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THE WHITE HOUSE

WASHINGTON

September 29, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Steven R. Schlesinger  
Regarding the National Criminal Justice  
Information and Statistics Service (Bureau  
of Justice Statistics) on October 5, 1983

Steven R. Schlesinger, Director of the Bureau of Justice Statistics, proposes to deliver the attached testimony before the Subcommittee on Courts of the Senate Judiciary Committee on October 5. The testimony is not likely to be of interest to anyone other than statisticians, and frankly will not fascinate many of them. The testimony emphasizes the importance of uniform identification criteria to ensure statistical system security, data accuracy, and the protection of individual rights. Schlesinger reviews the work of his agency in assisting states in developing comprehensive criminal justice statistics systems. He cites an example of the way in which nonuniformity compromises the integrity and usefulness of statistics (juvenile records often cannot be used in adult criminal systems because they are not supported by adequate identification, i.e., fingerprints), reviews the efforts of BJS to link the statistical systems in several federal agencies, and emphasizes the importance of uniform systems of identification in assessing broader criminal justice trends.

I have no legal objection.

Attachment

THE WHITE HOUSE

WASHINGTON

September 29, 1983

MEMORANDUM FOR GREGORY JONES  
LEGISLATIVE ATTORNEY  
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING *Orig. signed by F.F.*

SUBJECT: Statement of Steven R. Schlesinger  
Regarding the National Criminal Justice  
Information and Statistics Service (Bureau  
of Justice Statistics) on October 5, 1983

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

FFF:JGR:aea 9/29/83

bcc: FFFielding  
JGRoberts  
Subj  
Chron

WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET

FGD17-14

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1/1

JR

Name of Correspondent: Greg Jones /

MI Mail Report User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Statement of Steven R. Schlesinger  
re: the National Criminal Justice Information and  
Statistics Service (Bureau of Justice Statistics)  
on October 5, 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
<u>CWH011</u>	<u>ORIGINATOR</u>	<u>83,09,28</u> <sup>W/S</sup>			<u>1 1</u>
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- 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:**
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  - B - Non-Special Referral
  - C - Completed
  - S - Suspended
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  - Code = "A"
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**DRAFT**

STATEMENT

OF

STEVEN R. SCHLESINGER  
DIRECTOR, BUREAU OF JUSTICE STATISTICS

BEFORE

THE

COMMITTEE ON THE JUDICIARY  
SUBCOMMITTEE ON COURTS

ON

OCTOBER 5, 1983

Mr. Chairman: I am pleased to have this opportunity to participate in today's hearings on the significant issue of Federal information systems. The Bureau of Justice Statistics was established in 1980 pursuant to Title III of the Justice System Improvement Act. As described in its legislative mandate, the Bureau of Justice Statistics serves as the primary Federal agency for the collection, analysis and dissemination of statistics describing crime and the response of the criminal justice system at the Federal and state level. Pursuant to this mandate, the Bureau of Justice Statistics presently supports major data collection efforts in the area of victimization, adjudication, prison, probation and parole, white collar crime, and prosecution activity. A new program to develop statistics describing system wide transactions in the Federal criminal justice system has also recently been initiated. Support is also provided for a national archive to facilitate multiple uses of data and for the intensive analyses of particular issues relevant to criminal justice policy.

Consistent with the activities of its predecessor entity, the National Criminal Justice Information and Statistics Service, the Bureau of Justice Statistics also encourages the development of state and local automated systems which are capable of generating criminal justice data for operational and statistical purposes. Support is also provided to ensure the continued development and analysis of information policies which impact on the use and collection of criminal justice data.

Before addressing the substance of my comments I would like to indicate that, as you know, the Bureau of Justice Statistics collects no identifiable data for operational purposes and maintains no identification or information system serving operational law enforcement purposes. I believe, however, that the experiences of the Bureau of Justice Statistics and its predecessor agency, the National Criminal Justice Information and

Statistics Service, in the area of criminal history information systems development are of relevance to the issues under consideration today since they (1) highlight the importance of uniform identification criteria, (2) emphasize the extent to which inter-agency coordination is necessary to ensure system security and data accuracy, and (3) reflect the extent to which effective information policies governing security, accuracy, and disclosure of data can protect the integrity of the system and the rights of the individual record holders. Additionally, our experiences in reviewing the development of state and local automated criminal justice systems over the past 10 years indicate that technical and administrative procedures can be developed to meet system operating needs and that information policies can be implemented to protect the systems against unauthorized use and manipulation.

