MEMORANDUM

THE WHITE HOUSE

WASHINGTON

July 21, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Robert A. Bryden on Drug Interdiction on the Gulf Coast

Robert A. Bryden, Special Agent-In-Charge of DEA's New Orleans office, proposes to deliver the attached statement before the Senate Subcommittee on Defense Appropriations and Senate Drug Enforcement Caucus, meeting in Biloxi on July 23. The testimony is factual in nature, reviewing the drug smuggling problem in the four states -- Louisiana, Mississippi, Alabama, and Arkansas -- covered by the New Orleans office. I have reviewed the testimony and see no legal objections.

Attachment

THE WHITE HOUSE

WASHINGTON

July 21, 1983

MEMORANDUM FOR GREGORY JONES
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Robert A. Bryden on
Drug Interdiction on the Gulf Coast

Counsel's Office has reviewed the above-referenced proposed testimony, and finds no objection to it from a legal perspective.

FFF:JGR:aw 7/21/83

cc: FFFielding
JGRoberts
Subj.
Chron

ID [redacted] CU

WHITE HOUSE
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Subject: Statement of Robert A. Bryden on Drug Interdiction on the Gulf Coast

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5/81

DRAFT

Statement

of

Robert A. Bryden
Special Agent-In-Charge
New Orleans Field Division

Drug Enforcement Administration
U.S. Department of Justice

on

Drug Interdiction on the Gulf Coast

Before

Senate Appropriations Subcommittee on Defense
and the
Senate Drug Enforcement Caucus

at

Biloxi, Mississippi

July 23, 1983

I am pleased to have the opportunity to appear before this committee to discuss the role of the Drug Enforcement Administration in the interdiction of illegal drugs along the Gulf Coast.

The United States Customs Service and the U.S. Coast Guard are the primary federal agencies tasked with interdiction of narcotics. DEA provides these agencies with intelligence from both our domestic and overseas offices. DEA is responsible for the follow-up investigations of seizures made by these agencies. DEA's New Orleans Divisional Office's area of jurisdiction includes four southern states: Louisiana, Mississippi, Alabama, and Arkansas. All except Arkansas have coast lines on the northern Gulf of Mexico. The District encompasses an area of 200,952 square miles and has a population of 12,144,000. There are a total of 671 airports within the District and it is estimated that an additional 150 landing strips could be used by small aircraft. There are six deep water ports capable of loading ships, including New Orleans which has surpassed New York as the largest port in the United States in gross tonnage.

The state of Louisiana has over 600 miles of jagged, irregular coastline highly conducive to maritime smuggling. This coastal area, largely unpopulated, has always been considered a haven for smugglers, having been used in the late 1700's and early 1800's by the infamous pirate, Jean Lafitte.

Louisiana's attraction for smuggling is due not only to the vast, mostly unpatrolled waterways, but also the presence of hundreds of vessels

engaged in maritime activities. These activities include shipping, servicing offshore oil rigs, and fishing for shrimp, oysters, and menhaden. Since Louisiana's topography is flat, coastal plains (the highest point in the state is 535 feet), it contains a relatively large inland water area of 3,593 square miles.

Mississippi and Alabama are equally attractive to narcotics smugglers. Mississippi has deep water ports in Gulfport and Pasagoula capable of handling cargo ships and banana boats from South America. A chain of uninhabited barrier islands off the coast of Mississippi have been utilized on numerous occasions to facilitate smuggling. Although only a relatively minor portion of Alabama's boundary is accessible by water, over 100 miles of shoreline are available to the maritime smuggler, mostly on Mobile Bay.

Although Arkansas is not as attractive for air smugglers as the previously mentioned states due to its distance from the coast, several instances of marijuana smuggling have been reported. Arkansas has limited access for maritime smuggling through the Mississippi River which forms the eastern boundary of the state.

Because much of the New Orleans Division's jurisdiction encompasses Gulf Coast states, a large percentage of the drug removals are seizures involving multi-ton quantities of marijuana and multi-pound quantities of cocaine. Examination of seizure statistics for the past two years reveals increased cocaine smuggling, and increased use of aircraft in smuggling ventures. Cocaine seizures have increased from a total of 30

pounds in CY 1981 to 1560 pounds in CY 1982. Included in the CY 1982 figure are 1197 pounds of cocaine seized in cattle feed bags from a Convair 880 in New Iberia, LA on May 18, 1982. DEA's intelligence indicates that as much as 1900 pounds of cocaine was successfully air-dropped frm a Lockheed Lodestar before it crashed on a pipeline right-of-way in Northeast Mississippi. This year 742 pounds of cocaine was seized from a private aircraft which landed in Dothan, Alabama.

The influx of cocaine in not confined to aircraft alone. In October 1981, the vessel ANDORIA was seized in New Orleans with 96 pounds of cocaine, along with 22,000 pounds of marijuana. In September 1982, 77 pounds of cocaine was seized in Kenner, LA.

Marijuana seizures have declined significantly from 340,659 pounds in CY 1981 to 44,716 pounds in CY 1982. Included in the latter figure are 40,000 pounds seized from the Carabella Negra off the coast of Mississippi in August 1982. This drop in marijuana seizures may reflect the decreasing use of smuggling by vessel. An exception to this trend occurred in June of this year when an ocean-going tug and barge was seized in Lafayette, LA after successfully off-loading an estimated 200,000 pounds of marijuana. An additional 40,000 pounds remained in the barge, but was probably left behind by the smugglers as it was soaked in water and fuel.

