to the arrest of major traffickers. Furthermore, DEA seizes cash, vehicles, boats, and planes as part of its investigations, the value of which offsets unrecovered PE expenditures. For example, although DEA spent about \$4.0 million in unrecovered PE money in fiscal year 1975, it seized \$3.1 million in cash and \$5.5 million in vehicles, boats, and planes.

EVIDENCE PURCHASE IS CONTROVERSIAL

PI is generally recognized as a widely used technique of law enforcement agencies. However, PE has been more controversial. Critics cite the uniquely corruptive environment of undercover work in the narcotics area and claim that purchase money stimulates the narcotics economy. They claim that most purchase money is targeted at the street level violator and that it duplicates State and local enforcement efforts and does not lead to major violators.

DEA considers the purchase of evidence and information as one of the most effective investigative tools available. Some of the advantages cited by DEA to justify PE follow.

- Since many drug investigations are conducted while the crime is being committed, the undercover agent can negotiate, gather intelligence information, identify and implicate a source of supply, and better develop a solid case for prosecution.
- Undercover purchases provide strong evidence that can be prosecuted with greater success and can serve to induce defendant cooperation.
- Evidence purchases insure a maximum of investigative return and, if not available, cases would require more resources over a longer period with lower probability of conviction.

According to DEA, the objective of purchase funds is to serve as an enforcement tool, not just to remove drugs from the street. They are not used simply to make an arrest and seizure. DEA cites the effectiveness of this buy and penetrate approach with examples where lower level traffickers have led to the identification and apprehension of major violators.

DEA has given several reasons why multiple purchases are necessary in developing a case. Such purchases tend to weaken charges of entrapment by defense attorneys, are used to identify and implicate the source of supply and associates and to gain further intelligence, and tend to establish an agent's credibility. Also, they are more economical than attempting a large, single transaction at a higher level.

EFFECTIVENESS OF PE/PI COULD BE IMPROVED

During the Subcommittee hearings in June 1975, it was pointed out that one DEA regional office, Los Angeles, had made a study of its purchase funds and concluded that they were not leading to the identification and apprehension of higher level traffickers. No overall DEA study of purchase fund effectiveness has been made.

As part of our audit, we reviewed a sample of cases where PE/PI funds were expended in DEA's New York and Los Angeles regional offices. We found that PE/PI expenditures on lower level cases were successful, to some extent, in

leading to the identification of upper level traffickers. DEA, however, has no standard to say whether the success achieved was worth the investment.

We also reviewed DEA purchase fund records for all regions for fiscal year 1975. Overall, DEA spent 56 percent for the purchase of evidence and 44 percent for the purchase of information. DEA spent 30 percent of PE/PI on upper level traffickers and 70 percent on middle and lower level traffickers within its domestic regions. Some regions spent a substantial share of their PE/PI on middle and lower level traffickers. For example, in fiscal year 1975, the New York and the Boston regions spent 80 and 92 percent, respectively, of PE/PI funds on middle and lower level traffickers.

New York

To determine whether DEA's New York regional office was successfully using PE/PI funds to identify upper level traffickers, we reviewed some cases from the first quarter of fiscal year 1975 in which PE/PI was expended. Of 46 middle and lower level cases, 5 cases were successful in identifying 8 upper level violators.

As of June 30, 1974, a total of 916 cases were open in this region's files. During the first quarter of fiscal year 1975, an additional 178 cases were opened. Therefore, the total number of active cases being worked was 1,094.

Class I	112
Class II	100
Class III	670
Class IV	<u>212</u>
Total	<u>1,094</u>

This total includes some cases which are "administratively" open because a case cannot be officially closed until all evidence is disposed of even though the defendants have been prosecuted. DEA officials estimated that approximately 3 percent or 33 cases were administratively open during the period, reducing active cases to 1,061.

During the first quarter of fiscal year 1975, PE/PI funds were used in 127 cases.

Class I	23
Class II	30
Class III	71
Class IV	<u>3</u>
Total	<u>127</u>

It is important to note that PE/PI funds may have been used in all 1,094 cases at one time or another.

Of the expenditures for the 127 cases during the first quarter of fiscal year 1975, 33.5 percent were on classes I and II traffickers while 66.5 percent were on classes III and IV.

	<u>PE</u>	<u>PI</u>	<u>Total</u>	<u>Percent</u>
Class I	\$ 1,000.00	\$19,801.60	\$20,801.60	20.3
Class II	3,900.00	9,650.00	13,550.00	13.2
Class III	59,855.00	7,695.00	67,550.00	65.7
Class IV	<u>525.00</u>	<u>290.00</u>	<u>815.00</u>	<u>.8</u>
Total	<u>\$65,280.00</u>	<u>\$37,436.60</u>	<u>\$102,716.60</u>	<u>100.0</u>
	63.6%	36.4%		

Of the 74 class III or IV cases, 46 were being investigated by the New York City and Newark district offices. We reviewed these 46 cases and found that:

- 5 cases (about 11 percent) resulted in the identification of 8 class II violators.
- 12 cases resulted in the identification of 20 additional class III violators.
- 20 cases resulted in the arrest of the targeted violators and 9 have been convicted.
- 61 purchases of information were made, costing \$5,600.
- 25 purchases of evidence were made, costing \$45,755.

At the time we completed our review, 33 of the 46 cases were still open and could lead to the identification of additional upper level traffickers.

In the 20 cases where targeted class III or IV violators were arrested, we asked the agents involved to explain why they arrested the targets in lieu of cultivating them in an attempt to build the case to a higher level. We were told the decision in 15 cases was based on the opinion that the supply of information from the target was exhausted and that arrest was a final effort to elicit more information about the target's source of supply. The other five arrests were made for various reasons.

Los Angeles

DEA's Los Angeles regional office conducted a study of PE/PI and concluded that PE/PI spent on lower level traffickers seldom led to upper level traffickers. After this study, the region made two limited followup surveys.

The initial study covering July 1, 1973, through March 31, 1974, concluded that (1) about 74 percent of PE/PI funds was being spent at the class III and IV levels and (2) class III and IV investigations rarely resulted in identification or apprehension of upper level traffickers. This was based on the fact that only 32 of 238 (13.5 percent) class III cases reviewed led to the identification of class I and II violators. As a result, the regional director, in October 1974, issued a regional policy that expenditures of PE/PI at the class III and IV level must be more selective. We could not validate the findings of the study because the DEA Los Angeles region could not provide all the backup data, and it would be difficult to reconstruct.

In April 1975 a followup survey, covering December 1974 and January and February 1975, for three of the region's offices stated no conclusions. The study looked at expenditures for the three locations to see if the trend in expenditures had changed. This quick analysis showed that PE/PI expenditures were being spent

--44 percent on level III and IV cases and

--56 percent on level I and II cases.

In May 1975, a subsequent followup covering PE/PI expenditures for the whole region for the 6 months of November 1974 through April 1975 was made. The followup was to determine if the directive issued by the regional director in late 1974 had been implemented. The survey showed that PE/PI expenditures were being spent about

--40 percent on classes III and IV cases and

--60 percent on classes I and II cases.

This was almost a complete reversal of trends found during the initial study.

In the followup surveys, however, no analysis was performed on the level III and IV violators to determine if cases/violators were being upgraded. Analysis of arrest

statistics showed that the region was redirecting its efforts toward major violators. The conclusions of the initial study, compared to this effort, were that:

- The regional director's directive was being complied with.
- Most PE/PI expenditures were in the classes I and II areas.
- The arrest of classes I and II violators almost doubled, while the arrest of classes III and IV decreased.

We analyzed PE/PI expenditures in the Los Angeles region to verify the results of the DEA study.

Specifically, we wanted to determine (1) if most PE/PI money was being directed at upper level violators and (2) if the money expended on middle and lower level violators aided in the identification of upper level violators.

We reviewed PE/PI expenditures for the third quarter of fiscal year 1975 and also made a detailed case analysis on 37 classes III and IV cases investigated at the Los Angeles and San Diego offices. One or more PE or PI payments were made during January through March 1975 on each case reviewed. We discussed each case analyzed with special agents and group supervisors.

During the third quarter of fiscal year 1975, PE/PI funds were expended on 161 cases.

<u>Class</u>	<u>Number of cases</u>
I	63
II	29
III	58
IV	<u>11</u>
Total	<u>161</u>

We did not obtain the total number of active cases being worked during this period because it was not readily available.

Of PE/PI dollar expenditures for these 161 cases, upper level cases accounted for \$129,395 or about 70 percent of the total, while middle and lower level cases accounted for \$55,116, or about 30 percent of the total.

