DRUGS IN THE MAIL: HOW CAN IT BE STOPPED?

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY, AND HUMAN RESOURCES

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

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DRUGS IN THE MAIL: HOW CAN IT BE STOPPED?

FRIDAY, MAY 26, 2000

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY,
AND HUMAN RESOURCES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. John L. Mica (chairman of the subcommittee) presiding.

Present: Representatives Mica, Cummings, and Turner.

Staff present: Sharon Pinkerton, staff director and chief counsel; Charley Diaz, congressional fellow; Carson Nightwine, professional staff member; Ryan McKee, clerk; Jason Snyder, intern; Cherri Branson, minority counsel; and Jean Gosa, minority assistant clerk.

Mr. MICA. Good morning. I would like to call the subcommittee hearing to order. This morning our subcommittee is going to look at the problems of drugs in the mail and through parcel express and ask the question of how they can be stopped. I'm pleased to welcome you as chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources. I think we'll be joined in just a few minutes by a couple of other Members, but we want to go ahead and proceed. We have two full panels today, and Members are departing for their districts for the Memorial Day recess. But we do have an important issue before the subcommittee. The order of business this morning will be, first, I will open with an opening statement; and as other Members arrive, we'll hear from them, and then we will turn to our two panels.

Today, our subcommittee is conducting an oversight hearing on the trafficking of illegal drugs through the U.S. mail service and also through private commercial carriers. According to recent reports, drug traffickers increasingly are using the mail services as a means of bringing illegal narcotics into the United States, which is wreaking both death and destruction in our States and cities and communities. Some law enforcement officials say that the mail system has become a preferred drug trafficking office and that odds of success are far too high. Today, we will examine this growing problem. We'll review our efforts to combat it and consider corrective actions that may be needed.

While we still do not have accurate numbers on the extent of this problem, authorities tell us that drug trafficking through the mail

has dramatically increased over recent years and that in fact decisive action may be needed.

Ironically, one contributing factor in drug traffickers' use of the mail may be our tougher law enforcement efforts that Congress has supported and funded in recent years. This demonstrates that we must always remain vigilant and knowledgeable of the very latest trends in drug trade. In a subcommittee hearing earlier this year in the district of our ranking member, Mrs. Patsy Mink, we learned that law enforcement and drug interdiction in Hawaii and from the officials there with that port of entry into the United States we found that those officials are quite aware and concerned regarding this growing problem. And they pointed it out in that hearing we conducted there.

We heard testimony from Mr. Nat Aycox, a port director for the U.S. Customs Service in Hawaii, who observed—and let me get his quote here from his testimony—"we are seeing both courier services throughout the Nation and the mail conditions across the Nation having increased interdiction not only in the traditional drugs but in the new designer drugs and now in prescription drugs and steroids." That was his statement before our subcommittee. Reflecting this statement, recent news reports indicate that the U.S. postal inspectors seized 12,500 pounds of illegal drugs in 1998. We all know that the drugs interdicted were only a small portion of those being trafficked through the mail. Just imagine how much is not being stopped.

One drug that has seen an increase in its distribution and transportation through the mail is the drug commonly referred to as ecstasy. Large quantities of ecstasy are pouring into the United States from Europe. The demand for ecstasy has skyrocketed among U.S. teenagers, especially at all-night raves, a very popular type of party or club where drug use is common if not expected. Because ecstasy is formed into tiny tablets and does not require bulky packaging, several dozen tablets can be mailed in a standard envelope anywhere in the world at relatively low cost and at low risk of being intercepted. In fact, I brought a couple of envelopes. You can mail a considerable supply of drugs just in a common envelope. And we have other packets, this FedEx, U.S. postal express mail, some of these larger packages, now provide easy shipment for illegal narcotics and unfortunately on an increased basis.

Because ecstasy again is formed into tiny tablets and doesn't require this bulky packaging, it can be transmitted and transported by what would normally be legal means through what is now illegal distribution. Distribution and trafficking of illegal narcotics by mail is creating an incredible challenge for our U.S. postal officials. According to U.S. postal service numbers, that agency facilitates the exchange of over 206 billion pieces of domestic mail annually. The various U.S. commercial shipping carriers facilitate the exchange of more than 2.8 billion domestic letters, packages, and freight annually. The sheer volume of letter and package traffic both domestic and internationally offers a very attractive way for smugglers to attempt to transport and distribute illegal narcotics.

Even Web sites, offering the sale of illegal drugs direct buyers to use the mail service and commercial shipping companies to transport drugs. I've got one Web site that we pulled up a statement

from, and this Web site advises do not send your orders by overnight express as customs may look at it. Regular mail, registered if you like, that's in parentheses, is anonymous and safe. And I quote from that Web site. Drug traffickers boast that there is less chance of detection and arrest by using the mail and that it is in fact easier than recruiting and employing individuals to smuggle illegal narcotics across national boundaries and State lines. This greatly concerns me since I believe that the postal service and the Federal Government have an even higher obligation to ensure that the U.S. mail is not a tool of drug trafficking organizations.

We cannot allow our Federal Government and the U.S. Postal Service to become the drug carriers of choice for our drug dealers.

These increased drug trafficking trends, in fact, impact us all, demanding our attention and efforts to improve enforcement. In 1999, the Substance Abuse and Mental Health Services Administration [SAMHSA], reported that 15,973 people, that's Americans, died as a direct result of drug-induced causes here in the United States. We've also heard testimony right in this room from our drug czar, General McCaffrey, who claims that illegal narcotics, when you take into consideration all of the deaths as a result of drug abuse and use, kill more than 50,000 Americans each year. Without adequate attention and action from law enforcement agencies and the full cooperation of public agencies and private companies, this trend in narcotics trafficking will continue to kill more people in the future.

I want to particularly applaud those in the private sector for their helpful actions to date, particularly in working with our law enforcement agencies and in conducting their own internal counter-narcotics operations to help intercept and also to stem the flow of drugs through the mail and through package services.

I want to especially recognize UPS, FedEx, and DHL for their positive response and actions to request from our law enforcement agencies to help in curtailing illegal narcotics transport. We'll hear more details about what both the public and private sector is doing in that regard, what they've done and their plans for the future. One very successful operation I'd like to cite is Operation Green Air, which was conducted by representatives of our Drug Enforcement Administration [DEA], and the U.S. Customs Service working in conjunction with FedEx Corp. Operation Green Air was a large scale Mexican-Jamaican marijuana trafficking investigation that resulted in the arrest of 104 individuals and the seizure of 35,000 pounds of marijuana, $4.5 million in assets, and 18 weapons.

The Federal Government must ensure that the U.S. Postal Service over which it has responsibility and oversight is prepared and committed to doing everything possible to work with our law enforcement agencies and the private sector to combat the flow of narcotics through the mail and through postal services. I look forward to hearing from our panels today as we explore the new and improved ways to stop the trafficking of illegal narcotics through the mail and package services. It's a responsibility that we all share and a commitment we must all make if we are to have any hope at all of ever bringing this national drug epidemic we face under control.

I want to thank each of our witnesses for being with us today and also sharing your knowledge and insights as to how we can do a better job and also make America safer from the terrible scourge of illegal narcotics.

With those comments I'm pleased to yield at this time to the gentleman from Texas, Mr. Turner, for an opening statement.

[The prepared statement of Hon. John L. Mica follows:]

OPENING STATEMENT

Chairman John L. Mica

Subcommittee on Criminal Justice, Drug Policy and Human Resources

May 26th, 2000 Hearing:

"Drugs in the mail: How can they be stopped?"

Today, our Subcommittee is conducting an oversight hearing on the trafficking of illegal drugs through the U.S. mail service and private commercial carriers. According to recent reports, drug traffickers increasingly are using the mail services as a means of bringing illegal narcotics into the United States, wreaking death and destruction in our states, cities and communities. Some law enforcement officials say the mail system has become a "preferred" drug trafficking option, and that odds of success are far too high. Today we will examine this growing problem, review efforts to combat it, and consider corrective actions that may be needed.

While we still do not have accurate numbers on the extent of this problem, authorities tell us that drug trafficking through the mail has increased dramatically over recent years, and that decisive action is needed.

Ironically, one contributing factor in drug trafficker's use of the mail may be the tougher law enforcement efforts that Congress has supported and funded in recent years. This demonstrates that we must remain vigilant and knowledgeable of the latest trends in the drug trade. In a Subcommittee hearing earlier this year in the district of our Ranking Member, Representative Patsy Mink, we learned that law enforcement and drug interdiction officials in Hawaii -- a port of entry into the United States -- are quite aware and concerned regarding this growing problem.

We heard testimony from Mr. Nat Aycox, a port director for the US Customs Service in Hawaii, who observed: "**We are seeing both courier services throughout the nation and the mail conditions across the nation having increased interdiction not only in the traditional drugs but in the newer designer drugs and now in the prescription drugs and steroids**." Reflecting this statement, recent news reports indicated that U.S. postal inspectors seized 12,500 pounds of illegal drugs in 1998. We all know that the drugs interdicted were only a small portion of those being trafficked through the mail. Just imagine how much was not stopped.

One drug that has seen an increase in its distribution and transportation through the mail is the drug commonly referred to as "ecstasy". Large quantities of ecstasy are pouring into the United States from Europe. The demand for ecstasy has skyrocketed among U.S. teenagers, especially at all-night "raves" -- a very popular type of party where drug use is common, if not expected. Because ecstasy is formed into tiny tablets

and does not require bulky packaging, several dozen tablets can be mailed in a standard envelope anywhere in the world at a relatively low cost, and at low risk of being intercepted. Distribution and trafficking of illegal narcotics by mail is creating an incredible challenge for our postal officials.

According to U.S. Postal Service numbers, that agency facilitates the exchange of over 206 billion pieces of domestic mail annually. The various U.S. commercial shipping carriers facilitate the exchange of more than 2.8 billion domestic letters, packages and freight annually. The sheer volume of letter and package traffic offers an attractive way for smugglers to attempt to transport and distribute illegal drugs.

Even Internet websites, offering the sale of illegal drugs, direct buyers to use the mail service and commercial shipping companies to transport drugs.

One website advises "**Do NOT send your orders by overnight express, as customs may look at it. Regular mail (registered, if you like) is anonymous and safe.**" Drug traffickers boast that there is less chance of detection and arrest by using the mail, and that it is easier than recruiting and employing individuals to smuggle illegal narcotics across national boundaries and state lines. This greatly concerns me since I believe that the postal service and the federal government have an even higher obligation to ensure that the U.S. mail is not a tool of drug trafficking organizations. We can not allow our Federal Government and U.S. Postal Service to become the drug carriers of choice for drug dealers.

These increased drug trafficking trends impact us all, demanding our attention and efforts to improve enforcement. In 1998, the Substance Abuse and Mental Health Services Administration (SAMHSA) reported that 15,973 people died as a direct result of drug-induced causes here in the United States.

Our Drug Czar claims that illegal drugs actually claim the lives of more than 50,000 Americans each year. Without adequate attention and action from law enforcement agencies and the full cooperation of public agencies and private companies, this trend in narcotics trafficking will kill more in the future.

We applaud those in the private sector for their helpful actions to date, particularly in working with law enforcement agencies and in conducting their own internal counterdrug operations to intercept and stem the flow of drugs through the mail. I want to especially thank UPS, FedEx and DHL for their positive response and actions to request from our law enforcement agencies to help in curtailing illegal narcotics transport.

One very successful activity, "Operation Green Air," was conducted by representatives from the Drug Enforcement Administration (DEA) and the US Customs Service, working in conjunction with FedEx Corporation. "Operation Green Air" was a large-scale Mexican-Jamaican marijuana trafficking investigation that resulted in the arrest of 104 individuals, and the seizure of 35,000 pounds of marijuana, $4.5 million in assets and eighteen weapons.

The federal government must ensure that the US Postal Service, over which it has

responsibility and oversight, is prepared and committed to doing everything possible to work with other law enforcement agencies and the private sector to combat the flow of narcotics through the mail.

I look forward to hearing from our panels today as we explore new and improved ways to stop the trafficking of illegal narcotics through the mail and package services. It is a responsibility that we all share, and a commitment we all must make if we are to have any hope of bringing our national drug epidemic under control. I thank each witness for being here and for sharing your knowledge and insights as to how we can do this job better, and make America safer from the terrible scourge of illegal drugs.

Mr. TURNER. Thank you, Mr. Chairman. First, I want to commend you for having this hearing on what is a very serious and very difficult problem for us all to deal with. There is, of course, no doubt that drug traffickers routinely use the mail and private shippers to facilitate transportation of illegal drugs, and we know it's a very serious problem. One example that came to my attention occurred last year in Hawaii where a gentleman, apparently the largest distributor of methamphetamine who had ever operated in Hawaii, was arrested by the postal inspector and ATF agents; and as a part of that arrest, 35 people in a drug ring were halted in their drug importation scheme that went on from California to Hawaii. So I know just from that one example that there are people out there engaged in illegal drug trafficking who are transporting large quantities of drugs across borders and within the United States, and frankly I'm sure we have no way of knowing whether or not we have caught very many of them.

The numbers that I have show that in 1999 of the 200 billion pieces of mail handled by the U.S. Postal Service about 15,000 pounds of illegal drugs were seized. Postal inspectors arrested 1,537 people for drug trafficking through the mail and seized drug-related proceeds of $6.5 million, 66 vehicles, 227 firearms, and nine residences. So clearly, we have a very serious problem to deal with, and I suspect we're only seeing the tip of the iceberg.

Since we don't know what percentage of the total drug traffic may be represented by the seizures they have made, it's sometimes very difficult to know the appropriate amount of resources to commit to trying to combat this problem. That is one of the issues that we hope to address in this hearing today. I think that it's important for us all to keep in mind that, as we try to interdict drugs that are trafficking through the mail and through private carriers, we have to be sensitive to the fact that we must not unduly burden the free flow of commerce. But this is a very serious problem, one that deserves the attention of this committee; and I commend the chairman for his leadership on the issue. Thank you, Mr. Chairman.

Mr. MICA. Thank the gentleman from Texas. Pleased now to recognize for an opening statement Mr. Cummings, the gentleman from Maryland. You're recognized, sir.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. And I too want to thank you, Mr. Chairman, for holding this hearing. Today, we are discussing yet another crafty and deceptive method of disbursing drugs which is employed by narcotics dealers. They're using postal employees to do their dirty work. Drug dealers will stop at nothing to make sure that all of those who want drugs can get them. We must do everything we can to make sure that no Federal agency of the United States is being used by the drug lords or no private corporations either. We spend millions of dollars fighting the drug war on the streets and in our schools.

My city of Baltimore has been plagued by heroin and crack cocaine problems. I requested Federal funding on behalf of Baltimore City for treatment programs, more policeman power, and advanced technology to fight this war. No one wants to even imagine the Government unintentionally, of course, being a part of the problem. As a matter of fact, we're supposed to be fighting the problem. And

it would be sad to think that U.S. tax dollars are being used, supporting a postal service, but others using that system to distribute their illegal drugs. Our efforts certainly cannot be thwarted by drugs transported by mail. I applaud the efforts by law enforcement and others who have apprehended mail order dealers. But I think Mr. Turner said it quite clearly, we have to be very, very careful when addressing these kinds of issues because the public does expect, and rightfully so, a certain level of privacy with regard to shipments.

Therefore, I look forward to hearing from our panelists to learn what they believe should be done to adequately combat this threat to our winning the war on drugs. And again, Mr. Chairman, I thank you; and I want to thank the panelists for being here on this day before the holiday weekend begins.

Mr. MICA. Thank you, Mr. Cummings, and thank you for your work and dedication to this subcommittee and also the topic of illegal narcotics. Mr. Turner moves that the record be left open for a period of 3 weeks for additional statements and also response to questions that may be posed by the committee to witnesses. Without objection so ordered.

At this time, I want to welcome our first panel. The Subcommittee on Criminal Justice, Drug Policy, and Human Resources is an investigation and oversight subcommittee of the Government Reform Committee. We are an investigative panel of Congress. Some of you may be familiar with our proceedings. In just a moment I'll swear you in, and we also would like you to try to limit your oral presentations before the subcommittee to approximately 5 minutes. If you have lengthy statements or additional information data or background you'd like to be made part of the record, upon request that will be also added to the record. So at this time, if you would please stand and be sworn.

[Witnesses sworn.]

Mr. MICA. The witnesses answered in the affirmative. And in this panel we have three witnesses and I guess one back-up potential witness. First, we have Mr. Joseph D. Keefe, special agent in charge, Special Operations Division of the Drug Enforcement Administration. We have Mr. Kevin Dellicolli, and he is Director of cyber smuggling, Office of Investigations of the U.S. Customs Service and is available, I understand, for questions. And Ms. Betsy Durant, she is the Director of the Office of Trade Programs, the Office of Field Operations, U.S. Customs Service. And Mr. W.K. Williams, Assistant Section Chief of the drug section of the Criminal Investigative Division, of the Federal Bureau of Investigation. I would like to welcome all of the witnesses.

Again, thank you for being with us. We look forward now to your testimony, and I'll start first by recognizing Mr. Joseph D. Keefe, special agent in charge of Special Operations Division for DEA. Welcome, sir, and you're recognized.

STATEMENTS OF JOSEPH D. KEEFE, SPECIAL AGENT IN CHARGE, SPECIAL OPERATIONS DIVISION, DRUG ENFORCEMENT ADMINISTRATION; KEVIN DELLICOLLI, DIRECTOR, CYBER SMUGGLING, OFFICE OF INVESTIGATIONS, U.S. CUSTOMS SERVICE; BETSEY DURANT, DIRECTOR, OFFICE OF TRADE PROGRAMS, OFFICE OF FIELD OPERATIONS, U.S. CUSTOMS SERVICE; AND W.K. WILLIAMS, ASSISTANT SECTION CHIEF, DRUG SECTION, CRIMINAL INVESTIGATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. KEEFE. Thank you, sir. Chairman Mica, members of the subcommittee, I appreciate the opportunity to appear today to discuss the issue of the proliferation of drug trafficking through the public and private mail services. I would first like to thank the subcommittee for its continued support of the Drug Enforcement Administration and overall support of drug law enforcement. I have also submitted a statement for the record.

As you know, drug traffickers are continually looking for more creative and innovative means to circumvent and elude law enforcement from detecting their illicit contraband. They look for new and different ways to transport and distribute their illegal drugs. Drug trafficking organizations have learned to compartmentalize for security reasons. This is to ensure that no individual member if arrested will have knowledge of the entire inner workings of the organization.

Drug traffickers recognize that the transportation of drugs is the weakest link in the drug chain. Typically, drugs are most vulnerable to detection when they are transported from one location to another. As a result of aggressive proactive law enforcement operations, these drug trafficking organizations have resorted to a number of methods in order to minimize their exposure to law enforcement. One such trend is the use of the private and public mail service in order to transport and distribute illegal drugs. While the misuse of the mail service is not necessarily a new trend, there has been an increase in the use of the mail in overnight delivery services by various drug trafficking groups.

The use of private parcel conditions provide drug trafficking groups the ability to transport illegal drugs without utilizing traditional drug couriers. The absence of this human element often times hinders interdiction efforts because packages that are intercepted routinely have fictitious return addresses and are often mailed to post office boxes or private mailboxes. And a recently concluded multijurisdictional DEA enforcement operation impediments such as these were routinely encountered. In addition, computer tracking snafus and the use of legitimate corporate account numbers for billing purposes further hindered our efforts. In effect this provided the sender with the much needed anonymity in the event the package is intercepted by law enforcement. In addition, the use of overnight delivery services affords traffickers the ability to ship their illegal drugs rapidly. In the event an overnight delivery package is interdicted, law enforcement officers have little or no time to secure a search warrant for the package as well as initiate an operational plan to control the delivery of the suspected drug package. Drug traffickers grow suspicious in any delay in the delivery of these overnight packages and will refuse delivery of the

parcel fearing law enforcement intervention. Due to these and a myriad of other factors, investigations of this type require exhaustive preparation and coordination among various law enforcement entities to include the U.S. Postal Service, the U.S. Customs, the FBI, and the various commercial delivery services.

Historically, DEA has enjoyed an outstanding relationship with each of these organizations, which has resulted in significant enforcement operations. One such effort of the multiagency investigation is named Operation Green Air. On April 13, 2000, DEA in conjunction with U.S. Customs Internal Revenue Service, U.S. Attorney's Office, State and local law enforcement agencies and the Federal Express Corp. culminated this 18-month nationwide investigation.

Operation Green Air targeted a Los Angeles-based marijuana trafficking organization which is estimated to have made $30 million from illegal drug trafficking. Investigation resulted in the arrests of 104 individuals, the seizure of 35,000 pounds of marijuana, and 4.2 million in U.S. currency and assets. This investigation also focused on corrupt FedEx employees in Los Angeles; Ft. Lauderdale, FL; Atlanta, GA; New York; and New Jersey. Those charged include 25 employees of FedEx Corp., including a FedEx security official in New York City, customer service representatives, and drivers.

Federal complaints and indictments charged various members of the organization with the importation and distribution of more than 100 tons of marijuana. Furthermore, several of the defendants were charged with using FedEx Corp. airplanes, trucks, and facilities across the country to ship the marijuana with an estimated wholesale value of $140 million.

The head of this organization exploited FedEx Corp. by recruiting FedEx employees as participants in the organization. The employees ensured that the marijuana was placed on FedEx aircraft for transportation from West Coast to the East Coast, provided security for marijuana when the shipments were housed in FedEx facilities, and subsequently delivered the marijuana to members of the various distribution cells. Other FedEx employees manipulated the corporation billing and internal accounting procedures in order to conceal the cost and thwart any efforts to trace these shipments. The marijuana was always shipped in standard size cardboard boxes in order to fit on Federal Express aircraft, and the organization often placed laundry detergent and other products inside the boxes in an effort to conceal the smell of the marijuana.

The outstanding success of Operation Green Air highlights the effectiveness of such cooperative drug investigations and serves as an example of what combined law enforcement and private industry can accomplish in the fight against drug trafficking in this Nation.

Mr. Chairman, on behalf of the men and women of the drug enforcement administration, I would like to thank you for the opportunity to testify before this subcommittee today. Let me assure you that the DEA will continue to develop and implement innovative approaches in order to address the threat posed by drug traffickers. We are committed to working cooperatively with our law enforcement partners and with private businesses and organizations that

are dedicated to take a stand against those individuals responsible for such criminal activity. At this time, I will be happy to entertain any questions you may have.

Mr. MICA. Thank you. We appreciate your remarks and will withhold questions until we've heard from all of our witnesses.

[The prepared statement of Mr. Keefe follows:]

Remarks by

Joseph D. Keefe
Special Agent in Charge, Special Operations Division
Drug Enforcement Administration
United States Department of Justice

Before

The House Subcommittee on Criminal Justice, Drug Policy and Human Resources

Regarding

"Drugs in the Mail: How Can It Be Stopped"

May 26, 2000
9:30 am
Rayburn House Office Building
Room 2154

Note: This is prepared text and may not reflect changes in actual delivery

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Remarks by

Joseph D. Keefe
Special Agent in Charge
Special Operations Division
Drug Enforcement Administration
Before
The Subcommittee on Criminal Justice, Drug Policy and Human Resources
May 26, 2000

Mr. Chairman, Members of the Subcommittee: I appreciate the opportunity to appear today to discuss the issue of the proliferation of drug trafficking through the public and private mail services. I would first like to thank the Subcommittee for its continued support of the Drug Enforcement Administration (DEA) and overall support of drug law enforcement.

Drug traffickers are continually looking for creative and innovative means to circumvent and elude law enforcement from detecting their illicit contraband. They look for new and different ways to transport and distribute their illegal drugs. Their innovative abilities are keys to how successful they will be and how much wealth they accumulate. Therefore, drug trafficking organizations will exploit any means possible to safeguard their drug shipments from law enforcement detection, and they do so without any regard to the wake of destruction that drug use and abuse creates.

Drug trafficking organizations have learned to be compartmentalized for security reasons. This is to ensure that no individual member, if arrested, will have knowledge of the entire inner workings of the organization. Drug traffickers recognize that the transportation of drugs is the weakest link in the drug chain. Typically, drugs are most vulnerable to detection when they are transported from one location to another. This is largely due to the fact that traffickers utilize couriers who employ a variety of methods in an attempt to avoid detection or suspicion by law enforcement. However, it is just this type of habitual activity that trained law enforcement agents and officers have learned to look for, which ultimately gives rise to suspicion. In addition, though a drug courier's knowledge of the entire drug trafficking organization may be limited, such limited information is vulnerable to a variety of investigative methods used to target and dismantle the entire drug trafficking organization.

As a result of aggressive, proactive law enforcement operations, these drug trafficking organizations have resorted to a number of methods and trends in order to minimize their exposure to law enforcement. One such trend is the use of the private and public mail service in order to transport and distribute a variety of illegal drugs. While the proliferation of mail service businesses is not necessarily a new trend, there has been a noticeable increase in the use of the mail and overnight delivery services by various drug trafficking groups.

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The use of private parcel companies provides trafficking groups the ability to transport illegal drugs without utilizing traditional drug couriers. The absence of this "human" element can frustrate interdiction efforts because packages that are intercepted routinely have fictitious return addresses and are often mailed to Post Office boxes or private mailboxes. This provides the sender with the much needed anonymity in the event the package is intercepted by law enforcement. In addition, the use of overnight delivery services affords traffickers the ability to ship their illegal drugs rapidly. In the event an overnight delivery package is interdicted, law enforcement officers must work on an extremely limited time frame in order to secure a search warrant for the package as well as initiate an operational plan for a controlled delivery of suspected drug packages. Drug traffickers have learned to grow suspicious of any delay in the delivery of these overnight packages and will refuse delivery of a delayed parcel fearing law enforcement intervention.

The investigation of these types of interdiction cases requires a comprehensive and cooperative law enforcement approach. In 1993, DEA recognized the need to formalize this interdiction effort and subsequently established a Special Enforcement Program which combined the talents of a variety of Federal, state and local narcotic investigators who implemented a unique training program. The purpose of the program is to provide uniform, standardized training and statistical analysis to other Federal, state and local drug interdiction units working at a variety of locations including mail parcel facilities. Over the years, this training, along with the combined investigations of DEA, FBI, the U.S. Customs Service and members of state and local police departments have resulted in numerous drug seizures and arrests. In Calendar Year 1999, as a result of pursuing these types of investigations, approximately 9,843 kilograms of marijuana, 303 kilograms of Cocaine, 1 kilogram of heroin and over $3.4 million in currency as well as 61 weapons were seized.