As these smuggling ventures involve larger and larger amounts of cocaine and marijuana, the violator's capital investment correspondingly increases. To protect the huge sums invested in the narcotic shipments,

violators are increasingly offering large amounts of money for police protection during the off-loading phase of the smuggling attempt. In the past two years, 11 law enforcement officers in coastal regions have been arrested for corruption. Although this kind of corruption is not often encountered, it tends to make a difficult job even harder.

There are signs of improvement. Total arrests for the first quarter of 1983 are up 86% from a similar period in 1982. In the first quarter of this year alone, we have made 25 arrests of Class I violators, compared with 55 for all of 1982. Class I is the designation given to the highest level of violator in a drug organization - those responsible for masterminding, arranging, and financing these major smuggling ventures.

Increasing use of Continuing Criminal Enterprise statutes and asset forfeiture laws are effectively neutraling major violators who previously would have continued their smuggling eneterprise. These successes were possible with the cooperative efforts of many of the agencies represented here today. I know we all appreciate your interest and demonstrated concern about drug interdiction efforts along the Gulf Coast.

Thank you.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

July 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Jim Knapp Re: Efforts of the Department of Justice to Improve the Collection of Fines

The above-referenced testimony is to be delivered on August 3, 1983. It reviews statistics on outstanding criminal fines, noting that there are some 21,000 individual cases with a balance due of $132 million. The testimony discusses some of the problems associated with collecting assessed fines, and notes that under this Administration the Justice Department has made collection of fines a priority item. Finally, the testimony urges favorable legislative action on the sentencing provisions of the proposed Comprehensive Crime Control Act of 1983, which would improve the collectibility of criminal fines. I have no objections to the proposed statement.

Attachment

THE WHITE HOUSE

WASHINGTON

July 29, 1983

MEMORANDUM FOR GREG JONES
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Jim Knapp Re: Efforts of the Department of Justice to Improve the Collection of Fines

Counsel's Office has reviewed the above-referenced proposed testimony and finds no objection to it from a legal perspective.

FFF:JGR:aw 7/29/83

cc: FFFielding
JGRoberts
Subj.
Chron

ID #_____ CU

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Statement of
Jim Knapp, DAAG
Criminal
Aug 3, 1983

DRAFT

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear before the Subcommittee to discuss the efforts of the Department of Justice to improve the collection of criminal fines.

Fines are an important part of the penalty structure of federal criminal law. They are particularly appropriate sanctions for economic crimes and for especially lucrative criminal activity such as drug trafficking. However, imposition of a fine serves no punitive or deterrent purpose if it goes unpaid. For this reason, we are committed to improving our collection efforts.

The total balance of unpaid criminal fines is immense. Presently, there are more than twenty-one thousand (21,058) cases in which criminal fines have not been fully paid. As of May of this year, the aggregate outstanding balance of unpaid fines amounted to nearly one hundred and thirty-two million dollars ($131,917,602). It should first be pointed out that one-fourth of these twenty-one thousand outstanding cases (5,787) are over ten years old. They offer little prospect of collection. In approximately eighty percent of this over ten year old group of cases, the location of the debtor is no longer known. In most of the remaining cases in this category the debtor has no assets upon which to levy. No statute of limitations operates to close these cases after a period of years, so they will continue to appear as uncollected fines until the death of the convicted

person. While these stale cases with little promise of collection make up one-fourth of the total number of cases, the unpaid fines involved amount to only about five percent of the one hundred thirty million dollars of fines owed.

It should also be borne in mind that the remaining $125 million in unpaid fines includes cases which are still under appeal, cases in which defendants are making partial payments over several years as a condition of probation, and cases in which debtors are currently serving terms of imprisonment and any payment is unlikely to commence until after their release.

These characteristics of both the most recent and oldest cases put the problem of fine collection in a better perspective, but it nonetheless remains a serious one the Department of Justice is committed to addressing. For the reference of the Subcommittee, there is attached to my statement a brief analysis of statistics on our outstanding criminal fine cases.

In order for the Subcommittee to better understand the nature of the fine collection problem and the steps we are taking to increase our rate of success, I would like to briefly describe the way in which criminal fines are imposed and collected in the federal system.

Most federal offenses prescribe a maximum fine that may be imposed either alone or in addition to a sentence of imprisonment. At sentencing, the court receives a presentence report which includes information about the financial condition of the

defendant.[1] However, the court is not required to consider the ability of the defendant to pay in imposing a particular fine. Thus, there are cases in which large fines are imposed that are from the outset beyond the ability of the defendant to pay and so hold no realistic prospect of full collection. (On the other hand, there are also cases in which no fine or a small fine is imposed despite the fact that a large fine would seem merited in light of the severity of the offense and the extensive financial resources of the defendant.)

Fines are generally imposed in one of two ways. The trial judge may impose a "straight fine." Alternatively, payment of a fine may be imposed as a condition of probation. The collection procedures for these two types of fines are different.