I am firmly committed to the view that accurate and comprehensive information is critical for the efficient operation of criminal justice and other types of systems. Specifically, I think that accurate and uniform identification of record subjects is necessary to ensure that operational decisions are based on relevant data and that critical government systems are protected against fraudulent abuse. Similarly, I believe that inter-agency coordination at the Federal and state level is significant since it formulates the basis for data exchange, precludes duplication of records and minimizes the opportunity for abuse of individual systems. Accurate and uniform identifiers are also necessary for statistical purposes since they permit system-wide linkage of data (as is presently being undertaken in the Bureau of Justice Statistics Federal Statistics project), facilitate longitudinal analysis of prior record information, and support the validity of statistical data which are developed from operational data bases.

The activities of the Bureau of Justice Statistics and its predecessor agency in the area of criminal history systems development were basically initiated in the early 1970's. At that time, few states had introduced automated procedures for criminal justice record processing. Centralization of criminal records was at a primitive stage of development and policy guidelines governing the use and disclosure of criminal history information were almost non-existent. Operationally the absence of accurately and uniformly identified records severely limited the ability of law enforcement agencies to obtain and utilize criminal history data for ongoing investigations, personnel reviews, sentencing decisions and other criminal justice purposes. From a statistical point of view, the absence of uniform identification criteria and the use of differing data element definitions precluded the development of meaningful statistical data which could help to shape future criminal justice policies.

The overall objective of the Federal effort was the establishment of statewide automated systems capable of maintaining and disseminating data describing all criminal justice transactions involving state offenders. Over the long term, such systems were also intended to facilitate the rapid exchange of criminal justice data among the states and between the states and the Federal government. Such interstate exchange of criminal justice data is, of course, considered critical in light of the greater mobility of individual offenders and the growing awareness of the impact of "career criminals" operating in several jurisdictions.

To achieve these goals, extensive technical and fiscal support was provided to assist states both in automating individual components of the criminal justice system and in developing overall procedures for the statewide collection and exchange of such data.



Accompanying these efforts and consistent with its legislative mandate, regulations were promulgated requiring that states receiving funds for the development of criminal justice systems implement procedures to ensure the accuracy, completeness and security of data maintained therein. Specific programs were supported to develop technical identification standards, uniform data entry criteria and rapid communications capabilities.

Such programs included, for example, the development of models for increasing the efficiency of state identification bureaus and the development of automated processes to expedite the fingerprint identification process. The Comprehensive Data Systems (CDS) program, a 50-state effort to improve criminal histories, research, and statistical capabilities within a state, was also initiated in the early 1970's. Additionally, both the State Judicial Information System (SJIS) program, a multi-state effort to identify and demonstrate standardized recordskeeping functions for the courts, and the Offender-Based State Corrections Information System (OBSCIS) program, a 20-state program with objectives similar to SJIS were implemented. In developing these programs it was recognized that there was a need for accurate, positive identification of individuals in order to permit the interface and analysis of standardized data collected by individual operating agencies. Taken together, the programs represented landmark efforts to establish the framework for system-wide data collection involving all components of the criminal justice system.

Experience in these programs indicates that the implementation of procedures for uniform and accurate subject identification and the establishment of interagency coordination were key factors in the development of state-wide criminal justice data exchange systems. Similarly, experience indicates that the implementation of policies to

limit data access and to ensure data security were critical factors in protecting systems against the unauthorized use and release of data. Accurate identifiers also provided the basis for regular audits designed to prevent illegal system use and manipulation. Such audits are required under the Regulations established at the initiation of these efforts.

I would like to note at this point that the Congressional establishment of requirements to ensure security and accuracy of data, coupled with the decision by BJS' predecessor agency to provide parallel assistance in both technical and policy areas, were significant. These actions reflected Federal recognition of the fact that technological advances could provide substantial benefits for criminal justice operation and that potential threats to individual privacy could be averted through the development of policies and standards to protect against system abuse. I mention this issue now since I believe that similar issues can be expected to arise in connection with proposals for use of uniform identifiers and linkage of data resources at the Federal level. I feel it is relevant to note, therefore, that we are unaware of any major incidents in which interfaced criminal justice systems at the state level have been illegally manipulated to intentionally harm the individual record subjects. Additionally, it should be noted that the use of accurate identifiers is a primary factor in protecting against misuse of erroneously identified data.

As indicated previously, no formal studies were conducted at the initiation of the Federal efforts in this area. It is clear, however, that the states in the early 1970's had achieved minimal levels of system development. Although state identification bureaus had frequently been established, duplicative records were often maintained and procedures to ensure law enforcement access to timely and accurate data were not routinely in

effect. When measured against these conditions, the progress which has been made during the past 10 years is substantial.