The continued success of this type of enforcement operation is also contingent on the law enforcement community's ability to cooperate with the various commercial delivery services as well as the United States Postal Service. Historically, DEA has enjoyed an outstanding relationship with these organizations, which has resulted in continued success. Recently, Acting Administrator Marshall directed the DEA Operations Division to coordinate future meetings with the respective heads of the various commercial package delivery services. It is our expectation that these meetings will be the impetus for a more cohesive strategy between DEA and private industry relative to the problem of drug smuggling through these services.

An example of such cooperative investigative pursuits was the initiation of Operation Green Air. On April 13, 2000, DEA, in conjunction with the U.S. Customs Service (USCS), Internal Revenue Service (IRS), various U.S. Attorneys' offices, the DOJ/Criminal Division, a variety of local law enforcement agencies and the Federal Express (FedEx) corporation, culminated an 18-month nationwide investigation known as Operation Green Air. Operation Green Air targeted a Los Angeles-based marijuana trafficking organization, which is estimated to have made $30 million from illegal drug trafficking. The investigation resulted in the arrests of over 104 individuals, the seizure

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of 35,000 pounds of marijuana and $4.2 million in U.S. currency and assets. The investigation also focused on corrupt FedEx employees in Los Angeles, Fort Lauderdale, Atlanta, New York and New Jersey. Those charged include 25 employees of FedEx Corporation, including a FedEx security official in New York City, customer service representatives and drivers. Federal complaints and indictments charge various members of the organization with the importation and distribution of more than 100 tons of marijuana. Several of the defendants were charged with using FedEx Corporation airplanes, trucks and facilities across the country to ship the marijuana with an estimated wholesale value of $140 million.

Operation Green Air identified a Jamaican national who had direct command and control of all U.S. distribution cells for this marijuana trafficking organization. This particular drug trafficking organization was found to have more than 100 members. The head of this organization recruited FedEx employees as participants in the organization. The employees ensured that the marijuana was placed on Federal Express aircraft for transportation from the West Coast to the East Coast, provided security for the marijuana while the shipments were housed in FedEx facilities and subsequently delivered the marijuana to members of the various distribution cells.

Other Federal Express employees manipulated the corporations billing and internal accounting procedures in order to conceal the cost and thwart any efforts to trace these shipments. Federal Express internal records show that this organization's manipulation resulted in the free shipment of approximately 117 tons of gross weight (marijuana) from coast to coast. The marijuana was always shipped in standard-sized cardboard boxes in order to fit on Federal Express aircraft and the organization often placed laundry detergent and other products inside the boxes in an effort to conceal the smell of the marijuana.

The drug proceeds from the sale of the marijuana were collected in New York, Atlanta, Fort Lauderdale, and other distribution cities. Jamaican females were utilized as couriers to body-carry the money to Los Angeles on commercial airlines. The investigation subsequently revealed that this organization transported approximately $1 million a week to the Los Angeles-based cell. In addition, the investigation revealed that organizational members invested drug proceeds in businesses and properties located in Jamaica.

The outstanding success of Operation Green Air highlights the effectiveness of such cooperative drug investigations and serves as an example of what combined law enforcement and private industry can accomplish in the fight against drug trafficking in this nation.

Mr. Chairman, on behalf of the men and women of the Drug Enforcement Administration, I would like to thank you for the opportunity to testify before the Subcommittee today. Let me assure you that the DEA will continue to develop and implement innovative approaches in order to address the threat posed by drug traffickers. We are committed to working cooperatively with our law enforcement partners and with

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businesses and organizations that are dedicated to take a stand against those individuals responsible for such criminal activity. At this time I will be happy to entertain any questions you may have.

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Mr. MICA. Next, I'd like to recognize Ms. Betsy Durant. She's Director of the Office of Trade Programs of the Office of Field Operations for U.S. Customs Service. Welcome and you're recognized.

Ms. DURANT. Good morning, Mr. Chairman and members of the subcommittee. Thank you for the opportunity to present U.S. Custom's efforts to prevent the entry of illegal drugs into the United States via the mail. I too have a long statement for the record. Before I begin to explain what Customs does to combat the importation of illicit drugs, I believe it is important to relay Customs' core mission activities. The U.S. Customs Service is the protector of our Nation's borders. We are vigilant against the ever-present threats of narcotics smuggling, money laundering, and unwarranted threats against American industry.

On a typical day, Customs officers process 1.3 million passengers and nearly 350,000 vehicles at ports and border crossings across the country. They seize nearly 4,000 pounds of narcotics and about $1 million in ill-gotten proceeds. Customs also protects domestic industries from unfair competition, keeps tainted and spoiled products from making their way to consumers, and defends intellectual property rights and deters the corrosive effects of economic fraud.

Customs is facing a significant narcotics threat in the mail. For example, the Oakland, CA, mail facility generated 88 seizures of opium totaling 923 pounds during the summer of 1999 alone. Nationwide, this fiscal year to date there have been 132 seizures of ecstasy. Customs mail facilities have realized a 450 percent increase in pharmaceutical seizures in fiscal year 1999, amounting to 9,725 separate seizures.

Customs faces many significant interdiction challenges at the point of entry, primarily in our international mail facilities. The growth of these challenges is commensurate with the phenomenal growth of the small package delivery industry. Customs has found itself wrestling with the way it handles the processing of international mail and express consignment shipments so that it can provide efficient entry of legal shipments while maintaining a strong and effective contraband interdiction capability.

The U.S. Customs Service staffs 14 international mail branches at various postal facilities across the United States. These facilities process hundreds of millions of flats and parcels per year. With less than 220 Customs personnel at these facilities, we as with all shipments must take a risk-management approach to our day-to-day operations.

Resources are such that we must make conscious decisions to look at some mail but not all mail. Most often this is done by choosing to inspect mail from countries that provide a higher threat for illegal activity. While the Postal Service is required to present all international mail to Customs, the selection or targeting process for mail is entirely manual. It is also worthy to discuss the issue of examination of export shipments of mail. Export shipments originate in the United States and are destined to be delivered to a foreign country. Customs is hampered by the lack of a clear mandate to search outbound mail. Recent court decisions have supported Customs claim of inspection of outbound mail. However, a clear legislative intent is necessary. We feel strongly that Customs

and the Postal Service need to work together to fight the illegal shipment of contraband across our Nation's borders.

We know this goal can be realized because we have worked closely with the Postal Service in the past to resolve other important issues. The next logical step for Customs is to obtain automated parcel level manifest information in advance of shipment arrival so that we may greatly increase our targeting capabilities and our ability to capitalize on information. The Postal Service is working to develop electronic message data sets that would support such a badly needed automated system. This would be similar to the level of data that express consignment operators are currently performing.

In summary, Customs believes that the manual nature in which the mail arrives and is entered into the United States inhibits our ability to interdict prohibited drugs.

Mr. Chairman, this concludes my oral statement. I will be happy to answer any questions that you or the other Members will have.

Mr. MICA. Thank you again. We will withhold questions until we've heard from all of our witnesses.

[The prepared statement of Ms. Durant follows:]

TESTIMONY

UNITED STATES CUSTOMS SERVICE

HOUSE OF REPRESENTATIVES COMMITTEE ON GOVERNMENT REFORM

CRIMINAL JUSTICE, DRUG POLICY, AND HUMAN RESOURCES

SUBCOMMITTEE HEARING

May 26, 2000

Good morning Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to present U.S. Customs' efforts to prevent the entry of illegal drugs into the United States via the mail.

Before I begin to explain what Customs does to combat the importation of illicit drugs, I believe it is important to relay Customs core mission activities. The U.S. Customs Service is the protector of our Nation's borders. We are vigilant against the ever-present threats of narcotics smuggling, money laundering, and unwarranted threats against American industry. On a typical day, Customs officers process 1.3 million passengers and nearly 350,000 vehicles at ports and border crossings around the country. They seize nearly 4,000 pounds of narcotics and about a million dollars in ill-gotten proceeds. Customs also protects domestic industries from unfair competition; keeps tainted and spoiled products from making their way to consumers; and defends intellectual property rights and deters the corrosive effects of economic fraud.

Customs is facing a significant narcotics threat in the mail. For example, the Oakland, California mail facility generated 88 seizures of opium totaling 923 pounds during the summer of 1999 alone. Nationwide, this fiscal year to date, there have been 132 seizures of ecstasy. Customs mail facilities have realized a 450% increase in pharmaceutical seizures in fiscal year 1999, amounting to 9725 separate seizures.

The mail was the medium of choice for the highly publicized case involving Laurie Hiett, the wife of Colonel James Hiett, who was the Military Group Commander of the anti-drug detachment at the U.S. Embassy in Bogota, Colombia. I am proud to say this case was initiated through the efforts of our Customs Inspectors at the Miami, Florida international mail facility. During an Inspector's diligent search of mail arriving from Colombia, he chose to examine the contents of an average looking military mail parcel from the U.S. Embassy. The subsequent investigation revealed that the Colonel's wife wittingly participated in an international drug conspiracy and shipped numerous packages of heroin into the United States via the mail. To date, this investigation has yielded a total of five (5) arrests, including the arrests and convictions of Colonel Hiett and his wife Laurie Hiett.

Customs faces many significant interdiction challenges at the point of entry, primarily in our international mail facilities. The growth of these challenges is commensurate with the phenomenal growth of the small package delivery

industry. The Express Consignment Industry, comprised of companies such as FedEX, UPS and DHL, to name a few, has enjoyed huge growth in its markets since its inception. The Postal Service also has seen significant increases in the use of its Express Mail service. Today, the industry sees a continuation for further growth, not only domestically, but also in the global marketplace. Much of this growth can be attributed to e-commerce. The consumer is now able to purchase goods directly from overseas manufacturers or suppliers via the Internet. As a result, the number of individual shipments sent through Express Consignment Operators and the U.S. Postal Service will increase dramatically.

With the shift in this industry, Customs has found itself wrestling with the way it handles the processing of international mail and express consignment shipments so that it can provide efficient entry of legal shipments, while maintaining a strong and effective contraband interdiction capability.

Customs is under continuing pressure to move shipments quickly, yet our ability to maintain control of these small parcels is vastly different between the postal and express consignment environments. The express industry, with its requirements to provide manifest information, present outbound shipments for examination, and to reimburse us for costs of service have enabled us to respond to this growth while preserving our enforcement mission. However, the lack of this capability and authority in the Postal setting has hindered meeting our enforcement goals.

The U.S. Customs Service staffs 14 International Mail Branches at various Postal facilities across the United States. These International Mail Branches are located at ports of entry with high volumes of cargo, and service more than one mode of transportation. Customs 14 facilities process hundreds of millions of flats and parcels per year. With less than 220 Customs personnel at these facilities, we, as with all shipments, must take a risk management approach to our day to day operations. Resources are such that we must make conscious decisions to look at some mail, but not all mail. Most often this is done by choosing to inspect mail from countries that provide a higher threat for illegal activity. While the Postal Service is required to present all the international mail to Customs, the selection or targeting process for mail is entirely manual.

Customs does not encounter the same enforcement difficulties with the Express Consignment Operators. In exchange for reimbursed expedited clearance during non-traditional business hours and at locations where we would not ordinarily provide service, the couriers agreed to regulations that require them to integrate sophisticated automation systems into their daily operations. Furthermore, advance manifest information is required for all Express Consignment shipments so that Customs may pre-screen these shipments before arrival. The availability of advance, automated manifest information allows Customs to both expedite the automatic release of lower risk shipments, and at the same time to maximize the effectiveness of our targeting of higher risk

shipments. Specifically, the availability of such data allows Customs to capitalize on intelligence developed by our Office of Investigations and other members of the domestic and international law enforcement community, knowledge of past transgressors, and analyses of smuggling trends and shipment patterns.

It is also worthy to discuss the issue of examination of in-transit and export shipments of mail. In-transit shipments are those that only temporarily enter the U.S. on their way to a foreign country. Export shipments originate in the U.S. and are destined to be delivered to a foreign country.

Customs regulations require Express Consignment Operators to present both in-transit and export shipments for examination. However, the Postal Service does not present these same types of shipments to Customs for inspection. Although 31 U.S.C. 5317 provides that Customs warrantless border search authority applies to searches of any vehicle, vessel, aircraft, **envelope**, or other container entering or **departing** from the United States, the Postal Service laws, 39 U.S.C. 3623, prohibit the warrantless search of letter class mail departing from the United States. As a result, Customs is hampered by the lack of a clear mandate to search outbound mail. Recent court decisions have supported Customs claim of the inspection of outbound mail. However, a clear legislative intent is necessary.

Customs believes that our lack of authority to examine the Postal Service's outbound or in-transit mail is one of our greatest enforcement stumbling

blocks. We see this loophole as a money launderer's dream-come-true. Postal regulations currently allow for the weight of international letter class mail to reach up to four pounds, which can accommodate upwards of $200,000 in bulk cash, as well as an undeterminable amount of negotiable monetary instruments. A drug dealer can simply visit his or her local post office, and have a package of currency delivered anywhere in the world. The money launderer may do this without worrying that it may be inspected or interdicted by U.S. Customs, as we are currently powerless to intervene. We are confident that drug traffickers are using the mail to deliver currency to fund drug purchases around the world. In the last two years, Customs has seized over $17 million during outbound enforcement operations at Express Consignment Operator's facilities. With no outbound inspection authority over the mail, it is certain that in the postal environment, this number could be even greater. I am sure that the traffickers and launderers are well aware of this loophole and are making the most of it, at our Nation's expense.

It is also important to remember that this problem is not limited to just money laundering. This same loophole literally creates a haven for smugglers of all kinds. A flawed system such as this can facilitate many other illegal exports and in-transit shipments such as child pornography, items or materials to be used in terrorist attacks, weapons, sensitive military or high tech products not licensed for exportation, the list goes on.

Conversely, over 95 percent of the Postal Service's international mail parcels are not individually manifested. By law, Express Consignment Operators are required to maintain extensive records for each shipment or transaction solely for Customs review, whereas the Postal Service is under no such obligation to keep these records.

Lastly, to effectively enforce the laws governing the importation of pharmaceuticals, it is imperative that the resources needed to effectively meet these responsibilities are available to Customs. While the importation of prohibited pharmaceuticals is prevalent in any mode of transport that focuses on small parcel delivery, it is manifested primarily in the international mail operating environment. Customs currently provides clearance of international mail at little or no expense to the Postal Service. The Postal Service is not required to reimburse Customs for expenses incurred to examine inbound international mail.

On the other hand, Express Consignment Operators are required by statute to fully reimburse Customs for the processing of their shipments. This includes all expenses associated with the Customs operations within the Express Consignment facility. By regulation, Customs office space, personnel and equipment are all paid for by the Express Consignment operator.

We feel strongly that Customs and the Postal Service need to work together to fight the illegal shipment of contraband across our nation's borders.

We know this goal can be realized because we have worked closely with the Postal Service in the past to resolve other important issues. For example, Customs and the Postal Service have worked together for the past two years to tighten controls and increase accountability for the processing of inbound international mail shipments. In 1998, we implemented a "first port of entry policy" that required the carriers of inbound international mail to present the mail at one of 14 locations throughout the United States where there is a Customs International Mail Branch. Prior to implementation of this policy, we had no way to determine whether inbound shipments of international mail were bypassing Customs and being entered directly into the domestic flow. It should be noted that the Postal Service was instrumental in ensuring that their contracted carriers were in compliance with this policy.

In 1999, we implemented a policy that required the carriers acting on behalf of foreign Postal administrations to list inbound mail on manifests by the number of containers or bags. Prior to this, most carriers were not manifesting mail at all and there was no way to determine, even at the aggregate level, the quantity of mail arriving into the United States. Again, the U.S. Postal Service was instrumental in communicating this policy to the foreign postal administrations and carriers involved.

The Postal Service has also been working to raise their level of sophistication with regards to automation. I believe they see the benefits of

automation, both to support and make more effective their operations and to enhance our contraband interdiction efforts. As I stated earlier, with automated, parcel level manifest information provided to Customs in advance of shipment arrival, Customs can greatly increase its targeting capabilities and its ability to capitalize on intelligence information. The Postal Service is working to develop electronic messaging data sets that would support such a badly needed automated system. This would be similar to the level of data that the Express Consignment Operators are currently providing Customs. We desperately need this information. A cooperative initiative with the European Community began in April of this year to develop an international electronic message that will provide uniform information for mail shipments for the European Community, the United States, Canada, and possibly Australia. Customs has been invited to serve as a technical advisor to the European Community on this project. The successful results of this initiative would greatly increase Customs enforcement capabilities in our International Mail Branches.

Customs understands that the nature of the Express Delivery Industry is dynamic and we are working to meet its growing needs. Customs must develop a plan that will allow us to be effective in this important method of importation. The plan will identify our role and responsibilities to our trade partners, the Express Consignment Operators and the Postal Service, as well as delineate the resources needed to effectively meet these responsibilities. One such resource is the funding to build a new Customs automated system that can more easily

handle the diverse and ever-changing international mail and express parcel industry. Currently this funding is nowhere in our foreseeable future. Meanwhile, our current computer system, which is now 16 years old, cannot be easily programmed to meet this need. Our system frequently experiences brownouts and becomes more difficult and costly to maintain as time passes. Other assistance, which will be necessary to enable us to meet our goals, will be the closure of the loophole that allows drug traffickers and money launderers to avoid Customs inspection for shipments that move in-transit or through outbound mail.

In summary, Customs believes that the manual nature in which mail arrives and is entered into the United States, severely inhibits our ability to interdict prohibited drugs. We believe that we need to work with the Postal Service to change the standards for processing Postal Service shipments. Doing so will decrease the vulnerability our Nation currently faces with respect to illicit smuggling.

We stand ready to work with the Congress and other Executive agencies to fully ensure that these smuggled items never harm our citizens and the legitimate pharmaceutical industry.

Mr. Chairman, this concludes my written statement. I will be happy to answer any questions that you or any other Members may have.

Mr. MICA. Our next witness is W.K. Williams. He is the Assistant Section Chief of the drug section of the Criminal Investigations Division of the FBI. Welcome, sir, and you're recognized.

Mr. WILLIAMS. Good morning, Mr. Chairman and members of the subcommittee. I am privileged to have this opportunity to discuss the growing use of the Internet by drug enterprises facilitating their illicit activities. In my testimony today, I would like to first give an overview of the threat we face. Second, I will identify several investigative initiatives we have undertaken to address this unlawful conduct on the Internet. And finally, I would like to address several investigative and regulatory issues we anticipate or have encountered as we have begun to combat this growing crime problem.

I have also submitted a statement for the record.

Criminal activities perpetrated by international drug cartels pose a very serious threat to our national security. Their conduct impacts directly on our families and communities threatening our very social fabric. Much of the recent growth in influence of these major international drug cartels is due to the developments in high technology and communications.

The Internet has brought great benefits to the world, but it has also become a powerful medium for drug cartels who use technology to facilitate their operations and thwart law enforcement. According to a March 18, 1999, article in Newsweek, the new drug trafficking organizations in Colombia are composed largely of university-trained professionals who use satellite telephones and Internet connections to coordinate drug shipments. The Washington Post on November 15, 1999, described a new generation of Colombian drug traffickers, light years ahead of the traditional Medellin and Cali cartels of using the Internet and other modern technology who have access to highly sophisticated encryption technology, far beyond what law enforcement has the capacity to break quickly. These findings are consistent with information developed in our own field investigations and garnered from our intelligence sources.

U.S. law enforcement and intelligence agencies have recently recognized a trend toward use of the Internet by major drug trafficking organizations to conduct criminal activities. Major Colombian and Mexican drug trafficking organizations rely on the Internet as a means of long distance communication. As yet there is no definitive evidence that the drug trafficking organizations are moving large sums of money through the international financial system via the Internet or are exploiting the Internet to bypass reporting requirements and spend their ill-gotten wealth via electronic commerce. However the drug trafficking organizations are passing money laundering instructions over the Internet. A survey of FBI field division identified over 20 investigations in which the Internet was used in some capacity by drug trafficking organizations. Similar findings have been noted by our drug enforcement administration colleagues.

While there are numerous ways to communicate over the Internet, the most popular are electronic mail, Internet chat rooms, instant messaging, and Internet telephony. Each service provided the user with a sense of security and a feeling of anonymity at an al-

most nonexistence cost. More and more, major Colombian and Mexican drug trafficking organizations are instructing their cell members operating within the United States to communicate via electronic mail in lieu of telephones.

Internet relay chat and instant messaging allow for realtime communication. Computer to computer audio and video communications to include conferencing are also being used. Drug traffickers in New York, Houston, and Miami can communicate via video conferencing with the assurance they are speaking with the correct parties and for absolutely no cost other than the monthly fees paid to their Internet service providers.

It is not uncommon for drug trafficking organizations to provide their cell members with laptop computers as a means of communication. In a recent example, a major drug trafficking organization supplied one of its cell members with a laptop computer to be used for video conferencing while traveling outside of the United States. Internet telephony service providers maintain gateways for telephone companies to allow computer-to-phone communications. The Internet also allows for interconnection with no geographical boundaries. We even have seen instances where Colombian go-fast boats have been able to meet up with their Mexican counterparts in the open ocean by communicating via the Internet.

The World Wide Web, the most used and recognized service available on the Internet, is being used to distribute cutting agents, drug paraphernalia, and on occasion controlled substances. Often these Web sites mail the purchased products directly to their customers through personal and parcel delivery services.

The FBI's drug section has embarked on an aggressive training program to assist FBI field offices in understanding and exploiting the Internet as it relates to drug matters. Our drug section is currently instructing FBI field offices about the Title III interception and search authorization on the Internet specifically as it relates to Title II of the Electronic Communications Privacy Act [ECPA] of 1986, stored wire and electronic communication and transactional records. The training is regionally based and provided to agents of the FBI, the DEA, the U.S. Customs Service, as well as to State and local law enforcement officers assigned to Federal drug task forces. During December 1999, the drug section conducted an Internet training seminar in Miami, FL. Additional training sessions are scheduled for New York, Houston, and other southwest border divisions, in as much as these divisions have ongoing drug investigations involving the Internet.

The use of the Internet by criminals has a host of investigative and regulatory issues for the FBI and other Federal law enforcement agencies. Many of those issues arise from the nature of the Internet. For example, the fact that the Internet is worldwide creates numerous legal issues regarding jurisdiction. Specifically, under what circumstances could U.S. law enforcement conduct transborder searches and seizures for evidence located in other sovereigns? How do we effectively expedite the preservation and retention of information across borders that is by its very nature fleeting? How do we effectively investigate and prosecute criminals across borders where there is no consistency in legal regimes. And how to facilitate expeditiously obtaining and disclosing information

across borders without negatively impacting our own national interests.

In summary, the rapid growth in new technologies has redrawn the communications landscape. As use of the Internet continues to increase, so does its exploitation by drug trafficking organizations. We in law enforcement share your concerns regarding this growing threat and recognize a need to redouble our efforts to combat this new challenge.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions that you or any members of the subcommittee may have. Thank you.

Mr. MICA. Thank you for your testimony.

[The prepared statement of Mr. Williams follows:]

TESTIMONY OF

W.K. WILLIAMS

ASSISTANT SECTION CHIEF, DRUG SECTION
CRIMINAL INVESTIGATIVE DIVISION
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE HOUSE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON CRIMINAL JUSTICE,
DRUG POLICY AND HUMAN RESOURCES

MAY 26, 2000

Statement of WK Williams,
Assistant Section Chief, Drug Section
Criminal Investigative Division
Federal Bureau of Investigation
before the House Government Reform Committee's
Subcommittee on Criminal Justice, Drug Policy and Human Resources

May 26, 2000

Good morning, Mr. Chairman and Members of the subcommittee. I am privileged to have this opportunity to discuss the growing use of the Internet by drug enterprises facilitating their illicit activities. In my testimony today, I would first like to give an overview of the threat we face. Secondly, I will identify several investigative initiatives we have undertaken to address this unlawful conduct on the Internet. And finally, I would like to address several investigative and regulatory issues we anticipate or have encountered as we have begun to combat this growing crime problem.

Internet Use by Drug Traffickers

Criminal activities perpetrated by international drug cartels pose a very serious threat to our national security. Their conduct impacts directly on our families and communities, threatening our very social fabric.

Much of the recent growth in influence of these major international drug cartels is due to the developments in high-technology and communications. The Internet has brought great benefits to the world, but it has also become a powerful medium for drug cartels who use technology to facilitate their operations and thwart law enforcement. According to a March 18, 1999 article in Newsweek Magazine, the new drug trafficking organizations in Colombia are composed largely of university trained professionals who use satellite telephones and Internet connections to coordinate drug shipments. The Washington Post, on November 15, 1999 described a "new generation of Colombian drug traffickers, light years ahead of the traditional Medellin and Cali cartels in using the Internet and other modern technology," who have access "to highly sophisticated encryption technology, far beyond what law enforcement has the capacity to break quickly." These findings are consistent with information developed in our field investigations and garnered from our intelligence sources.

U.S. law enforcement and intelligence agencies have recently recognized a trend toward use of the Internet by major drug trafficking organizations to conduct criminal activities. Major Colombian and Mexican drug trafficking organizations rely on the Internet as a means of long distance communication. As yet there is no definitive evidence that the drug trafficking organizations are moving large sums of money through the international financial system via the Internet or are exploiting the Internet to bypass reporting requirements and spend their ill-gotten wealth via electronic commerce. However, the drug trafficking organizations are passing money

launder instructions over the Internet. A survey of FBI field divisions identified over 20 investigations in which the Internet was used in some capacity by drug trafficking organizations. Similar findings have been noted by our Drug Enforcement Administration (DEA) colleagues.

While there are numerous ways to communicate over the Internet, the most popular are electronic mail, Internet chat rooms, instant messaging and Internet telephony. Each service provides the user with a sense of security and a feeling of anonymity at an almost nonexistent cost. More and more major Colombian and Mexican drug trafficking organizations are instructing their cell members operating within the United States to communicate via electronic mail in lieu of telephones. Internet Relay Chat and instant messaging allow for real time communication. Computer to computer audio and video communications, to include conferencing, are also being used. Drug traffickers in New York, Houston and Miami can communicate via video conferencing with the assurance they are speaking with the correct parties and for absolutely no cost other than the monthly fees paid to their Internet Service Providers. It is not uncommon for drug trafficking organizations to provide their cell members with labtop computers as a means of communication. In a recent example, a major drug trafficking organization supplied one of its cell members with a labtop computer to be used for video conferencing while traveling outside of the United States. Internet Telephony Service Providers maintain gateways for telephone companies to allow computer to phone communications. The Internet also allows for interconnection with no geographical boundaries. We have even seen instances where Colombian go-fast boats have been able to meet up with their Mexican transport counterparts in the open ocean by communicating via the Internet.

The World Wide Web, the most used and recognized service available on the Internet, is being used to distribute cutting agents, drug paraphernalia, and, on occasion, controlled substances. Often these Web Sites mail the purchased products directly to their customers through personal and parcel delivery services.