With a straight fine, if payment is not made, the responsibility for collection falls on the United States Attorney's Office. In the 120 days following sentencing, the court may correct or reduce the sentence of fine, [2] but after this period the amount of the fine is set and the court's role in collection efforts will be limited to instances in which a contempt sanction is sought for willful failure to pay. [3]

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[1] See Rule 32(c) of the Federal Rules of Criminal Procedure.

[2] See Rule 35 of the Federal Rules of Criminal Procedure.

[3] The exception is the case of a "stand committed" fine. In these cases, the court will order the imprisonment of the defendant until he pays the fine. If the defendant demonstrates to the court that he is indigent, he must be released. The fine owed is not discharged, however. See 18 U.S.C. §3569.

Information on the imposition and payment of criminal fines is not automatically transmitted by the court to the United States Attorney's Office. The attorney in charge of collections must learn of the fine from the prosecuting attorney or clerk of the court. Information on the case is then entered into the case tracking system of the U.S. Attorney's Office so its status can be monitored and updated.

Criminal fines must be enforced in the same manner as money judgments in civil cases.[4]/ This fact means tnat in collecting a criminal fine, the United States is put in the same position as an ordinary creditor and must follow State law and procedure with respect to various steps of recording or docketing judgment, perfection and attachment of liens, levy and execution, and foreclosure and sale. The procedures, which differ considerably from State to State, are often cumbersome, and during delays in meeting these various procedures, the rights of other creditors may gain preference over those of the United States. Moreover, the laws of the States will limit the life of any lien and exempt differing types and amounts of the debtor's property from execution or foreclosure.

Where payment of a fine is imposed as a condition of probation, the situation is quite different. First, in determining the specific condition of payment, the court may set a schedule of partial payments to be made over the course of the

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[4]/ See 18 U.S.C. §3565.

term of probation. Since payment of the fine is a condition of probation, collection responsibility rests with the Probation Office.5/

Because the court retains the power to modify conditions of probation and to impose sanctions for violation of these conditions, the enforcement of fines in the probation context has advantages of flexibility and strong incentive for payment. If the probationer has not made a good faith effort to meet his obligations, the court may modify, extend, or even revoke his probation. On the other hand, if a probationer is unable to pay the fine despite his best efforts, the court may modify the amount of payment or extend the period for payment up to the maximum five year term of probation. Generally, where the debtor has made a good faith effort to pay his fine during the probation period, the court will remit any unpaid balance at the end of his probation. Should an outstanding balance remain after probation, however, the responsibility shifts to the United States Attorneys' Offices to collect the fine in the same manner as when a straight fine is imposed initially.

Collecting criminal fines is often a difficult task. Cases involving outstanding fines fall into two categories. In one category of cases, collection efforts are virtually doomed from the outset because the offender has few if any available assets

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5/ The U.S. Attorney's Offices do keep track of status of fines in these cases, and may record the fine as a lien against property of the defendant to assure against disposition of assets to avoid payment.

and poor employment prospects. In the other category, however, the fines, or a substantial portion thereof, are collectable because the offender has significant assets or the ability to earn a steady, sizable income. It is with respect to this latter category of cases that we can improve our collection efforts.

In our view, solutions to the fine collection problem lie in two areas. The first set of solutions must come from within the Department of Justice, for they concern policy decisions regarding the priority we place on the collection of criminal fines. One reason that the rate of collection has been so poor in the past is that collection efforts were assigned low priority by both officials in Washington and the United States Attorneys in the field. Few resources were devoted to collections. Collection cases were assigned to the most inexperienced attorneys or even support staff who were offered no specialized training; information about individual cases and new collection techniques was inadequate; and aggressive collection was by far the exception rather than the rule.

In the past few years, the Justice Department has done much to break this pattern. In 1981, the Attorney General Smith directed that the collection of debts owed to the United States, including criminal fines, was to be a priority of the Department. We are now working in a number of ways to fulfill the Attorney General's mandate. Each newly appointed United States Attorney has been apprised of the Department's emphasis on effective

collection, and the Attorney General has taken steps to officially acknowledge those U.S. Attorneys who have shown special initiative in this area. Moreover, a Department-wide Debt Collection Task Force which will coordinate our efforts is now functioning under the direction of the Assistant Attorney General of the Civil Division.

Providing assistance to the United States Attorneys is a large part of this effort. The Executive Office for United States Attorneys is sending teams into the field to audit collection activities and report to the United States Attorneys on particular problems within their offices. The Executive Office is also providing training to our attorneys in innovative, aggressive collection techniques and is in charge of bringing on board much needed additional administrative personnel to support the work of our attorneys in the field. Much is also being done by the Executive Office to modernize the case tracking system in the U.S. Attorney's Offices so that information on the status of collection cases and on the location of the debtor and his assets is easily updated and accessible.

Assistance specifically geared towards the collection of criminal fines is also provided through the Department's Criminal Division. Professional staff with expertise in fine collection

monitors the progress of individual cases in the field, maintaining direct contact with Assistant U.S. Attorneys and support personnel. An important part of this direct contact is discussion of effective strategies for collection, including innovative and aggressive techniques.

Too often, criminal collection work has been viewed as a passive activity, consisting of little more than filing liens and sending dunning letters. That is not enough! For example, one serious problem in collecting large fines is the fact that a defendant may actively conceal his assets to shield them from the government. These cases must be actively pursued through investigation, deposition of the defendant and third parties, and, where necessary, litigation to obtain court orders and contempt sanctions. This sort of aggressive approach is an important part of the Justice Department's new policy and is beginning to produce results.