Specifically, I am pleased to report that a survey of state legislation conducted for the Bureau of Justice Statistics in 1981 by SEARCH Group Inc. reports that almost all states had authorized the establishment of some type of central repository to serve as the focus for criminal justice information system activity. Although the survey noted that substantial variation exists among state systems and that not all repositories are fully operational, the concept of central coordination of criminal justice data has clearly been achieved in the majority of states. Similarly, although the survey did not specifically identify the operational requirements at each repository, the establishment of positive identification as a condition for data input appears to be generally required.

It should be understood, of course, that further progress must still be made in this area and that fiscal constraints have precluded full implementation of procedures to ensure data quality. I am pleased with the achievements which have been made in this area in the past 10 years, however, and hope that the experiences which I have described today demonstrate the extent to which the development of identification criteria, establishment of state agency coordination and implementation of security and accuracy standards have been key factors in the development of effective criminal justice systems at the state level.

In closing, I would like to mention three additional areas which illustrate, in my view, the importance of the issues under consideration at this hearing.

Initially, I refer to a finding in a recent study of juvenile justice record policy which was conducted for the Bureau of Justice Statistics by SEARCH Group, Inc. The study indicated that although juvenile justice records were frequently legally available for consideration in the adult criminal justice system, the fact that such records were generally not supported by adequate identification (e.g. fingerprints) and accordingly were not acceptable to the central repository, essentially foreclosed the use of juvenile record data for legitimate criminal justice purposes. In light of the significant impact of juvenile crime and the current concern over career criminal programs, I believe that this example highlights the significance of adequate and uniform identification standards.

Secondly, I note the recent efforts initiated by the Bureau of Justice Statistics in the area of Federal statistics. In this program, we have undertaken pilot efforts to link data collected by various components of the Federal criminal justice system in order to develop a comprehensive statistical data resource. Such a resource which, consistent with our statistical mandate will be used for research and statistical purposes only, will permit more effective analyses of Federal criminal justice activity, workload and policy options. As of this date, we are pleased to report that a data base tracing 1979 Federal transactions from investigation through prosecution, adjudication, and corrections has been established. It is relevant to note, however, that although the project has developed techniques to achieve acceptable levels of data-match, it is clear that the absence of more uniform identification standards has substantially limited more comprehensive data analysis.

Last, I would like to mention that the offender based transaction statistics (OBTS)

program which was initiated by our predecessor agency and which we are currently funding provides another example of the importance of accurate and uniform identification standards for statistical purposes. Under this program, data collected from individual agencies in each participating state are linked by a single identification characteristic in order that state recidivism patterns and system-wide processing practices can be analyzed.

The use of parallel data elements in all states also permits cross-state comparisons of data collected under this program. In light of the previously mentioned concern over individual record confidentiality, however, procedures have been developed under which individual identifier codes used in the project are encrypted prior to release for statistical analysis. The success of this effort is obviously dependent upon the level of accuracy of data identified to particular record subjects.

In closing, I would like to indicate again my recognition of the importance of the issue being addressed here today. Although as I have previously noted, our agency neither collects data for operational purposes, nor maintains an operational information system, I believe our experience in the areas of system development and statistical analysis serve to highlight both the significance of the issues raised today and the extent to which efforts in this area can be beneficial to both law enforcement and the overall public safety.

THE WHITE HOUSE  
WASHINGTON

October 4, 1983

MEMORANDUM FOR GREGORY JONES  
LEGISLATIVE ATTORNEY  
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Frank V. Monastero on  
Eradication of Marijuana with Paraquat

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective. On page 6, line 13, we assume that "almost" should be "also."

FFF:JGR:aea 10/4/83

cc: FFFielding  
JGRoberts  
Subj  
Chron

*John - FFF  
was not able  
to look at  
this until after  
the testimony  
had been given.  
D.*

THE WHITE HOUSE

WASHINGTON

October 4, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement of Frank V. Monastero on  
Eradication of Marijuana with Paraquat

DEA Assistant Administrator for Operations Monastero proposes to deliver the attached testimony on October 5 before the House Subcommittee on Crime. The testimony begins by noting the dramatic increase in domestic marijuana cultivation, and the difficulties associated with eradicating marijuana plots. The testimony reviews the assistance provided to the states by DEA, including supplying training, airplanes, and scientific expertise. The most controversial aspect of the testimony concerns the use of paraquat in the United States. The testimony notes that paraquat is a registered weed and grass killer used in large amounts on many common crops. The testimony reviews the extensive research and analysis conducted by DEA on the use of paraquat, and concludes that aerial spraying is the most effective means of marijuana eradication. The use of paraquat by DEA in Georgia and Kentucky last August is discussed, and the testimony concludes by noting that although DEA is temporarily restrained by judicial decree from further use of paraquat, the agency's aggressive eradication efforts, in cooperation with the states, will continue.