Description and Discussion of Domestic and International Initiatives

The FBI's Drug Section has embarked on an aggressive training program to assist FBI field offices in understanding and exploiting the Internet as it relates to drug matters. Our Drug Section is currently instructing FBI field offices about Title III interception and search warrant authorization on the Internet specifically as they relate to Title II of the Electronic Communications Privacy Act (ECPA) of 1986, Stored Wire and Electronic Communications and Transactional Records Access. The training is regionally-based and provided to Agents of the FBI, DEA, the United States Customs Service, as well as to state and local law enforcement officers assigned to federal drug task forces. During December 1999, the Drug Section conducted an Internet training seminar in Miami, Florida. Additional training sessions are scheduled for New York, Houston and other southwest border divisions inasmuch as these divisions have ongoing drug investigations involving the Internet.

Investigative and Regulatory Issues

The use of the Internet by criminals has presented a host of investigative and regulatory issues for the FBI and other federal law enforcement agencies. Many of those issues arise from the nature of the Internet. For example, the fact that the Internet is worldwide creates numerous legal issues regarding jurisdiction. Specifically under what circumstances could United States law enforcement conduct transborder searches and seizures for evidence located in other sovereigns; how do we effectively expedite the preservation and retention of information across borders that is by its nature, fleeting; how do we effectively investigate and prosecute criminals across borders where there is no consistency in legal regimes; and how to facilitate expeditiously obtaining and disclosing information across borders without negatively impacting our own national interests.

We also note the difficulty in keeping legislation current with technological advances. Although the legislative history accompanying ECPA discussed the challenge of keeping abreast of technological changes, some of its provisions may be outdated. For example, it is not clear whether the pen register/trap and trace statute could allow the issuing of a court order to apply to all the service providers who have information about the communication sought to be capture/traced. Given this deficiency, it has been argued that to trace effectively and efficiently calls made to a telephone or other applicable facilities, a prosecutor may need to obtain an order that applies not only in the prosecutor's local district but also to other providers through which calls or communications are placed. In addition, the statute could benefit from some clarification with respect to its applicability to new technologies. Historically, the pen register/trap and trace statute was viewed as applying to a "facility," which all of us knew to be the telephone. With the advent of the Internet, including electronic mail, Internet relay chat sessions, instant messaging, and other advancing technological developments, questions about the applicability of the pen register/trap and trace statute are sure to arise.

In summary, the rapid growth in new technologies has redrawn the communications landscape. As use of the Internet continues to increase, so does its exploitation by drug trafficking organizations. We, in law enforcement, share your concerns regarding this growing threat and recognize a need to redouble our efforts to combat this new challenge.

Mr Chairman, that concludes my statement. I would be happy to answer any questions that you or any Members of the subcommittee may have for me.

Mr. MICA. Mr. Dellicolli, you do not have an opening statement; that's correct?

Mr. DELLICOLLI. That's correct, Mr. Chairman.

Mr. MICA. What we'll do is start with our first round of questions then. I notice that one of the agencies, Customs, has brought some I believe it's evidence or some item that's been used for transport. Maybe you could provide the subcommittee with some description of what's taking place. Who wants to do that? Mr. Dellicolli or Ms. Durant.

Mr. DELLICOLLI. I'll do it, Mr. Chairman.

Mr. MICA. Could you tell us what some of this stuff is that you brought with you and how it relates to this topic of transporting illegal narcotics?

Mr. DELLICOLLI. In this package here we have a stuffed animal that contained 10,000 ecstasy tablets that were smuggled from Germany. The tablets were actually stuffed inside the animal.

Mr. MICA. How was that transported?

Mr. DELLICOLLI. I believe this came in through express mail service.

Ms. DURANT. That's correct. It was express.

Mr. DELLICOLLI. Excuse me, this was priority mail, U.S. mail.

Mr. MICA. Priority U.S. mail. What was the value of the drugs in that shipment? Do you know?

Mr. DELLICOLLI. I don't know. Approximately $100,000.

Mr. MICA. I guess there's two ways to detect this through technology or through information that has been passed on. What's our process now, technology or intelligence?

Ms. DURANT. I think it's a combination of the two. But we firmly believe that technology is probably our greatest initial screening asset. We can look with advanced technology, advanced manifest information. We can look for anomalies that tip us off to knowing what to select in the first place. For example, if we have unusual value-to-parcel-weight ratios, or if we have intelligence about an address or we've made a seizure before on an address, those kinds of things ahead of time can help alert us. And that is why we're so adamant about having this parcel level manifest information from the mail because we do have that advantage from the express consignment.

Mr. MICA. But you don't have that from the U.S. mail service.

Ms. DURANT. We do not have that. We have bag level manifest only, which does allow us to at least target countries.

Mr. MICA. It gives you the country of origin but nothing else.

Ms. DURANT. Nothing else, correct.

Mr. MICA. Maybe you could describe some more of the, again, the means by which they've been transporting some of these narcotics.

Mr. DELLICOLLI. We have several other examples of ecstasy tablets that were seized. This one here happens to be 10 grams of marijuana that was smuggled in from Mexico in an international mail parcel. Very small. Here's the marijuana in a letter class through the international mail system.

Mr. MICA. One of the problems I guess with the designer drugs is it requires—well there's very little weight. Some of the marijuana comes in bulk, but with designer drugs I'm told that you can ship an incredible volume with very little weight.

Mr. DELLICOLLI. That's true. And a lot of value at very little weight.

Mr. MICA. Is that what you're seeing more and more of coming in, designer drugs through the mail service?

Mr. DELLICOLLI. Most of the controlled deliveries that we conducted this year so far have been ecstasy, about 35 percent of the controlled deliveries.

Mr. MICA. What are the prime countries of origin? Is there some pattern to what's going on?

Mr. DELLICOLLI. I believe most of the ecstasy we're seeing is coming from the Netherlands, Belgium.

Mr. MICA. And maybe you could describe a couple more of the items you brought with you.

Mr. DELLICOLLI. Pretty much we have more of the same. We have a lot of ecstasy that came in. There's no packaging here with them to describe the means of which they entered, whether it was express mail or whether it was the U.S. mail but all of these did come in through either express mail or the U.S. mail.

Mr. MICA. Well, if you were describing the problem, and I hate to pick on the U.S. Government and the U.S. mail system, but it sounded like most of the problem you're having seen so much with the private carriers but with the U.S. mail service.

Ms. DURANT. I don't want to pick on the postal service either, but I have to say that we believe that we have a problem in both arenas. We have, however tighter controls over the express consignment industry because we have the advance manifest information and because we have outbound authority in the express consignment industry. So we think that it is easier; and there's a wider loophole in the mail that we need to tighten up, so that we have the ability to at least level the playing field. Our seizures in the mail are substantially higher than in the express industry.

Mr. MICA. How would you describe the cooperation of the postal service and then the various major private carriers?

Ms. DURANT. The cooperation with the private carriers is quite good. They have spent a significant amount of money on their own manifest systems, and we don't agree on everything. They do reimburse for just about all of our expenses in the express industry, and we have ongoing discussions about what they should and shouldn't pay for and that sort of thing. But we do have an excellent relationship with the postal service. They do adamantly oppose outbound search authority for us, outbound inspection authority and search authority, and that has frankly been a bone of contention between our two organizations.

We also are working closely with them relative to the manifest information, and there are some efforts ongoing in Europe among postal administrations to develop a manifest message, but we would like to accelerate those discussions to look for some creative ways even if we just began with express mail. And we have reached out to the post office to help us explore those opportunities.

Mr. MICA. Finally, I heard cited by Mr. Dellicolli that the Netherlands was one of the major sources of some of the drugs coming in. What is the nature of cooperative efforts with law enforcement in your agencies since we're getting such a high volume from the

Netherlands? Maybe you could provide the subcommittee with that background. Mr. Dellicolli.

Mr. DELLICOLLI. I work in the cyber smuggling center. Most of our efforts involve the pharmaceuticals being imported via the mail system with—via—they're using the electronic commerce, so I'm not that familiar with our operations with respect to the ecstasy investigations.

Ms. DURANT. We can provide that for the record.

Mr. MICA. What about DEA?

Mr. KEEFE. Mr. Chairman, our law enforcement officials have met with the Dutch law enforcement officials as well as other European counterparts specifically related to ecstasy. We find, as was mentioned, in a number of the labs producing, the clandestine labs, are the Netherlands, Belgium, and Germany where they're clandestinely producing the ecstasy. I believe the Dutch last year seized approximately 35 to 38 of those labs, usually very sophisticated labs capable of producing very large quantities. It's then smuggled out to various other countries in Europe where then I believe it is then shipped, transshipped to various—either body carried or through the mail services and whatnot into the United States.

Mr. MICA. We met with the, I believe, the minister of justice from the Netherlands and some of the parliamentarians there trying to enact some stricter laws. I think they've been burnt by the liberal laws, and they know it's become the center for both production trafficking; and also with the lower penalties, it's a magnet for these folks who want to deal in drugs. We may solicit from you some additional information on what you would recommend that they need to do as far as cooperation, because if that's one of our major sights.

Finally, what about Mexico? I believe in the hearing that raised some of these questions initially that we heard there was a transport of some of the designer drugs from Mexico, some coming into the United States. Is that the case, Ms. Durant?

Ms. DURANT. Well, the southwest border in general is a huge challenge for us in the drug interdiction area. Now our ecstasy seizures are up throughout. I do not have specific information about Mexico, but I could provide that for the record.

Mr. MICA. We'd appreciate that. At this time I'd like to yield to Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman. Mr. Dellicolli, when you were showing us the stuffed animal here that had $100,000 worth of narcotics stuffed inside of it, how was that seized? Was it a random check, or was it the postal service or the private carriers that prompted them to open that package?

Mr. DELLICOLLI. It was just a manual inspection conducted by our mail facility inspectors.

Mr. TURNER. So this was a postal service express mail?

Mr. DELLICOLLI. Yes.

Ms. DURANT. We have x-ray equipment. We do have x-ray equipment in our mail facilities that's pretty sophisticated. So we do run all the parcels through the x ray and can often pick it up that way.

Mr. TURNER. So was it the x ray that prompted the opening of that package?

Mr. DELLICOLLI. It was detected with the x-ray technology.

Mr. TURNER. And the letter that was mailed from Mexico with the marijuana, how was that detected?

Mr. DELLICOLLI. Actually from Switzerland and——

Mr. TURNER. I'm sorry.

Mr. DELLICOLLI. And I have no information.

Ms. DURANT. Probably the x ray. Probably the x ray.

Mr. DELLICOLLI. Maybe dog.

Ms. DURANT. Or the dogs. We have dogs in our mail facilities as well.

Mr. TURNER. So every package that comes through the postal service goes through this x ray that's coming from abroad.

Ms. DURANT. It goes through, but it goes through fairly quickly; and it does enable us to select from those packages, and our inspectors are pretty astute who work in the mail facilities in doing that. But we do believe having to do it on the spot and in that kind of manual mode severely hampers our ability to select as many as we probably need to inspect for drug smuggling.

Mr. TURNER. What could we do to improve your ability to inspect those packages in a time-efficient way?

Ms. DURANT. Well, we truly believe that if we had manifest information so that we could use our intelligence and use our rules so that we would select more efficiently that we could have a greater impact. That and outbound search authority are our two major concerns right now.

Mr. TURNER. So you don't run all the packages through this x ray; but if you had manifest information, you would be able to better select the ones you're going to run through.

Ms. DURANT. We run it all through, but it comes in on conveyor belts. So the inspectors are watching it and running pretty quickly. So we believe that we would continue to use the dogs, we would continue to use x rays as we do in our express industry; but we also believe that the technology that's available is more efficient for selection than just an inspector watching these packages run through the x ray.

Mr. TURNER. I know this is going to be a difficult question. I'd really like to have all of your opinions on it. But what percentage of narcotics that are flowing through the mail do we actually intercept, in your opinion?

Ms. DURANT. I don't believe we know. We have no idea in Customs.

Mr. TURNER. Mr. Williams, do you have any estimate on that?

Mr. WILLIAMS. No, sir, I do not. I know that we have had investigations also similar to DEA where we have obtained drugs transiting through the mail services, both U.S. postal and parcel services.

Mr. TURNER. So we don't have any idea of the volume of narcotics that are flowing through the mail that are uncaught?

Mr. WILLIAMS. No, sir.

Mr. TURNER. Is there any better technology available that we are not applying to trying to inspect these packages than the x ray that you referred to?

Ms. DURANT. Well, the x rays are pretty good, and we are forever improving those machines. They become more and more precise. The drug traffickers are more and more sophisticated and look for

ways to hide the x ray. And so we are always trying to improve it, improve the density levels and those sorts of things. But we believe that the combination of the nonintrusive technology, the dogs and this advanced manifest information, are about the most effective things available to us.

Mr. TURNER. Let me ask a little bit more about this ongoing dispute you say Customs has with the Postal Service about outbound mail. What are the issues there that cause that to be a problem?

Ms. DURANT. The Customs Service believes that our lack of authority to examine outbound mail is providing an enormous loophole for not only drugs but the assets of drugs and money laundering.

We have since the early eighties, and have currently, legislation to expressly give us outbound authority. We believe that we have that authority; the Post Office does not. I have to say that the Post Office has a privacy concern and that has been their express concern over all these number of years. But we really believe this outbound authority is crucial. It is the only area where we do not have search authority is in the mail on outbound.

Mr. TURNER. And is the opposition expressed by the Postal Service solely on preserving the privacy?

Ms. DURANT. They have expressed that concern. They have expressed a concern about the operational impact of outbound authority, which is a genuine concern, and we would certainly work with them in establishing an MOU, where the outbound mail would be delivered, how many resources we would be devoting to it, and that sort of thing. But their main express concern is that it violates the fourth amendment.

Mr. TURNER. Has there ever been any legislation to try to give you that authority?

Ms. DURANT. We have had legislation since the early eighties that has not been successful. We do currently have legislation pending again in the latest crime bill for outbound authority. Yes.

Mr. TURNER. Mr. Williams, what kind of additional resources do you need to combat what you described as the growing use of the Internet by drug traffickers?

Mr. WILLIAMS. Well, sir, we need not only personnel resources, additional personnel resources, we also need significant amounts of funding to be able to put into place infrastructures that will allow us not only to train our agents and other agents in other law enforcement, both Federal and State, but then have the ability to create a process where we will be able to engage the traffickers who are using the Internet through various course-authorized Title 3 investigations. So it is a resource problem that we will be faced with. And I think the other agencies will be likewise.

Mr. TURNER. Would any of the other witnesses like to comment on their needs for additional resources to combat this problem?

Mr. KEEFE. From DEA's perspective, sir, I would echo Mr. Williams' comments as far as our need to attack new technology, changing constantly. We used to see people just use hard-line telephones. Now we have seen cell phones and sometimes we never even know who the people are that are using the phones. We have worked numerous investigations, I'm sure everybody here could tell

you many cases, and now we're going against them also using the Internet.

This technology changes monthly and so it is an issue for us in law enforcement both in training, equipment, and in authorization to intercept them, sir.

Mr. TURNER. Mr. Dellicolli, did the discovery of the $100,000 worth of narcotics in the stuffed animal result in the arrest of anyone?

Mr. DELLICOLLI. No, no, sir. No, it did not result in an arrest. Someone was questioned regarding it, but there was not enough probable cause to effect the arrest.

Mr. TURNER. I get the feeling, with none of you being able to express an opinion regarding the volume of undetected narcotics that travel through the mail, that we may be in a position where drug traffickers understand that their use of the mail and the fact that a certain percentage is going to be detected is just a cost of doing business. And if we are at that point, it seems very obvious to me that we need to redouble our efforts in order to combat this very, very serious problem.

It seems to me that we better start trying to keep up with the drug traffickers and their use of technology. The example you cited, Mr. Williams, of the Colombian ring that uses university professors and other highly trained individuals seems like they have got the edge on us right now. So I certainly can appreciate the difficulty of the task each of you faces every day, and I would be remiss if I did not commend each of you who serve in the positions of responsibility for dealing with this problem for the good work and the hard work and dedication that you have exhibited.

And I also want to commend the private carriers for their willingness to cooperate. Good corporate citizenship by those who are in this industry, I think, is critical in trying to combat this problem. And I thank those of you here with the private sector for the efforts that you are making. Thank you, Mr. Chairman.

Mr. MICA. I thank the gentleman. I now recognize the gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. I guess what I'm trying to figure out is—and just following up on some of Mr. Turner's questions, is how we can, as the Congress, help you help this country. And Ms. Durant, I want to ask you about this manifest.

Tell us exactly what information would be on the ideal manifest?

Ms. DURANT. We would like to have—it's really not a tremendous amount of information, but we would need the sender, the recipient, and a description of the goods and probably an estimate of the value. If we had those basic information, particularly a goods description, country of origin, those kinds of things, we could use that information to better target. We are very heavily automated in Customs and use manifest information in all of our targeting efforts and we can build rules then to detect anomalies that will then let us know in advance. We can do research and analysis so that we can try to get ahead of shifts in operations in smuggling. It's just provided us with a vast tool, a really, really effective tool to become—to increase our efficiency and our effectiveness, without

disrupting the flow of goods across the borders to the legitimate traffickers. It just helps us so much in our analysis and selection.

Mr. CUMMINGS. And you said that the U.S. Postal Service is opposed to that?

Ms. DURANT. They are not opposed to it, certainly, but they do not agree that we need it—they are working on this message, as are we, as technical advisors to this group in Europe developing this manifest message. I do believe they have a bit of a challenge because other postal administrations would have to participate or we would have to come up with some way of capturing that information, which we certainly want to explore with them and not try to tackle everything at once.

But we do believe, for example, that in the Express Mail environment that information could be available. We could use it.

Mr. CUMMINGS. Now, I can imagine my constituents back in Baltimore listening to all of this, and I would bet any amount of money when I get back home somebody is going to ask this question, so I better ask it myself: Do you all talk? In other words, does the Postal Service talk with Customs? And how do you come to the conclusions that you just came to?

Ms. DURANT. We do talk. How I know how they feel about it is from these talks. I meet with them about——

Mr. CUMMINGS. I mean other than a hearing like this.

Ms. DURANT. No, we talk informally. We have to talk because we have to work together. They have to deliver the mail; we have to look at it. We have a shared interest in making sure that legitimate trade flows. So we do indeed talk.

I have a permanent liaison to the Postal Service on my staff. He does mail full time. I meet with them about every 3 months. I have another regular meeting scheduled with them. Our agents in the Office of Investigation meet with their counterparts in the Postal Service. So we do have a common concern about this. I don't want to give the impression that they are cavalier in any way about this problem.

I think we do differ on the approach, and we need to continue to talk and work together on that. But we believe that we have a different interpretation of our authorities and that we do need some clarification from the Congress on what those authorities might be.

Mr. DELLICOLLI. May I followup?

Mr. CUMMINGS. Of course.

Mr. DELLICOLLI. On the automation side of the question, to why automation is important, a significant number of Customs seizures are now based on prior information from the Office of Investigations, from DEA and the law enforcement people, and to be able to apply that prior information we have to have automated systems so that we can actually find the information, the piece, the package, the parcel that we are looking for.

We use it a lot with passengers coming into the United States. We have information. We have ways of identifying which plane a person is going to be on and who that person is when they arrive into the arrival area, and we need the same sort of ability to be able to find the suspect panel. If we have information, now, that the mail is being used for an inbound shipment of drugs, pretty

much we still have to rely on a lot of luck at the mail branches with manual lookouts, and we have no way of segregating and focusing on that piece of mail.

With respect to postal, I would like to say that we do, however, even though we have these issues with respect to the outbound mail authority, we do work with them on a daily basis. I'm the director of the Cyber Smuggling Center. We do a lot of investigation of on-line child pornography. We do work hand in hand with the Postal Service conducting these investigations. We also work very well with respect to controlled deliveries of drugs that we do seize inbound with the mail.

So we do work together. We've just agreed to disagree on this point.

Mr. CUMMINGS. I want to just go back for a moment to the stuffed animal. What amount of drugs was in there?

Mr. DELLICOLLI. Ten—I have to have it back again. 10,000 individual dosage units, individual pills, and it has a street value of approximately $100,000, I believe.

Mr. CUMMINGS. And would you hold the stuffed animal up so that the C–SPAN audience could see it?

Mr. DELLICOLLI. I think this probably came in around Easter time.

Mr. CUMMINGS. And the reason why I wanted to ask about this, I'm just curious about this. I think the thing that would kind of upset people is when they hear that no one was arrested. Not even arrested; is that right?

Mr. DELLICOLLI. Well, oftentimes what happens if we see something——

Mr. CUMMINGS. You can put him back in the box.

Mr. DELLICOLLI. He makes a better witness. But oftentimes, just because someone ships something to the United States that is addressed to an individual, that is not probable cause for an arrest. Somebody actually has to, you know, accept delivery of the parcel, and hopefully then we are actually able to prove that they were indeed, the intended recipient of that parcel.

Oftentimes people refuse to accept delivery of a parcel. It is especially critical that if we make a seizure, that we are actually able to effect a controlled delivery very quickly. Because oftentimes, especially with Express Mail deliveries, any delay in them getting their drugs in what they usually feel is the appropriate allotted time usually results in them refusing to accept the parcel.

So for instance, if this parcel came in, they knew this parcel was shipped and they were expecting delivery on Tuesday. And if it was discovered on Tuesday and it took law enforcement officials to Friday to obtain a search warrant and conduct the controlled delivery, there is a very good chance that the parcel wouldn't be accepted. I'm not familiar with the exact details of this case, but this is typically what happens.

Mr. CUMMINGS. So that parcel—and I understand what you just said, that you are not familiar with this case, but if that parcel was, say, delayed—let's say you picked it up in the regular course of things and discovered that there was a sizable amount of drugs there, what would you do then? Repackage it? Your normal course

would be to repackage it and then let it go on as fast as you could? Is that it?

Mr. DELLICOLLI. That's correct.

Mr. CUMMINGS. And then you would actually follow it to the location?

Mr. DELLICOLLI. That's correct. And if it came in with the U.S. mails, we would do that in conjunction with the U.S. Postal Service, and an actual postal inspector dressed as a mail carrier would actually make the delivery of the mail.

Mr. CUMMINGS. Now the moment that person signed for it and said OK, took the package in, that takes you to another level as far as your investigation is concerned; is that right?

Mr. DELLICOLLI. Yes, I prefer to not get into the specifics—but, yes, that's correct.

Mr. CUMMINGS. I understand. Let me ask you this, going back to the U.S. mail. Is it safe to say that they handle about 200 million pieces of mail a year? The U.S. Postal Service? Anybody know that?

Ms. DURANT. I don't. No.

Mr. CUMMINGS. In other words, they handle a lot more pieces of mail than private shippers. Is that a safe statement? Anybody?

Mr. WILLIAMS. I do not know.

Ms. DURANT. I don't know.

Mr. CUMMINGS. Nobody knows? OK. Going to Mr. Keefe, you talked about—you mentioned an investigation where there were quite a few people arrested. What was the name of that?

Mr. KEEFE. Operation Green Air.

Mr. CUMMINGS. And from your description of it, it sounded like you all had some pretty good intelligence.

Mr. KEEFE. We developed that intelligence as it went on. As I said, it was an 18-month investigation. And we worked the intelligence through and worked very closely with the FedEx Corp. security people through that time so that we could successfully conclude that investigation, sir.

Mr. CUMMINGS. Do you all spend a lot of your effort, time, and money with regard to intelligence operations? I mean, we are hearing about the dogs, we are hearing about the detection devices. And certainly intelligence. And I'm just wondering, when you look at your successful efforts with regard to these kinds of crimes, do you find that—I mean, I'm sure intelligence is quite expensive and I'm just wondering how much of a role it plays in successfully bringing these folks to justice.

Mr. KEEFE. I think intelligence—maybe I should try and understand exactly what we mean by intelligence, whether it is human intelligence, intelligence——

Mr. CUMMINGS. I'm dealing with human intelligence. I'm just saying getting information that something is about to happen, and getting information and hearing about it, because the operation that you described was very interesting because it sounded like a lot of people were involved. When you say you got 25 people that were FedEx employees and they were hiding all kinds of information, that sounds very intricate and it sounded as if somebody had to have some pretty good information to get to where you got to.

Mr. KEEFE. It started originally in an investigation in Boston, MA where they first ran into Jamaican traffickers who were traf-

fickers in marijuana. Through the Boston office sharing their information, the investigation extended to New York. Ultimately, to Los Angeles. In Los Angeles, we started working very closely with the FedEx representatives there. Then, from the Los Angeles investigation, we branched out to Atlanta, GA; Fort Lauderdale, FL; Newark; and back to New York City again.

And that's what I mean by the intelligence and the flowing and the sharing of that information with Customs was involved with that also and the Internal Revenue Service and many State and local officers. So it was like you mentioned, sir, bringing that intelligence together, sharing it, working together and taking the best efforts we can to culminate successfully the investigation.

Mr. CUMMINGS. You may have mentioned this, but how many convictions did you get out of that operation?

Mr. KEEFE. These people were just arrested in April, sir. So I'm not quite sure who—I know some have pled, but I couldn't tell you exactly.

Mr. CUMMINGS. OK. One other thing that I was just curious about, you know. I take it that the U.S. Postal Service believes that these manifests going back to you, Ms. Durant, would violate the fourth amendment privacy search and seizure guidelines. What are your attorneys telling you about that? I'm sure you all have attorneys that advise you; is that right?

Ms. DURANT. We do, indeed. We believe that our search authority gives us outbound authority. The manifest information is on inbound, which is where we would begin, is authorized legally, and the Postal Service does not dispute that. I think it's more of a matter of how we would do it and at what cost and the issue with the other postal administrations around the world.

I don't think we have a legal issue with the manifest information or even so much a privacy issue. It's more of a logistics, cost, how we do it kind of issue.

On the outbound authority, they have a serious legal concern. We believe that 31 USC 5317 provides Customs with warrantless border search authority in and out. The Post Office believes that the privacy concerns overtake that, the fourth amendment concerns that they have on outbound. They do not dispute search authority inbound. So what we believe is necessary is express authority from the Congress for outbound search authority.

Mr. CUMMINGS. I take it, you know, one of the things that we talk about up here on this side of the—up here quite a bit is that we don't—we try to project into the future and ask ourselves where will we be 5 years from now? Will we be having the same conversations? Will we be addressing problems that have gotten worse?

And you know, I'd just ask you all, Ms. Durant, without that clarification that you just talked about, I take it that if you were to project 5 to 10 years in the future, let's say 10 years in the future, our problem would be far worse; is that correct?

Ms. DURANT. We believe to be true, sir, yes.

Mr. CUMMINGS. Why do you say that?