Three recent cases illustrate how this new approach can pay off. Leroy "Nicky" Barnes, a notorious drug dealer, was convicted in 1978 and is currently serving a life sentence for narcotics offenses. Barnes owes the government $125,000 in criminal fines and more than $400,000 in taxes. An aggressive investigation of Barnes' financial holdings showed evidence suggesting a sophisticated scheme to shield his assets from the government. He invested hundreds of thousands of dollars in a Michigan real estate venture, but was to receive virtually nothing from the sale of the underlying project. As a result of extensive

discovery of the role of third parties in these financial manipulations, the government is now pursuing not only an alleged fraud against the government regarding the criminal fine but also alleged tax law violations.

A case involving a $300,000 fine owed by Richard Kones provides an example of both the difficulties that are posed in fine collections and how persistence and ingenuity -- in this case on the part of Assistant United States Attorney Robert Jupiter -- can produce results. Kones was convicted of a 1.5 million dollar Medicare swindle and sentenced to seven years' imprisonment and a $300,000 fine. Routine fine collection efforts failed. When deposed, both Kones and his wife refused to testify, invoking the Fifth Amendment.

While the FBI was unable to locate any stateside assets, its investigation revealed that Kones had transferred funds to a branch of the Chase Manhattan Bank in the Bahamas. AUSA Jupiter levied a writ of execution on the bank's New York office and a hotly contested law suit ensued. Mr. Jupiter eventually won this action, but by that time the account was void of funds.

AUSA Jupiter continued his efforts and determined that Kones had assets in the Grand Cayman Islands, which are favored as a haven for hidden assets because of their bank secrecy laws. In the Caymans, Mr. Jupiter retained local counsel and succeeded in obtaining a court order temporarily freezing Kones' assets. AUSA Jupiter then sought a court order in New York requiring Kones to reveal all his assets and transfer them to the United States.

Failure to comply would mean contempt charges. Faced with this action, Kones finally agreed to transfer the amount of the fine to his attorney in the United States, and to make an immediate payment of $50,000 with the remaining balance of the fine to be paid over three years.

Sometimes, effective fine collection depends on a combination of alertness and follow-up action. For example, Gordon Liddy, years after his conviction, had still not paid an outstanding fine, yet his financial success as a writer and lecturer was publicly reported. One of our collections attorneys quickly brought the situation to the attention of the United States Attorney's Office in the District of Columbia. Depositions of Liddy and his accountants followed and, as a result, the government was able to collect the fine from money owed Liddy in New York for books and lectures.

These cases demonstrate that if the collection of criminal fines is assigned appropriate priority by the Department and sufficient resources are devoted to this effort, even difficult collection cases can be solved. Improving collection rates through necessary policy and administrative changes is a strategy to which the Department of Justice is committed. It is, however, only a partial solution to the fine collection problem. Legislative changes are also necessary to improve the manner in which fines are imposed and collected.

Such legislative improvements are incorporated in the sentencing title of the President's "Comprehensive Crime Control Act of 1983," introduced in the House as H.R. 2151. The basic contours of these sentencing reforms are no doubt familiar to many members of the Subcommittee. Their purpose is to provide greater rationality and consistency in criminal sentencing through application of articulated guidelines developed by an independent sentencing commission.

In addition to making the imposition of fines, as well as terms of imprisonment or probation, subject to guidelines based on consideration of both offense and offender characteristics, these sentencing reforms include several provisions that would directly address certain problems that have arisen in collecting criminal fines. First, courts would, for the first time, be required by statute to consider the financial resources of the defendant and his obligation to support dependents in determining the amount of fine to be imposed. This requirement should reduce the number of cases in which fines are largely uncollectable ab initio because they far exceed the ability of the defendant to pay. Second, at sentencing, the court could impose a specified schedule of payment, a very workable approach that is presently confined to instances in which payment of a fine is imposed as a condition of probation. Third, if a defendant had made at least some payment toward his fine, the court could, upon a showing of changed circumstances, modify the method of payment or reduce the amount of the fine. Again, this sort of flexibility is now

possible only where payment of a fine is imposed as a condition of probation. These features allow the court to remain involved in the collection process and to respond to changed circumstances of defendants.

In addition to these improvements in the manner in which fines are imposed, our bill also enhances the government's ability to collect fines. First, the court would be required to transmit to the United States Attorney's Office information on fines imposed and payments made. The ad hoc information sharing arrangements currently in place are not sufficient. Second, a twenty-year statute of limitations would apply to the collection of a criminal fine. Presently, liability ceases only upon payment in full, death of the debtor, or a Presidential pardon. This limitation period will allow the United States Attorneys to close cases that are so old that collection is unlikely.