I have no objection to the testimony. It reviews the evidence supporting the use of paraquat in marijuana eradication efforts, and it is important that Congress be made aware of this evidence in the face of erroneous judicial decisions barring the use of paraquat.

Attachment

## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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Name of Correspondent: Greg Jones

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Subject: Statement of Frank V. Monasters  
on eradication of Marijuana with  
Paraguay

ROUTE TO:	ACTION	DISPOSITION	
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code      Completion Date YY/MM/DD
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| <p><b>ACTION CODES:</b></p> <ul style="list-style-type: none"> <li>A - Appropriate Action</li> <li>C - Comment/Recommendation</li> <li>D - Draft Response</li> <li>F - Furnish Fact Sheet<br/>to be used as Enclosure</li> </ul> | <ul style="list-style-type: none"> <li>I - Info Copy Only/No Action Necessary</li> <li>R - Direct Reply w/Copy</li> <li>S - For Signature</li> <li>X - Interim Reply</li> </ul> | <p><b>DISPOSITION CODES:</b></p> <ul style="list-style-type: none"> <li>A - Answered</li> <li>B - Non-Special Referral</li> <li>C - Completed</li> <li>S - Suspended</li> </ul> |
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**DRAFT**

JR

Statement of  
Frank V. Monastero  
Assistant Administrator for Operations

Drug Enforcement Administration  
U. S. Department of Justice

on

Eradication of Marijuana with Paraquat

Subcommittee on Crime  
United States House of Representatives

William J. Hughes, Chairman  
Washington, D. C.

October 5, 1983

Chairman Hughes, Members of the Subcommittee on Crime, I am pleased to appear before you to discuss the Drug Enforcement Administration's (DEA) efforts along with the other Federal, state and local authorities to counter the illicit cultivation of cannabis in the United States. This statement presents an overview of the domestic marijuana production problem in the United States and the efforts to eradicate and suppress cannabis cultivation. In particular, the use of paraquat to eradicate cannabis is described in detail.

#### Nature and Extent of the Problem

The rapidly escalating problem of illicit cannabis cultivation poses relatively new challenges to narcotics law enforcement in the United States. The seriousness of this problem can be judged in terms of the quality and the quantity of marijuana produced domestically.

From the standpoint of quality, the production of sinsemilla has increased substantially in the United States. Through the process that produces sinsemilla, a single plant can yield approximately one pound of product that has on the average a higher THC (Delta-9-Tetrahydrocannabinol) content than other types of marijuana. The quality of the marijuana produced is significant from a commercial merchandising standpoint and in terms of its potential health hazards;

i.e., the higher the THC content, the more serious the health consequences associated with its use.

In terms of quantity, the estimated size of the cannabis crop grown in the U. S. has increased in recent years. The estimated amount of marijuana produced from the domestic crop for 1981 as reported by the National Narcotics Intelligence Consumers Committee (NNICC) was 1200 metric tons. Although this estimate was based on the best information available at the time, it was considered conservative. A primary goal of the 1982 DEA Domestic Marijuana Eradication/Suppression Program was to develop an intelligence data base concerning domestic cannabis cultivation. The data collected indicate the previous NNICC estimate may have been very low.

It should be noted, however, that these estimates and the methods used to calculate the amount of marketable marijuana produced remain imprecise. Several major initiatives are underway to develop better estimates. Samples of plants from sites throughout the country will be submitted for analysis to a contractor for the National Institute on Drug Abuse. Dr. Carlton E. Turner, a renowned expert in this field who presently serves as the Special Assistant to the President and Director of the Drug Abuse Policy Office, through an interagency effort has established standards for

estimates in this area. In addition, major refinements are being made in survey questions and other information collection activities under the DEA 1983 Domestic Marijuana Eradication/Suppression Program. Despite possible variations in total weight estimates we believe that there are greater amounts of marijuana being produced in the United States than ever before.

#### Obstacles to Law Enforcement

DEA's experience with domestic marijuana production has increased significantly in the last two years; however, our knowledge of the trafficking patterns of domestic marijuana is very limited. Our state and local counterparts also have this problem. The fact that there is a cross-section of individuals engaged in cannabis cultivation contributes to the difficulties in determining trafficking patterns because generalities cannot be applied. Growers range from counter-culture holdouts to former moonshiners; from out-of-work lumberjacks to legitimate farmers and to the marijuana user who wants to try to grow his own. Other than certain outlaw motorcycle gangs, we have seen no single group such as organized crime elements, emerging in control of a significant part of the market at this time.