Ms. DURANT. Well, there's just such growth in the drug problem. And this loophole on the outbound authority is providing, we believe, as one of the members mentioned, these drug traffickers and money launderers aren't stupid, and they don't think that we do

not search outbound mail. And so it's just clear to us that it would continue to provide a very big loophole for them and that the use of it would increase.

Mr. DELLICOLLI. May I followup on that?

Mr. CUMMINGS. Yes, please.

Mr. DELLICOLLI. Thank you, sir. The other reason is the Internet. As electronic commerce becomes more and more a part of the fabric of doing business in the United States, it is also going to become, more and more, a way of introducing prohibited merchandise, regardless of what that is, into the United States? We are seeing it with on-line pharmaceuticals. We are seeing it with intellectual property rights. As electronic commerce becomes the way we do business, the Express Mail companies and the U.S. mail are going to become the means for those products to move.

The Internet puts the source directly in touch with the supplier. The only piece missing now is how you get it from point A to point B, and we're seeing that now. The explosion in the pharmaceuticals is a direct result of on-line pharmaceutical sales. Seizures went from approximately 2,000 in 1998 to almost 10,000 in 1999, a 450 percent increase. And we attribute that to on-line pharmaceuticals.

So as more and more people learn how electronic commerce works and how—the drug traffickers learn how the electronic commerce sector works, it is going to be mixed up with legitimate and illegitimate business.

Mr. CUMMINGS. Finally, I just too want to take a moment to thank all of you for first of all being here, but I also want to thank you for what you do every day to try to make our country the very best that it can be.

The chairman has heard me say it many times: In my neighborhood I get to see the end result of drugs and the effects that they can have on families and have on communities and children.

And I know that you all work every day, every hour, trying to make a difference, and I know it's very, very difficult and that's why I applaud the chairman for holding this hearing because we do want to do everything in our power to help you do your jobs. And so we stand open and that's why we needed to hear from you today. And again I thank you.

Mr. MICA. Thank you, Mr. Cummings. We not only have the problem of illegal narcotics coming in by mail and postal or parcel packaging, I'm told that in a single 4-pound letter class parcel box of this size, you can—you can put approximately $180,000 in hundred dollar bills. Mr. Williams testified about the problem of money going out. And this is also a very convenient method; is that correct? These are the figures that I've been given, Mr. Williams?

Mr. WILLIAMS. Yes, sir, that's approximately correct in terms of the amount of money in large denominations that can be inserted into those type packages. Yes, sir.

Mr. MICA. And is that a growing problem, Ms. Durant? I mean, we've been concentrating on drugs coming in but drugs generate an incredible amount of money, cash. Are we seeing an increase in cash being transported by this method?

Mr. DELLICOLLI. In the past 2 years, Customs has seized—it's in our long statement—Customs has seized $17 million from Express

Mail in outbound operations. But because we don't have the authority to search outbound mail without probable cause——

Mr. MICA. One of the things that we have done, Ms. Durant, working with Customs when we have been made aware of some of the problems in trying to detect illegal narcotics coming into the border, is to get additional equipment, technology, in place. One of the things we've done in the last year or 2 is encourage R&D and also some new equipment at our borders. And some of that is being put in place as we speak.

Some of that's ion scanning equipment as opposed, I guess, to just the radar. Do you have any of that equipment in place? Are you utilizing ion scanning?

Ms. DURANT. We are utilizing all the equipment provided to us. And we do have a very big R&D unit. I would have to provide that for the record. I don't know.

Mr. MICA. If you could, we'd like to know.

You said that because of the sheer volume and increasing responsibilities of Customs to check both mail and also private parcels, that you either need more personnel or more technology; is that correct?

Ms. DURANT. Customs is feeling pretty overwhelmed on all fronts, yes, with the increase.

Mr. MICA. Can you tell me if you have a line item request or a specific request, then, for additional equipment to cover either private parcel examination with this equipment or postal examination?

Ms. DURANT. I would have to check for sure. I know we have submitted information. I don't know how far it's gotten in our request. I don't know how far it's gotten.

Mr. MICA. I'm not sure about that, but we do need to check with that. We need to talk to Mr. Kelly about it and see that we cover our bases there with this equipment and we can make that happen, I think.

We've heard a great deal about conflicts between the agencies, and also some problems with the law. I'm wondering, I guess with the Internet we've heard problems about advance in technology and also in transport today. And we've heard about, again, interagency conflict. But what about the law in regard to keeping up with this combination of Internet and also trafficking using the mails, which I guess illegal use of the mails, we have penalties. But are the penalties and the law keeping up with technology? Mr. Williams?

Mr. WILLIAMS. Sir, one of the areas that we believe that some congressional clarification can be provided to is the ECPA act, which as we know when it was originally drafted in 1986, related to a facility in terms of if you look at the PIN register trap and trace statute that's contained therein. Now, with the Internet, questions about whether or not that truly applies or how it's going to be applied is going to arise.

Also with the Internet communications, does a local prosecutor, for instance, have to seek a court order in all the districts in which the communications have passed and are stored in? It's an area of uncertainty at this particular point in terms of how you go and obtain information timely from various locales where information

may be stored on the Internet where it resides. That's an area that needs some look, if you would, by Congress.

All of the major drug trafficking organizations, and we look at them, are businesses. They're in it, it is a business. They have people who are specifically responsible for communications and obtaining the best and the most high-tech communication that they can find. We have seen the evolution of this use from the cell phone to the pager to the satellite phones, encryption, and to the Internet itself now.

So I think there has to be some look at how law enforcement is going to be able to respond to this ever-increasing use of high technology and if our laws are keeping up with the advances in technology. In terms of penalties, for instance, the selling of law enforcement badges over the Internet basically under the statute is a misdemeanor. And, of course, you are well aware it's being done, but it is still a misdemeanor. But look at the potential harm that this particular act can cause not only with security but with credibility of the institutions. So, yes.

Mr. MICA. Mr. Keefe, are you seeing disparity between the law, technology, and problems that we have in keeping up?

Mr. KEEFE. I would agree with Mr. Williams. A lot of it, too, is we have to, as investigators, become educated working with the prosecutors so that we understand what laws there are available now for us to work on to attack the Internet through what we refer to as a Title 3 wiretap process. I think there is a lot of education that has to go along with that and so the laws need to be changed. As you know, the Title 3 Omnibus Crime Control Act of 1968 has only been changed once, so it has to be looked at to see how technology has changed and how we in law enforcement can work with it.

Mr. MICA. Mr. Cummings and I always like to hold these hearings, but we like to see some tangible results so I'm going to ask the staff. I think Mr. Cummings would agree with me and Mrs. Mink, I would have a conversation with her, that we bring together these agencies informally. A little task force we'll put together and we'll do an assessment of how operationally we can do a better job, and I would like to have an assessment of equipment that's needed of a very short cycle here in appropriations.

But if we're missing equipment or we need R&D for equipment to get on line to help solve this problem, we'll do that. So from an operational standpoint, we want your recommendations for the subcommittee. And I'll ask the staff no later than by the end of June to have this—have a meeting.

And then I'd like the legal and technical people to come forward from DEA, from Customs, from FBI and any other agencies and provide us with an outline of how we can better craft the laws to deal with the situation we are facing. So we have something tangible come out of this and something that can hopefully make a difference. Is that agreed, Mr. Cummings?

Mr. CUMMINGS. Mr. Chairman, just a moment. I agree with you completely. We've said it often that we'll come together, and the question is what do we have after all the dust settles? We just had a session where we kind of aired some problems, but the question becomes what kind of results do we get?

And I agree with you and I applaud you for that, and I'm hoping that—I know that we will get maximum cooperation from the agencies because I think every single Member of Congress wants to do everything that we can to make sure that we, as I said a little bit earlier, help you help us. And so thank you, Mr. Chairman. I look forward to those meetings and I look forward to receiving the list, the equipment that you're talking about also.

Mr. MICA. Thank you. I don't have a lot of time to get into it now, but we also have been made aware of, as a subcommittee in Congress also, that we are having problems with diplomatic pouches, diplomatic mail from some U.S. Embassies and others. We had an incident where drugs were being transported and other contraband. We need to look at how we are approaching that both from our Embassies and from our military personnel and installations. And I would like some response back to the subcommittee on how we are tackling that problem.

Once again, on behalf of the subcommittee, we do appreciate your efforts. We do try to assist DEA, Customs, FBI and other law enforcement agencies and all those involved in this tough effort. We applaud you, again, and look forward to your cooperation. Mr. Cummings.

Mr. CUMMINGS. Yes, Mr. Chairman, I just wanted to make sure, and you just talked about the things that we, the followup that we will be doing, but one of the issues that came up, and I'm just wondering whether this is covered under what you were saying, this whole issue of the Netherlands and cooperation from other countries and what we could possibly do in working with maybe other committees, working with the—our agencies. I just did not know whether those kinds of issues were covered under what you're talking about, or whether you were just sort of leaving that out?

Mr. MICA. Well, I would like to pursue that. We have had meetings with the Minister of Justice. We also have coming, I believe within the next 2 weeks, representatives from the European Parliament, of which I am certain because we have had discussions with everyone, in particular Netherlands, because it had some difficulty. Actually, the new Netherlands delegates there are much more willing to take some steps to bring the situation under control. We had some problems with the previous representatives.

So I think at that meeting, and we can also meet with the Netherlands Ambassador and convey additional interest and concern to the Minister of Justice who was willing to cooperate with us. But they've got to toughen their laws and they know that. And they also have to close down some of these operations. But we will make that also an agenda item, Mr. Cummings.

Mr. CUMMINGS. Thank you very much Mr. Chairman.

Mr. MICA. Thank you. Again, thank you. There being no further business before the subcommittee, I'll excuse these witnesses at this time. And again we appreciate your cooperation.

I call the second panel this morning. The second panel this morning consists of Mr. Kenneth Newman who is the Deputy Chief Postal Inspector for Criminal Investigations with the U.S. Postal Service. Mr. Norman T. Schenk, and he is the Customs and Brokerage Manager for the United Parcel Service. Mr. Robert A. Bryden, and he is vice president for Corporate Security of FedEx Corp. And Mr.

James H. Francis, and he's the regional manager for Security with DHL Airways, Inc. Pleased to welcome these four witnesses this morning.

Again, this, is an investigations and oversight subcommittee of Congress. We will swear you in in just a second, and also if you have lengthy statements or information background that you'd like to have made part of the record, we will do so upon request. Remain standing.

We have a fifth person. Could the fifth person identify himself?

Mr. O'TORMEY. Walter O'Tormey.

Mr. MICA. And your position?

Mr. O'TORMEY. Manager of Processing Operations for the U.S. Postal Service.

Mr. MICA. OK. Thank you. Would you please raise your right hands.

[Witnesses sworn.]

Mr. MICA. All of the witnesses answered in the affirmative. And again, sir, if you could identify yourself one more time for the record. I don't have you on the witness list.

Mr. O'TORMEY. Sure, Mr. Chairman. My name is Walter O'Tormey. Last name is spelled O- apostrophe -T-O-R-M-E-Y. My title is Manager of Processing Operations for the U.S. Postal Service. I work out of Washington, DC.

Thank you. First witness I will recognize is Mr. Kenneth Newman. He's the Deputy Chief Postal Inspector for Criminal Investigations with the U.S. Postal Service. Welcome, sir, and you're recognized.

STATEMENTS OF KENNETH NEWMAN, DEPUTY CHIEF POSTAL INSPECTOR FOR CRIMINAL INVESTIGATIONS, U.S. POSTAL SERVICE; NORMAN T. SCHENK, CUSTOMS AND BROKERAGE MANAGER, UNITED PARCEL SERVICE; ROBERT A. BRYDEN, VICE PRESIDENT, CORPORATE SECURITY, FedEx CORP.; JAMES H. FRANCIS, REGIONAL MANAGER, SECURITY, DHL AIRWAYS, INC.; AND WALTER O'TORMEY, MANAGER, PROCESSING OPERATIONS, U.S. POSTAL SERVICE

Mr. NEWMAN. Good morning, Chairman Mica and members of the subcommittee.

Mr. MICA. Pull that up, Mr. Newman, as close as you can. Thank you.

Mr. NEWMAN. I appreciate the opportunity to appear before you today to report on the efforts and accomplishments of the Postal Inspection Service. These relate to the identification of drugs transported through the U.S. mails, and our investigative efforts to have the drug traffickers prosecuted. I have previously provided a written statement for the record.

I want to thank you, Chairman Mica, for your longstanding involvement in the war on drugs and for scheduling this hearing to address an issue of primary concern to the national law enforcement community.

The U.S. Postal Inspection Service is the primary law enforcement arm of the U.S. Postal Service, enforcing over 200 Federal criminal and civil statutes. We are responsible for protecting postal employees, the U.S. mails, postal facilities, and for protecting cus-

tomers from being victimized by fraudulent schemes or other crimes involving the mail.

We also work to rid the mail of drug trafficking, mail bombs, and perhaps one of the most despicable crimes, the sexual exploitation of children.

For many years postal inspectors have played a key role in the war on drugs. The objectives of our narcotics investigations program are to reduce the mailing of illegal narcotics and dangerous drugs and their proceeds, to protect postal delivery employees from violence related to drug trafficking, to keep illegally mailed narcotics from harming American citizens, and to preserve the integrity of the U.S. mail.

Every day, postal inspectors, in cooperation with our law enforcement counterparts, are conducting narcotics investigations. Both scheduled and unscheduled interdictions are conducted to identify and remove narcotics from the mails to develop intelligence and identify trends.

Each year we also establish national initiatives. From 1997 through 1999, the Inspection Service narcotics interdictions conducted nationwide resulted in the seizure of 8,617 packages containing controlled substances and over $15 million. During fiscal year 1999, postal inspectors arrested over 1,500 individuals for drug trafficking via the mail.

This year, a nationwide interdiction effort named Operation Spring Break was conducted at 62 locations. The operation was conducted in two phases and netted over 185 seized parcels, $428,000 in cash, over 1,900 pounds of marijuana, cocaine, and other controlled substances, and 50 arrests.

The Inspection Service has a long history of working with Federal, State and local law enforcement agencies in combating the proliferation of dangerous drugs in America. Obviously, our focus has been on the use of the mails as a vehicle for trafficking drugs and drug proceeds. This focus has led to a joint effort with local and State law enforcement on an informal basis with individual cases and task force cooperation. Regular joint efforts have been held and conducted in conjunction with the U.S. Customs Service. Formalized jurisdiction has been established with the Drug Enforcement Administration in the form of a Memorandum of Understanding.

The Inspection Service relies on the following major initiatives and programs to conduct investigations of the mailing of illegal and dangerous drugs.

Task forces. Postal inspectors along with local, State, and Federal law enforcement agencies, are members of organized crime and drug enforcement task forces as well as other multiagency task forces. These also include the security components from private carriers.

Working with the National Guard. Currently the Inspection Service has 42 National Guard personnel working in our program. They work in 45 locations within 15 of our 18 divisions and at FinCEN. We also gather local intelligence and work very closely with narcotics squads in metropolitan areas.

Seizure information and controlled delivery data, both from the U.S. mail and private carriers, is entered into the national prohib-

ited mailings—narcotics data base. A national postal money order data base is also utilized to analyze the use of postal money orders as a vehicle to launder drug proceeds. At FinCEN, we have two Inspection Service employees working at that unit.

The Inspection Service is involved in the high-intensity financial crime area initiatives in New York, New Jersey, Los Angeles, San Juan and the southwestern United States. And inspectors serve and participate on suspicious activity report review teams to exchange intelligence with other agencies.

The Inspection Service has continued to work with various law enforcement agencies in what have been identified as high-intensity drug traffic areas.

Our ongoing review of Express Mail labels helps to identify outbound parcels destined for foreign addresses that may contain drug money. New York inspectors have pioneered this technique and have provided training for postal inspectors nationwide.

As a further enhancement of our international efforts, the chief postal inspector chairs the Postal Security Action Group of the Universal Postal Union. That is a specialized agency of the United Nations. This group comprises postal security experts from 48 member and 28 observer countries which meet twice a year to discuss, formulate, and implement initiatives to improve security and integrity of the mail. Each year PSAG coordinates airport security reviews at major gateway airports, regional training courses in security matters, to include drugs in the mail and money laundering, and maintains a network of security specialists throughout the world.

The Postal Inspection Service will continue to provide investigative resources and leadership in its campaign to end the shipment of illegal drugs in the mail. We are committed to that goal. And our efforts have been fruitful. But more can be done.

In February 1998, Attorney General Janet Reno expressed an interest in addressing the issue of smuggling drugs through the mails and private carriers. Because of our experience in this area, the Inspection Service was asked to be part of a joint working group with DEA, the FBI, Customs, Federal Express, UPS, AirBorne, Emory, DHL and Federal and State prosecutors. In March 1999, the group recommended to the Attorney General that the Department of Justice implement a national initiative to pool resources, talents, and ideas to attack this problem in a coordinated fashion.

The initiative was to balance the concerns of law enforcement while accommodating the diverse and often seemingly contradictory concerns of private industry. Unfortunately, that effort lost momentum.

Over the past few weeks, we have approached DEA and they have agreed to help us restart and lead that initiative. I would like to invite the private carrier services here this morning to rejoin us as well. The Postmaster General has directed the Chief Postal Inspector and I to meet with the Commissioner of Customs to address a variety of mutual concerns. We met recently with Customs senior staff and look forward to hearing back from them regarding their participation in this important initiative.

Mr. Chairman, I would like to ask for your endorsement and support of this effort.

Again, I would like to extend my appreciation to the subcommittee and Chairman Mica for the opportunity to be here today, and I am available certainly to answer questions.

Mr. MICA. Thank you, and we will defer questions until we have heard from all of the witnesses.

[The prepared statement of Mr. Newman follows:]

STATEMENT OF
KENNETH NEWMAN
DEPUTY CHIEF POSTAL INSPECTOR
CRIMINAL INVESTIGATIONS
UNITED STATES POSTAL INSPECTION SERVICE
BEFORE THE
COMMITTEE ON GOVERNMRNT REFORM
SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY AND
HUMAN RESOURCES

May 26, 2000

Good morning Chairman Mica, and members of the Subcommittee. I am Ken Newman, Deputy Chief Postal Inspector for Criminal Investigations for the U.S. Postal Inspection Service. I appreciate this opportunity to appear before you today to report on the efforts and accomplishments of the Postal Inspection Service as they relate to the identification of drugs transported through the U.S. Mail and our investigative efforts to have the drug traffickers prosecuted.

I want to thank you, Chairman Mica, for your long standing involvement in the war on drugs and for scheduling this hearing to address an issue of primary concern to the national law enforcement community. Your record on drug enforcement is well known and your efforts to educate Congress and the American people on the dangers, prohibitions and penalties associated with use and transportation of illegal drugs and nonmailable matter is much appreciated.

The United States Postal Service handles forty percent of the world's mail volume. This massive undertaking is accomplished with a workforce of 800,000 postal employees in 40,000 facilities nationwide. During 1999 the Postal Service handled more than 200 billion pieces of mail, an average of 641 million pieces per day.

Jurisdiction of the United States Postal Inspection Service

The Postal Inspection Service is the primary law enforcement arm of the U.S. Postal Service, enforcing over 200 federal criminal and civil statutes. We are responsible for protecting postal employees, the U.S. Mail, and postal facilities from criminal attack, and for protecting consumers from being victimized by fraudulent schemes or other crimes involving the mail. We also work to rid the mail of drug trafficking, mail bombs and perhaps one of the most despicable crimes: the sexual exploitation of children. The Postal Inspection Service, which employs about 2,000 Postal Inspectors, 1,400 Postal Police Officers and 900 professional, technical and support employees, has performed many of these duties for over 200 years and is one of the oldest federal law enforcement agencies

Narcotics Investigations

For many years Postal Inspectors have played a key role in the war on drugs. Investigations of drug trafficking involving the mail originating from within the territorial borders of the United States remain the primary jurisdiction of the Postal Inspection Service. The objectives of our narcotics investigations program are to reduce the mailing of illegal narcotics/dangerous drugs and their proceeds, to protect postal delivery employees from violence related to drug trafficking, to keep illegally mailed narcotics from harming American citizens and to preserve the integrity of the U.S. Mail. Over the years our investigations have revealed that other postal crimes are committed by drug users. Serious mail theft problems have existed in Phoenix and other western cities that can be directly attributed to drug users. In 1999 the vast majority (77 percent) of mail volume attacks occurred in the western part of the country and are attributable to methamphetamine users, commonly called "meth heads."

Investigative Programs

Historically, the Postal Inspection Service has investigated drugs in the mail under Title 18, United States Code, Section 1716, Mailing of Injurious Articles. This section of the United States Code was enacted in 1909 and has been enforced by Postal Inspectors since that time. During the 1950s and 1960s, investigations involved relatively small amounts of illegal drugs, mainly marijuana, being shipped for sale or personal use. Investigations were generally initiated based on tips or information from other law enforcement agencies. Investigations generally wound up with a controlled delivery of the drugs by a Postal Inspector, with the subsequent execution of a search warrant and arrest of the recipient. In the 1970s, 80s and 90s, drug trafficking grew in our country to include more dangerous drugs, such as cocaine and heroin and grew into a multi-billion dollar and multi-national business. Additional federal statutes were enacted under Title 21 of the United States Code to provide stronger enforcement tools. With the advent of overnight delivery services, drug dealers began to utilize these services—including the Postal Service's Express Mail—as an expedited method of shipping drugs and payments.

Interdiction Efforts

To combat the use of Express Mail by drug dealers, sophisticated investigative techniques were developed by Postal Inspectors in the mid-1980s. Those techniques have been an effective gauge and method of detection of drugs in the mail for the Inspection Service. Both scheduled and unscheduled interdictions are conducted to identify and remove narcotics from the mails, to develop intelligence, and identify trends. As a result of these successes, the Prohibited Mailings -- Narcotics (PMN) program was refocused and regularly scheduled training for specialists was included. Everyday Postal Inspectors, in cooperation with our law enforcement counterparts, are conducting narcotics investigations. Each year we also establish national initiatives. For example, during 1990-1991, the Inspection Service conducted a nationwide drug interdiction effort. *Operation Clean Sweep*, as it was entitled, was conducted in 29 cities. This resulted in 159 controlled deliveries and or seizures of parcels containing controlled substances and 155 arrests.

The national PMN program was highly effective during the period 1991-1996; Postal Inspectors arrested a total of 9854 individuals during this period who were using the

mails to traffic in drugs. The types of drugs included cocaine, marijuana, hashish, heroin, LSD, Opium, steroids, mushrooms and methamphetamines.

In 1996-1997, *Operation Jet Ski* was initiated to substantially reduce the quantity of controlled substances in the mail stream coming from southern California. The operation was conducted in three phases and netted over $1.6 million in cash, nearly three tons of marijuana and 18 pounds of cocaine. It is important to note that all suspect parcels were opened with Federal search warrants and 93 percent contained narcotics.

A synopsis of statistics during the period 1997 through 1999 is given in the Results section near the end of this testimony

In FY2000, a nationwide interdiction effort named *Operation Spring Break* was conducted. The operation was conducted in two phases and netted over 185 seized parcels, $428,000 in cash, over 1900 pounds of marijuana, cocaine and other controlled substances and 50 arrests.

Initiatives and Cooperation with other Agencies

The Inspection Service has a long history of working with other federal, state and local law enforcement agencies in combating the proliferation of dangerous drugs in America. Obviously, our focus has been on the use of the mails as a vehicle for trafficking drugs and drug proceeds. This focus has led to joint efforts with local and state law enforcement on informal bases, with individual cases and task force cooperation. Regular joint efforts have been conducted with the U.S. Customs Service in conjunction with the discovery of illegal narcotics in foreign-originating mail. Formalized jurisdiction has been established with the Drug Enforcement Administration in the form of a Memorandum of Understanding (MOU). Signed in 1989, the MOU establishes the investigative jurisdiction and procedural guidelines for drug investigations involving postal employees and investigations where the mails are used in the trafficking of illegal narcotics.

The successes of our programs have resulted in additional resources being added to the PMN program. Presently, approximately 111 work years are devoted to the investigation of drugs in the mail and the mailing of the illegal proceeds from their sale. Forensic scientists assigned to the Inspection Service's National Forensic Laboratory support the PMN program, analyzing the drugs confiscated from the mail. In 1999 forensic experts performed 343 examinations of drugs in the mail.

The Inspection Service relies on the following major initiatives and programs to conduct investigations of the mailing of illegal and dangerous drugs:

- **Express Mail Label Analysis** A national database is utilized to profile and analyze labels that contain suspicious data or information.
- **Task Forces** Postal Inspectors, along with local, state and/or federal law enforcement agencies, are members of Organized Crime and Drug Enforcement Task Forces (OCDETF) as well as other multi-agency task forces, which include the security components of private couriers.
- **National Guard** Currently, the Inspection Service has 42 National Guard personnel working in the PMN program. They work in 45 locations within 15 of our 18 field divisions and at FINCen.

- **Local Intelligence** Postal Inspectors work with local narcotics squads in metropolitan areas on individual cases.
- **National Prohibited Mailings – Narcotics Database** Seizure information and controlled delivery data, both from the U.S. Mail and private couriers, is entered into this database.
- **Money Laundering** A national money order database is utilized to analyze the use of postal money orders as a vehicle to launder drug proceeds.
- **FinCEN** Two Inspection Service employees work at the Treasury Department's Financial Crimes Enforcement Network (FinCEN).
- **HIFCA (High Intensity Financial Crime Area)** The Inspection Service is involved in the HIFCA initiatives in New York/North Jersey, Los Angeles, San Juan and the Southwestern U.S.
- **SAR (Suspicious Activity Reports)** Inspectors participate on SAR review teams to exchange intelligence with other law enforcement agencies.

Our efforts at getting drugs out of the mail stream have been fruitful. In February of 1998, Attorney General Janet Reno expressed an interest in addressing the issue of smuggling drugs through the mails and private couriers. Because of our expertise and prosecutorial experience in this area, the Inspection Service was asked to be a part of a working group with DEA, FBI, Federal Express, UPS, Airborne, Emery, DHL and federal and state prosecutors. It was generally agreed that drug traffickers had turned to private courier companies to transport and set up distribution networks for drugs, as well as using the mails. The problem could not be adequately tackled unless the private couriers cooperate with law enforcement efforts. The concept was to expand upon local agreements that law enforcement and private couriers had established in the field level.

This was to be accomplished by:

- Organizing high-level federal government meetings with company CEOs;
- Structuring Memoranda of Understanding between law enforcement agencies and private courier companies providing for mutual cooperation (especially law enforcement access to private company databases);
- The enlistment of an overseeing agency in any cooperative effort

As a result of the meeting, in March 1999 the group recommended to the Attorney General that the Department of Justice implement a national initiative to pool resources, talents, and ideas to attack this problem in a coordinated fashion. The initiative was to balance the concerns of law enforcement, while accommodating the diverse, and often seemingly contradictory concerns of private industry. While that initiative lost momentum at the end of 1999, the Postal Inspection Service is meeting with its federal counterparts to ensure the effort moves forward.