<u>Class</u>	<u>PE</u>	<u>PI</u>	<u>Total</u>	<u>Percentage</u>
I	\$25,105	\$ 77,142	\$102,247	55.4
II	14,650	12,498	27,148	14.7
III	32,595	16,851	49,446	26.8
IV	<u>4,775</u>	<u>895</u>	<u>5,670</u>	<u>3.1</u>
	<u>\$77,125</u>	<u>\$107,386</u>	<u>\$184,511</u>	<u>100.0</u>
	41.8%	58.2%		

We made a detailed analysis of 37 of the 69 classes III and IV cases. Twenty-five of the cases were investigated by the San Diego office, and 12 were investigated at the Los Angeles office. The case analysis showed

- 6 cases (about 16 percent) led to the identification of one or more upper level violators,
- 33 cases resulted in the arrest of the original targeted class III or IV violators, and 21 of these have been convicted,
- 109 purchases of information totaled \$27,478, and
- 13 purchases of evidence totaled \$9,160.

Information from the investigation of these 37 cases led to the identification of 40 class I violators, 19 class II violators, 85 class III violators, and 15 class IV violators. It should be pointed out that some of the cases were still open at the time we completed our review and could lead to the identification of additional upper level traffickers.

The number of cases that led to upper level traffickers compared to those that did not should not be viewed as an absolute indication of success or failure of PE/PI. The number of upper level traffickers identified regardless of the comparative number of successful cases is also important. One case may lead to the identification of a major drug trafficking network. For example, one of the 37 cases was very productive in identifying a large number of domestic and foreign upper level traffickers. This case, investigated in San Diego, involved 53 purchases of information

from nine informants totaling \$12,668 in PI expenditures and resulted in the identification of 39 class I violators, 15 class II violators, and 9 class III violators. While considered to be far from typical, this illustrates how the initial use of PI at a lower level led to a major international trafficking organization wherein many domestic and foreign upper level narcotics traffickers were identified.

DEA's Los Angeles region has been redirecting most PE/PI expenditures to upper level investigations. About three out of every four purchase dollars are now directed toward investigations involving major traffickers, and there has been some success in upgrading investigations to a higher level. Numerous upper level traffickers have been identified and one case in particular was well worth the investment. While PE/PI resources have been redirected, our analysis of PE/PI resources still being devoted to middle and lower level cases shows that the success rate for upgrading or opening new cases where upper level traffickers are targeted was about 16 percent--slightly more than shown by the original Los Angeles study.

Need for more evaluation

Except for the recent study and followup surveys by the DEA Los Angeles region, DEA has not evaluated PE/PI to determine its effectiveness and how it could be used more judiciously.

The Office of Planning and Evaluation in DEA recognizes the need to analyze specific resources, such as PE/PI funds, informants, agent time, and intelligence analysis to produce high-impact cases. The Office of Planning and Evaluation states that little is known about the "technology" of case production. DEA does not know how the pattern of enforcement activity is changed by increases or decreases in PE/PI money, the number of informants, the number of agents, or the amount of intelligence analysis. DEA has proposed that the Office of Planning and Evaluation make a case production study to determine where DEA should spend additional resources. We believe that such a study is needed and should be done on a priority basis because of the congressional interest in this area. Furthermore, an evaluation of PE/PI would be helpful to DEA in establishing a more definitive policy on the use of PE/PI.

Need for a more definitive
PE/PI policy

In a memorandum on "DEA Priorities and Objectives for FY 75 and FY 76," January 17, 1975, the Administrator of DEA stated that one of the agency's priority objectives was to improve the quality of cases. One way to achieve this quality is through "an increase in the amount of PE/PI coupled with improved management of these funds at the Supervisor/ARD [Assistant Regional Director] level of the organization." Along with improved management at the operating level, we believe that DEA headquarters needs to develop a definitive policy on PE/PI.

Other than procedural controls, DEA has no definitive policy on using PE/PI to guide its regional offices. DEA regions are authorized to spend allocated PE/PI as they deem appropriate, consistent with DEA's overall mission and enforcement objectives. There is no policy on what percentages of PE/PI should be spent on upper level classes I and II traffickers, nor is there any policy on the ratio of PE to PI or whether one should be emphasized more than the other.

DEA maintains statistics on where PE and PI are being spent (classes I, II, III, and IV cases); but without a policy on which to evaluate the statistics, they are of limited value. What percentage of PE and PI should be spent on upper level classes I and II traffickers?

DEA has a general policy that 70 percent of its enforcement resources should be devoted to the apprehension of classes I, II, and III violators. It is not clear whether this policy can be applied specifically to PE/PI, but if so, it is questionable because it would not provide for a minimum commitment of PE/PI to class I and II cases.

The need for some specific policy on what portion of PE/PI should be spent on classes I and II cases can be seen in the DEA Los Angeles study and followup surveys. When only 25 percent of PE/PI was spent on classes I and II cases, there was concern by the regional management; however, when the percentage subsequently increased to 60 percent on classes I and II cases, it was considered acceptable. We realize that requirements on the use of PE and PI may vary between regions and may differ between PE and PI; however, we believe that DEA should develop an overall definitive policy.

CONCLUSIONS

DEA has had some success in identifying upper level traffickers based, at least in part, on PE/PI funds spent on middle and lower level cases. It has had some success in penetrating at low levels and working up to higher level traffickers. This success, however, is difficult to assess. In terms of the numbers of middle and lower level cases that have developed into upper level cases, the success rate has been about 11 to 16 percent in the two largest DEA regions. One case in particular, however, was very successful in identifying large numbers of upper level domestic and foreign traffickers.

The DEA Los Angeles PE/PI study concluded that purchase money spent on middle and lower level cases rarely led to identifying upper level traffickers. This conclusion was based on the finding that only about 13 percent of the cases led to higher level traffickers. The 13-percent payoff was apparently considered to be low, as indicated by the strong conclusion and subsequent recommendations for improved allocation of resources. Our analysis at the DEA Los Angeles region verified that the region was, in fact, redirecting most of its PE/PI expenditures to upper level cases. The percentage of successful middle and lower level cases that led to higher level cases was about 16 percent.

In the DEA New York region, our analysis showed that, during the first quarter of fiscal year 1975, the region was spending most of its PE/PI on middle and lower level cases and that about 11 percent of these cases led to the identification of upper level traffickers. The percentage payoff for both the Los Angeles and the New York regions could increase because some of the cases are still open.

Was the percentage of successful cases that targeted upper level traffickers acceptable? It is very difficult to penetrate the upper echelons of drug trafficking networks. Upper level traffickers are skillful and insulate themselves by dealing with trusted friends they have known for years. Fear of swift reprisal is also a factor deterring middle and lower level traffickers from identifying upper level traffickers.

Although the use of purchase money has been successful in certain cases, we believe that improvements can be made. DEA should direct its regions not to spend a disproportionate share of its PE/PI on classes III and IV cases if sufficient classes I and II cases are available for enforcement action.

The DEA Los Angeles region concluded that spending 75 percent of its purchase money on classes III and IV cases was unacceptable considering the results. Other DEA regions also spend a substantial share of their PE/PI money on middle and lower level cases. In fiscal year 1975, the New York region spent about 80 percent of its PE/PI on classes III and IV cases, and the Boston region spent about 92 percent on classes III and IV cases. We believe that DEA should develop a policy on PE/PI, giving its regions some guidance on what portion should be spent on classes I and II cases, compared to classes III and IV cases, and what is expected in terms of a payoff.

Although the amounts allocated to PE/PI have grown substantially over the years to about \$9.0 million for fiscal year 1976, DEA has not, except for the Los Angeles studies, made an evaluation of PE/PI and its effectiveness.

RECOMMENDATIONS

We recommend that the Attorney General instruct DEA to:

- Proceed on a priority basis with its proposed case production study to analyze the importance of specific resources, such as PE/PI.
- Develop an overall policy on PE/PI covering its intent and expected payoff.
- Develop criteria to assist operating managers to better screen requests for expenditures of PE/PI and minimize any indiscriminate buying at the lower levels of drug trafficking.

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We did not request written comments from the Department of Justice on these recommendations; however, we discussed them with DEA officials. They agreed that the recommendations were valid, but believed that the basic methodology used by GAO and DEA's Los Angeles region in attempting to evaluate the effectiveness of purchase of evidence expenditures was insufficient to adequately portray the benefits derived from PE utilization. They pointed out that:

- It failed to reflect that PE, in addition to its use in furthering the identification of high level traffickers, serves other important purposes.