Ten states have signed Memorandums of Understanding with their state National Guard and considerable support is being

provided by some National Guard Units. However, weather extremes and natural disasters during the past year also placed demands on the National Guard and used resources which might otherwise have supported the cannabis eradication program.

The prosecution of individual cannabis growers is also a new challenge for many prosecutors. Given terrain and security measures that often make pre-raid surveillance impossible, it is difficult to establish an association between growers and specific cannabis plots. Ground access to mountaintop or other remote sites is often limited to one road. Under such conditions, one lookout or cooperative resident some miles from the growing site can warn the growers of intruders by CB radio.

Prosecutors are often reluctant to indict and judges and juries are likewise hesitant to convict and adequately sentence growers. Further, local budget restrictions, which have resulted in layoffs of deputies, have prevented some sheriffs from applying the manpower to the program which they would otherwise.

Finding a site and the means to safely destroy thousands of pounds of wet, bulky cannabis plants is a challenge for any

law enforcement officer. The DEA Office of Science and Technology is currently seeking solutions to these problems.

For U. S. Forest Service and Bureau of Land Management (BLM) employees, personal and resource safety have become a major concern as growers retaliate for the destruction of their cannabis crops. U. S. Forest Service and BLM employees have been threatened and their personal and agency equipment damaged or destroyed by angry growers. U. S. Forest Service officials have told us they suspect that some forest fires have been set by individuals seeking retaliation for enforcement action.

#### DEA's Marijuana Suppression/Eradication Program

Prior to 1981, DEA's cooperative eradication programs were limited to Hawaii and California. These were expanded during 1981 to include Oregon, Florida, Missouri, and Kentucky. Since that time, the program has expanded rapidly to include 25 states in 1982 and 40 states in 1983. While some states are more significant than others with regard to the amount of cannabis cultivation discovered thus far, all of the participant states are experiencing some illicit growth for financial profit.

A number of variables were considered in developing plans for the Domestic Marijuana Eradication/Suppression Program.

First, the type and level of state and local resources available for eradication vary from state to state.

Secondly, there have been state agencies, such as state Forest Services, Offices of Emergency Services, etc., which have begun to make equipment and expertise available to the state enforcement elements. In addition, the states are attempting to identify and use alternate labor sources to cut down cannabis plants, and greater use of helicopters for transportation of raid personnel and removal of personnel and evidence.

The process of manual eradication is, by far, the most widely used technique to eradicate cannabis grown in the United States. It is almost the most highly labor-intensive. As noted, the plot sites are often remote, and in states such as California, Oregon and Washington, are in steep rugged terrain. Law enforcement officers must secure the area, arrest the growers, check for concealed traps, perform a plant count, take photographs and process samples in response to search warrants and evidentiary requirements. Only then can they begin the task of cutting the cannabis plants, which can reach 12-15 feet in height, and which in some circumstances, grown in groves as thick as bamboo thatches. The plants must be bundled and tied and then carried some distance to the nearest trail or road to be loaded on trucks. Irrigation hoses, which often run for

considerable distances and have been buried to avoid detection, must be removed from the site. The seized cannabis plants must then be trucked to a suitable site for burning. This represents an extensive use of law enforcement personnel.

DEA's strategy has been to provide a varying level of support, depending upon the perceived volume of cultivation, but in every case sufficient to support an aggressive search program in each state. DEA's role in this cooperative venture has been to encourage state and local efforts and to contribute training, equipment, funding, investigative and aircraft resources to support their efforts.

In 1983 the number of DEA-sponsored training schools increased from 4 to 17. These schools are designed to train state and local law enforcement officers in aerial observation techniques, the legal requirements to obtain search warrants in their state, methods to conduct raids to destroy the cannabis crop, and procedures to arrest and prosecute those individuals identified with the cultivation. Participants will include not only state and local officers, but also agents of the U. S. Forest Service and Bureau of Land Management who will play an active role.



In 1983, DEA has committed 11 aircraft to complement state and local air surveillance efforts. The importance of aircraft in the eradication/suppression effort cannot be overstated; of the 481 missions flown by DEA in support of the program in 1982, 82 percent resulted in positive sightings of cannabis plots. In addition to their critical role in locating plots, aircraft are required to move enforcement personnel into the often remote growing areas and to remove the plants once eradication takes place.

The DEA Office of Science and Technology, in cooperation with the U. S. Department of Agriculture, developed "Guidelines for the Eradication of Cannabis with Paraquat" for use during the 1983 season. This Guideline is consistent with the 1982 Federal Strategy for Prevention of Drug Abuse and Drug Trafficking and has been developed in close coordination with appropriate Federal agencies.