The Inspection Service has continued to work with various law enforcement agencies in what have been identified as High Intensity Drug Traffic Areas (HIDTA). Inspectors participate in local law enforcement narcotics task forces; have established and trained drug parcel squads with police departments in Los Angeles, St. Louis, Philadelphia, New York, and several other cities to conduct parcel interdictions at overnight commercial carriers; and participate in multi-agency task forces with Customs, DEA and others in the seizure of drugs and other illegal items. In addition, Inspectors, at the request of DOJ,

have led many HIDTA efforts throughout the country, including prominent examples in Philadelphia and Baltimore. Some examples are:

- Since Fiscal Year 1995, Postal Inspectors in Philadelphia have been reviewing the Postal Service and express courier service industry for drugs. As a result, the concept of the Inspection Service/HIDTA Parcel Squad was developed. During FY 2000, the squad, working in cooperation with FedEx, Airborne, DHL and UPS year-to-date has seized approximately 90 parcels containing 1,100 pounds of marijuana, 20 pounds of methamphetaine, 12 pounds of cocaine, 1pound of crack and 3000 hits of LSD. We found significantly more and heavier parcels containing drugs being processed by other overnight commercial carriers. Eighteen percent of the 90 seized parcels were U.S. Mail.

- To date in FY 2000, Los Angeles Inspectors have seized 51 mail parcels containing drugs and 25 parcels containing $312,170 in drug proceeds. During this same time frame, while working with the Los Angeles Police Department, an additional 54 parcels containing 782 pounds of marijuana and cocaine were seized. All these seizures were from overnight commercial couriers. In San Diego, Postal Inspectors seized 76 mail parcels containing controlled substances and 17 parcels containing $268,507 in drug proceeds. In addition, the San Diego Narcotics Task Force seized 154 parcels containing 1379 pounds of marijuana from overnight couriers.

- During the period November 29 through December 11, 1999, a multi-agency task force was created to conduct parcel interdictions at overnight commercial couriers in the St. Louis, MO metropolitan area. The Inspection Service seized a total of 11 parcels--8 from FedEx, 2 from the United Parcel Service and 1 parcel from the U.S. Mail. The overnight courier parcels contained 11 oz. of heroin, 102 lbs. of marijuana and 3 stolen computers. The mail parcel contained proceeds from narcotics trafficking.

- The Washington Metro Division is an active member of the Baltimore/Washington HIDTA Drug Parcel Task Force. As of FY 2000, Inspectors seized 47 drug parcels from the mails containing 283 pounds of marijuana and cocaine. Seizure of 39 drug parcels from overnight commercial couriers contained 360 pounds of marijuana and cocaine, 35 vials of steroids and 10 boxes of illegal prescription drugs.

Use of Federal Search Warrants

For over two centuries, the American public has had an expectation of privacy in their mail, validated by decisions of the Supreme Court that the contents of their mail would be afforded the same protection from warrantless government surveillance as if it remained in their home. The Supreme Court of the United States has stated that, when considering Fourth Amendment protections against warrantless searches, mail is in a special category of effects and is entitled to the same protection accorded a person's home. This requires probable cause and a federal search warrant to seize and open mail. This mail consists of First-Class mail, Express Mail and Priority Mail, may not be seized, searched, or detained except under authority of a duly authorized Federal search warrant. The Inspection Service and other law enforcement agencies are required to follow these guidelines in our interdiction programs, both as a means to protect the privacy rights of the mailing public, and to ensure high quality investigations.

Controlled Deliveries

Once a lawful search of a parcel has indicated the presence of contraband, a controlled delivery is made of significant quantities. Postal Inspectors located at the originating and destination points of the parcel work together in developing evidence to prosecute the sender as well as the addressee. Since FY 1998 to date, Inspectors have conducted 2198 controlled deliveries. Most of the deliveries were generated as a result of domestic mailings. Referrals of foreign-originating parcels by the Customs Service constituted less than 250 cases.

Money Laundering and Outbound Internationally-destined Interdiction Efforts

Our ongoing review of Express Mail Labels coupled with frequent review of the USPS Product Tracking System helps to identify outbound parcels destined for foreign addresses that may contain drug money. New York and Newark Inspectors have pioneered this technique and have provided training for Inspectors nationwide along with other programs to identify money leaving the country via the mail. Our efforts have been to drive money launderers out of the mails. However, money launderers do periodically use the mails and the ongoing profiles have identified mailings leading to 37 seizures of outbound cash parcels destined to Colombia from 1997-99.

- New York Postal Inspectors seized $490,800 in cash in one week from 12 Express Mail parcels mailed to Bucarmango, Colombia, from various New York addresses.
- A multi-agency task force in New Jersey, consisting of Postal Inspectors, Customs, FBI and IRS agents arrested nine members of a narcotics and money laundering ring known as the "Dussan Organization." The group, operating in Queens, northern New Jersey and Colombia, structured postal and commercial money orders at post offices and convenience stores and used Express Mail to ship the money orders to businesses in the United States and South America. Approximately $3 million in proceeds were laundered.

As a further enhancement of our international efforts, the Chief Postal Inspector chairs the Postal Security Action Group (PSAG) of the Universal Postal Union (UPU), a specialized agency of the United Nations. This group comprises postal security experts from 48 member and 28 observer countries, which meet twice a year to discuss, formulate, and implement initiatives to improve security and integrity of the mail. Through PSAG, the U.S. Postal Inspection Service has established worldwide postal security networks in partnership with international authorities such as World Customs, United Nations Drug Control Program (UNDCP), INTERPOL, private operators, and the aviation security organizations to improve the quality of service, and safety and security of the mail for the U.S. Postal Service and 189 UPU member countries. Each year, PSAG coordinates airport security reviews at major gateway airports, regional training courses in security matters to include drugs in the mail and money laundering, and maintains the network of security specialists throughout the world to keep abreast of criminal activities directed at and through the use of the mails.

Results

From 1997 through 1999, Postal Inspection Service narcotics interdictions conducted nationwide resulted in the seizures of 8,617 packages containing controlled substances and over $15 million. During Fiscal Year 1999, Postal Inspectors arrested 1,537 individuals for drug trafficking via the mail. Seizures from the mail or as a result of the investigations included:

- 15, 436 pounds of illegal narcotics
- Approximately $6.5 million in cash and monetary instruments
- 66 vehicles
- 227 firearms
- 9 residences

Examples of case activity during 1999 are presented below:

- A man believed to be the largest distributor of "ice" (Methamphetamine) ever in Hawaii was arrested by Postal Inspectors and ATF agents on a no-bail warrant. Postal Inspectors, ATF agents, IRS agents and Delano, CA, police arrested a total of 35 suspects in this joint investigation. The ring imported $500,000 worth of ice a month into Hawaii from California using the mail and personal couriers.

- Eleven individuals were sentenced in a Washington, DC, area federal court to individual sentences ranged from 35 years to 3 years and 10 months in prison. Postal Inspectors found the group used 30 commercial mail receiving agencies (CMRAs) in the District of Columbia, Maryland and Delaware to receive significant quantities of cocaine and heroin mailed from Ecuador, South America. The case was investigated with the Drug Enforcement Administration and the Prince George's County (MD) Police.

Concluding Remarks

The Postal Inspection Service will continue to provide investigative resources and leadership in its campaign to end illegal shipments of drugs in the mail. Again, I would like to extend my appreciation to the Subcommittee, and Chairman Mica for the opportunity to discuss this issue today. I would be happy to respond to any questions at this time.

Mr. MICA. Our next witness is Norman T. Schenk, and he is the Customs and brokerage manager for UPS. Welcome, and you're recognized, sir.

Mr. SCHENK. Thank you, Mr. Chairman. I appreciate the opportunity to appear before you today.

I'm here to discuss how UPS works with the Customs Service to interdict narcotics and other illicit merchandise. Mr. Chairman, our efforts in this area are extensive but our philosophy is simple. UPS is committed to building the business connections of the next century, but we are committed in equal measure to ensuring those connections are used to deliver packages, not poison. When customers entrust parcels to UPS, we want them to be confident they will be shipped swiftly and delivered on time. But if drug dealers attempt to use our network to ship contraband, whether it be drugs or dollars, we want them to be certain they will be caught swiftly and they will do time.

Our partnership with the Customs Service has dramatically curtailed the flow of contraband. Today, Mr. Chairman, we urge you to ensure that the Customs Service has the 21st century tools it needs to maintain the extraordinary growth of commerce in this new millennium. Last year, the United States received 21 million commercial shipments. By 2004, that number is projected to climb to 50 million. Customs simply cannot inspect each shipment by hand.

Mr. Chairman, full funding of the new automation system known as ACE, the Automated Commercial Environment, is essential for Customs to keep pace with the growth of commerce.

No technology can enable the Customs Service to inspect 50 million shipments, but ACE can help Customs leverage the power of information to target its inspections efficiently and precisely.

Our own experience at UPS shows the difference such a system will make. Our advanced electronic manifesting procedure provides Customs with extensive information from the destination of a parcel to a description of its contents on every package we transport to the United States before it arrives at a UPS facility.

This information gives Customs a comprehensive electronic data base that enables it to spot patterns, pinpoint suspicious packages, and move swiftly. Full funding of ACE will give the Customs Service a similar tool, one becoming more essential with every shipment that arrives on our shores.

In addition to our work with Customs, UPS conducts an aggressive and thorough drug interdiction program of our own. We train delivery drivers to spot packages that may contain illegal drugs. We screen for suspicious parcels. We routinely work with the other law enforcement agencies like the FBI, DEA, and State and local authorities, including providing them information about any offender we identify.

UPS works closely with Customs officials at our major hubs at our own expense, as the law requires. We also work with Customs, especially through our tracking system, to target and search outbound UPS shipments. Our partnership with Customs has produced concrete results. During 1999, Customs' blitzes conducted with canine units and x-ray equipment resulted in no significant drug seizures at our main facility in Louisville, KY. Blitzes last

week in Houston and last July in Ontario, CA also discovered no contraband. A subsequent blitz of the same California facility did turn up one illegal shipment, a single box of Cuban cigars.

Mr. Chairman, we undertake these actions, and more, because it is our legal responsibility. But even more important, we do it because it is our moral responsibility. At UPS, our mission is building the business connections of the 21st century. But our vision is broader than parcels. It is ultimately about people. About people and a world drawn closer together through commerce and communication. Drugs have no place in that vision, Mr. Chairman, and no place in a single UPS vehicle or aboard a single UPS airplane. At UPS we like to say we run the tightest ship in the shipping business. We are also committed in partnership with the Customs Service to running a clean ship.

I would be pleased to answer any questions and thank you for your time.

Mr. MICA. Thank you. And we will get back with questions when we have heard from all the witnesses.

[The prepared statement of Mr. Schenk follows:]

"DRUGS IN THE MAIL: HOW CAN THEY BE STOPPED?"

Before the Subcommittee on Criminal Justice, Drug Policy and Human Resources

Committee on Government Reform

Norman T. Schenk
Customs and Brokerage Manager
United Parcel Service

May 26, 2000

TESTIMONY OF NORMAN T. SCHENK
Customs and Brokerage Manager
United Parcel Service

Before the Subcommittee on Criminal Justice, Drug Policy and Human Resources
Committee on Government Reform
"Drugs in the mail: How can they be stopped?"
May 26, 2000

Good morning, Chairman Mica and Members of the Subcommittee. My name is Norman T. Schenk, and I am the Customs and Brokerage Manager of United Parcel Service Worldwide Customhouse Brokerage. I am here at the invitation of the Subcommittee to explain the procedures that UPS follows to assist Customs in fulfilling its enforcement mission, including the interdiction of narcotics and other prohibited merchandise. Our close cooperation with the Customs Service has dramatically curtailed the ability of drug traffickers and money launderers to ship contraband through our system. We strongly support Customs initiatives to further reduce the flow of drugs and stop illicit drug money from leaving the United States.

In order for Customs to fulfill its enforcement and facilitation mission, UPS believes that it is critical that Congress fully fund the new automation system known as ACE – the Automated Commercial Environment.

As this Subcommittee is well aware, shipment of drugs through the mail has become a serious problem. Although Customs is doing all it can to stem the tide of illegal drug trafficking, it cannot inspect every import that arrives through the parcel post or via express carrier. Nonetheless, Customs has established safeguard procedures, which UPS and other express carriers have followed for years, which greatly reduce the opportunities for smuggling.

Over a decade ago, Customs, in partnership with our industry, issued detailed regulations to govern express carrier shipments. These regulations are found at 19 C.F.R. Part 128. The major requirements are as follows: (1) express carriers must file a manifest in advance of delivery; (2) they must use Customs' Automated Commercial System, or "ACS"; (3) they must develop a narcotics interdiction program; (4) they must maintain "closely integrated administrative control" over all shipments; and, (5) they must provide, at their own expense, sufficient facilities, equipment, and training to Customs officers at major express carrier hubs. These regulations allow express carriers to serve their customers without jeopardizing Customs' enforcement and facilitation efforts.

The most important practice that UPS employs to assist Customs in making effective inspections of international shipments is the "advanced electronic manifesting" procedure. Before an international shipment arrives at a UPS facility, we provide Customs with electronic information on each and every parcel that UPS transports to the U.S. This information includes the country of origin, the shipper's name and address, the addressee's name and address, a description of the contents, the tariff classification number, and the quantity, weight, and value of the parcel's contents. UPS and other carriers submit this information using Customs' automated system. This system provides Customs with an electronic database of information that it uses to develop cargo selectivity criteria and swiftly inform on-site inspectors about suspicious parcels. The automated system also allows Customs to analyze historical shipment data to spot trafficking patterns and tendencies in order to enhance future interdiction efforts. The full potential of the automated system cannot be realized without full Congressional funding for ACE.

Additional requirements under the express carrier regulations enhance the ability of Customs to carry out its enforcement mission. For example, an express carrier must work with Customs to develop a narcotics agreement. UPS has entered into a narcotics agreement with Customs under the "Carrier Initiative Program." In addition, UPS has its own narcotics interdiction program which contains a number of elements to detect drug shipments. UPS trains delivery drivers to be alert for packages that may contain illegal drugs. UPS also uses its own screening procedures to identify suspicious packages based on parcel information. UPS routinely cooperates with other federal agencies, such as the FBI and DEA, and state and local law enforcement agencies. Once offenders are identified, the data from UPS's parcel tracking and tracing systems is made available to law enforcement to help identify other culpable parties. In compliance with the express carrier regulations, UPS maintains "closely integrated administrative control" over our shipments from the time a package is received until it reaches its final destination. These policies allow UPS to supplement Customs' enforcement efforts.

UPS also supports Customs' interdiction efforts by working closely with Customs officials at its major hubs. Express carriers are required to provide Customs with office space and equipment, pay for training of Customs inspectors, and reimburse Customs for the cost of inspection services at express carrier facilities. Customs officers gain a comprehensive understanding of the express carrier's narcotics enforcement program and the general operation of the facility. As a result, express carrier facilities, like UPS's hub facilities in Louisville and elsewhere, are well-staffed, well-equipped, and well-coordinated to handle Customs enforcement matters.

While the express carrier regulations assist Customs in the interdiction of *imports* of illicit drugs, UPS also provides support to Customs in detecting *exports* of illegal merchandise. UPS procedures allow Customs to target and search outbound UPS shipments for export control violations, contraband, and other illegal merchandise. Most importantly, Customs inspects outbound UPS shipments for drug money that narcotics dealers are trying to send back to their cartels overseas. UPS's parcel tracking systems and screening criteria help Customs identify outbound packages that may contain drug money or other contraband. These procedures also apply to UPS international packages in-transit through the United States to foreign destinations.

Finally, in addition to these direct actions in support of Customs' enforcement efforts, UPS takes a number of other steps that lower the risk of contraband being shipped through UPS parcels. To reduce post-shipment tampering, UPS's facilities are monitored by cameras and parcels are held in restricted access areas. UPS also conducts background checks and other screening measures on its employees.

UPS's partnership with Customs to detect illegal shipments of drugs has produced concrete results. Customs conducts frequent "blitzes" of UPS facilities, where Customs inspectors arrive with canine units and x-ray equipment. During 1999, "seizure logs" maintained by UPS show that these "blitzes" resulted in no significant seizures of narcotics from UPS's main facility in Louisville, Kentucky. Customs blitzes last week in Houston and last July in Ontario, California also discovered no contraband. However, a subsequent blitz of the same California facility did turn up an illegal shipment—a single box of Cuban cigars.

Drug traffickers should not feel safe using UPS to transport contraband. Simple systems exist to further Customs' interdiction efforts, methods that express carriers such as UPS have successfully integrated into their operations over the past decade.

UPS is the third largest employer in the U.S. We are the world's largest express carrier and package delivery company, serving more than 200 countries and territories around the world. We maintain the largest in-house customs brokerage operation in the express industry, with 3,100 employees worldwide. On average, UPS imports over 50,000 packages into the U.S. per night and exports over 120,000 packages out of the U.S. per night.

We sincerely hope that the Subcommittee will find this information useful in understanding how we help Customs to stem the flow of illegal merchandise through the international mails.

I would be happy to answer any questions that you might have. Thank you.

Mr. MICA. Next we will hear from Robert A. Bryden, and he is vice president of Corporate Security for FedEx Corp. Welcome, and you're recognized, sir.

Mr. BRYDEN. Thank you, Mr. Chairman, distinguished members of the subcommittee. It is a pleasure to be here today to talk about this important topic. For me it is a pleasure with two distinct ends to it. One is it's an honor to be here representing the over 200,000 employees and contractors in the FedEx family. Second, a little over 4 years ago, I retired from the U.S. Department of Justice as the Chief of Operations for DEA. As such, I have some degree of knowledge in the topic that you're discussing today, and a high degree of interest in that as you can expect after a career that lasted a little over 23 years.

I think it's an important topic and I think the airing that you are giving it today is an important initiative. FedEx is proud to be part of this.

I also have a formal statement that I've submitted and I would ask that you accept that into the record.

Mr. MICA. Without objection, it will be part of the record.

Mr. BRYDEN. Thank you. I think very briefly I could summarize what I've heard from the law enforcement agencies today and what the FedEx view on this important topic is. We believe that, first and foremost, our first line of defense is a well-trained, motivated, and dedicated work force. We believe that we have that in FedEx and that recent experiences with DEA and Customs have highlighted the fact that our employees are well trained and able to spot suspicious packages with a high degree of confidence.

You heard about Operation Green Air earlier today. And FedEx is proud to have been part of that and able to work cooperatively with law enforcement agencies, which we've done for many, many years.

I think another link that's important to remember is we have to have that strong cooperative relationship with law enforcement agencies. Like all of the private companies that are represented here today, and others, we operate in more than one jurisdiction. So that strong relationship with Federal agencies that have the ability to prosecute cases across governmental lines is certainly an important one.

Our company and others, I'm sure, have a zero tolerance for employees or others that would use our system to violate the law. Drug trafficking is a terrible plague on our society that has affected probably every industry that we can imagine and every segment of our society. Our company believes very deeply that we have a strong civic responsibility to work with law enforcement, with the Congress, and with everyone in this country to move forward in our efforts to limit those options available to drug traffickers.

At times we put ourselves at immediate risk, as we did, quite candidly, to some degree in the Green Air Operation. Normally, when FedEx discovers illegal drug trafficking in our system, our normal process would be to investigate it internally, bring in the local law enforcement organizations that might have jurisdiction, then immediately at the conclusion of our internal investigation terminate any employees that were found to have been involved and to have violated that confidence that we place in them.

In the instance of Green Air, we were asked by DEA and Customs not to take that action and to let them continue that investigation for a period of time so that they would be able to uncover the full scope of that illegal criminal organization. We were happy to do that, even though our normal preference would have been to put a stop to it immediately and terminate the employees found to have violated law, rules, regulations, and our procedures.

I think, though, that at the end, that investigation showed not only that our system worked, but that we had a very close and fruitful working relationship with the Federal law enforcement agencies, and hopefully that we made a statement to those that would try to use our system in the future that we have some very good systems when working with law enforcement that make it very difficult for them to be successful over the long term.

I think another important thing for you to look at, and you have heard some of that today, is the issue of intelligence sharing and intelligence gathering. Certainly, my career in Federal drug law enforcement, and now in private security, leads me to believe that intelligence is integral to any operation to penetrate illegal activities. And I think that private industry does have a role to play in cooperating with law enforcement, to help give them information that they need when they need it and when they request it. And at FedEx, we are happy to have the technology available to provide to them data that helps them conclude many of their investigations in a very positive manner.

And I think finally, Mr. Chairman, and distinguished Members, the issue of technology is important for private companies as well as for the law enforcement agencies. You heard testimony earlier today from the agencies about how technology is leaping forward and putting a strain on law enforcement agencies. We in private industry and at FedEx are very proud of our ability to keep up with that technology and think that our technology is a strong leg on the stool, if you will, to help law enforcement do what they have to do to keep our country safe.

Mr. Chairman, that concludes my informal remarks and I appreciate the opportunity of being with you today.

Mr. MICA. Thank you.

[The prepared statement of Mr. Bryden follows:]

Hearings before the
Subcommittee on Criminal Justice, Drug Policy and Human Resources
of the Committee on Government Reform and Oversight
U.S. House of Representatives on
"Drugs in the Mail: How It Can Be Stopped"
May 26, 2000

Statement of Robert A. Bryden
Vice President
FedEx Corporation

On behalf of the management and 200,000 employees and independent contractors who make up the FedEx family, I would like to thank the Subcommittee for this opportunity to state our perspective on controlling the trafficking of drugs within a transportation network.

With more than 23 years of experience in drug enforcement – most recently as former Chief of Operations for the Drug Enforcement Administration – I am particularly pleased to have the opportunity to represent the FedEx Corporation.

Since our inception in April 1973, FedEx has revolutionized the air/ground express delivery industry. Today, the FedEx that you recognize is one of six operating companies that make up FedEx Corp. – a global transportation and logistics enterprise that delivers nearly 5 million packages daily. As such, it is vital to the success of our organization that we maintain security operations, policies and procedures for operations across the FedEx network. These measures have been created to prevent any and all illegal shipping via the FedEx system.

The transportation industry is changing. New developments in technology demand a leaner, faster business environment, and globalization is enabling us to connect geographies once untouched. As an express transportation company, we are helping to facilitate these changes, however, we recognize that in such a dynamic business environment, we face increased challenges to the integrity of our operations around the globe.

FedEx, like the Drug Enforcement Administration, U.S. Customs and other anti-drug organizations across the country, is concerned about prevalent illegal drug use in our society. We believe continued proactive cooperation with law enforcement and government officials sends a clear and strong message to those who would misuse our network. As policy, FedEx strongly denounces any attempted use of our system for illegal purposes.

We have established an outstanding reputation for cooperating with federal, state and local law enforcement agencies.

We have created new international divisions of our company dedicated to maintaining the integrity of our global shipping systems and monitoring for illegal shipping. This FedEx security force – including more than 500 security personnel around the globe – is highly skilled in airline-related security and surveillance methodologies. The company's security operations, policies and procedures meet and often exceed the requirements placed on the airline passenger and cargo industry by the Federal Aviation Administration and other international aviation authorities.

FedEx has developed numerous preventative activities across the FedEx network designed to stop unlawful shipments. Some of these activities include:

- Working with local law enforcement agencies and task force agencies to seek their assistance in handling and disposing of drug packages
- Conducting security awareness briefings at FedEx facilities
- Allowing law enforcement to use K9 officers at our facilities
- Allowing local police officers into facilities to provide a visible deterrent

In addition, FedEx cooperates fully with U.S. and international customs officials to ensure that our customers' packages are delivered safely and efficiently.

As you know, in April 2000, FedEx the Drug Enforcement Administration and U.S. Customs announced a cooperative effort to break up a drug-trafficking operation that used the FedEx system to distribute more than 100 tons of marijuana across the U.S. From the moment FedEx first detected these shipments in July 1998, we worked diligently, side-by-side with the Drug Enforcement Administration to expose the full scope of this operation. In fact, our cooperative effort with law enforcement in this case was cited by U.S. Customs as an excellent example of the kind of government/industry partnership we need to combat drug smugglers. It is important to remember that the professionalism of our FedEx employees outshines the actions by a few that chose to operate outside the scope of the law.

We believe that it is crucial that all corporations cooperate with federal regulators in order to prevent the distribution of illegal drugs through mail or other shipping means. We also feel it is the responsibility of companies to be open and willing to cooperate with a regulatory body in the case of drug trafficking or any other illegal activity.

In conclusion, we would like to thank the Subcommittee for the opportunity to express our commitment to the prevention of the illegal use of the FedEx system in this country and around the world.

Thank you for your consideration of the views of FedEx Corporation.

Mr. MICA. And we'll hear now from James H. Francis, and he is the regional manager of security for DHL airways. Welcome, sir, and you're recognized.

Mr. FRANCIS. Thank you, Mr. Chairman, members of the subcommittee. As noted, my name is James H. Francis, and I do represent DHL Airways here today. I am employed with them as regional security manager for the Southwestern United States.

DHL Airways is an express consignment air carrier and in conjunction with its sister company, DHL International, comprises an international shipping network known as DHL Worldwide Express.

DHL Worldwide Express maintains a network of 2,341 offices located in 234 countries located throughout the world. DHL ships to approximately 635,000 destinations worldwide, and within the United States DHL maintains 284 offices manned by over 10,000 employees. Shipments enter and exit the United States via one of DHL's seven gateways. On average, more than 1.2 million pounds of customer shipments move through our Cincinnati, OH-based central hub on a nightly basis.

Given the complexity of the world marketplace, we are consistently challenged with problems associated with the attempted shipment of illegal drugs within the DHL network. DHL's first line of defense in our war against shipment of illegal drugs is the integrity of our employees. DHL conducts exhaustive background investigation of our employees that handle customer shipments.

These background investigations including complete reviews for the employees former residences, former employments and a criminal conviction check, DHL meets or exceeds all of the background investigation requirements of the Department of Transportation, FAA, U.S. Postal Service, and U.S. Customs Service. We also utilize prehire drug screens to further assess a protective employee's fitness for employment.

After hire, DHL employees are subject to random drug screens and annual criminal conviction record checks. Our attention to hiring good people with strong character is integral in eliminating the possibility of drug corruption within our workplace. DHL also maintains a comprehensive shipment inspection program. DHL performs thousands of shipment inspections on a daily basis. DHL trains its employees to inspect all shipments that meet a certain profile criteria for contraband, i.e., illegal drugs.