--It relied upon a data base which was not sufficiently sensitive, in and of itself, to measure PE effectiveness.

--It used relatively newly closed cases (as well as some open cases), which biased the results of the analysis.

For further DEA explanation, see appendix IX.

CHAPTER 5

DEA ENFORCEMENT AND INTELLIGENCE

MANPOWER ALLOCATIONS

The Subcommittee requested that we make:

--"An analysis of DEA enforcement and intelligence manpower allocations to various activities and functions in the agency."

At the time of the reorganization, DEA was given the responsibility for developing and maintaining a national narcotics intelligence system. This responsibility encompasses the acquisition and analysis of information on the legal and illegal traffic in narcotics and dangerous drugs and the dissemination of such information to DEA agents and appropriate agencies.

Intelligence collection and analysis are only two of the various DEA responsibilities requiring manpower. Others include enforcement of Federal criminal laws, regulation of the legal trade in narcotics and dangerous drugs, coordination of drug enforcement among Federal, State, and local agencies, and implementation of research programs to improve accomplishment of its mission.

DEA resources have been allocated and programs formalized to cover these responsibilities, but these programs are not always clearly categorized and responsibilities can overlap. They interrelate and complement one another. To illustrate, it is a basic part of the job of every field agent to collect intelligence even though he is not assigned directly to intelligence functions.

MANPOWER ASSIGNMENTS

DEA assigns both agents and professional/technical staff members (intelligence specialists) on a full-time basis to the intelligence function. The schedule below shows the allocations among intelligence, enforcement, and other functions.

	<u>FY 1973</u>	<u>FY 1974</u>	<u>FY 1975</u>
Headquarters:			
DEA agents	3	17	27
Intelligence specialists	<u>4</u>	<u>48</u>	<u>66</u>
Intelligence function total	<u>7</u>	<u>65</u>	<u>a/93</u>
Enforcement and other functions (note b)	116	133	181
Regions:			
DEA agents	80	86	127
Intelligence specialists	<u>5</u>	<u>5</u>	<u>21</u>
Intelligence functions total (note c)	<u>85</u>	<u>91</u>	<u>148</u>
Enforcement and other functions (note b)	1,223	1,778	1,712

a/Includes 5 agents and 12 intelligence specialists assigned to El Paso Intelligence Center.

b/Does not include personnel assigned to school--FY 1974, 55; FY 1975, 12.

c/Includes agents and professional/technical specialists assigned to foreign regions--FY 1973, 13; FY 1974, 13; FY 1975, 11.

At the end of fiscal year 1975, 154 agents and 87 intelligence specialists were in intelligence positions.

Within the United States, DEA cites two major changes in the allocation of manpower resources. From the end of fiscal year 1973 through 1975, the number of agents in offices along the southwest border increased 284 percent, while overall agent strength domestically increased only 44 percent. This increase along the border was due to two factors: the large number of Customs agents transferred to DEA in the border area at the time of reorganization and the transfer of additional DEA agents to cope with the increased flow of Mexican heroin entering the United States. Another major shift domestically was an increase of 50 agents (69 percent) assigned to regional intelligence units.

In foreign countries, DEA increased its agent strength from 113 to 171 (51 percent) from the end of fiscal year 1973 through 1975. DEA said this increase was in keeping with its philosophy that greater supply reductions are effected per agent by suppression activities in those countries that are the source or transshipment points for much of the drugs abused in this country. The increases would have been even greater had it not been for such limiting factors as the political sensitivity of U.S. presence and the time lag which is required for language training for agents.

INTELLIGENCE PROGRAM

Shortly after the reorganization, DEA established an Office of Intelligence at headquarters and placed it organizationally on the same level as the Office of Enforcement. Intelligence units were also set up in each regional office.

The intelligence system in DEA has been expanding for the past 2 years and, while some progress has been made, it is far from complete. DEA feels an additional 3 years will be needed to develop a satisfactory system. The additional time is required for acquiring information for the intelligence data base and for recruiting and training intelligence specialists.

Regional intelligence unit (RIU)

We observed at three DEA regions that authorized positions in RIU's were not filled, and in some instances agents assigned to RIU's were not working full time on intelligence functions. Instead of an RIU, the New York regional office of DEA joined forces with the New York City Police and the New York State Police and formed the Unified Intelligence Division (UID). This unit is funded by the Law Enforcement Assistance Administration and is discussed in chapter 6.

Mexico

The Mexico City RIU is not at authorized strength. As of July 1975, only 4 of the 11 authorized positions were filled. Although formally established in late 1973, it did not have a supervisor until mid-1975. At the time of our review, DEA was not able to increase the staffing because of the reluctance of the Government of Mexico to admit additional DEA personnel. Subsequently, DEA advised us that, as of early November 1975, the Mexico City RIU had eight people.

RIU's past efforts consisted of developing country analysis reports for Central America; performing special analyses, such as profiles of major traffickers; and making periodic administrative reports. RIU officials review each piece of intelligence developed by agents and file the data by subject. However, due to limited personnel, little analysis was made of this data to identify drug trafficking trends, distribution routes, and methods of narcotic concealment. Thus, this unit is not systematically analyzing information which could assist Customs and other agencies in intercepting drugs along the U.S.-Mexican border.

DEA maintains that this is not the function of the RIU. Further, they claim that any information accumulated which will enhance Customs' interdiction capabilities would be forwarded to DEA headquarters where a specially designated unit in the Office of Intelligence would provide it to Customs.

California

We visited the Los Angeles regional office and its San Diego district. We learned that before 1975 agents assigned to the intelligence function often performed nonintelligence duties. Although less frequently, RIU personnel continue to be diverted to nonintelligence tasks. About 19 people are assigned to the Los Angeles RIU, and they spend about half of their time on intelligence-related functions.

Texas

We visited the Dallas regional office and two of its district offices. A regional official said that the office had 1 intelligence officer for every 12 enforcement agents. Personnel assigned to the RIU occasionally were used in an enforcement role when the need arose. A district official stated that one of his two intelligence officers was being reassigned to enforcement due to a shortage of agents.

CHAPTER 6

THE DEA STATE AND LOCAL

TASK FORCE PROGRAM

DEA is involved in narcotics law enforcement at the local level through participation in joint missions with State and local personnel. The Subcommittee expressed interest in DEA's role at this level and asked us to provide:

- "A study and analysis of how Federal money from LEAA is allocated, by DEA, to the various narcotics Task Forces currently in operation in the country * * * [and the criteria] used by DEA for determining how much money is allocated to each task force; how that money is used; and what results have been achieved in relation to the stated mission or objectives of these task forces."

- "A study and analysis of the Unified Intelligence Center, a federally funded narcotics related operation in the New York City area."

DEA TASK FORCES

In July 1973, as a result of Reorganization Plan No. 2 of 1973, DEA assumed responsibility for ODALE task forces. The objective of the task forces was to interdict heroin on the street through the arrest of middle and lower level traffickers by teams of Federal, State, and local agents.

Each ODALE task force was directed by a Department of Justice attorney with Federal enforcement personnel borrowed from other agencies, such as BNDD, Customs, and the Internal Revenue Service. Salaries of State and local agents and the equipment and operating costs of the task forces were generally funded through LEAA grants, as were costs relevant to administering the grants. The grants were made by LEAA's National Institute of Law Enforcement and Criminal Justice under part D, Title I, the Omnibus Crime Control and Safe Streets Act of 1968, as amended, which allows LEAA to make grants for improving and developing new methods of law enforcement. Since the reorganization, LEAA has continued to provide State and local support costs while DEA has funded salaries and operational support costs for all DEA special agents assigned to the task forces and has furnished equipment in support of their needs.

In April 1974, a memorandum of agreement between DEA and LEAA outlined a comprehensive strategy for joint efforts

in the field of drug control and the reduction of drug abuse. It was agreed that LEAA would continue to provide funding and that DEA would have primary responsibility for directing and evaluating the task force program. LEAA would have primary responsibility for fiscal monitoring and audits.

Criteria used by DEA for
allocating LEAA funds

Essentially, DEA considers four factors in determining the amount of LEAA funds to be allocated to each task force.

1. Prior effectiveness.
2. The number of State and local participants.
3. Geographical location as it affects cost or resources.
4. Level of investigative activity.

The amount of LEAA funds available for the DEA task force program for a fiscal year is set by LEAA after a series of coordinating meetings between the two agencies. After the total funding level is set, DEA notifies each of its regional directors of the funding each task force within his region will receive. The regional director then has the task force grantee submit a grant application to LEAA for the appropriate level of funding and LEAA awards the individual grants.