DEA will also work with the states and other Federal agencies to enhance public awareness of the cultivation problem. As a part of this initiative, we have produced a film depicting the Federal and state effort in 1982. The film has been widely distributed to make state executives, legislators, law enforcement personnel and the general public more aware of the domestic marijuana production problem and of the steps being taken to counter it.

During the past three years, use of National Forest lands for illegal cultivation of marijuana has increased dramatically. Illegal growers take extreme measure to protect their crops, including use of armed guards, guard dogs, and various sabotage devices (e.g., firearms with trip wires, armed hand grenades with trip wires, camouflaged pits with punji sticks, and treble fish hooks suspended from monofilament line at face height). During 1982, 250 visitors to the National Forests filed reports of threats or assaults in the National Forests in or near marijuana sites. One hundred seventy-five Forest Service employees filed similar reports. In 1980, approximately 3,650 cannabis cultivation sites were reported in the National Forest system, and the associated danger of physical violence excluded public use of 220,000 acres of National Forest lands. By 1982, according to the U. S. Forest Service, the numbers had risen to 6,200 sites and 1,534,000 acres closed to public use.

Illegal marijuana cultivation in the National Forests often produces significant environmental damage. For example, growers place large quantities of rodenticides adjacent to the marijuana plants to protect them from rodents; such outdoor use of poisons designed only for indoor use allows the poisons to enter the soil and the food chain. In the

West, illegal growers make heavy use of nitrogen fertilizers, which leach into nearby streams and cause fish kills.

The 1982 Federal Strategy for Prevention of Drug Abuse and Drug Trafficking states that herbicidal eradication of marijuana is effective and efficient in appropriate circumstances and should be available to Federal, state and local officials as one of the tools in the Domestic Marijuana Eradication/Suppression Program. As a result, in 1983, DEA prepared for the appropriate use of herbicides to eradicate marijuana on Federal lands by Federal personnel and on other lands by state and local officials. It was concluded that paraquat was the most effective herbicide for this purpose.

#### Registration and Use of Paraquat in the United States

Paraquat is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 USC 136 et.seq.) for use in the United States as a weed and grass killer and harvest aid chemical. Based on scientific studies concerning the effects of paraquat on the environment generally and on specific plant and site applications, EPA has determined paraquat to be reasonably safe and appropriate for uses specified on the label. Consequently, EPA accepted paraquat for registration under FIFRA.

Paraquat was first registered for use in the United States in 1967. By 1974, EPA estimated that over one million pounds of paraquat were used in the United States. A 1976 survey by the Department of Agriculture found that 651,000 pounds of paraquat were used on 12 major crops totalling 1,378,000 acres. Chevron Chemical Company, the manufacturer of paraquat in the United States, reports that four million gallons of paraquat were used in the United States in 1981 and that 8.6 million acres in the United States were sprayed with paraquat in 1982. It is noted that aerial spraying of paraquat is a common method of application in agricultural uses.

Once sprayed on a target site, paraquat is rapidly absorbed by the sprayed vegetation. Paraquat photodegrades (decomposes in light) when deposited on plant surfaces. When sprayed, paraquat binds extremely tightly to soil particles and becomes biologically inactive; consequently, leaching and surface runoff do not occur. Paraquat does not bioaccumulate, i.e., it is not taken up the food chain and concentrated in higher organisms. Paraquat is nonvolatile and, therefore, cannot disperse into the environment as a vapor. After paraquat spray has dried, there is no hazard from contacting treated dried foliage. Consequently, the paraquat label does not include any warning or prohibition on re-entry into sprayed areas.

Paraquat is registered for use in the production of food crops, including control of weeds in orchards and vineyards and in field crops such as asparagus, alfalfa, corn, lettuce, melons, peppers, sorghum, sugar beets, tomatoes, barley and wheat. Paraquat is also registered for use as a harvest aid chemical for soybeans, sugar cane, grain, sorghum and other crops.

EPA has established safe tolerance levels for paraquat on raw agricultural commodities ranging from .01 to 5 parts per million. Agricultural uses of paraquat in this country since 1976 show no evidence of herbicide residues in food harvested or processed from crops on which paraquat was used. The National Pesticide Monitoring Program conducted by several federal agencies has not shown paraquat residues in plants, soil, water, and wildlife.

#### DEA's Environmental Assessment

Paraquat is registered for use to control annual broadleaf weeds. Since cannabis is an annual broadleaf weed, the use of paraquat on cannabis is consistent with Federal statutes controlling the application of such chemicals.

When sprayed on cannabis, paraquat destroys the plants within 24 to 72 hours, turning the plants yellowish and

making them brittle and unusable. If, however, the plants are harvested immediately after spraying and removed from the sunlight, the marijuana remains saleable and some residue of paraquat may remain on the plant.