Third, and most important, unpaid criminal fines could be collected in the same efficient manner as taxes owed to the United States. Much of the cumbersome clerical procedure and litigation in State courts now necessary to create and enforce judgment liens to collect unpaid fines would be eliminated. A lien would arise at the time of imposition of the fine and extend to all the property of the defendant. The lien could be enforced like a tax lien through efficient administrative levy procedures set out in the Internal Revenue Code. In addition to these efficient collection procedures, provisions of the Internal Revenue Code designed to protect the interests of innocent third

parties and to allow release of the lien upon the debtor's payment of a bond or discharge of part of the lien where remaining encumbered property is sufficient to satisfy the fine, would apply. In sum, application of these procedures would not only provide a more efficient collection mechanism, but also create a strong incentive for payment because of the debtor's desire to remove liens clouding the title to his assets.

These legislative improvements, combined with the policy and administrative changes already undertaken by the Department of Justice, would, in our view, significantly increase our ability to collect criminal fines. The Department of Justice and others are also considering additional concepts for improving fine collection rates. These include making payment of a fine a mandatory condition of probation where a sentence of fine is also imposed and similarly making fine payments a mandatory condition of parole; providing a statutory mechanism whereby a court, consistent with the Supreme Court's recent decision in Bearden v. Georgia, ___ U.S. ___ (May 24, 1983), could resentence a defendant to an authorized term of imprisonment if he failed to pay a fine and the default was culpable or an alternative penalty of imprisonment was necessary to serve the purposes of punishment and deterrence; and making willful failure to pay a fine a specific criminal offense.

Mr. Chairman, that concludes my prepared statement, and I would be pleased to respond to any questions you or members of the Subcommittee may have.

Statistical Analysis of Criminal Fine Collections

Data as of May 31, 1983, show a total of 21,082 criminal fines outstanding with an outstanding balance of $131,917,602. These are Department-wide figures and include fines imposed in criminal, tax, anti-trust, and lands cases.

Of these approximately 21,000 outstanding fines, about 6,000 are more than 10 years old, while 12,000 are less than five years old. The remaining 3,000 are between 5 and 10 years old.

Date of Imposition	Number of Outstanding fines	Amount Outstanding
Prior to 1973	5,787	$ 6,613,536
1973-1977	3,213	15,167,529
1978-May 1983	12,058	110,136,537
	21,058	$131,917,602

Fines Imposed Prior to 1973

Of the approximately 6,000 fines imposed prior to 1973, the oldest is a 1902 case with a $2,100 balance. About 50% of these cases have an outstanding balance of less than $500. There is little information about most of these pre-1973 cases beyond the name of the debtor and date and amount of the fine imposed. The location of the debtor is unknown in about 5,000 of these cases and most of the remaining 1,000 debtors have no assets upon which to levy. The majority of these cases involved violations of the alcohol tax laws.

Fines Imposed 1973-1978

Of the approximately 3,000 fines imposed from 1973 through 1978, more than half have balances of less than $1,000. About 1,500 of the debtors are equally divided between those who

are presently in prison, those who have no assets, and those whose location is unknown. In fiscal year 1982, approximately one million dollars was collected from the 1973-1978 group of debtors. As of May 31, 1983, $350,000 had been collected from this group for the present fiscal year.

Year of Imposition	Number of Outstanding Fines	Amount Outstanding
1973	288	$ 1,863,482
1974	1069	3,026,063
1975	624	2,623,474
1976	535	3,411,094
1977	697	4,243,416
	3213	$15,167,529

Fines Imposed 1978-May 1983

Of the 12,000 debtors owing $110,000 for the most recent period, 1978 through May, 1983, more than half have fines with balances under $2,500. On the other had, 3% of these debtors owe more than half of the $110 million outstanding. (This 3% includes antitrust cases in which particularly large fines were imposed.)

A considerable number of fines are not immediately paid when they are imposed because conviction is appealed. In others, the court directs that fines be paid during the term of probation, which runs up to 5 years. Still others involve a prison term and payment begins only after the offender is released and finds employment.

Year of Imposition	Number of Outstanding Fines	Amount Outstanding
1978	834	$ 8,174,662
1979	1145	6,385,704
1980	1808	12,296,485
1981	2904	23,463,198
1982	3430	43,107,245
January-May 1983	1937	16,709,243
	12,058	$110,136,537

Summary of Collections for Fiscal Years 1968-1983

The attached table summarizes criminal fine collections for fiscal years 1968-1983. Apparent disparities between these figures and those cited above are due to the use of a fiscal year rather than a calendar year base. In addition, the somewhat larger totals in the table reflect inclusion of data from an additional month (June 1983) and projections through the end of this fiscal year.

s of: 06/30/83

U. S. ATTORNEY
CRIMINAL FINE COLLECTIONS
FISCAL YEARS 1968 - 1983

Year	Beginning Balance	Imposed	Collected	Other 1/	Ending Balance
1983	$120,323,443	$78,871,595P	$33,743,792P	$18,349,699P	$147,101,547P
1982	91,765,932	62,828,522	28,553,655	5,717,356	120,323,443
1981	79,823,972	42,114,094	27,554,503	2,617,631	91,765,932
1980	67,121,338	37,498,821	21,336,483	3,459,704	79,823,972
1979	61,835,477	32,461,879	24,909,919	2,266,099	67,121,338
1978	50,695,130	31,117,197	18,312,620	1,664,230	61,835,477
1977	38,225,709	42,991,301	18,665,388	11,856,492	50,695,130
1976	34,067,592	21,570,846	14,923,614	2,489,115	38,225,709
1975	28,245,260	20,830,527	12,739,098	2,269,097	34,067,592
1974	25,296,613	17,656,757	12,179,797	2,528,313	28,245,260
1973	20,980,322	19,693,603	14,034,547	1,342,765	25,296,613
1972	17,733,098	12,801,716	8,701,245	853,247	20,980,322
1971	15,937,978	11,683,897	8,590,932	1,297,845	17,733,098
1970	14,491,540	7,369,778	5,923,340	-	15,937,978
1969	13,108,133	6,924,010	5,540,603	-	14,491,540
1968	11,666,808	6,885,440	5,444,115	-	13,108,133
16 Year Totals		$453,299,983	$261,153,651	$56,711,593	
% Changes	+931%	+1,045 %	+520%	+1,314%	+1,022%