DEA began annual evaluations of task force effectiveness in November 1974. These evaluations resulted in closing seven task forces in early 1975 and taking steps to correct deficiencies in others.

Allocation of LEAA
funds and their use

In fiscal year 1974, there were about 40 task forces. Additional task forces were created during fiscal year 1975, and at one point 43 task force programs were operating and were receiving DEA and LEAA support. During fiscal year 1975, about 600 State and local law enforcement officers and about 180 DEA agents were assigned to the various task forces. For fiscal year 1976, the program has been reduced to 22 1/_{task forces.}

1/_{As of September 30, 1975, the Detroit task force was closed, reducing the number to 21.}

The following table shows LEAA funding and an estimate of DEA support for task force operations during fiscal years 1974 and 1975 and that projected for 1976.

<u>Fiscal year</u>	<u>DEA</u>	<u>LEAA</u>	<u>Total</u>
	----- (millions) -----		
1974	\$4.4	\$7.1	\$11.5
1975	5.1	9.1	14.2
1976	2.8	6.8	9.6

The estimated fiscal year 1975 funding by cost categories is shown below.

	<u>DEA</u>	<u>LEAA</u>	<u>Total</u>
Salaries and benefits	\$4,666,000	\$4,050,000	\$ 8,716,000
Operating expenses and equipment	362,000	3,130,000	3,492,000
PE/PI	<u>112,000</u>	<u>1,920,000</u>	<u>2,032,000</u>
Total	<u>\$5,140,000</u>	<u>\$9,100,000</u>	<u>\$14,240,000</u>

In some cases, either a portion or all of the salary expense for State and local personnel is being paid by their agencies and does not appear in these charts. In addition, DEA equipment in support of DEA agents is not included. This equipment is officially assigned to the regional offices.

Information showing the LEAA and DEA funding for each of the 43 task forces in operation during fiscal year 1975 is included as appendix V. We requested DEA to conduct a physical inventory of the DEA equipment being provided at five selected task forces. (See app. VI.)

During fiscal years 1974 and 1975, a State planning agency normally was the grantee for a task force or several task forces in an area. For those years, LEAA grants funded 100 percent of State and local participation. LEAA is allowed to make such grants for developing new and innovative methods of law enforcement. LEAA, however, questioned the continued use of this type of grant since the task force concept has evolved beyond the developmental stage.

Because of this concern, it was agreed that for fiscal year 1976 all task force projects will be funded through LEAA discretionary grant funds, which require State and local participants to provide 10 percent of the total grant amount. The 10 percent to be provided by State and local agencies can be met in either of two ways: (1) they can

contribute cash or (2) they can meet the requirements by hiring new employees to "backfill" the positions of personnel assigned to task forces.

For fiscal year 1976, the program has been reduced to 22 task forces because of a reduction in LEAA funds. On the basis of DEA's evaluation of each task force and the probability of State and local agencies meeting the 10-percent matching requirement of discretionary funding, a decision was made as to which task forces would be closed and which would continue. A listing of the 22 task forces to be funded in fiscal year 1976; the level of LEAA grant support; and an estimate of DEA support, based on a projection of the number of agents to be assigned in fiscal year 1976, are included in appendix VII.

While no decisions have been made for fiscal year 1977, DEA and LEAA have agreed that the funding mechanism for DEA task forces needs to be changed since LEAA has, in effect, relinquished all control other than funding. If the Department of Justice and OMB approve, DEA will seek additional budget authority for fiscal year 1977 and incorporate the funding of task force operations directly.

Results achieved in relation
to stated mission or objectives

The task force's mission is to control the illicit drug traffic in its geographic area through (1) upgrading the level of drug enforcement of local and State enforcement agencies, (2) targeting its efforts at a higher level--to include primarily street and middle level violators--but not restricting investigations leading to upper level violators, (3) directing its activities to communities where adequate resources are not available, (4) emphasizing investigations of heroin, cocaine, such dangerous drugs as amphetamine and barbituates, and cannabis (investigative effort is not to be expended in petty marijuana cases), and (5) coordinating its drug enforcement activities with the appropriate DEA regional or district office.

We are presenting arrest and conviction data to indicate results achieved by task forces. As discussed in chapter 2, however, statistical results are only one measure of enforcement and do not form the sole basis for determining success.

Organizationally, DEA regional directors are responsible to the DEA Administrator for task forces in their regions. They serve as project directors of the task forces, but the degree of control that a regional director may exert over

task force operations is dependent on a memorandum of understanding between DEA and State and local law enforcement participants. Additionally, some task forces may have a board of directors to serve various administrative functions. In fiscal year 1975, for example, the Pittsburgh Task Force Board of Directors was responsible for evaluating the unit's performance, recommending manpower allocations, approving budgetary expenses, and screening prospective personnel.

Each task force is headed by a DEA special agent. The ODALE practice of using Department of Justice attorneys has been eliminated, and staff from other Federal agencies are used on an as-needed basis rather than as a permanent assignment.

DEA headquarters personnel make an annual evaluation of task force progress in relation to its mission. As a result of this evaluation, the task force may be terminated, continued, or expanded, or certain corrective action may be recommended to increase effectiveness.

It is recognized that DEA's policy on implementing the mission or objective of task forces is general. This was thought appropriate because drug problems differ among geographic areas. No attempt was made to define the local operational policies of a task force with the intent that this could best be determined by local DEA officials and the State and local authorities.

Results of the task forces in terms of arrests and convictions as reported by DEA by fiscal year are shown below.

	<u>Arrests</u>	<u>Convictions</u>
FY 1974	4,000	1,934
FY 1975	5,205	2,039

Appendix VIII shows the results of the 43 DEA task forces receiving LEAA grant funds in fiscal year 1975.

UNIFIED INTELLIGENCE DIVISION
IN NEW YORK CITY

During the early 1970s, New York City, in addition to harboring a substantial portion of the nation's drug addicts, also served as a major narcotics distribution center for the country. Since the wider the range of drug-related information available to narcotics officers, the greater the likelihood that those officers will be successful in their investigations, many experts felt that an integrated drug intelligence system was needed in New York to help combat the problem.

To this end, representatives of the Department of Justice and New York City met to discuss a system which would develop and disseminate a wide range of information to those law enforcement people who need it. It was under this concept that UID was conceived.

Approved by the Attorney General of the United States, the Administrator of DEA, the Mayor of New York City, the Police Commissioner of New York City, the Governor of the State of New York, and the Superintendent of New York State Police; UID began operation on October 15, 1973.

Basically, UID is a task force composed of DEA agents and officers of the New York State Police and New York City Police Department. They are supported by civilian intelligence analysts and statisticians, who collect, collate, and analyze information concerning drug traffickers and patterns and changes in the drug traffic itself. UID's goals and objectives can be summarized, as follows:

1. Establish the nature and magnitude of the drug problem in New York.
2. Identify current leaders, emerging leaders, and associates in the drug trade.
3. Establish a program to stimulate the flow of information.
4. Establish a liaison unit to insure cooperation with other enforcement agencies.
5. Initiate indepth investigations of persons, networks, places, etc.
6. Refer information coming to the attention of members concerning integrity within the criminal justice system.
7. Prevent duplication of effort.

UID, funded by LEAA, was awarded an initial grant of \$644,251 in July 1974. The funds have been used for salaries of support personnel, operating expenses, and equipment for State and local personnel; \$150,000 was allocated for PE/PI.

It should be noted that DEA agents working in UID are paid by DEA, and State and local police officers are paid by their respective police departments. Vehicles and support for DEA agents are provided by DEA.

UID is presently operating with the funds from the initial grant, and no further money is expected from LEAA. Beginning in fiscal year 1977, it is expected that UID will require approximately \$400,000 each year which is tentatively planned to be incorporated into DEA's budget.

Basically, the information gathered by UID can be categorized into four areas, according to DEA.

1. Basic law enforcement intelligence is gathered for UID through established investigative procedures. It may be obtained directly by UID personnel or, more often, through Federal, State, and local law enforcement agencies and private citizens.

Procedures used to obtain this data vary but include undercover penetration of criminal organizations, surveillance (to uncover new organized crime figures and new meeting places), and interviews with complainants and prospective informants.

Once obtained, the basic law enforcement information is translated into intelligence, defining criminal methods, routes, and organizations and showing the interrelationship among narcotic networks.