Our shipment inspection program routinely leads to discovery of such contraband and eventual provision of notification and assistance to law enforcement. The DHL security department via its regional managers maintains constant liaison with local State and Federal law enforcement. DHL has frequently assisted the FBI, DEA, U.S. postal inspectors, and U.S. Customs Service with ongoing criminal matters where subjects of Federal investigations have utilized or attempted to utilize the DHL network.

This assistance has led to numerous criminal drug convictions, seizures of illicit drugs, forfeitures totaling in the millions of dollars. In the Southwestern United States alone, DHL assisted law enforcement on more than 30 occasions in the last 12 months. This assistance has lead to dozens of criminal convictions and recoveries in excess of $3 million.

DHL believes the best way to combat drugs in the mail is through a continued partnership with local State and Federal law enforcement. We specifically encourage law enforcement to better learn our network and the way that DHL does business. Through a more comprehensive understanding of the way that we conduct business, law enforcement can better know how DHL can help them solve specific drug problems. Further, DHL recommends that law enforcement communicate their concerns and needs more effectively directly with our security professionals.

We fully understand the need to know concept of information dissemination. However, if we are to assist you effectively, there are situations where we need to have more than just a casual briefing. Shipping in today's world has a myriad of complexities, many of which can thwart an investigation. By knowing what your specific goals are, we can provide you in law enforcement with our very best effort.

In conclusion, DHL Airways is a committed partner with the U.S. Government when it comes to eliminating illegal drugs from the mails. We expect the Government to recognize that our full cooperation is tempered by our concern for employees' safety, civil liability, and public perception issues. We stand ready to assist the Government in continued efforts to combat this menace. Thank you, Chairman Mica.

[The prepared statement of Mr. Francis follows:]

DHL Airways, Inc.

Prepared Statement for:

Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy, and Human Resources

Re:

"Drugs in the Mail: How Can It Be Stopped?"

Chairman Mica, Members of the Subcommittee, Participants and Guests:

My name is James H. Francis and I represent DHL Airways, Inc. I am employed as the Regional Security Manager for the Southwestern United States. DHL Airways is an express consignment air carrier. DHL Airways, in conjunction with its sister company, DHL International, comprise an international shipping network known as DHL Worldwide Express.

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Given the complexities of the world marketplace, we at DHL are consistently challenged with problems associated with the attempted shipment of illegal drugs within the DHL Network. DHL's first line of defense in our "war" against the

shipment of illegal drugs is the integrity of our employees. DHL conducts exhaustive background investigations of all employees that handle customer shipments. These background investigations include complete reviews of the employee's former residences, former employment's and a criminal conviction check. DHL meets or exceeds all of the background investigation requirements of the DOT, FAA, U.S. Postal Service and U.S. Custom's Service. We also utilize pre-hire drug screens to further assess a prospective employee's fitness for employment. After hire, DHL employees are subject to random drug screens and annual criminal conviction record checks. Our attention to hiring good people with strong character is integral in eliminating the possibility of drug corruption within our workplace.

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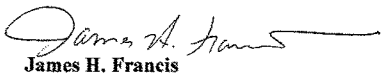
In conclusion, DHL Airways is a committed partner with the U.S. Government when it comes to eliminating illegal drugs from the mails. We expect the Government to recognize that our full cooperation is tempered by our concern for

our employee's safety, civil liability and public perception issues. We stand ready to assist the Government in its continued efforts to combat this menace.

Respectfully Submitted,



James H. Francis
Southwestern Regional Manager
DHL Security Department

Mr. MICA. Thank you. I thank each of you for your testimony and participation with our subcommittee today. Let me turn first to Mr. Newman for some questions. And Mr. Newman is with the Postal Service. You outlined for the subcommittee, Mr. Newman, I guess a task force or joint working group that was put together. Was that 1998?

Mr. NEWMAN. That is correct, Mr. Chairman. It was initiated in 1998. I believe their last report was in March 1999.

Mr. MICA. But that group was put together by the Department of Justice or who? Did you all initiate that?

Mr. NEWMAN. No, it was the Department of Justice.

Mr. MICA. And you worked for, I guess, somewhere in the neighborhood of a year and came up with conclusions and recommendations. Is that correct?

Mr. NEWMAN. That's correct.

Mr. MICA. And did you testify that as of March 1999 they were submitted to the Attorney General, the recommendations. Is that also correct?

Mr. NEWMAN. I'm not sure whether they directly went to the Attorney General; but this working group did issue a position paper, and it was sent to the Department of Justice. They were leading this initiative. We were part of it. And it's been my opinion on it right now is that it lost momentum toward the end of 1999.

Mr. MICA. So what was the tangible result?

Mr. NEWMAN. There was a position paper that talked about how this group could come together and build on local relationships, as some of the other witnesses have said; and I can tell you myself from having just returned from 10 years in the field, we do have a wonderful working relationships in local cities and environments and metropolitan areas. We have not seen that necessarily on a national basis. And the idea was to build on those local successes and see if the national organizations could make some recommendations and hopefully some positive changes.

Mr. MICA. Could you provide this subcommittee with a copy of those recommendations?

Mr. NEWMAN. We certainly will.

Mr. MICA. For the most part, it seems like not much was done after March 1999.

Mr. NEWMAN. Our last correspondence, I believe, was actually in October, expressing our concern that the momentum had been lost. And since I've arrived, I've tried to restart it and see if we can establish some further impetus and support for carrying this on.

Mr. MICA. That group included, I believe, UPS, maybe FedEx and some of the others. Are you all aware of that group, Mr. Schenk or Mr. Bryden? Did you all participate or your company you were with participate?

Mr. SCHENK. I am not aware of that participation.

Mr. BRYDEN. Mr. Chairman, I'm not aware either; but I'm very new to the company so it could have happened.

Mr. NEWMAN. My correspondence indicates that they all were, but some of the names and players have changed since that time.

Mr. MICA. OK. Well, that does concern me that that has sort of dropped off the radar screen, given the situation we find ourselves in with the Internet, with more parcel service, with more the global

economy and more package and mail transshipment between countries; and I think we'll have to take a very close look at what those recommendations were and see if we can pick up the ball on that.

Raised by customs and some of the other officials, the question of conflict between customs and U.S. Postal Service on outbound mail and the inspection and regulations law related to outbound mail. Can you describe postal service's position on that?

Mr. NEWMAN. Yes, sir. The postal service opposes the warrantless access to outbound mail because we believe there are alternatives. The courts that have considered this matter have recognized the U.S. mail as a special entity. The mail is different from correspondence that is carried by private carriers because it's carried by the Federal Government. As the custodian of the U.S. mail entrusted to us, we believe that Federal search warrants are the appropriate means for access to the mail.

We are faced with the delicate balance, though, between defending our borders and protecting the privacy rights of our citizens. Whereas here, though, there appears to be a workable middle ground that allows access to outbound mail by Federal search warrant, the Postal Service believes that the Government should protect citizens' rights unless all alternatives prove entirely unworkable.

We remain committed to working with law enforcement. As the track record of successful joint investigations indicates, there currently is a viable working alternative to random warrantless search of outbound mail. If in the future Congress determines that regulatory and legislative changes are necessary, we would certainly like to be part of the discussions and the development and implementation of new procedures.

Mr. MICA. You don't have a specific legislative recommendation for us today or that you could present to the subcommittee?

Mr. NEWMAN. Not today, sir.

Mr. MICA. Do you feel also that the law needs to be updated given, again, the new global marketplace that we find ourselves in with technology, with globalization? Is that the opinion of the U.S. Postal Service?

Mr. NEWMAN. I think we believe that there are other alternatives that need to be explored. And that's one of the things that we would like this national initiative to look at. We believe through task forces, focused interdiction programs, and the very effective use of intelligence, data systems and then obtaining Federal search warrants that we can be very successful.

Mr. MICA. Are you familiar enough with the recommendations of the task force to know if there were any suggested changes in law, or is it strictly administrative and operational cooperative procedures that were discussed as recommendations?

Mr. NEWMAN. I do not have that information right now, Mr. Chairman. I will provide that.

Mr. MICA. If you could. I'll turn to the private sector. You all are involved in a very dynamic marketplace. I've seen some of your operations which are incredible testament to free enterprise and ingenuity. I don't know if you've ever had a chance, Mr. Cummings; but it really is incredible, and they make a profit too, which is unique sometimes as opposed to government operations. But it sounds like

you've taken some steps to go after problems that have been identified, cooperated with law enforcement agencies. I want your perspective on two things: Are there changes that you see that are necessary in law given technology, given the global marketplace, given the sheer volume? And the other thing is there's something that we're not doing to assist you that we could do as a Congress, maybe in the way of technology, R&D, some of you spoke a little bit to. Maybe we'll start with Mr. Shank. Two questions.

Mr. SCHENK. Mr. Chairman, first on what you could do to help in this particular area, as mentioned in the testimony is supporting the funding for ACE. I know at UPS we have invested millions in sophisticated computer systems to help not only in the handling and processing of our package but also to work with the Government agencies and U.S. Customs to help them with screening. We provide them with a lot of information. However, if Customs cannot move forward with their computer systems, it's going to be very difficult to bring that together. So we would encourage the committee for support for Customs for their ACE.

Mr. MICA. What about the law? Adequate?

Mr. SCHENK. To be honest with you, I'm not really prepared to answer the legal side of it.

Mr. MICA. Maybe you could look at that and/or have your legal folks look at it, too.

I heard raised by one of the witnesses, too—maybe it was DHL—a question of liability and problems that you all might have as far as taking steps to assist us but yet get yourself into difficulty. Mr. Francis.

Mr. FRANCIS. Yes, sir. At DHL we try to balance ourselves, if you will, between being a good citizen and a private corporation. Obviously, we have concerns with the public perception that we're becoming an agent of the U.S. Government. Consequently, we're a for-profit corporation with the motive of making money for investors, and consequently we like to stay focused on that. But we do embrace the concept of being a good citizen, especially with regard to the interdiction of drugs. And we do work to cooperate, do everything that we can to assist local, State, and Federal law enforcement to that end.

Mr. MICA. Well, my question, though, is—and you raised some of that. I could pull it out of your testimony—maybe it's something like Good Samaritan, you know, the guy that goes comes along and tries to help and then finds himself involved in some litigation for being a Good Samaritan. Do you have specifics or maybe you could provide this subcommittee or your counsel can of how we can assist you in that area?

Mr. FRANCIS. I would best serve the committee by deferring this to our legal counsel and have him respond.

Mr. MICA. We would appreciate that. Mr. Bryden.

Mr. BRYDEN. I have two answers for you. First, being new to the company, I would like to have the opportunity to consult with others in the corporation and give you a more full response because seldom do we get an offer of what Congress can do to help private industry that's so generous. So I would like to take full advantage of that. I can tell you in just my short time with the company that I have seen what I think is tremendous ability to assist law en-

forcement and coming from a law enforcement background I'm impressed with that. I think the Green Air operation was a good example of that. And so nothing jumps out in my mind in terms of laws or any other techniques that would assist our company at this point. But I think there are others in the company that have worked on this issue much longer, and I'd like to avail their expertise on that to the committee.

Mr. MICA. Thank you. And we'd appreciate, again, any recommendations, suggestions as far as how we can—if it isn't with changing the laws or regulations, if there's something procedurally that's being done. Let me, if I may, Mr. Cummings, one more question for U.S. Postal Service and then I'll defer to you. Have you been involved or has the Postal Service been involved with discussions with the Office of Drug Control Policy or the drug czar on any of the problems that have been discussed here today about shipment, about recommendations from the task force, about controlling money through the mails?

Mr. NEWMAN. Mr. Chairman, I have met with the general at a brief luncheon meeting, and we do need to have some further discussions. I arrived in Washington in January and was very fortunate to have an opportunity to have an early meeting with him, but I certainly do need to talk to him again. I have not shared anything from that proposed initiative with him.

Mr. MICA. Just finally, procedurally, with U.S. Postal Service and U.S. Customs Service, you both are conducting drug investigations and investigations of illegal transport of illegal substances. Is that correct? Are you both conducting these? Is there an independent inspection by postal authorities and then a Customs on incoming international parcels and mail?

Mr. NEWMAN. No. It's done by U.S. Customs Service on incoming mail.

Mr. MICA. Totally by the Customs Service?

Mr. NEWMAN. The actual inspection and clearing. It's inspected and cleared by Customs Service.

Mr. MICA. But my point is you have a wealth of U.S. mail inspectors and investigators. So you're also doing some of this, or are you leaving all of this up to Customs?

Mr. NEWMAN. No. After an inspection, if in fact a suspicious item is detected, then the field agents, postal inspectors and Customs agents in the office of destination would then take it from there. And on a daily basis, we are working very closely with Customs agents on those investigations and the term used earlier controlled deliveries if those are in fact appropriate.

Mr. MICA. Thank you. Mr. Cummings.

Mr. CUMMINGS. Mr. Newman, picking up where the chairman left off, I'm just curious—the Customs people a little bit earlier talked at length about the need for manifest information. They seemed to indicate that the postal service had some concerns about that. And do you?

Mr. NEWMAN. Sir, if I could, I've asked Mr. O'Tormey to be here with me today. Mail processing operations is not my area of expertise. If I could defer to him.

Mr. CUMMINGS. Be happy to.

Mr. O'TORMEY. Mr. Cummings, yes, we do. We have no control over it at the origin point. We are dealing with approximately 185 countries around the world that shipped this past year inbound 11 million parcels to us. So we have very small amounts coming from various countries. We have no knowledge of the shippers because they originate in these countries, and some of those postal administrations are both private and they are the public. We have some difficulty with this issue. But we're willing to work with the Customs.

Mr. CUMMINGS. To what degree are you willing to work? I guess why I'm asking that is because, I mean, if there's something that we can do to make the job of detecting these illegal packages easier, if we can make a dent in it, it would be good to at least step in that direction. I was just wondering what are the possibilities that you see and things that you might be willing to do.

Mr. O'TORMEY. Mr. Cummings, I think it needs to be tied in some data bases and some information and some of the profiling that they've talked about such that we can target it and work with them to accomplish that. We think it can be done. But we need to tie that in with other sources of information, other profiles that we have and some data base and the computer systems that we have.

Mr. CUMMINGS. Mr. Bryden, I know you're new to the job, but I was just curious with regard to this Operation Green Air. I'm sure you've been briefed on it. But I'm wondering if that operation, without getting into too much detail, did FedEx learn some things in that operation that you could have changed to safeguard your system more? I mean, were you able to learn some things from it, or were the results of what you found out basically human beings taking advantage of a certain situation and just disobeying the law? Are you following what I'm saying?

Mr. BRYDEN. Yes.

Mr. CUMMINGS. I guess when you have an investigation, you can see internal problems, things that you can do to make a system tighter. I was just wondering. What kind of conclusions did you all come to?

Mr. BRYDEN. Well, I think we came to several conclusions. I think your question is an excellent one. First all, I think it's important to note that it was a FedEx employee who noticed a suspicious package going through our system in Los Angeles that first got FedEx involved in that investigation. And this employee through their training and previous experience on the job was able to spot a package without telling you exactly how, and to pull that package off of our system and call in one of our security experts to take a look at the package. That security officer then determined that it was probably contraband drugs and immediately called the drug enforcement administration. The DEA agents showed up and because as you heard earlier testimony they had seen some activity in Boston and I believe New York, but certainly we weren't aware of at that point in time. So DEA asked us not to take that normal action that I explained to you about doing an immediate investigation and terminating any employees that might have violated our policies. So it was at that point in July 1998 based on one of our employees who noticed a package that got FedEx involved in that investigation.

DEA certainly had information available to them that we did not have. All we knew is that they thought that the scope of that operation was such that they really wanted to let our system be used essentially over an 18- to 20-month period. Now you can imagine, Congressman, that was in some ways a difficult corporate decision to make because we pride ourselves on our employees and their motivation and the fact that they're trained to do nothing but take care of our customers' packages and handle them very quickly and efficiently.

But because of the scope and the seriousness with which DEA and Customs asked us to assist them on this, we were happy to do it. But we did learn some things as we went through this. And I think also the Federal agencies learned some things. For instance, I mean that investigation was as large as it was because our systems were able to identify previous shipments that had been used by this drug trafficking organization based on our technological availability of data; that we would go back and research. So without that technology that we have in our tracking and tracing system this case would not have been as large as it was explained to you today because they—law enforcement agencies simply do not have the capability of looking in our system and finding out what transpired. So it was a great example of public-private partnership, and I think they learned that certainly FedEx have a great capability to assist them.

What we learned is that we place a great deal of responsibility and confidence in our employees, and we're very proud of this. In this instance, unfortunately, we had some employees that chose to violate the law and to violate the confidence that we place in them to handle our customers' packages. I don't know of much we can do to regulate that other than hire good people, train them well, compensate them well, keep them highly motivated. With over 200,000 employees we're going to have some that make bad decisions. We're always disappointed when it's one employee, certainly in this instance it was more than that.

We intend to sit down with DEA again and do an after-action kind of a damage assessment with them to more fully understand what they saw that they could share with us that would help us tighten our system. Clearly, we saw some things regarding technology and the availability of it to employees that has given us some ways to tighten up our internal procedures.

Mr. CUMMINGS. I'm sure it was a difficult decision to—won't you talk about cooperating and letting, basically, the Federal Government sort of infiltrate your system. I agree with you that probably the benefits that came out of that for all of us are probably substantial. You know, I think it's good that you did that. And I would take it that I guess the company is probably a little bit better off now. I'm sure they sent a chilling message.

Mr. BRYDEN. We certainly hope so. We agree exactly with you. I think our corporation did the right thing in that instance; and although it was a little painful to know that we had some employees that were involved in things they shouldn't have been in, getting to the bottom of it and exposing the full scope of the operation was important to us as good corporate citizens. And I hope that, as you say, it does make an impression on people who would use the pri-

vate systems of all of our companies represented here today. We don't want that kind of contraband in our system. We work cooperatively just as law enforcement does with each other to also try to find ways to better help law enforcement stop that happening.

Mr. CUMMINGS. Mr. Schenk, you mentioned a little earlier you said that there were two or you may have mentioned three occasions where you went in—I forgot the words you used to describe it—putting the Federal folk into your facilities. What did you call that?

Mr. SCHENK. Blitzes.

Mr. CUMMINGS. Blitzes. I knew it was a football term, but I couldn't remember what it was. Your blitzes. They weren't able to find anything except a box of cigars on occasion. What do you attribute that to? Are you trying to say that your system is so good, and people know it's so good that that's why they weren't able to find anything?

Mr. SCHENK. Well, Mr. Cummings, I wouldn't be naive to say that we're perfect in terms of everything coming in. However, I think what it comes down to is corporate responsibility and leadership. Just as UPS has been out in the forefront on this e-commerce explosion, actually we've taken the same approach a while back with regards to drug interdiction. Again, it goes back to our systems technology that we've developed and up front and trying to keep these things out of our systems. Most of our customers are good customers, and those are the customers that we want. But we've invited customs and worked with them consistently on these blitzes to show that we're trying to be as compliant as possible.

Mr. CUMMINGS. Mr. Newman, let me just come back to you. The chairman asked a few questions about this commission set up by the Justice Department. And I think you said that there was some type of letter of recommendation, recommendations with regard to various issues. Did you serve on that committee?

Mr. NEWMAN. No, I did not. One of my predecessors did.

Mr. CUMMINGS. I see. Mr. O'Tormey, are you familiar with that at all?

Mr. O'TORMEY. No, I am not, Mr. Cummings.

Mr. CUMMINGS. I guess what I'm concerned about is I asked Customs a little bit earlier whether the agencies talked. I'm sure you may all have heard that question. I think the chairman was getting to this too, is where there are situations where the agencies can sit down and with the private sector and whoever else may be involved in this and come up with solutions, it's good. So often I think what happens is that Congress finds itself acting on things that maybe some of which could be addressed on the agency level. So it just seemed like it was a good idea, sounded like it was going in the right direction, and then for whatever reason like you said it got kind of thrown off course.

Hopefully, we can, Mr. Chairman, we can look into that since we had apparently a mechanism that was moving forward. And there was a letter of recommendation, recommendations—it seems only logical that we might want to instead of reinventing the wheel maybe we might want to take a look at that and see how we could possibly along with doing many other things make sure that that vehicle is in place and moving forward.

I think we also heard from Mr. Bryden and Mr. Schenk that they seem to have no problem with it. And I know that they may not be totally familiar; but it just seems like in listening to all the testimony—I don't mean to leave you out Mr. Francis—but it seems to me that if we have, I mean, when I listen to the testimony of all our witnesses, they all seem to be concerned about getting to this problem. And if we had that kind of mechanism set up, then I'd really like to see what we could do about making sure we resurrect it in hopes that we can address this problem from a lot of different angles. Because it is multifaceted. I think that the solutions must be multifaceted also. With that, Mr. Chairman, I am going to thank you.

Mr. MICA. I thank the gentleman. And I'll be glad to cosign a letter. I think we should inquire of the Attorney General, the Department of Justice, the status of those recommendations and if those recommendations have not been implemented why not and how long before we get this whole process moving forward. And we do not want to reinvent the wheel. We just want to make sure that the wheel is rolling and moving in the right direction.

I just have a couple of final quick questions. It's my understanding you have about 4,500 postal inspectors. Is there a specific division or number of inspectors that are dedicated to working on the problem of illegal narcotics?

Mr. NEWMAN. Mr. Chairman, we have 2,000 postal inspectors. We also have a uniformed force of police officers. But they are not necessarily involved in this. So we have 2,000 postal inspectors who are investigators, and of that approximately 111 workyears are committed nationwide to our narcotics program.

Mr. MICA. OK. Thank you. I also ended my questioning with one of the other panels about the problem that's recently been brought to our attention of shipments of illegal narcotics through some of the diplomatic mail or by our people posted overseas. Do you have specific information or could you provide us with what you're trying to do to bring some of this under control and also enforce the laws in that regard?

Mr. NEWMAN. Certainly. I think there was a case that was noted earlier, and that was a case that was worked with the U.S. Customs Service and the postal inspectors. It was a great cooperative effort. And I will need to, though, get back to you with specifics about what we're doing in the future in that area.

Mr. MICA. And we focused most of our attention on drugs coming in from other countries and money going out to drug dealers located abroad. But we do have the problem of domestic transporting and use of the mail and the Postal Service for transporting State to State or local on the domestic market. I think it would be best if you provided the subcommittee for the record what steps you're taking to see that we have adequate enforcement and in going after illegal narcotics in the domestic mail within the confines of privacy and other restraints I know you work under. Would that be possible?

Mr. NEWMAN. Certainly. Yes, sir.

Mr. MICA. All right. Mr. Cummings did you have anything further?

Mr. CUMMINGS. Just one question. Mr. Newman, when you all—when you suspect a package has an illegal substance in it, you automatically go outside of the agency? Is that right, Mr. O'Tormey.

Mr. NEWMAN. That would probably be my answer. I would be the person to answer, excuse me. If in fact it's a domestic item, we would obtain a Federal search warrant and then based on the local agreements, the local jurisdiction, the local law enforcement groups that we work with, we would then initiate an investigation. And it may take a variety of steps, controlled delivery. We may do additional intelligence gathering. We may do a variety of things with the local narcotics resources or the other Federal agencies in that particular area.

Mr. CUMMINGS. Thank you very much. I want to thank all of you for what you're doing. I said that to the other panel. And as I said before, we've got to work together to address this problem. But we really do appreciate what you all are doing. And you know in that light I just hope that we can all have this maximum cooperation since we're all on the same team. Thank you very much. And thank you, Mr. Chairman.

Mr. MICA. Thank you, Mr. Cummings. I do want to also express my gratitude to the witnesses on this panel for your cooperation, the private sector folks, the U.S. Postal Service dealing with a very difficult and challenging problem we face. But we appreciate your response to us and also your responding to some of the questions that we have asked. And also for your future cooperation. I think we can do a much better job with everyone working together.

So we'll excuse the second panel, and that does conclude our business for today. I would like to announce for the Members and for the record that the subcommittee will continue its series of national field hearings and on Tuesday, May 30, we will be in New Orleans at the request of a member of this panel, Mr. Vitter. A hearing on school drug testing, I believe, at 10 a.m. in New Orleans. On June 1, Thursday, in Orlando, FL, down in my area at my request we'll be looking at the problem of club drugs and some of the designer drugs and get an update on the situation in central Florida.

I appreciate the panel's assistance in the past in looking at the problem we've experienced in my own back yard in central Florida. And June 5, just before we return, on Monday morning in Dallas, TX, at the request of Congressman Sessions and the title of that hearing will be "Preventing Drugs in School in Dallas, TX." Again, we'll be leaving the record open here for responses. Mr. Cummings.

Mr. CUMMINGS. I just want to take a moment, Mr. Chairman, to say so long to Cherri Branson on our side, who for a number of years has been staffing this subcommittee. I want to thank you for all that you have done to make our jobs easier. It is so often we are the ones that end up looking good, and it's because of the work of staff that make it all possible. So as you move on to higher ground making a lot more money, and moving forward, we just want to thank you on behalf of this side, and I'm sure of the entire committee.

Mr. MICA. Well, I do also want to wish you well. We thank you for your bipartisan cooperation. I think we've made a number of

significant steps forward with our subcommittee and only because of your hard work. So everyone from this side of the aisle wishes you all the best and thank you for your great efforts on behalf of the committee, the subcommittee, Congress and the American people. Good luck.

Ms. BRANSON. Thank you.

Mr. MICA. There being no further business to come before the subcommittee on Criminal Justice, Drug Policy, and Human Resources today, this hearing is adjourned.

[Whereupon, at 12:10 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Responses to Supplemental Questions

asked by

U.S. House of Representatives
Subcommittee on Criminal Justice, Drug Policy and Human Resources

Re: "Drugs in the mail. How can they be stopped?"

Question Number 1: Explain the level of cooperation and intelligence sharing that occurs among your business and competitors in trying to prevent illegal drugs from being sent in the mail.

Answer: DHL's Security department works very closely with our industry counterparts regarding the problem of contraband shipping. We specifically work with each other when the shipper is common, both to us and our competitor, and attempts to use our networks to move contraband. We regularly share information that is of benefit to each other in halting contraband shipping.

Question Number 2: Address the level of cooperation and intelligence sharing among your organizations and law enforcement.

Answer: The level of cooperation between DHL and law enforcement has always been very good. DHL has always assisted law enforcement, when asked, to the extent that said cooperation did not endanger an employee or expose DHL to excessive liability. The level of intelligence sharing between DHL and law enforcement has room for improvement. DHL has found a reluctance on behalf of law enforcement to communicate directly with DHL's security professionals regarding many aspects of the crime they are investigating. This lack of shared intelligence often leads to misunderstandings.

Question Number 3: Are there any advancements in technology, equipment or practices that would help you do a better job detecting and stopping illegal drugs from being sent via the mail? Explain.