During planning for the Domestic Marijuana Eradication/Suppression Program in 1983, DEA considered use of paraquat as one potential method of eradication. A Programmatic Environmental Assessment was prepared at that time to analyze whether use of paraquat to eradicate illegally cultivated cannabis would cause any significant environmental impact. This assessment incorporated by reference and adopted: 1) "Guidelines for the Eradication of Cannabis with Paraquat," prepared by DEA's Office of Science and Technology in June, 1983; 2) the Final Environmental Impact Statement and the Environmental Analysis issued by the Department of State in April 1979 in connection with Mexico's narcotics eradication program; and 3) the Final Programmatic Environmental Impact Statement issued by the Department of State in November 1982 in connection with proposed United States assistance to various Western Hemisphere nations to eradicate marijuana with paraquat.

In preparing the "Guidelines for the Eradication of Cannabis with Paraquat", various alternative methods of eradication were evaluated by DEA, including genetic, biological,

incendiary, chemical and mechanical techniques. This analysis concluded that chemical eradication, on a selected basis, was the best technique available to eradicate cannabis. In addition to being the most effective and efficient manner to eradicate illicit crops, risks associated with other techniques such as introducing new elements or organisms into the environment, inadvertent destruction of licit crops, or the inability to control the eradication effort, were not found to exist with chemical applications. The analysis also included assessment of alternative herbicides. Based on data prepared by the United Nations Laboratory in its 1979 paper, "Methods for the Eradication of Illicit Narcotic Crops", paraquat was determined to be the most effective and suitable herbicide to use for drug enforcement purposes.

Extensive research and analysis was also conducted by DEA on the technology for applying herbicides and on methods to minimize any possible adverse effects from application of paraquat, including aerial application. The possible problem of drift to nontarget areas was specifically assessed at this time and several precautions to avoid drift were developed. The Programmatic Environmental Assessment also provides for a site specific analysis, once illegal fields are located, to determine whether proposed spraying

sites meet the criteria established by DEA to avoid any possible adverse environmental impacts.

Based on the information and analysis identified and incorporated in the Environmental Assessment, the DEA Acting Administrator concluded that eradication of marijuana with paraquat in the manner described in the Environmental Assessment will not involve any significant impact on the human environment. The "Programmatic Environmental Assessment and Finding of No Significant Impact", prepared by DEA, was approved by the Acting Administrator on July 19, 1983. Notice of DEA's findings was published in the Federal Register on August 11, 1983.

DEA's Use of Paraquat to Eradicate Illegal Marijuana in Georgia and Kentucky

In August, 1983, DEA and the U. S. Forest Service located several illegal marijuana sites in the Chattahoochee National Forest in Georgia and in the Daniel Boone National Forest in Kentucky.

U. S. Forest Service personnel familiar with those forests examined the sites to determine whether they were environmentally acceptable for spraying paraquat. The U. S. Forest Service established additional criteria for site selection: spray sites must be at least 200 feet from streams or open



water and at least 500 feet from private lands; human habitation must be no closer than 1/4 mile from the site, and there can be no possible effect on threatened, endangered, or proposed species. The U. S. Forest Service concluded that eradication of marijuana with paraquat on the selected sites in accordance with DEA's environmental assessment would not significantly affect the forest resources or environment.

Paraquat was used to eradicate marijuana in the Chattahoochee National Forest on August 12, 1983 and in the Daniel Boone National Forest on August 19, 1983. In both cases, DEA secured the target sites prior to spraying to assure that no one was present and to prevent unauthorized entry. The areas were again secured after spraying to prevent illegal harvest of the sprayed marijuana. The operation was conducted in compliance with all applicable safety and environmental restrictions. The helicopter pilot had extensive experience spraying agricultural chemicals, and the helicopter was equipped with an extremely accurate spray boom designed to prevent drift. Subsequent to the spraying operation, an analysis was made by the Research Institute of Pharmaceutical Sciences at the University of Mississippi of the residual paraquat present on the plants and surrounding areas. Based on this analysis, the dirt from the cannabis field, the water from a nearby stream and

the stalks and roots of the plants were not found to contain any paraquat. Only the cannabis leaves had positive indications of paraquat present.

### Conclusion

The eradication and suppression of domestically produced marijuana is an obligation placed upon the United States as a result of the Single Convention on Narcotic Drugs (1961), the Controlled Substances Act of 1970, and the 1982 Federal Strategy for Prevention of Drug Abuse and Drug Trafficking. In addition to these obligations, a vigorous eradication campaign in the United States is necessary to demonstrate to foreign governments our commitment to controlling illicit cannabis cultivation.