2. Information extracted from any source relating to the drug abuse problem is a catch-all category of information used by UID. It differs from raw intelligence not so much in nature but in source, focus, and sometimes utilization. As an example, the trends in heroin price and purity inspired UID to make an exhaustive survey to establish statistical information regarding drug price and purity on the street, thefts of drugs from pharmacies and manufacturers, methadone admissions, the rate of recidivism, arrests, and so forth.

Gathering this information required questioning of police officers, medical examiners, defendants, drug users, individuals involved with drug rehabilitation, and chemists analyzing drugs. It also involved, at a later date, undercover purchases of drugs at the street level by UID personnel to determine availability, purity, and perhaps country of origin.

A liaison unit was created to afford UID personnel access to sources beyond those immediately involved with UID, such as the FBI.

3. Published information, such as intelligence bulletins; United Nations' reports; and information on newspaper

articles and different projects and profiles, is periodically forwarded by UID to the three participating agencies.

4. Information concerning the integrity of any segment of the criminal justice system which comes to the attention of a member of UID is reported for investigation. A DEA official told us that 151 integrity allegations had been received by UID concerning personnel throughout the criminal justice system as of October 6, 1975. Of these, 120 were sent to the New York Police Department, 30 were sent to DEA's Office of Internal Security, and 1 to the New York State Police.

UID is a repository for DEA informant files in the New York region. Three types of informant files are maintained.

--Class I, participating informants, who usually have a criminal record.

--Class II, nonparticipating informants, usually a business proprietor who will notify DEA of suspicious buyers of drug ingredients.

--Class III, exempt informants, usually persons whose identity is extremely sensitive and whose files are maintained by the regional director.

These sensitive files, maintained by the regional director and DEA's Planning and Evaluation Group, are subjected to rigid security procedures. Access to the room containing the informant files is controlled by a card-activated electric door strike, which is part of a computer controlled access system. Access to this room is limited to 17 persons. They are the regional director, three associate regional directors, the deputy regional director, seven agents and three secretaries from the Planning and Evaluation Group, the deputy chief of UID and an LEAA secretary.

The files themselves are maintained in combination safes and combinations are known only by nine DEA persons assigned to the group and the chief of field support. Should a DEA special agent, New York City Police Department officer, or New York State Police officer assigned to UID choose to review the files of one of his own informants, he must complete a special form in duplicate which must be approved by his supervisor. Should one UID agent or officer choose to review the informant files of another, he must complete the same form, which must be approved by both employees' supervisors.

In either case, the supervisor of the Planning and Evaluation Group must then initial the form before the file can be reviewed. Only in rare instances, and with special approval, can any other party review any informant files. In all cases, after the file is reviewed, one copy of the request form is filed in the informant file; the other copy is retained in a chronological file for these forms.

The only persons allowed to review the informant files without such records being made are personnel of the DEA Inspection Service. Should inspection personnel wish to remove an informant file from the area, they must execute a receipt to be kept by the supervisor of the Planning and Evaluation Group; the DEA regional director; associate regional director; or chief of field support, UID.

Another function of UID is to prevent a duplication among the enforcement agencies. This function is so vital that UID has formalized it into a system called the Drug Enforcement Coordinating System (DECS). The idea of DECS is simply this: Prior to investigation, officers enter the names of the suspects into DECS. If any name has been previously registered, a "hit" is made. When an ongoing investigation is found, the agency working the case and the agency seeking clearance to initiate a case are notified. The agencies involved confer and agree on action. This action may take the form of a joint operation, or the agencies may choose to submit the information to the one agency which can best conduct the investigation.

Since UID's inception, approximately 11,400 submissions to, and approximately 4,200 inquiries of, DECS have been made, with 474 "hits" registered, avoiding as many as 474 duplicate investigations which might have otherwise occurred.

CHAPTER 7

DEA CONTROLS OVER SEIZED DRUGS

The Subcommittee expressed interest in controls over seized drugs and asked for:

--"An analysis of the controls exercised by DEA over narcotics seized, including any information available on the nature, quantity, quality and/or street value of any narcotics unaccounted for after original seizures."

DEA, through purchase, seizure, and surrender, acquires large amounts of narcotics and dangerous drugs in its criminal law enforcement duties. Narcotics are an extremely high profit commodity in the illicit market, requiring stringent security measures to safeguard the narcotics seized.

During the 2-year period ended July 31, 1975, DEA obtained almost 37,000 drug exhibits. Appendix II shows the amount of drugs removed in the United States by DEA. Many of these exhibits are still being held as evidence. DEA identified 17 incidents of drug losses, nationwide, which will be discussed later.

Our review indicates that DEA has established written procedures for internal controls over seized drugs which appear to provide adequate safeguards if properly followed. However, in our visit to the DEA regional office in Los Angeles, we observed that some prescribed procedures were not being followed. DEA officials in Los Angeles informed us in November 1975 that steps were being taken to insure that these procedures will be adhered to in the future.

INTERNAL CONTROLS

Most seized substances must be retained as evidence. Seized drug evidence must be properly identified (through laboratory analysis), sealed, assigned exhibit numbers, stored, used as evidence, and finally destroyed after court proceedings. DEA has established procedures to be followed by agents and laboratory personnel in handling seized controlled substances, from their initial seizure to final disposition. These procedures are designed to eliminate loss or diversion of evidence and to locate any particular item of evidence in the shortest time possible. The procedures include

--security standards for evidence storage areas,

- the documented transfer of evidence from one party to another to maintain an accountable chain of custody,
- periodic accountability inventories of drugs being stored, and
- the maintenance of a drug evidence inventory file for each regional and district office, documenting the total drug evidence responsibility for that office.

CONTROLS WERE NOT STRICTLY ADHERED TO

Although none of the previously mentioned 17 drug evidence losses occurred at the Los Angeles regional office, we noted during our review there several instances where controls had not been adhered to and where the possibility of undetected thefts and losses existed. If an item was lost or stolen it would not be detected until the item was requested because the region's periodic inventory would not disclose if there were missing drugs. Also, the accountability records were not always complete, the vault was crowded, and evidence was often held for years awaiting disposition.

DEA procedural controls over seized drugs require periodic accountability inventories and inventory records to be kept for every item of evidence stored. The Los Angeles region was taking the required periodic physical inventory but was not verifying the results with inventory records. As a result, the region identified only what drugs were present and would not know if drugs were missing. A regional office order was issued in May 1975 which required inventories to be reconciled to inventory records twice a year. Two district offices have responded to that order, and Los Angeles regional officials stated that they will conduct an inventory in December 1975.

Our analysis of what was stored in the DEA Los Angeles regional vault compared to what was shown on inventory records showed that the records were, in some cases, incomplete. A check of evidence in the vault revealed 33 evidence packages that did not have a corresponding card in the inventory file. In one case we noted that 95 grams of heroin were in the vault, although listed in the case file as being destroyed. Los Angeles officials told us that they are revising their recordkeeping system to strengthen controls over seized drugs.

DEA procedures also require minimum physical security standards for evidence storage areas. In July 1974 the DEA

Los Angeles regional office pointed out that a large quantity of marihuana was being stored in a ground floor interrogation room that had window entrances. This room did not meet minimum security requirements. As a result of our inquiry, the marihuana was moved from the room for destruction. DEA regional officials stated that they were moving into new facilities in December 1975, which will alleviate the storage problem.

We also found that evidence was not always promptly destroyed. The case agent is supposed to prepare documents authorizing the disposal of evidence, but the agent is not always aware of the current status of the court case. Documents authorizing destruction of drug evidence were found in closed-case files, and the evidence custodian was still holding the drugs.

Further, the evidence custodian duties are shared by four DEA employees on a part-time basis. Security and accountability would be improved if one person was given the duties and responsibilities on a full-time basis. The conditions described produce a potential for theft or loss of evidence that should not exist. Los Angeles officials stated that they will request a full-time custodian and take the necessary steps to insure that drug evidence is destroyed promptly when no longer needed.

INCIDENTS OF UNACCOUNTED-FOR
LOSS OF EVIDENCE

All incidents of lost or stolen drug evidence are investigated by DEA's Office of Inspections and Internal Security. The following chart summarizes the incidents of DEA drug evidence unaccounted for, after original seizure or purchase, from July 1973 through July 1975.

Total incidents	Lost			Stolen by individuals outside DEA	Lost and re-covered	Under investigation
	As a result of corruption	As a result of procedural failures	As a result of outside factors			
17	2	5	4	2	a/6	1

a/Three of these incidents involved drugs which were partially recovered. One is also included under "stolen by individuals outside DEA" and the other two under "lost as a result of procedural failures."