For FY 1983, P = Projected based on statistics through June 30, 1983
(minus 9 PROMIS Districts for all or portions of FY 83)

Receivables	$464,966,791
Other Termination	(56,711,593)
Net Receivables	$408,255,198
Collected	$261,153,651
Net Effective Rate = 64%	

1/ Includes fines remitted by the court at end of term of probation and those discharged by pardon, death of the debtor and reversal of conviction on appeal.

THE WHITE HOUSE

WASHINGTON

August 3, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS JGR

SUBJECT: Statement of Lowell Jensen Re: Proposed Office of Drug Enforcement on August 4, 1983

Lowell Jensen proposes to deliver the attached statement before the Subcommittee on Crime of the House Judiciary Committee tomorrow. The proposed testimony reviews Administration objections to the various pending "drug czar" proposals. The testimony begins by discussing current efforts to improve coordination of the anti-drug effort, including the law enforcement coordinating committees, the cabinet council, and the task forces. It then criticizes the "drug czar" approach as a deviation from historic cabinet government, duplicative of existing coordination mechanisms, and ill-suited to the need to distribute resources among drug enforcement and other, unrelated areas. The testimony concludes by urging Congress to give the Administration coordination initiatives time to work.

I see no objections, and, in light of the short turn-around, will so advise Greg Jones orally if you concur. ✓ DONE JGR

Attachment

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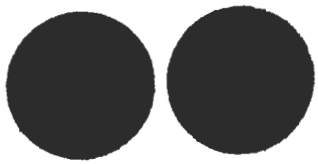
WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET



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Name of Correspondent: Greg Jones

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Subject: Statement of Lowell Jensen re: Proposed Office of Drug Enforcement on August 4, 1983

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CWHOII	ORIGINATOR	83/08/03		_	/ /
	Referral Note:				
CWSTIS	D	83/08/03		S	83/08/03
	Referral Note:				
	_	/ /		_	/ /
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	Referral Note:				

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
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5/81

DRAFT

STATEMENT

OF

D. LOWELL JENSEN
ASSOCIATE ATTORNEY GENERAL

BEFORE

THE

SUBCOMMITTEE ON CRIME
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

CONCERNING

THE PROPOSED OFFICE OF DRUG ENFORCEMENT

ON

AUGUST 4, 1983

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to testify regarding proposals aimed at securing improved coordination in connection with the national drug enforcement effort. The issue of a "drug czar" has been much discussed in recent months but this is the first opportunity which the Department of Justice has had to testify regarding what we consider to be a proposal which would work fundamental change in Executive Branch organization. We are grateful to this Subcommittee for providing a forum within which this issue can be discussed and our concerns aired.

NO DISAGREEMENT AS TO THE NEED FOR COORDINATION

When this Administration assumed office in 1981, we recognized that there was inadequate coordination and cooperation in the area of law enforcement generally and drug enforcement in particular. The Attorney General's Task Force on Violent Crime confirmed this assessment and recommended specific measures to improve coordination and cooperation. We have, therefore, taken a number of administrative steps to address this recognized need.

Of course, the greatest need for coordination is in an area which federal legislation cannot directly reach: cooperation among State and local enforcement agencies and their federal counterparts. No federal "drug czar" can direct the policies and practices of the State and local agencies which comprise more than 90 percent of our total national law enforcement resources. We are, however, attempting to enhance coordination and cooperation with State and local law enforcement through the Law Enforcement Coordinating Committees (LECCs) which the Attorney General

has directed to be established in every federal judicial district, and through the Executive Working Group whose membership is composed of representatives of the National Association of Attorneys General, the National District Attorneys Association, and the Department of Justice. The level of commitment which has been made and which is continuing to be devoted to the national LECC program is unprecedented in the history of the Department of Justice.

CURRENT COORDINATION INITIATIVES ARE UNPRECEDENTED

With respect to coordination within the federal law enforcement community, our approach has been to proceed on two levels: policy and operations. To achieve coordination of law enforcement policy, we have in place the Cabinet Council on Legal Policy to consider basic policy issues in this area and to resolve disputes which may arise among the different federal departments and agencies with respect to law enforcement matters generally. In addition the Working Group on Drug Supply Reduction, which I chair, is in place to bring policy issues to the Council for decision.

In addition to providing a mechanism for establishing drug law enforcement policy, the very existence of these bodies -- by providing a series of forums within which differences of opinion can be aired and resolved -- has served to encourage officials of the different agencies to work out disagreements among themselves with the result that problems are now settled quickly which might have taken weeks or months to resolve. Of course, the White House Office on Drug Abuse Policy is also playing an

important role with respect to drug education, prevention and treatment. Moreover, this Office exercises leadership with respect to the overall drug problem which menaces this country.