Answer: Yes. Improvements in x-ray technology have manifest themselves in superior detection devices that could be used to detect contraband more effectively.

Question Number 4: Please identify and explain initiatives or programs that your business is planning to implement in the future to stop shipments of illegal drugs. What additional resources are needed?

Answer: DHL's Security Department is constantly reviewing policy and revising same to make the DHL network a safer environment in which to work. Many of the policies and their revisions encompass detection/elimination of contraband from our network. One such policy is DHL's Shipment Inspection Program. Incorporated into this policy are specific techniques that DHL utilizes to identify packages suspected of containing contraband. After identification of such a package, DHL contacts law enforcement for the referral of the matter. The Shipment Inspection Program is under constant review and when new contraband identification techniques are developed, they are incorporated into existing policy. To make this program more effective, DHL would require a capital investment in technology, i.e., x-ray machines, and appropriately trained personnel to operate them.

Question Number 5: What is your business doing to stop drug money (from the sale of drugs) destined for foreign drug cartels from leaving the U.S.?

Answer: DHL strictly prohibits the carriage of money via its network. When money is detected via our Shipment Inspection Program, and is believed to be a product of the drug trade, or exceeds the statutory limit under U.S. Customs laws, the appropriate law enforcement agency is contacted and the matter is referred for further review.

Question Number 6: Explain the screening techniques used by your business to detect drugs and illegal transfers of money.

Answer: DHL currently utilizes a combination of technology and physical searches to detect contraband in our network. The specific details of our screening techniques are proprietary. (DHL believes this answer to be part of a public record, and as such, any description of particular techniques might become public knowledge, thus making them ineffective.)

Question Number 7: What changes in law would you recommend the Congress consider to help reduce and/or prevent potential liability lawsuits?

Answer: Establish a law that would grant cooperators with the government immunity from civil litigation.

Response to Questions of the Subcommittee on Criminal Justice, Drug Policy and Human Resources
Committee on Government Reform
"Drugs in the mail: How can they be stopped?"
May 26, 2000

Submitted by United Parcel Service

1. ***Explain the level of cooperation and intelligence sharing that occurs among your business and competitors in trying to prevent illegal drugs from being sent in the mail.***

UPS and its competitors routinely cooperate and share intelligence about many topics, including the methods used to prevent drug smugglers from shipping their poison via express carriers. One of the most common ways that UPS cooperates and shares such intelligence is through private trade organizations. For instance, along with many of its competitors, UPS is a member of the Air Courier Conference Association (ACCA) and the Air Transport Association (ATA), both of which meet regularly. ACCA and ATA both have security subcommittees, and at meetings of these subcommittees, UPS and its competitors often share information about methods, such as electronic tracking of parcels, that express carriers employ to prevent the illegal shipment of narcotics (and other contraband).

2. ***Address the level of cooperation and intelligence sharing among your organizations and law enforcement agencies.***

UPS has an excellent working relationship with law enforcement agencies such as the Customs Service, the Drug Enforcement Administration and the Federal Bureau of Investigation. For instance, on a day to day basis, UPS cooperates and shares information, where legally permitted, with Customs Inspectors, many of whom are assigned by law to UPS facilities around the country to clear parcel shipments. See 19 U.S.C. § 58c and 19 C.F.R. § 128. In addition, UPS has entered into a "narcotics interdiction" agreement with Customs. The information and agreement allow Customs to carry out its mission (e.g., by conducting periodic "blitzes" of incoming and outbound shipments). Finally, UPS routinely cooperates in formal investigations conducted by Customs, DEA or FBI special agents.

3. ***Are there any advancements in technology, equipment or practices that would help you do a better job detecting and stopping illegal drugs from being sent via the mail? Explain.***

The most important advancements in technology, equipment and practices that UPS needs to assist in the detection of illegal narcotics shipments is the implementation of Customs Automated Commercial Environment ("ACE"). UPS fully supports congressional funding for ACE. Both Customs and the trade community urgently need the development of this electronic communications system. Customs needs this technology and equipment in order to process the rapidly expanding number of international shipments. Processing international shipments through ACE will allow Customs to collect more accurate information about illegal shipments

and will also allow UPS and other express carriers to provide Customs with the timely information that it needs to interdict narcotics.

4. ***Please identify and explain initiatives or programs that your business is planning to implement in the future to stop shipments of illegal drugs. What additional resources are needed?***

UPS is currently taking steps to comply with a new law that Congress passed in 1999 that restricts trade with foreign drug kingpins and their associates. This law is the Foreign Narcotics Kingpin Designation Act. Public Law No. 106-120. The law calls on the Department of the Treasury's Office of Foreign Assets Control (OFAC) to publish a list of, and prohibit trade with, foreign drug kingpins and their associates. Violations of the law can lead to significant criminal and civil monetary penalties. OFAC recently published a comprehensive list and UPS is implementing procedures to ensure that shipments to or from these kingpins and their associates are not made through UPS. Because the costs of implementing procedures can be significant, UPS would support congressional funding of systems to comply. For instance, Congress could fund the development of standard software to screen international shipments.

5. ***What is your business doing to stop drug money (from the sale of drugs) destined for foreign drug cartels from leaving the U.S.?***

As a matter of policy, currency and negotiable instruments are prohibited in the UPS system. Further, UPS prevents the shipment of drug money (and other laundered monetary instruments) out of the United States by supporting the Customs Service authority to conduct outbound "border searches" and enforcement activities. UPS assists Customs in identifying outbound parcels for inspection and provides training to its employees to help them identify drug money shipments. For instance, UPS analyzes parcel data in its electronic tracking system and provides information to Customs. In addition, UPS provides Customs with detailed outbound manifest and Shipper's Export Declaration data to Customs.

6. ***Explain the screening techniques used by your business to detect drugs and illegal transfers of money.***

UPS has a comprehensive electronic tracking system, and it continuously analyzes parcel data to improve its already strong compliance rate. For instance, while UPS provides Customs with detailed manifest information, it also conducts independent reviews of manifests by ensuring that the quantity, weight and value of what is shipped matches the manifest data. These techniques allow UPS to screen shipments for compliance with various federal restrictions including those on drug trafficking, money laundering, and trade with embargoed countries (e.g., Iran and Cuba). In addition, UPS follows a number of business practices, such as thorough employee background investigations and training to enhance its strong interdiction efforts.

7. ***What changes in law would you recommend the Congress consider to help reduce and/or prevent potential liability lawsuits?***

UPS has not encountered recent problems with liability lawsuits for UPS's role in assisting Customs or other law enforcement agencies in interdicting narcotics or other contraband. However, UPS notes that the Customs laws contain an immunity provision for persons who assist Customs officers in making arrests, searches or seizures when the officers demand it. 19 U.S.C. § 507(b). UPS would welcome any clarification of this law to ensure that it immunizes UPS and its employees from any assistance rendered not only to Customs but also to other law enforcement agencies in the interdiction of narcotics and other contraband.

QUESTION 1: What estimates do you have regarding the extent (or percentage) of illegal drugs being transported via the mail or package carriers (as opposed to entering the United States through other modes)?

ANSWER: It is impossible to accurately estimate the extent of illegal drugs that are being transported via the mail or package carriers. However, between 1997 and 1999, mail and express consignments accounted for an average of 8.2 percent of all heroin seizures made by Customs. For the same period, mail and express consignments accounted for just over 1.4 percent of all Customs cocaine seizures. Thus far in Fiscal Year 2000, mail and express consignment seizures, to include the results of controlled deliveries, have exceeded 2.6 million tablets and accounted for 57 percent of all Customs ecstasy seizures. Over the past 3 years, the average amount of cocaine and heroin seized by Customs through the mail and express consignments was 2,291 pounds and 199 pounds, respectively.

QUESTION 2: How many agents and employees do you have working on preventing illegal drugs in the mail? Are more resources needed? Explain.

ANSWER: Customs has approximately 220 employees permanently assigned to our 14 International Mail Branches (IMBs) located throughout the United States. These employees consist primarily of Customs Inspectors, Mail Technicians, and Mail Specialists. Customs does not have Special Agents permanently assigned to the IMBs. The Special Agents respond to and conduct investigations based on seizures made by Customs Inspectors at these facilities and conduct controlled deliveries in coordination with the U.S. Drug Enforcement Agency (DEA) and the U.S. Postal Service (USPS). In addition, the agents initiate investigations on drug smuggling organizations that utilize the U.S. mail and express carriers independently of seizures made by Customs Inspectors. Many of these investigations also include participation with other federal agencies and local law enforcement.

With regard to the latter part of the question of whether more resources are needed, the answer is yes. From an investigative standpoint, additional funding would help in purchasing additional high-tech equipment utilized during investigations of drug smuggling organizations and during the execution of controlled deliveries. These high-tech items are expensive to purchase and maintain, but are essential, particularly in the success of controlled deliveries. In addition, the magnitude of the seizures of cocaine, heroin, and ecstasy through the mail would suggest the need for additional staffing and equipment to allow Customs to inspect more incoming parcels.

QUESTION 3: What new technologies are you implementing to better detect drugs in the mail? Is mail and package tracking a key capability for profiling and catching drug shipments? Explain.

ANSWER: The Customs Service recently graduated 13 narcotic detection dogs who were specially trained to locate the drug "ecstasy." In addition, non-intrusive search equipment such as x-rays, density readers, and ion detectors are purchased, as funding permits, to assist us in our drug interdiction efforts.

Mail and package tracking is a key capability for profiling and catching drug shipments. The ability to screen package information prior to its arrival in the United States would enable us to target high-risk shipments, and expedite low-risk shipments. Advance information gives us time to run necessary queries on persons, businesses, and addresses to assist us in our targeting. Knowing where a package is coming from, and where it is going to, makes a significant difference in our enforcement efforts.

QUESTION 4: What budget request has been submitted to Congress for new technology acquisition?

ANSWER: There have been no budget requests submitted for new technology to be used specifically at the Customs International Mail Branches. However, the FY 2001 President's Budget requests funding for four x-ray vans as part of Customs Narcotics Illicit Proceeds Strategy initiative. Outbound currency interdiction is a critical part of Customs counter-drug mission, disrupting the activities of drug smuggling organizations. This initiative will lead to increased drug currency seizures, increased arrests and prosecutions, and eventually the identification, arrest, and prosecution of higher-level leaders of trafficking organizations. Long-term benefits include increasing the cost to drug trafficking organizations to move their illicit proceeds, disrupting their financial activities, and more effective and efficient outbound interdiction efforts as outbound staffing and examination equipment are established at our borders. Customs feels that outbound search authority of the mail would produce similar results.

QUESTION 5: What kind of cooperation do you get from other countries such as Mexico and the Netherlands in intercepting illegal drugs in the mail?

ANSWER: Cooperation varies from country to country with regard to intercepting illegal drugs in the mail. For instance, the threat of drugs coming from Mexico in the mail is a lesser threat than drugs coming in the mail from the Netherlands and Thailand. As a result, there is less day-to-day dealings and cooperation with Mexico. In response to the growing ecstasy threat, Customs has established an Ecstasy Task Force at our headquarters. The mission of the

Task Force is to manage the national and international investigative activities of multi-jurisdictional cases, as well as to maximize the level of case exploitation and to support and enhance day-to-day inspectional operations relative to ecstasy trafficking. As part of this mission, the Task Force monitors all seizure and enforcement activity occurring across the Nation and globally. This information is then analyzed in an attempt to identify case commonalties and smuggling trends, and ultimately to provide support and direction to the field in a timely manner.

The Task Force has established contacts with many European countries, including Germany, France, Spain, Belgium, England, and the Netherlands. Meetings among representatives of these European countries occur on a monthly basis, addressing global ecstasy trafficking issues. At these meetings, current trend analysis and enforcement activity information is exchanged, as well as the planning and coordinating of proactive international operations targeting the use of international mail to smuggle narcotics. Intelligence and enforcement information from these operations is then passed onto the participating countries for dissemination.

QUESTION 6: With regard to the purchase of illegal drugs over the Internet, how big a problem is this in the United States? What reforms are needed?

ANSWER: Currently, the international sales of Schedule I & II drugs via the Internet are not yet a problem. However, the anonymity and ease of communication that the internet offers lends itself to this type of activity and it's only a matter of when, not if, this activity will occur. As with other prohibited merchandise sold via the Internet, international mail and express carriers will be the most likely vehicles for introduction into the US.

With regards to other drugs subject to abuse that fall within Schedule II, III & IV, Customs realized a 450% increase in seizures from 1998 through 1999. We attribute this increase to the advent of Internet pharmacies overseas. These drugs have known medical uses and can be sold legally by prescription. However, regulatory controls and enforcement capabilities differ from country to country.

Regarding reforms needed, the Customs Service role is related directly to interdiction and investigation of those responsible for willfully smuggling drugs into or out of the United States. To that end, the areas identified in the testimony relating to automation and outbound search authority would better enable Customs to perform its mission.

The Food & Drug Administration and DEA regulate the prescription drug business and would better be able to respond to questions pertaining to proposed legislation to better regulate the emerging online prescription drug business.

QUESTION 7: Are there ways to prevent the Internet sale of illegal drugs without restricting legitimate trade over the Internet? Explain.

ANSWER: Yes, but it will take a coordinated effort of interdiction, investigation, industry partnership, and foreign cooperation. Although drugs can be sold via the Internet, they still must be smuggled into the United States via traditional means.

The transportation mode of choice for Internet commerce is the U.S. mail and express carriers. The express carrier hubs and international mail facilities are the choke point for interdiction. Investigation and prosecution can be a valuable deterrent demonstrating that the anonymity of the Internet can be overcome. Working with industry, whether it is the mail carriers or pharmaceutical companies, can be very effective in finding ways to achieve the enforcement mission without hindering the movement of legitimate commerce. Cooperation with foreign governments' companies and joint pursuit of Internet-based investigations also offers a great opportunity to reduce the Internet's role in illegal drug distribution.

QUESTION 8: What level of information sharing do you have with DEA regarding drug shipments? Explain.

ANSWER: Customs recognizes that information sharing between agencies is an essential and a useful way to combat international drug smuggling. Customs and the DEA routinely exchange information concerning drug shipments and drug organizations primarily at the field level and headquarters.

Utilizing a "Task Force" concept, Customs combines it's resources with the DEA and other law enforcement entities in identifying, investigating, and preparing for the prosecution of international drug smuggling organizations. Information is routinely shared through the use of several internal databases maintained by each agency. These databases contain historical and current information on drug smuggling organizations. In addition to pure database intelligence, other examples of information shared concerning drug shipments include intelligence developed during wiretap investigations, information derived from confidential sources, information resulting from subpoenas, etc. Customs and the DEA are part of the El Paso Intelligence Center (EPIC), where intelligence is exchanged and disseminated on a daily basis.

Customs also has special agents and analysts assigned to the joint Customs/DEA/FBI/IRS Special Operations Division, a unit that coordinates overlapping drug and drug money-laundering investigations. In addition, Customs Headquarters currently has one special agent assigned full time as a liaison officer to the DEA Headquarters.

Questions Submitted to Kenneth Newman,
Deputy Chief Postal Inspector, Criminal Investigations,
U.S. Postal Inspection Service,
in Follow-up to the Hearing on May 26, 2000

1. Should the USPS do more to prevent the transport of illegal drugs through the mail and packages?

Answer: The United States Postal Inspection Service, which enforces more than 200 federal criminal and civil statutes, has a broad mandate to ensure the sanctity of the mail. While more could always be done, we believe that the Inspection Service is devoting sufficient resources to curbing the flow of drugs through the mail. Last year, approximately 111 work years were dedicated to the investigation and prevention of drug trafficking through the mail.

The Inspection Service has the following major initiatives and programs in place to combat the drug trade and use of the mails:

- **Express Mail Label Analysis**—A national database is used to profile and analyze labels that contain suspicious data or information.
- **Task Forces**—Postal Inspectors, along with local, state and/or federal law enforcement agencies, are members of Organized Crime and Drug Enforcement Task Forces (OCDETF) and other multi-agency task forces, which include the security components of private couriers.
- **National Guard**—Currently, the Inspection Service has 42 National Guard personnel working in the PMN program. They work in 45 locations within 15 of our 18 field divisions and at FinCEN.
- **Local Intelligence**—Postal Inspectors work with local narcotics squads in metropolitan areas on individual cases.
- **National Prohibited Mailings – Narcotics Database**—Seizure information and controlled delivery data, both from the U.S. Mail and private carriers, is entered into this database.
- **Money Laundering**—A national money order database is utilized to analyze the use of postal money orders as a vehicle to launder drug proceeds.
- **FinCEN**—Two Inspection Service employees work at the Treasury Department's Financial Crimes Enforcement Network (FinCEN).
- **HIFCA (High Intensity Financial Crime Area)**—The Inspection Service is involved in the HIFCA initiatives in New York/North Jersey, Los Angeles, San Juan and the Southwestern U.S.
- **SAR (Suspicious Activity Reports)**—Inspectors participate on SAR review teams to exchange intelligence with other law enforcement agencies.

The Inspection Service has continued to work with various law enforcement agencies in what have been identified as High Intensity Drug Traffic Areas (HIDTA). It participates in local law enforcement narcotics task forces. It has established and trained drug parcel squads with police departments in Los Angeles, St. Louis, Philadelphia, New York, and several other cities to conduct parcel interdictions at overnight commercial carriers. It also participates in multi-agency task forces with Customs, DEA, and others that work to seize drugs and other illegal items.

Our efforts at getting drugs out of the mail stream have been fruitful. In February 1998, Attorney General Janet Reno expressed an interest in addressing the issue of smuggling drugs through the mails and private couriers. Because of our experience in this area, the Inspection Service was asked to be a part of a working group with DEA, FBI, Customs, Federal Express, UPS, Airborne, Emery, DHL, and federal and state prosecutors. It was generally agreed that drug traffickers, in addition to using the mails, had turned to private carrier companies to transport and set up distribution networks for drugs. As a result, the problem could not be adequately tackled unless private carriers cooperated with law enforcement efforts. The concept was to expand

upon local agreements that law enforcement and private carriers had established in the field level. The Postal Inspection Service is meeting with its federal counterparts to ensure that this effort moves forward.

a. How is USPS more limited in its efforts than its private sector competitors?

Answer: As a federal law enforcement agency, the Inspection Service is required to abide by the Fourth Amendment to the U.S. Constitution, which prohibits the opening of mail without a search warrant. Federal law also forbids the opening of sealed letter class mail of domestic origin without a warrant. Unlike the Postal Service, private sector competitors are not bound by laws regulating access to items in their control.

However, current laws do not limit the efforts or reduce the effectiveness of Inspection Service investigations. On the contrary, the existing laws promote a higher rate of efficiency in judicial proceedings. In numerous cases, such as in the *Operation Jet Ski* interdiction (details were provided in written testimony), all suspect parcels were opened with a federal search warrant. Of those parcels opened, 93 per cent contained illegal drugs, which resulted in the arrest and conviction of over 100 suspects. Our efforts not only reduce illegal drugs in the mail, but also have resulted in Postal Inspectors having one of the highest rates of conviction of criminals among all law enforcement agencies.

b. What additional resources are needed?

Answer: All law enforcement agencies can use additional resources in carrying out their missions. However, with reduced budgets and multiple priorities, an increase in resources is unlikely. That is why partnering with other law enforcement agencies on task forces and joint interdictions allows us all to be more effective in fighting those who use the mails to traffic illegal narcotics. Multi-agency task forces are force multipliers.

Continued cooperation is needed among all the concerned parties to reduce the mailing of illegal drugs. Law enforcement agencies need to be trained in the substantive issues involving effective techniques involving interdiction techniques, package profiling, and building a case. Private industry employees of the parcel service companies need to be trained in procedures for identifying and handling suspicious packages, specifically in terms of appropriate action and prompt notification of law enforcement.

2. What is the role of postal inspectors with regard to illegal drug shipments via the mail?

Answer: For many years, Postal Inspectors have played a key role in the war on drugs. Investigations of drug trafficking involving the mail remain the primary jurisdiction of the Postal Inspection Service. Historically, the Postal Inspection Service has investigated drugs in the mail under Title 18, United States Code, Section 1716, Mailing of Injurious Articles. In the 1970s, 1980s, and 1990s, drug trafficking increased in our country. The sale of more dangerous drugs, such as cocaine and heroin, grew into a multi-billion dollar and multi-national business. Additional federal statutes were enacted under Title 21 of the United States Code to provide stronger enforcement tools.

With the advent of overnight delivery services, drug dealers began to use expedited methods to ship drugs and payments. To combat the use of Express Mail by drug dealers, sophisticated investigative techniques were developed by Postal Inspectors in the mid-1980s. Those techniques have been an effective gauge and method of detection of drugs in the mail for the Inspection Service.

Over the last decade, Postal Inspectors have conducted and continue to conduct interdiction activities to identify and seize illegal drugs and the proceeds of illegal drug sales being carried by

mail. Ongoing interdiction programs (investigations) are conducted to identify suspicious mail at any point during its collection, processing, shipment, or delivery. Postal Inspectors also assist other law enforcement agencies in their interdiction efforts through interagency task forces, local police parcel squads, and private industry security. Once a suspect item is identified, and it is determined there is probable cause the item may contain illegal drugs, Inspectors obtain a search warrant and complete the investigation.

a. What is, or should be, the role of the Office of Inspector General?

Answer: The Postal Inspection Service is the primary law enforcement agency for the United States Postal Service and has investigative jurisdiction over postal crimes involving the mail. The Inspector General's role is to investigate fraud, waste, and abuse in the Postal Service. The Postal Inspection Service and the Office of the Inspector General have agreed on a clear designation of functions. Under the designation, the Postal Inspection Service is responsible for the investigation of prohibited mailings, which includes drugs in the mail.

3. What can be done to prevent abuses of the diplomatic mail and military mail?

Answer: Military mail, both APO and FPO, is treated as domestic mail throughout its transmission to its foreign destination. As such, it is not subject to warrantless search; however, it may be searched pursuant to a duly executed federal search warrant. Items greater than 16 ounces must be accompanied by a Custom's declaration. Inbound military mail is subject to Customs' border inspection at the designated first ports of entry. Military mail accepted in a foreign location may be subject to search and inspection prior to acceptance by the Department of Defense.

Department of State mail contains certain types of personal mail sent to authorized U.S. citizen-employees of the federal government stationed in other countries. This mail is different than "Diplomatic Pouch" mail, which is withheld from any inspection and is to be used for diplomatic documents only. All Department of State mail is subject to opening and inspection by the Department of State. The Department of State conducts such inspections; the Postal Service is merely the carrier. Like military mail, Department of State mail is subject to Customs inspection inbound.

Postal Inspectors, along with the Customs Service and the Army's Criminal Investigations Division, investigated a recent case involving the misuse of the APO system. The case involved Laurie Anne Hiett, the wife of an Army colonel, who was using the system to smuggle drugs out of Colombia. After learning of Laurie Anne Hiett's use of the APO system at the American Embassy in Bogotá, Colombia to traffic in narcotics, Postal Inspectors proactively addressed this issue by looking for ways to identify potential APO security/integrity problems at the American Embassy in Colombia, as well as other the other high-risk Embassies in Latin America.

The Inspection Service's International Airport Team in Miami developed an APO Dangerous Goods Review program. The goal of the review was to develop recommendations to assist the U.S. Postal Service and the military in keeping drugs and other dangerous goods out of the APO/FPO mail system. To date, the Miami International Team has undertaken the following steps:

1. Questionnaires were sent to all APO/FPOs throughout the Caribbean and Latin American regions. Responses to the three-page, 17-question document help to establish a profile for each APO/FPO operation and help to further determine whether proper accountability has been instituted at each post office. The questionnaire also helps determine whether proper procedures are being followed when parcels are accepted for mailing, as well as what action is taken when the supervisor suspects a parcel contains non-mailable items.

2. Additionally, Postal Inspectors have conducted on-site reviews at the APOs in Bogotá, Colombia; Caracas, Venezuela; Bridgetown, Barbados; Montevideo, Uruguay, and Tegucigalpa, Honduras.

The Miami International Team is in the process of organizing and analyzing the questionnaire data. Additionally, they plan to conduct on-site reviews of several large APOs to obtain a good statistical sample (approximately 25-30%) of the region. In Washington, D.C., Postal Inspectors and the U.S. Postal Service's International Operations Support Group maintain close liaison with the Military Postal Service Agency in an effort to ensure better integrity of the APO/FPO mail stream.

4. What is USPS doing about the growing drug trade and use of the mails?

Answer: The Postal Inspection Service continues to develop techniques and methods to combat the drug trade and use of the mails. The following major initiatives and programs assist in these efforts:

- **Express Mail Label Analysis**—A national database is used to profile and analyze labels that contain suspicious data or information.
- **Task Forces**—Postal Inspectors, along with local, state and/or federal law enforcement agencies, are members of Organized Crime and Drug Enforcement Task Forces (OCDETF) and other multi-agency task forces, which include the security components of private carriers.
- **National Guard**—Currently, the Inspection Service has 42 National Guard personnel working in the PMN program. They work in 45 locations within 15 of our 18 field divisions and at FinCEN.
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The Inspection Service has continued to work with various law enforcement agencies in what have been identified as High Intensity Drug Traffic Areas (HIDTA). It participates in local law enforcement narcotics task forces. It has established and trained drug parcel squads with police departments in Los Angeles, St. Louis, Philadelphia, New York, and several other cities to conduct parcel interdictions at overnight commercial carriers. It also participates in multi-agency task forces with Customs, DEA, and others that work to seize drugs and other illegal items.

Our efforts at getting drugs out of the mail stream have been fruitful. In February 1998, Attorney General Janet Reno expressed an interest in addressing the issue of smuggling drugs through the mails and private couriers. Because of our experience in this area, the Inspection Service was asked to be a part of a working group with DEA, FBI, Customs, Federal Express, UPS, Airborne, Emery, DHL, and federal and state prosecutors. It was generally agreed that drug traffickers, in addition to using the mails, had turned to private carrier companies to transport and set up distribution networks for drugs. As a result, the problem could not be adequately tackled unless private carriers cooperated with law enforcement efforts. The concept was to expand upon local agreements that law enforcement and private couriers had established in the field level. The Postal Inspection Service is meeting with its federal counterparts to ensure that this effort moves forward.

5. The Customs Service has been seeking authority to search outbound mail for more than a decade. Reportedly, Postal Service has resisted this effort, considering outbound mail as "protected." Explain why inbound mail, which is subject to Customs inspection, is treated differently from outbound mail. On what basis does USPS believe outbound mail is constitutionally protected from Customs examination? Does USPS have authoritative legal opinions and practical guidance on these topics?

Answer: There is both a statutory conflict and a constitutional question that makes warrantless search of outbound mail problematic.