These 17 incidents involved at least 33 separate drug evidence exhibits. No data was available on the street value of the lost exhibits.

One of the incidents of lost evidence due to corrupt DEA personnel resulted in the loss of 800 pounds of marijuana. The 800 pounds of marijuana was stolen for resale over a period of time by a DEA special agent from a DEA district office storage facility. The agent was apprehended, discharged, prosecuted, and sentenced to 5 years in prison. The other incident of unaccounted-for seized drug evidence involving the corruption of DEA personnel was a case of evidence tampering. In this case, the agent's buy money was stolen and he attempted to substitute other drugs for those he was supposed to have purchased. The agent resigned following the incident.

The five incidents of lost evidence because of DEA procedure failures resulted in the loss of

--16.233 grams of heroin (0.03 percent purity).

--7.3 lbs. of marijuana.

--0.69 grams of heroin.

In the four incidents outside DEA's control, the following evidence was lost.

--17 grams of amphetamine.

--7.61 grams of cocaine.

--21 kilograms of marijuana inadvertently destroyed by State authorities.

In all these incidents, State or court officials had taken custody of the evidence.

The two incidents of evidence stolen by non-DEA personnel included 104.6 grams of suspected cocaine stolen from a DEA laboratory and 748 grams of cocaine stolen by airport ground service employees while the evidence was being shipped to an assistant U.S. attorney. The suspected cocaine was not recovered. About 677 grams of the shipped cocaine were recovered, leaving 71 grams lost.

CONCLUSION

Internal controls over seized narcotics and dangerous drugs require adequate safeguards to protect drug evidence

while in DEA's custody. DEA's Los Angeles regional office was not fully adhering to established safeguard requirements. Similar conditions could exist at other DEA field offices. Therefore, undetected theft or loss of seized drug evidence is possible. DEA needs to more carefully monitor the compliance of its personnel with established drug evidence controls.

CHAPTER 8

SCOPE OF REVIEW

Our review was primarily directed toward an analysis of DEA and its predecessor agencies, BNDD and ODALE. We also reviewed the involvement of the U.S. Customs Service, the FBI, and LEAA in drug law enforcement and the degree of cooperation that exists between those agencies and DEA.

We reviewed policies and procedures, correspondence, and documentation relating to each agency's approach to drug law enforcement and the exchange of intelligence information by the FBI and Customs with DEA. Additionally, we examined and analyzed selected DEA investigative case files. Statistical data was compiled and analyzed regarding drug seizures, arrests, and convictions. DEA, Customs, FBI, and LEAA officials in Washington, D.C., were interviewed as were those of the former BNDD and ODALE.

We visited the New York, Dallas, Los Angeles, and Mexico City regional offices of DEA and the New York, Houston, and Los Angeles regional headquarters of Customs. Other selected review areas were:

- DEA district offices in Newark, San Diego, El Paso, McAllen, and the El Paso Intelligence Center.
- Customs district offices at Kennedy Airport, Laredo, El Paso, San Diego, and the TECS Data Center in San Diego.
- FBI field divisions in Los Angeles and New York City.
- U.S. attorneys' offices in Seattle, Los Angeles, San Diego, and New York City.

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United States Senate

B-183363

COMMITTEE ON
 GOVERNMENT OPERATIONS
 SENATE PERMANENT SUBCOMMITTEE
 ON INVESTIGATIONS

(PURSUANT TO SEC. 4, S. RES. 289, 91D CONGRESS)
 WASHINGTON, D.C. 20510

My dear Mr. Staats:

March 6, 1975

The Permanent Subcommittee on Investigations has been engaged in an ongoing inquiry into the Drug Enforcement Administration. The scope of this inquiry includes allegations concerning the effectiveness and the integrity of the DEA as well as its entire approach to Federal narcotics law enforcement. Our goal, as we go forward with our investigation, is a thorough analysis of the ability of the agency to effectively deal with the ever-increasing narcotics problem.

It is my belief that the General Accounting Office can be of invaluable assistance to our effort. Accordingly, I am requesting that the General Accounting Office examine the following areas which are of major concern to the Subcommittee:

1. An analysis of purchase of evidence/purchase of information (PE/PI) funds used by DEA as an approach to drug law enforcement focusing on the number of convictions and significance of violators convicted, including (a) a study of the amounts of Federal dollars allocated to PE/PI over the last five years and to whom these dollars flow, and (b) an accounting of all such money so used since the creation of DEA.
2. An analysis of the results of the BNDD/DEA, U.S. Customs Service, and the former Office for Drug Abuse Law Enforcement efforts in drug enforcement, from fiscal year 1970 to present, focusing on the number of convictions, nature of the case, significance of violators convicted, and the nature, quantity, quality and/or street value of illicit drugs seized as well as an analysis of the law enforcement methodology utilized by each agency.
3. An analysis of DEA enforcement and intelligence manpower allocations to various activities and functions in the agency.

4. An analysis of the exchange of information between Customs and DEA, including the frequency and nature of requests for information or assistance by one agency or the other and the disposition of such request.
5. An analysis of the controls exercised by DEA over narcotics seized, including any information available on the nature, quantity, quality and/or street value of any narcotics unaccounted for after original seizures.
6. An analysis and accounting of any "confidential fund" maintained by DEA, including the purposes for which the funds were expended.
7. An analysis of the program of cross designation of DEA agents to allow them the same search and seizure authority as U. S. Customs agents, to include the number of DEA agents so designated and the number and quality of arrests made and convictions obtained by them in this capacity.
8. An analysis of the quantity and quality of intelligence information exchanged between DEA and the U.S. Customs Service since July 1, 1973 which would enable both agencies to function in the manner intended by reorganization plan #2.

We also understand that your staff has done considerable work on the DEA compliance programs and we would like their views on the results of these programs.

Since time is of the essence with regard to certain of the above items, it would be appreciated if your representative contacted Howard Feldman, Chief Counsel to the Subcommittee, to discuss our priorities and the time required for your studies.

Your cooperation is greatly appreciated.

Sincerely



Henry M. Jackson
Chairman

The Honorable Elmer B. Staats
The Comptroller General
of the United States

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COMMITTEE ON
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 SENATE PERMANENT SUBCOMMITTEE
 ON INVESTIGATIONS

(PURSUANT TO S. RES. III, 87TH CONGRESS)
 WASHINGTON, D.C. 20510

B-183363

May 1, 1975

My dear Mr. Comptroller General:

Pursuant to our continuing investigation of the Drug Enforcement Administration, I request that the General Accounting Office conduct an inquiry of the following pertinent subjects in addition to those identified in my letter to you of March 6, 1975:

1. A study and analysis of the type and quality of cooperation that exists between the Federal Bureau of Investigation and the Drug Enforcement Administration since Reorganization Plan #2 was implemented on July 1, 1973. As you are aware, testimony by Administration officials before the Congress when Reorganization Plan #2 was being considered, indicated that the creation of DEA would enable the FBI, for the first time, to become actively involved in drug enforcement.

Administration witnesses testified that the FBI would participate with the DEA in narcotics cases by providing both information and informants, especially in those cases dealing with organized crime figures and interstate and international conspiracies.

It is appropriate, therefore, as a part of our current investigation, that your agency determine how and under what circumstances the FBI has cooperated with DEA in the development of major narcotics cases and whether that cooperation has resulted in significant disruption of narcotics traffic.

2. A study and analysis of how federal money from LEAA is allocated, by DEA, to the various narcotics Task Forces currently in operation in the country.

We are especially interested in knowing what criteria is used by DEA for determining how much money is allocated to each task force; how that money is used; and what results have been achieved in relation to the stated mission or objectives of these task forces.

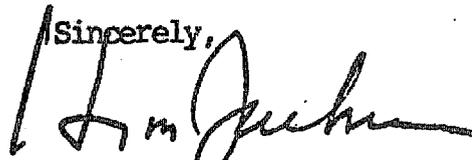
3. A study and analysis of the Unified Intelligence Center, a federally funded narcotics related operation in the New York City area.

With regard to this center, we are interested in determining the nature and scope of its operation, the amount of federal monies involved, the identity of participants in the system, the type of information utilized by the participants and any past instances of misuse of this information.

The results of your inquiry on the matters I have requested will be made part of the record of Subcommittee hearings on the operations of the Drug Enforcement Administration.

May I take this opportunity to express my appreciation for your cooperation in this investigation.