From the standpoint of operations, one of our early acts was to bring the forces of the FBI into the drug enforcement effort. This made additional resources available to drug enforcement and improved coordination and cooperation between the FBI and the DEA. More recently, we put in place our Organized Crime Drug Enforcement Task Forces bringing together the forces of the Departments of Justice and Treasury and numerous State and local law enforcement agencies in an important new program of investigation and prosecution targeted at the nation's major drug trafficking rings.

Early reports are that the cases being worked by the Drug Task Forces are going extremely well. Some of these cases had previously been handled by single agencies and they are now being pursued more effectively through the task force approach. All indications are that the various agencies are cooperating with each other and that investigative and prosecutorial personnel are pleased with the task force program. We expect major successes in the months ahead. In fact several cases have already reached the stage of indictment and arrest and in each instance there has been significant participation and close coordination of Federal, State and local agencies.

These initiatives, if allowed some time to work and some room to breathe -- can achieve the enhanced success in drug reduction which all of us seek. In fact, I would submit that

current drug enforcement efforts are better managed, better coordinated and more effective than at any time in our history. Although we are continuing to strive toward improved effectiveness, our performance is improving and we seriously question whether any modification would yield better results.

CONCERNS RAISED BY "DRUG CZAR" PROPOSALS

A. Basic Organizational Theory

Obviously, the concept of a "drug czar" has superficial appeal because many federal departments and agencies have responsibilities over different aspects of the drug problem. Of course, this is not unique to drug enforcement; law enforcement generally is of concern to virtually all agencies. Fraud against the government, for example, is a concern for all the statutory offices of Inspector General as well of the Department of Justice. Fraud against individual citizens may also involve the efforts of a number of Federal agencies. A colorable argument could be made that we need a "white collar crime czar." Similarly "czar" could be created in many areas, perhaps to form themselves into a "Super Cabinet".

We question whether the concept of a "drug czar" represents sound policy purely from the standpoint of management and organization. We believe the Cabinet system has served the American Government well for almost two centuries. The "drug czar" proposal would inherently undermine the authority of Cabinet Members and exacerbate rather than eliminate coordination problems.

In the final analysis, only the President can resolve disagreements which may arise among Department heads. No "czar"

can replace the President with respect to policy or operational disagreements among Cabinet officers; in fact, the creation of a "drug czar" would merely complicate and delay the resolution of inter-departmental disputes.

Moreover, to suggest that a "drug czar" can reach down within Executive Branch departments and agencies is to suggest a duplication of lines of authority and responsibility that would be fatal to good management. Not only would this promote friction among departments and agencies; it would promote friction within departments and agencies by undermining the authority of agency heads.

B. A "Drug Czar" Will Largely Duplicate Work Already Being Performed

Every federal law enforcement agency now has numerous officials whose duties are to establish policy and to coordinate, both internally and externally, efforts of the agencies. Much of the headquarters operation at the FBI, for example, is devoted to oversight and coordination of the operation of 59 FBI field offices and to coordination of FBI operations with those of other enforcement agencies, the various offices of Inspector General, and so forth. The Office of the Associate Attorney General, in turn, is devoted largely to policy formulation and to coordination of all the various investigative (FBI, DEA INS, USMS) and prosecutive (U.S. Attorneys, Criminal Division) components of the Department of Justice. The Office of the Associate Attorney General also devotes substantial effort to coordination of Justice enforcement efforts with those of other Departments

and agencies. To create a new level of bureaucracy to oversee such day-to-day operational efforts would thus be duplicative of existing effort. On the other hand, to create a new level of bureaucracy concerned solely with policy matters and not day-to-day operations would result in less informed policy determinations. A "drug czar" would thus duplicate existing efforts -- consuming scarce enforcement resources in the process -- or create a policy unit ill-qualified to make policy.

C. A "Drug Czar" Would Be Prone to Jeopardize Law Enforcement, National Security and Foreign Policy Interests

As important as drug enforcement is, and, as already alluded to, there are other federal law enforcement responsibilities which must be met. A "drug czar", by focusing entirely upon the single issue of drug enforcement, might direct that Department of Justice resources devoted to organized crime, public corruption, fraud and other priority offenses be diverted to drug enforcement. The Attorney General is in the best position to allocate Department resources among its various enforcement responsibilities. A "drug czar" would also be tempted to intrude into pending investigations and prosecutions thereby jeopardizing sensitive cases.

Similarly, a "drug czar" may be inclined to order Department of Defense support of enforcement operations without proper regard for military preparedness. */ The Secretary of Defense

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*/ In P.L. 97-86, which authorizes limited military assistance to civilian law enforcement, the Congress specifically directed that the military may not assist civilian law enforcement if to do so would jeopardize military preparedness.

is in the best position to assess the level of support which the military can properly provide to law enforcement.

A "drug czar" may be inclined to focus Coast Guard resources on drug interdiction to the exclusion of its important safety and navigational responsibilities. He may be tempted to focus Customs Service and IRS efforts upon drug enforcement to the exclusion of collection of customs duties and tax administration. The Secretaries of Transportation and Treasury are in the best position to allocate their resources among their various areas of responsibility.