While Customs does have broad authority to protect the U.S. borders, both inbound and outbound, that authority is statutory and limited by the Fourth Amendment to the U.S. Constitution. The Postal Service also has a statutory mandate, at 39 USC 3623(d), to maintain one class of mail, of domestic origin, that is sealed against inspection. That class of mail is First-Class Mail, which includes Express and Priority Mail. There is no similar statutory mandate to maintain foreign mail sealed against inspection.

The U.S. Supreme Court has long held that when customers turn over their papers or belongings to the Postal Service, they maintain the same rights to protection from unreasonable search and seizure that they have in their own homes. The mere fact of turning mail over to the federal government creates an obligation on the part of the government to protect the privacy of that mail. Section 3623(d) of title 39 to the U.S. Code is merely a codification of longstanding 4th Amendment law. In fact, 3623(d) is already an attempt to balance the need for inspection and the right to privacy, in that it requires only one class of mail that is sealed, rather than requiring that all mail be sealed.

In US v. Ramsey, the U.S. Supreme Court held that Customs did have the right of warrantless access to inbound, foreign originating mail entering the country at the U.S. border. However, the Court in Ramsey specifically limited its holding to inbound mail, and stated that the issue at hand did not apply to outbound mail. The constitutional issue arises with the warrantless search of outbound mail. The Courts have said that Congress cannot create or destroy an expectation of privacy by legislative fiat. Where, as here, the Courts have resisted the temptation to apply Ramsey both inbound and outbound, there is a serious question about the reasonable expectation of privacy in outgoing mail sent by U.S. citizens and residents. The Postal Service has consistently taken the position that where there is a serious constitutional issue raised by the proposed legislative fix; and the need, or value of, warrantless outbound search, as opposed to the targeted investigative efforts culminating in a warrant, is unproven, it is imprudent to risk compromising citizens rights for unproven gains.

If Congress amended the provision that requires the Postal Service to maintain one class of mail sealed against government intrusion, U.S. residents would lose the only remaining shipping alternative available to maintain their privacy. In some cases, the courts have found that the 4th Amendment authorized warrantless search. Many of those cases focus on the availability of alternatives that enable Americans to maintain their privacy. For example, a traveler who is concerned about privacy invasion in airports retains the option of traveling by bus or private vehicle. Short of worldwide personal delivery, there would be no viable alternative to sealed mail.

The expectation of privacy analysis is two pronged. The first issue involves whether the person demonstrated an actual expectation of privacy, and whether that expectation is considered to be reasonable by the public. The Supreme Court just reconfirmed this expectation of privacy on April 17, 2000, in Bond v. US, 2000 Lexis 2520. In this case, the court found that a bus traveler does not lose a reasonable expectation of privacy by placing hand carried luggage on an overhead rack.

The courts have found that, where a person has turned over their property to a private third party (UPS, for example), they cannot have any expectation that their contents will be kept private, as a disclosure of the contents has been made by virtue of turning over the property. This is not the case with sealed mail, which has been protected from intrusion at least since the 1878 Ex Parte Jackson.

Recent laws aimed at electronic communications, and the case law interpreting those laws, have also maintained the distinction between disclosure to private entities and disclosure to the government. For instance, under the Electronic Communications Privacy Act, a purveyor of Internet services may legally turn over private information it obtains from its customers to another private entity. However, that same service provider may not turn over that same information to a governmental entity in the absence of a search warrant, or in certain circumstances, a subpoena. US v. Hambrick, 55 F. Supp 2nd 504 (W.D. Va. 1999); 18 USC 2701, *et seq.*. "[T]he ECPA's concern for privacy extends only to government invasions of privacy. ISPs [Internet Service Providers] are free to turn stored data and transactional records over to nongovernmental authorities." Hambrick at 507.

Finally, the public has demonstrated increasing concern over their perceived diminution of privacy rights in many aspects of their lives. Privacy has been of great concern in the 106th Congress. More than 100 bills pertaining to privacy have been reported in the two sessions of the 106th Congress. While many of these relate to privacy and the changes brought by the Internet, each bill reflects the public's expectation that their effects should be kept private, much as they have always expected for their personal mail. The prospect of the USPS as an intrusive "Big Brother" would not be consistent with this important public expectation.

6. What would be the operational impact to USPS if outbound mail becomes subject to Customs inspections prior to its exportation?

Answer: We have not fully considered the economic or operational impact of unrestricted access to outbound mail by U.S. Customs, but blanket outbound inspection authority would raise a number of important issues.

For example, we would need to know the extent of the search authority. Would it pertain to all classes of mail or be limited to parcels or shipments containing merchandise? Would there be a specific interdiction plan based on risk profiles and/or threat assessments, such as destination country or sender? At which locations within the Postal Service's mail stream would examinations be carried out?

Given the sheer volume of outbound international mail handled by the Postal Service, some parameters would need to be established so that an effective approach could be developed.

Depending on the answers to these questions, issues related to Customs space and staffing would need to be addressed. We would also need to consider the cost implications and the potentially detrimental impact on service to our customers.

a. Private companies manifest or track the pieces they ship, which allows for a master-list to be presented to Customs. Could USPS do this? Why or why not?

Answer: The Postal Service does not use an electronic manifest system for inbound international mail because of the important differences between traffic handled by postal administrations and by private couriers. Postal administrations mainly handle universal service traffic moving between households. In contrast, private carriers handle mainly high volume, high value business traffic.

Universal service traffic handled by the Postal Service is generally made up of single-piece items

collected from individuals and addressed to individuals. Examples are publications, personal letters, postcards, and parcels sent between family members. This traffic is generally of low-value, intended for personal use, and is not usually dutiable. The postal customs declaration forms recommended by the UPU and used by postal administrations are an accommodation to the nature of universal service traffic. These forms make it simple and less costly for single-piece postal users to send mail pieces such as letters, postcards, and low-value packages to addressees in other countries.

The customs treatment of international mail exchanged between foreign postal administrations has been agreed to by the World Customs Organization (WCO) and the Universal Postal Union (UPU). The items that we receive from foreign postal administrations are made available for Custom's inspection. Customs clearance of mail is carried out by an examination of the individual declarations affixed on each postal item by the sender or, at Customs' discretion, by a physical examination of the contents.

Private companies, on the other hand, are integrated couriers that know precisely what they are carrying into the U.S. from overseas. The business traffic handled by private carriers is made up mostly of items sent by known business shippers to business consignees. This traffic is often dutiable and of an urgency that attracts relatively high prices paid by the senders. Also, these are frequently multiple items sent as one shipment to one consignee. The high value of this traffic and the multiple pieces per shipment of this traffic makes the development of computerized systems for customs clearance relatively easy and worthwhile. Express couriers also agreed to provide certain electronic data in advance to Customs to facilitate immediate clearance of their shipments. This fundamental difference between mail and express consignment traffic has historically been recognized by the WCO and it has maintained a distinct chapter for postal traffic in the Kyoto Convention.

The U.S. Postal Service cannot order individuals living in foreign countries to electronically manifest the packages they send into the United States. Unlike businesses, which usually ship in bulk, individuals typically mail a single package containing one or two items. Individuals simply do not have the resources to prepare electronic manifests for their single-piece mailings.

The Postal Service also cannot require the 189 foreign postal administrations it deals with to prepare electronic manifests. This would require these foreign posts, many of which are less developed than the United States, to create the complex information systems that are needed to prepare computerized manifests for single-piece mailings. It would be impractical and very expensive to create a manifest for one package and one item contained in the package. Such a requirement would significantly increase the cost of sending these types of mail items.

Advance information at the piece level is only available in a few instances, where a foreign postal administration has agreed to capture this information at origin and provide it on a bilateral basis. In these cases, the data are provided to Customs to facilitate clearance. For military mail, the Department of Defense would need to be consulted about providing any manifest information at the piece level.

The Postal Service is therefore limited in what we can provide to Customs since there is no way to collect this information to pass onto Customs. Unless there is a change in the rules governing the treatment of mail agreed to by the WCO and the UPU, there is no basis for unilateral action by the U.S. to require manifesting or other types of advance information on individual mail pieces for presentation to Customs.

Concerning outbound mail, we expressed our concerns in question 6 about the legal basis for outbound mail inspection by Customs. We presume that the manifesting of outbound mail would only be required if the Postal Service were required to furnish data on outbound mail as part of a change in the laws governing outbound inspection. In addition to considering the cost and service implications of such a requirement, a clear definition of what mail would need to be

manifested at the piece level would need to be established. For large mailers, such data may be more readily available electronically, but there is no system in place to collect this information on individual pieces of mail.

Question 1: How important was the cooperation of Federal Express officials in your Operation Green Air investigation? What lessons were learned in that operation?

Operation Green Air focused DEA investigative assets on a large scale Mexican/Jamaican marijuana trafficking group that had numerous distribution cells throughout the United States. This organizations' supply of marijuana came primarily from Mexican based traffickers with ties to the Arellano-Felix Organization (AFO). These Mexican traffickers managed the importation of the marijuana into the United States. Upon arrival of the marijuana into the United States, it would be turned over to Jamaican traffickers who would oversee the distribution.

During the course of the Operation, it was discovered that in an effort to facilitate their transportation needs, several Federal Express employees were recruited by the organization. Typically, the employees ensured that the marijuana was placed on Federal Express aircraft for transportation from the West Coast to the East Coast, maintained the security of the marijuana while the shipments were housed in Federal Express facilities and delivered the marijuana to members of the various distribution cells. In addition, other Federal Express employees manipulated the corporation's billing and internal accounting procedures in order to conceal the cost and the ability to trace the shipments.

From the initial stages of the investigation until the nationwide arrest phase in April 2000, elements from DEA's Special Operations Division and Federal Express Corporate security worked closely and maintained daily contact concerning issues pertaining to the involved Federal Express employees. The cooperation of Federal Express Corporation during Operation Green Air was crucial to the success of the operation and the level of cooperation was unprecedented.

As such, Operation Green Air showed how successful an operation can be when elements from the private and public sectors join forces to accomplish a specific objective. Our association with the Federal Express Corporation allowed DEA Field Divisions throughout the country to identify shipments of narcotics while in transit, as well as additional co-conspirators both inside and outside of Federal Express. Without daily contact and access to critical Federal Express shipping-related documents, many drug shipments would not have been intercepted by law enforcement.

Question 2: What new technologies and practices are being used by DEA to better detect illegal drugs in the mail?

Relative to drug interdiction in the mail, DEA routinely works in conjunction with other Federal law enforcement agencies (U.S. Postal Service and U.S. Customs Service). DEA's participation is subsequent to a seizure or based upon specific intelligence of a suspected package. As such, DEA typically does not procure or dedicate a vast amount of resources specifically for mail interdiction/interception efforts. Given this, DEA commonly utilizes practices such as: developing productive working relationships with the private shipping companies, identifying indicators of illegal contents on the parcel itself; i.e., false or no return address, masking odors, etc., K-9 alerts and search warrants.

In addition, DEA continues to foster various relationships with commercial parcel/ freight companies to encourage the sharing of intelligence information thereby increasing investigative results. This was clearly evident with the results garnered in Operation Green Air. Furthermore, DEA actively solicits the reporting of suspicious activities by private citizens and organizations for further investigation.

Question 3: How many DEA Agents are working on preventing illegal drugs in the mail? Are more people and resources needed?

Drug trafficking organizations have resorted to a number of methods and trends in order to minimize their exposure to the law enforcement community. One such particular trend is the use of the private and public mail service in order to transport and distribute a variety of illegal drugs. There has been a noticeable increase in the use of the mail and overnight delivery services by various drug trafficking groups.

In the first two quarters of this fiscal year, 462 DEA Agents and Task Force Officers received Jetway training, which includes parcel interdiction instruction. Jetway is a drug interdiction program located at airport, train and bus stations around the nation. Jetway incorporates instruction in constitutional law, search and seizure during consensual encounters and stops, drug courier indicators and concealment methods. These task force groups routinely work at airports, train and bus stations, airport hotels and motels and parcel facilities nationwide.

At present, DEA has two task force groups in Detroit and San Diego that are solely dedicated to parcel interdiction. Generally, DEA participates and maintains liaison with various parcel interdiction teams managed by Federal, state and local agencies across the United States.

As previously noted, DEA typically does not procure or dedicate a vast amount of resources specifically designated for mail interdiction/interception efforts.

Question 4: Describe how DEA cooperates with other agencies and the private sector to address the transporting of illegal drugs by mail and carriers.

In 1993, DEA established a Special Enforcement Program (Operation Jetway) which combines the talents of Federal, state and local narcotic investigators. This program offers regional training throughout the United States several times a year to DEA Agents and state and local police officers in interdiction techniques to be applied at airports, trains, buses and parcel facilities. DEA manages task force groups, comprised of DEA Agents and state and local police officers that are dedicated to interdiction activities, in every DEA domestic field division.

DEA has an outstanding relationship with the various commercial delivery services as well as the U.S. Postal Service, which has resulted in continued success in the interdiction of drugs and drug proceeds. Furthermore, DEA recently hosted a meeting with officials of the various commercial

package delivery services, along with other Federal agencies. This meeting will be the impetus for a more cohesive strategy between DEA, other law enforcement agencies and the private industry relative to the problem of drug smuggling through the mail.

Recent reporting by DEA and the U.S. Customs Service report an alarming increase in the importation and use of "club drugs" such MDMA (Ecstasy). U.S. Customs officials estimate that since October 1999, approximately 7 million MDMA pills have been seized at various ports throughout the United States. Furthermore, German police officials suspect that more than 2 million MDMA pills are smuggled into the United States each week from various cities throughout Europe.

DEA is working in conjunction with U.S. Customs and law enforcement officials throughout Europe and Israel in an effort to identify, target, dismantle and prosecute those organizations responsible for the proliferation of "club drugs" throughout the United States and Europe.

Question 5: What is the level of cooperation between the DEA and U.S. Customs in sharing foreign drug intelligence before drugs are shipped?

As part of a Memorandum of Understanding (MOU) between DEA and U.S. Customs, DEA is the single point of contact for drug investigations and drug intelligence collection conducted in and extended into foreign countries. Relative to this MOU, the level of cooperation between the respective agencies has been very good.

FedEx Corporation

Official Response to Follow-Up Questions from "Drugs in the Mail" Congressional Hearing

1. **Explain the level of cooperation and intelligence sharing that occurs among your business and competitors in trying to prevent illegal drugs from being sent in the mail.**

   FedEx Corporation regularly participates in non-competitive association forums with the Cargo Airline Association, the Air Transport Association and the American Society for Industrial Security. This regular interaction and knowledge sharing with security officials from competitors and other large corporations enables us to forge informal relationships. These relationships help us to improve security standards in the industry as a whole.

2. **Address the level of cooperation and intelligence sharing among your organizations and law enforcement agencies.**

   FedEx has established a strong reputation for working with federal, state and local law enforcement agencies. Operation Green Air, which culminated in April 2000, is an excellent example of our cooperation and intelligence sharing with law enforcement agencies. From the moment FedEx representatives detected illegal drug shipments in July of 1998, we worked diligently with the Drug Enforcement Agency to expose the full scope of the operation. This unprecedented cooperative effort between FedEx and the DEA demonstrates the government/industry partnership required to combat drug smuggling.

3. **Are there any advancements in technology, equipment or practices that would help you do a better job detecting and stopping illegal drugs from being sent via the mail?**

   FedEx is confident that our security practices and technology are cutting-edge. We believe we have a very effective system in place for the detection of illegal shipments. We are constantly evaluating measures to improve our capabilities, while consistently testing new technology to help us combat the illegal use of the FedEx network.

4. **Please identify and explain initiatives or programs that your business is planning to implement in the future to stop shipments of illegal drugs. What additional resources are needed?**

   FedEx is always assessing our security practices and policies to ensure that we are doing everything possible to deter the transport of illegal drugs via the FedEx system. For example, we are currently looking to expand our K-9 teams where necessary. In our ongoing evaluation of our security procedures, we proactively identify and respond accordingly to any area when we feel there is a need.

5. **What is your business doing to stop drug cartel money (from the sale if drugs) destined for foreign drug cartels from leaving the U.S.?**

   First of all, FedEx does not allow cash of any form to be shipped via the FedEx system, and this policy is clearly indicated in all of our shipping materials. Our zero tolerance policy means that we support law enforcement authorities in prosecuting violators to the fullest extent of the law. As you saw in Operation Green Air, our first line of defense against illegal shipments is our motivated, well-trained employee force. In addition, FedEx employs computerized research capabilities, grants full access and high level support to law enforcement agencies, and, most importantly, has highly skilled security personnel specifically trained to look for suspicious packages.

6. **Explain the screening techniques used by your business to detect drugs and illegal transfers of money.**

   In order to prevent the transport of illegal drugs or money, FedEx uses a number of preventative measures to combat such illicit trafficking. We use visual inspection by well-trained employees, canine units, on-site inspections by law enforcement authorities, and x-rays when appropriate. In addition, we have the ability to provide historical research on previous illegal shipments with our superior tracking and tracing capabilities, which we can then forward to the appropriate law enforcement authorities.

7. **What changes in law would you recommend the Congress consider to help reduce and/or prevent potential liability lawsuits?**

   At this time, we do not have any specific recommendations to Congress regarding liability lawsuits. However, we are going to continue considering the issue as a company. We appreciate and welcome the opportunity to review other entities' recommendations or proposed legislation in order to benefit the industry as a whole.

U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

June 16, 2000

Chairman John L. Mica
House of Representatives
Subcommittee on Criminal Justice, Drug Policy and Human Resources
B-373 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Chairman,

I am privileged to have had the opportunity to address the Subcommittee on Criminal Justice, Drug Policy and Human Resources on May 26, 2000 regarding the growing use of the Internet by drug trafficking criminal enterprises. We, in law enforcement, share the subcommittee's concerns and are committed to aggressively combating this growing problem.

Your support of the FBI's Drug Program has been invaluable. The FBI looks forward to continuing our efforts to combat drug trafficking on every front.

Enclosed for your review are the answers to the five follow-up questions requested by the subcommittee. If you have any questions, please contact me at telephone number (202) 324-6119.

Sincerely yours,

WK Williams
Assistant Chief, Drug Section
Criminal Investigative Division

Enclosure

1. What initiatives are being planned or implemented to prevent our youth from receiving information about illegal drugs (e.g. where and how to get them, or how to use them) over the Internet?

The White House's National Drug Control Strategy identifies five goals that mirror our strong determination as a nation to lessen the damaging impact of drug trafficking on our communities and country. Goal number one identifies the need to "(e)ducate and enable America's youth to reject illegal drugs as well as alcohol and tobacco." The FBI is firmly committed to these principals. Accordingly, our efforts in community outreach and in criminal investigation reflect the need to protect our children.

The insidious lure of drugs is an ever present danger to our youths. The exponential growth in high-tech communications, including the Internet, unfortunately, has engendered a new medium by which information about illegal drugs is made available to our children. Accordingly, the FBI has established an "Adopt-A-School Program" which serves to better educate our children, as well as to provide the support needed to rebuke criminal social pressures.

The program is steadily on the rise. The FBI has adopted over 115 schools in the United States and is working in an additional 50 schools nationwide through programs such as "Read Along." The program offers incentives for students to improve their attendance, academic achievement and behavior through examples of role models emphasizing anti-drug, anti-gang and anti-violence messages. The program consists of a variety of classroom activities, such as drug prevention and awareness, physical fitness, presentations by guest speakers, field trips and mentoring/tutoring programs for students needing additional guidance in routine academic areas throughout the school year.

Additionally, individual FBI field divisions throughout the United States have initiated programs within their own communities to help educate and enable our youths. For example, our Washington Field Office has established a "Citizens' Academy." FBI personnel meet regularly with civic and business leaders. The establishment of positive role models and drug prevention messages and strategies are at the forefront of these meetings.

The Internet has become a means by which drug traffickers communicate. Equally as ominous are web-sites that advertise and sell illicit drugs, precursor chemicals and contraband over the Internet. Traffickers who use the "Web" to market their products have a potentially limitless client base with no geographical boundaries. Web-sites have been established that provide instruction on how to grow, manufacture and process a controlled substance. Web-sites also exist purely for the purpose of instructing would-be criminals how to thwart law enforcement. Additionally, legitimate Web-sites are used by traffickers to track parcel shipments and make financial transactions. In a recent example, our Baltimore Division indicted and arrested members of a drug trafficking organization that were selling drug contraband and cutting agents over their personal web-site.

To adapt to these changes, FBI Headquarters is providing instruction to its field divisions in understanding and exploiting the Internet as it relates to drug matters. The instruction centers on technical and investigative issues and capabilities, as well as constitutional and statutory considerations. It is regionally based and provided to Agents of the FBI, the Drug Enforcement Administration, the United States Customs Service, as well as to state and local law enforcement officers assigned to federal drug task forces.

2. What recommendations do you have for Congress regarding changes in the law to keep pace with the Internet?

With respect to current laws impacting illicit drug trafficking, the FBI believes the more pressing issues do not involve amending substantive drug laws, per se. Rather, our first priority is to refine and streamline existing legal tools and procedures by which the FBI addresses Internet facilitated criminal activity. (Please note that other FBI programs, for example those which target child pornography or computer fraud, may be currently seeking substantive changes to current laws. However, these programs are beyond the scope and purview of the FBI's Drug Section and are not addressed herein.)

For example, the FBI's authorization to issue administrative subpoenas is currently restricted to certain predicate offenses. This authority needs to be expanded to all federal felonies. Secondly, the Pen Register and Trap and Trace Statutes require fine tuning. Currently, the language of the statutes is unclear as to whether it applies to electronic communications. A technology neutral rewording of the statutes is needed. It is also not clear whether the pen register/trap and trace statute could allow the issuing court order to apply to all the service providers who have information about the communication sought to be capture/traced regardless of jurisdiction. As the nature of the Internet is inherently multi-jurisdictional, the Pen Register and Trap and Trace Statutes need to be amend to provide this statutory authority to the issuing court. A third area of potential procedural refinement is the sentencing guidelines. The FBI is exploring whether to request a sentencing enhancement before the United States Sentencing Commission for any criminal activity aided by encryption.

3. Explain how the FBI works with DEA and Customs to prevent drugs from being smuggled in the mail?

The FBI and the Drug Enforcement Administration (DEA), alone, have primary jurisdiction to investigate violations of Title 21, United States Code (U.S.C.), Section 801 et seq. violations. The United States Customs Service (USCS) derives its enforcement authority via Title 5, U.S.C., Section 301 and Title 19, U.S.C., Sections 66, 1600, 1619 and 1624, which charge the USCS with the enforcement of laws for administrating agencies, to include laws governing the importation and exportation of controlled substances. The USCS is also mandated by Title 21, U.S.C. , Section 873(b), as well as by Executive Order, to assist the Attorney General in the enforcement of federal drugs laws, upon request.

Success in our countries drug control efforts require enhanced cooperative efforts between the FBI, DEA and USCS. Close coordination of intelligence, sensitive techniques and other investigative resources is integral to accomplish our respective missions. Accordingly, it is imperative that the FBI, DEA and USCS work closely with each other to reduce the transshipment of drugs in the mail. To this end, the FBI, the DEA and the USCS have established liaison with one another, initiated Memoranda of Understanding and enacted policies and programs by which investigations are coordinated and intelligence shared.

The Special Operations Division, a joint FBI/DEA/USCS operation, stands as a paradigm for cooperation. It is a means by which the FBI, the DEA and the USCS field divisions share intelligence and coordinate investigative efforts.

To further coordinate efforts, the FBI and DEA have instituted a management exchange program. A DEA senior executive Special Assistant is attached to the office of the FBI Deputy Assistant Director with oversight for drug policy, while an FBI senior executive is assigned to the DEA Headquarters, Intelligence Division. Similarly, the FBI and the DEA have assigned supervisors (GS-14) full time at the other's headquarters.

The FBI, DEA and USCS also share several intelligence data bases. It is often through these data bases by which intelligence garnered from one agency becomes available to another agency as an investigative tool. Often, this complimentary data is an essential component in either establishing the probable cause needed to interdict drugs in the mail or to dismantle a drug trafficking organization that uses the mail as a means to facilitate its activities.

4. What resources or changes in laws or policies would assist the FBI do a better job stopping illegal narcotics information from being communicated over the Internet?

Developments in high-technology and communications have contributed to much of the recent growth in influence of major international drug cartels. Nowhere is this more apparent than in the drug trafficking criminal enterprises' use of Internet-based communications, a powerful new medium to facilitate their criminal activities.

The Federal wire taps laws have been an invaluable investigative tool available to the FBI. Presently, our counter-narcotics interception program has focused, almost exclusively, on telephones. In partial response to surveillance of their standard telephone and wireless communications, drug trafficking criminal enterprises are relying more heavily on Internet Protocol (IP) based communication techniques, including electronic mail, Internet chat rooms, instant messaging and IP telephony. With this precipitous migration from voice to data communications, the FBI recognizes that our investigative focus and tools need to be redirected toward the Internet. Accordingly, the FBI is spearheading an initiative to address this new medium.

The start-up resource requirements associated with this initiative are staggering though. These costs include high-tech equipment purchases, hardware and software research and development, as well as the hiring and retention of professional technical personnel. A sampling of these costs follows.

The acquisition, transfer, storage and analysis of the intercepted data requires a continual outlay of capital. Currently, there are literally hundreds of Internet Service Providers and web-sites that provide communication services to their clients. These numbers will only grow. At present, the estimated costs for the acquisition and transfer of the data at one interception site alone is estimated to be from $25,000 to $30,000. While the costs associated with the storage and analysis of this data are more fixed, each FBI field division conducting an intercept will require its own servers and storage data facilities. This hardware alone runs into the hundreds of thousands of dollars.

Hardware interception equipment and software program applications are constantly being upgraded and improved to meet the growing requirements of the Internet. The FBI requires a funding mechanism for research and development to accommodate continuos technological advances.

The FBI must also be able to attract and retain skilled computer scientists to deal with complex technical matters. Because of the great demand for high-tech educated personnel from the private sector, retaining technical personnel given current funding shortfalls is difficult. Without professional technical trained personnel, the task of intercepting criminal related communications on the Internet is seemingly impossible.

5. Without revealing sensitive information, what sources and methods are effective for intercepting illegal shipments through the mail?

The trafficking of narcotics through the U.S. mails is a violation worked almost exclusively by the United States Postal Service (USP). Nevertheless, the FBI routinely uncovers information, through the development of human or signal intelligence, the execution of search warrants, etc., that pertains to the trafficking of drugs through the U.S. Mail and other mail services. While the interdiction of these drugs is important, the thrust of these investigations has always been the dismantlement of the drug trafficking organization orchestrating the shipments. Effective liaison with the USP and other mail shippers has aided in this process. The use of several sophisticated techniques to include controlled deliveries and mail covers have been instrumental in establishing needed probable cause to obtain Title III wiretaps, search, seizure and arrests warrants.