Sincerely,



Henry M. Jackson
Chairman

The Honorable Elmer B. Staats
The Comptroller General
of the United States

BUREAU OF NARCOTICS AND DANGEROUS DRUGS/DRUG ENFORCEMENT ADMINISTRATION

ARREST, CONVICTION, AND DRUG REMOVAL STATISTICS IN THE UNITED STATES

	BUREAU OF NARCOTICS AND DANGEROUS DRUGS				DRUG ENFORCEMENT ADMINISTRATION	
	FY 1970	FY 1971	FY 1972	FY 1973	FY 1974	FY 1975
ARRESTS:						
BNDD/DEA Federal	1,660	2,212	4,579	5,592	6,168	7,155
BNDD/DEA initiated State and local (task forces)				7,176	4,372	5,863
Total	<u>1,660</u>	<u>2,212</u>	<u>4,579</u>	<u>12,768</u>	<u>10,540</u>	<u>13,018</u>
CONVICTIONS:						
BNDD/DEA Federal	1,678	1,231	2,239	3,155	3,243	2,744
BNDD/DEA initiated State and local (task forces)					2,018	2,192
Total	<u>1,678</u>	<u>1,231</u>	<u>2,239</u>	<u>3,155</u>	<u>5,261</u>	<u>4,936</u>
(note a)						
DRUG REMOVALS/(seized and delivered):						
BNDD/DEA including BNDD/DEA State and local removals (task forces)						
Opium (lbs.)	8	9	16	7	11.5	8.5
Heroin (lbs.)	427	226	995	515	380	598
Cocaine (lbs.)	197	427	443	391	537	700
Marihuana (lbs.)	17,401	12,723	47,700	44,391	122,511	140,660
Hashish (lbs.)		1,054	127	1,193	535	1,318
Hashish Oil (lbs.)						71
Hashish Oil (qts.)						5
Hallucinogens (d.u.) (note b)	7,127,742	3,697,737	157,697,643	17,146,806	3,313,245	2,595,720
Hallucinogens (gross lbs.)				12		
Depressants (d.u.) (note c)	2,339,590	319,006	688,810	933,199	653,060	855,641
Stimulants (d.u.)	7,196,481	10,319,923	48,707,942	4,710,767	13,133,477	16,608,362
Stimulants (gross lbs.)				6		
Methadone (d.u.)		36,468	155,290	203,651	6,658	5,390

^{a/} DEA provided statistics indicate that between fiscal years 1971-75, removals by BNDD/DEA alone have averaged 57 percent purity for heroin and 47 percent purity for cocaine. These statistics exclude BNDD/DEA initiated State and local task force removals as well as cooperative cases with Customs.

^{b/} D.U. - Dosage Unit

^{c/} D.U. - changed from 5mg. to 10mg. as of July 1, 1971

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APPENDIX II

APPENDIX II

U.S. CUSTOMS SERVICE

DRUG ARRESTS, CONVICTIONS, AND SEIZURES

	<u>FY70</u>	<u>FY71</u>	<u>FY72</u>	<u>FY73</u>	<u>FY74</u>	<u>FY75</u>
ARRESTS	5,872	6,248	7,860	10,825	8,208	16,214
CONVICTIONS	1,604	1,820	2,202	3,846	1,774	(a)
SEIZURES						
(note b):						
Heroin/opium (lbs.)	67	975	686	389	97	127
Cocaine (lbs.)	108	360	379	734	706	717
Marijuana/ hashish (lbs.)	67,800	113,100	190,400	321,100	459,100	418,959
Dangerous drugs (5- grain dos- age units- millions)	12.3	6.3	16.2	15.8	23.5	19.3

a/Not available.

b/Customs reported that its heroin and cocaine seizures average 60 percent purity.

OFFICE FOR DRUG ABUSE LAW ENFORCEMENTARREST, CONVICTION, AND DRUG REMOVAL STATISTICSJanuary 1972 through June 1973

ARRESTS:

Narcotics	7,308
Other	<u>769</u>
Total	<u>8,077</u>

CONVICTIONS

(note a):

Narcotics	1,582
Other	<u>117</u>
Total	<u>1,699</u>

DRUG REMOVALS (note b)

(seized and delivered):

Heroin (kilos)	105.2
Opium (grams)	230.73
Cocaine (kilos)	71.5
Marihuana (kilos)	8,559.2
Hashish (kilos)	20.6
LSD (kilos)	5.6
LSD (d.u.)	54,312.5
Methadone (kilos)	3.5
Methadone (d.u.)	19.201

a/ODALE arrests resulted in convictions subsequent to June 1973; however, these statistics were not available.

b/No information is available on the purity of ODALE drug removals.

DEA TASK FORCE FUNDING FISCAL YEAR 1975

Task force city	Salaries and benefits		Operating expenses and equipment		Purchase funds		Total	
	LEAA	DEA	LEAA	DEA	LEAA	DEA	LEAA	DEA
Boston	\$ 9,670	\$170,618	\$ 19,830	\$ 3,466	\$ 30,000		\$ 59,500	\$174,084
Hartford	47,070	47,935	14,430	1,034			61,500	48,969
New York	131,400	294,801	117,600	23,583			249,000	318,384
Rochester	173,700	71,903	57,300	5,752	12,000		243,000	77,655
Buffalo	225,700	15,979	36,500	1,163	12,000		274,200	17,142
Long Island	25,200	79,891	95,100	5,817	79,000		199,300	85,708
Newark	223,800	119,838	105,200	9,585	79,000		408,000	129,423
Philadelphia	193,762	223,347	220,006	12,140	155,232	\$ 19,440	574,000	254,927
Pittsburg	260,254	13,981	152,275	760	87,471	5,000	500,000	19,741
Baltimore	83,717	202,997	37,696	8,400	39,087		160,500	211,397
Miami	92,169	269,169	149,870	26,351	130,150	42,370	371,989	337,890
Atlanta	100,694	83,885	113,349	9,131	124,150		338,193	93,016
Orlando	46,635	57,971	126,183	5,218	75,000		247,818	63,189
Detroit	75,751	208,967	120,450	21,438	138,520		334,721	230,405
Cleveland	129,622	98,177	73,517	9,396	96,000		299,139	107,573
Columbus	43,115	57,971	53,525	5,166	25,000		121,640	63,137
Chicago	198,513	312,477	175,439	19,710	155,240	35,510	529,192	367,697
Hammond	21,314	31,956	a/33,873	2,056	19,000	1,104	74,187	35,116
Indianapolis	22,439	19,973	a/41,559	1,285	17,000		80,998	21,258
Mt. Vernon	41,523	17,976	a/17,600	1,149	15,000	4,350	74,123	23,475
New Orleans	97,879	89,490	71,653	6,375	22,500		192,037	95,865
Austin	20,007	107,355	48,843	4,932	11,880		80,730	112,287
Dallas/Ft. Worth	54,297	220,502	113,004	10,802	27,000		194,301	231,304
Houston	102,384	152,361	112,455	5,615	21,600		236,439	157,976
El Paso	33,583	43,141	61,353	1,703	23,760		123,696	44,844
Lubbock	19,053	48,771	41,796	1,892	11,880		72,729	50,663
San Antonio	25,821	82,263	52,367	3,056	11,880		90,068	85,319
Kansas City	281,292	124,632	118,946	11,435	47,000	300	447,238	136,367
St. Louis	130,482	70,305	41,681	5,893	30,000	35	202,163	76,233
Minneapolis	62,460	59,319	18,639	4,972	23,000	3,875	104,099	68,166
Denver	252,832	108,303	98,895	7,898	65,560		417,287	116,201
Phoenix	87,320	67,558	57,955	4,623	(b)		145,275	72,181
Albuquerque	17,750	77,757	30,570	5,779	(b)		48,320	83,536
Seattle	109,100	100,664	40,155	12,388	35,000		184,255	113,052
Spokane	46,660	7,988	25,410	908	(c)		72,070	8,896
Portland	77,135	93,474	50,540	11,504	(c)		127,675	104,978
Los Angeles/Orange County	67,528	426,622	107,780	48,348	83,335		258,643	474,970
San Diego	157,310	214,259	98,420	23,903	66,670		322,400	238,162
San Francisco	137,300	161,681	58,265	16,742	83,335		278,900	178,423
Reno	18,150	9,986	46,005	907	33,335		97,490	10,893
Honolulu	95,260	(d)	74,590	(d)	33,335		203,185	(d)
Total	\$4,049,651	\$4,666,243	\$3,130,429	\$362,275	\$1,919,920	\$111,984	\$9,100,000	\$5,140,502

a/ Travel included in Chicago budget

b/ Included in Denver budget

c/ Included in Seattle budget

d/ Honolulu was operational only 2 to 4 weeks. No DEA agents were permanently assigned and LEAA grant funds were re-programmed to other task forces.