A single-minded "drug czar" may also be inclined to make the same mistakes made by some Members of Congress who have introduced legislation to cut off all military and foreign assistance to foreign nations which do not cooperate adequately with the United States in drug enforcement -- without regard to other foreign policy considerations or the ability of the foreign government, given internal political considerations, to stop drug production or trafficking within its own boundaries. Such a single-minded and inflexible approach to foreign policy would be dangerous. The Secretary of State is in the best position to conduct foreign policy.

Cabinet heads can best manage their own Departments and only the President can balance all of those competing interests with respect to issues that transcend Departmental lines. A "drug czar" would be totally ill-equipped to assess overall defense, foreign relations, criminal justice, tax collection, public safety and national security needs. The Founding Fathers

were wise to establish one office to oversee the Executive Branch: the Presidency. Prudence would distate caution in tampering with that arrangement, particularly over the objection of the President.

Our belief has been and continues to be that creation of a "drug czar" with vague and expansive powers would actually set back drug enforcement efforts. The only question in our minds has been how great that setback would be and what additional adverse side-effects such legislation would produce for our nation and our traditional system of Executive Branch organization.

No one doubts the enormous magnitude of the drug problem. Everyone wants to see greater success in all areas of our drug control effort. Certainly, I can understand that there will always be disagreement as to whether existing drug policy is sufficiently detailed or whether each of the various components of that policy is receiving appropriate emphasis. I can understand how the incredible complexity of the drug problem can lead some to conclude that there can never be enough coordination of effort. I can understand how the tremendous difficulties inherent in attempting to evaluate the effectiveness of our drug programs can produce wildly varying appraisals as to the level of success which we are achieving.

Again, however, the simple fact is that this Administration has taken unprecedented steps to establish a cohesive and well orchestrated drug control program. We in the Executive Branch have the ideal organizational arrangement to produce a coordinated effort. The various agencies and Departments with responsibilities over the diverse aspects of the drug problem all serve

under the President, and the heads of those components serve at his pleasure. Moreover, the strong public commitment to drug control -- which we fully share -- provides the impetus for coordination of our federal effort.

BILLS BEFORE THE SUBCOMMITTEE

Turning to the two specific proposals before the Subcommittee, I note that H.R. 3326, like previous proposals would establish a "Director of National and International Drug Operations and Policy." The Director, however, would be the Vice President or a Cabinet Officer. While this proposal is well intended beyond any doubt, it threatens the system of Executive Branch organization which has served us well for two centuries.

It is important to bear in mind that the President could, administratively, achieve these changes if he so desired. He has not chosen to do so and neither Vice President Bush or Attorney General Smith have sought nor desire such powers. While we recognize that H.R. 3326 seeks to accommodate concerns raised by the Administration with respect to previous "drug czar" proposals, it fails to do so as our concern does not relate to the identity of the person holding that position but rather is based upon the broad and unprecedented powers which the "drug czar" would be given.

Similarly, H.R. 3664 seeks to address the concerns we have raised with respect to previous drug czar proposals. Although somewhat more precise than prior bills, the broad powers conferred upon the Director by H.R. 3664 raise serious concerns.

H.R. 3664 does represent an improvement over other proposals in two respects. First, this bill recognizes the existence of the Office of Drug Abuse Policy in the White House and seeks to enlarge the powers and responsibilities of that existing organization rather than creating an entirely new entity which would be superimposed upon the existing structure. This has obvious advantages both from the standpoint of avoiding needless duplication of effort and of building upon established organizational structure.

Second, H.R. 3664 states that the responsibility of the drug coordinator is to coordinate and oversee federal drug enforcement efforts and to make recommendations to the President regarding organizational, management, budget and resource allocation matters. By comparison, other proposals imply that the "drug czar" could unilaterally overrule federal departments and agencies with respect to such matters. The new § 202 in H.R. 3664 does raise questions, however. For example, does the authority of the Director to establish policies and priorities (§ 202(a)) mean that the Director could determine that half of the FBI and Criminal Division resources devoted to labor racketeering or bank-related fraud must be diverted to narcotics enforcement? In short, the limits of the drug coordinator's powers to establish policies and priorities appear unbounded.

Conclusion

As I have indicated, we believe that drug coordination legislation is not only unnecessary but undesirable. We now have in place unprecedented coordination mechanisms and will

likely experience some disruption of effort as the result of any externally imposed change in our existing structure. We would hope, therefore, that you could see fit to support the coordination initiatives undertaken by the Administration rather than acting to modify the structure of the Executive Branch at this time. In short, we would hope the Congress could forebear from changing horses in mid-stream.

We all have the same goal. Perhaps we are fortunate that our major disagreement is how to best organize to achieve it. I would hope that our approach will not be rejected without having been given an opportunity to prove itself. We are confident that the mechanisms now in place will work.

THE WHITE HOUSE

WASHINGTON

August 18, 1983

MEMORANDUM FOR GREG JONES
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Vinsik before the Senate Foreign Relations Subcommittee on Western Hemisphere

Counsel's office has reviewed the above-referenced proposed testimony, and finds no objection to it from a legal perspective.

FFF:JGR:ph 8/18/83
cc: FFFielding
JGRoberts✓
Subject
Chron.