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INVENTORY OF DEA EQUIPMENT ATFIVE SELECTED TASK FORCESAS OF AUGUST 1975

<u>Task force</u>	<u>Quantity</u>	<u>Type of item</u>	<u>Value</u>
Pittsburgh	11	Desks	\$ 2,257
	2	Clothing lockers	88
	2	File cabinets	740
	4	Chairs	216
	1	Safe	354
	3	Automobiles	14,865
	3	Radios (leased)	65 (monthly)
	Denver	2	Desks
	4	Automobiles	13,416
	2	Radios	1,000
	3	Radios (leased)	58 (monthly)
Orlando	1	Typewriter	\$ 625
	1	File cabinet	565
	3	Desks	958
	1	Chair	240
	2	Credenzas	234
	2	Automobiles	6,379
	2	Radios (leased)	48 (monthly)
	2	Recorders	430
	2	Automobile sirens	360
	1	Intelligence Kel-Kit	3,000
	1	Truck	1,700
Atlanta	4	Automobiles	\$14,810
El Paso	3	Desks	\$ 540
	5	File cabinets	1,368
	3	Chairs	300
	1	Credenza	258
	1	Paper shredder	500
	7	Radios (leased)	280 (monthly)
	3	Automobiles	11,829

DEA TASK FORCE FUNDINGFISCAL YEAR 1976 PROJECTIONS

<u>Task force</u>	<u>LEAA support</u>	<u>DEA support</u>	<u>Total</u>
New York	\$ 249,446	\$ 312,861	\$ 562,307
Long Island	331,697	130,359	462,056
Rochester	274,000	26,072	300,072
Newark	457,546	156,430	613,976
Philadelphia	550,861	199,093	749,954
Pittsburgh	554,566	81,661	636,227
Atlanta	418,517	106,395	524,912
Orlando	258,069	53,197	311,266
Detroit (note a)	365,290	239,294	604,584
Chicago	646,763	244,248	891,011
Hammond	97,945	103,808	201,753
Mt. Vernon	111,816	81,730	193,546
Kansas City	407,000	310,257	717,257
Minneapolis	113,000	(b)	113,000
Austin	166,194	99,624	265,818
El Paso	160,447	99,624	260,071
Lubbock	79,000	49,812	128,812
Denver	457,648	105,054	562,702
Phoenix	300,000	52,527	352,527
Los Angeles	254,669	79,135	333,804
San Diego	381,045	263,083	644,128
Reno	<u>114,465</u>	<u>52,757</u>	<u>167,222</u>
Total	<u>\$6,749,984</u>	<u>\$2,847,021</u>	<u>\$9,597,005</u>

a/As of September 30, 1975, the Detroit task force was closed.

b/Included in Kansas City budget.

ARREST AND CONVICTION STATISTICSLEAA FUNDED DEA TASK FORCESFISCAL YEAR 1975

<u>Task force city</u>	<u>Arrests</u>	<u>Convictions</u>
Boston	81	56
Hartford	7	37
New York	5	28
Buffalo	43	27
Rochester	79	8
Long Island	147	7
Newark	74	36
Philadelphia	299	146
Pittsburgh	174	24
Baltimore	259	119
Miami	83	42
Atlanta	214	45
Orlando	65	1
Detroit	162	77
Cleveland	94	20
Columbus	29	19
Chicago	140	13
Hammond	94	35
Indianapolis	21	21
Mt. Vernon	12	2
New Orleans	89	71
Austin	92	31
Dallas/Ft. Worth	309	83
Houston	114	15
El Paso	229	35
Lubbock	123	14
San Antonio	117	68
Kansas City	126	79
St. Louis	60	24
Minneapolis	105	32
Denver	220	67
Phoenix	269	106
Albuquerque	46	18
Seattle	135	43
Spokane	87	28
Portland	115	44
Los Angeles/Orange County	124	70
San Diego	625	398
San Francisco	110	42
Reno	21	0
Honolulu	5	3

DEA COMMENTS ON METHODOLOGY USED
TO EVALUATE THE EFFECTIVENESS
OF PURCHASE OF EVIDENCE

The basic methodology used by GAO to evaluate the effectiveness of purchase of evidence expenditures was based upon an ad hoc survey employed by the DEA Los Angeles Region to evaluate a related, but entirely different matter--relative allocation of PE/PI expenditures with respect to classes of defendants. While DEA is in no position to refute the results of the recommendations covering PE/PI policy, we do feel strongly that the methodology GAO utilized is insufficient and does not portray an adequate picture of the derived benefits of PE utilization. Very basically, it is not correct to assume that PE is expended solely to identify higher level violators. PE does serve other purposes and an evaluation of its effectiveness must also take into consideration how well these other purposes are served by its use. For example, just a few other reasons for expending PE funds are:

- To obtain strategic, operational and tactical intelligence not related to the instant investigation.
- To locate and seize a significant cache of drugs.
- To obtain the most unimpeachable and cost efficient evidence in a particular investigation.
- To corroborate information and statements made by a potential witness to enhance his future credibility in a court of law.
- To protect the identity of an informant.

Even if we did assume that the only reason for expending PE is to identify higher level violators, then the GAO methodology would have to be expanded to include, among other things, the impact of purchases of evidence on long-range conspiracy cases; the extent to which evidence purchased in past (closed) cases has been beneficially used in open or more current cases; and the expanded use of evidence and defendants to develop prosecutable cases by other DEA regions than the one in which the original evidence was obtained. One other very important point that must be considered is the fact that G-DEP, the data base on which the DEA Los Angeles and GAO studies were

based, is not, in and of itself, a sufficiently sensitive indicator measurement of PE effectiveness. G-DEP is a system designed to classify violators according to their trafficking capabilities. It does not reflect how a trafficker's removal would impact on the traffic.

PRINCIPAL OFFICIALS RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

Tenure of office
From To

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL OF THE UNITED STATES:

Edward H. Levi	Feb. 1975	Present
William B. Saxbe	Jan. 1974	Feb. 1975
Robert H. Bork, Jr. (acting)	Oct. 1973	Jan. 1974
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	June 1972	Apr. 1973
Richard G. Kleindienst (acting)	Feb. 1972	June 1972
John N. Mitchell	Jan. 1969	Feb. 1972

ADMINISTRATOR, DRUG ENFORCEMENT
ADMINISTRATION:

Henry S. Dogin (acting)	June 1975	Present
John R. Bartels, Jr.	Oct. 1973	May 1975
John R. Bartels, Jr. (acting)	July 1973	Oct. 1973

DIRECTOR, BUREAU OF NARCOTICS AND
DANGEROUS DRUGS (note a):

John E. Ingersoll	Aug. 1968	July 1973
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SPECIAL ASSISTANT ATTORNEY GENERAL,
OFFICE FOR DRUG ABUSE LAW
ENFORCEMENT (note a):

Myles J. Ambrose	Feb. 1972	July 1973
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ADMINISTRATOR, LAW ENFORCEMENT
ASSISTANCE ADMINISTRATION:

Richard W. Velde	Sep. 1974	Present
Donald E. Santarelli	Apr. 1973	Aug. 1974
Jerris Leonard	May 1971	Mar. 1973
Vacant	June 1970	May 1971
Charles H. Rogovin	Mar. 1969	June 1970

DIRECTOR, FEDERAL BUREAU OF
INVESTIGATION:

Clarence M. Kelley	July 1973	Present
William D. Ruckelshaus (acting)	Apr. 1973	July 1973
L. Patrick Gray III (acting)	May 1972	Apr. 1973
J. Edgar Hoover	May 1924	May 1972

a/Effective July 1, 1973, BNDD and ODALE were merged in the new DEA. All BNDD and ODALE functions were transferred to DEA.

Tenure of office
From To

DEPARTMENT OF THE TREASURY

SECRETARY OF THE TREASURY:

William E. Simon	May 1974	Present
George P. Shultz	June 1972	May 1974
John B. Connally, Jr.	Feb. 1971	June 1972
David M. Kennedy	Jan. 1969	Feb. 1971

COMMISSIONER, U.S. CUSTOMS SERVICE:

Vernon D. Acree	May 1972	Present
Edwin F. Rains (acting)	Feb. 1972	May 1972
Myles J. Ambrose	Aug. 1969	Feb. 1972