The vast majority of domestic cannabis detected in this country is destroyed manually - a process which is an extremely labor intensive law enforcement activity. The use of herbicides will substantially reduce the physical resources needed to eradicate this illicit cultivation and will not create a negative impact upon the environment.

The use of paraquat is only one aspect of DEA's 1983 Domestic Marijuana Eradication/Suppression Program. Although we are temporarily restrained by prevailing judicial decree from the continued use of paraquat, our aggressive

eradication efforts in cooperation with state and local law enforcement agencies will continue. DEA is committed to its partnership with federal agencies and the state and local enforcement community. We believe we have a program that can succeed in substantially reducing domestic marijuana production. We appreciate the support and concern of the Congress as evidenced by this hearing.

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Statement of William M. Lenck  
Regarding Conveyance Seizures

William M. Lenck, DEA Forfeiture Counsel, proposes to deliver the attached statement on October 14. The statement reviews typical DEA forfeiture procedures, outlining the distinctions between criminal and civil forfeiture and administrative and judicial forfeiture. Lenck expresses DEA's strong support for legislative proposals to increase the use of administrative forfeiture by raising the current maximum level from \$10,000 to \$100,000. He also expresses DEA's support of proposals to establish a forfeiture fund to collect forfeiture proceeds and pay costs of forfeiture, and legislation to permit transfer of forfeited property to state and local law enforcement agencies. I have no objections.

Attachment

THE WHITE HOUSE

WASHINGTON

October 5, 1983

MEMORANDUM FOR GREGORY JONES  
LEGISLATIVE ATTORNEY  
OFFICE OF MANAGEMENT AND BUDGET

FROM: FRED F. FIELDING *Copy signed by F.F.*  
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of William M. Lenck  
Regarding Conveyance Seizures

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

FFF:JGR:aea 10/5/83

cc: FFFielding  
JGRoberts  
Subj  
Chron

## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1/1

Name of Correspondent: Greg Jones

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: Statement of William M. Senek  
re: conveyance seizures

ROUTE TO:	ACTION	DISPOSITION		
Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
<u>W Holland</u>	ORIGINATOR	<u>83/10/03</u>		<u>1 1</u>
<u>CUAT18</u>	Referral Note: <u>D</u>	<u>83/10/03</u>	<u>583/10/13</u>	
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>
	Referral Note:	<u>1 1</u>		<u>1 1</u>

**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
- Code = "A"
- Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

Keep this worksheet attached to the original incoming letter.  
Send all routing updates to Central Reference (Room 75, OEOB).  
Always return completed correspondence record to Central Files.  
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

UPPT 1

Statement of William M. Lenck  
Forfeiture Counsel  
Drug Enforcement Administration  
Department of Justice  
October 14, 1983, Ft. Lauderdale, Florida

JR

The Drug Enforcement Administration (DEA), and its predecessor agencies, have been involved in the seizure of conveyance used in violation of the Federal drug laws since 1939. From 1939 to 1970 the statutory basis for such seizure was contained in the Contraband Transportation Act, 49 U.S.C. § 781-788. From 1970 to date, DEA has used the forfeiture provisions of the Controlled Substances Act (CSA), codified as 21 U.S.C. § 881, to forfeit property including currency and other assets which are traceable to drug exchanges or which are used to facilitate drug activities. Since the scope of this hearing is concentrating on conveyance seizures, I will generally limit this statement to conveyance seizures. I have been involved in these drug forfeiture matters since 1962, and have been engaged exclusively in such activities since July of 1982 as Forfeiture Counsel of DEA.

The great majority of the forfeiture matters handled by DEA are civil actions in rem against the property under 21 U.S.C. § 881, while a lesser number of forfeitures are processed by DEA as criminal forfeitures under the Continuing Criminal Enterprise Section of the CSA (21 U.S.C. § 848). The civil forfeitures processed by DEA are of two types - administrative and judicial. Administrative forfeitures involve property valued at \$10,000 or less at time of seizure, while judicial forfeitures involve property valued at more than \$10,000 at

time of seizure, or where claim and bond is filed to convert an administrative forfeiture into a judicial forfeiture.

In a typical administrative forfeiture, the forfeiture can be completed by DEA within 60 days of seizure. Within that 60 days the seized property will either be returned to an innocent party or lienholder, placed in official Government service, or referred to the General Services Administration for sale. In Fiscal Year 1983, DEA placed 365 vehicles, 5 aircraft and 5 vessels in official use.

The procedures applicable in administrative forfeitures are:

- (1) publication in a newspaper of general circulation in the place of seizure for three consecutive weeks advising that in order to contest the probable cause for forfeiture a claim and bond must be filed within 20 days of the first date of publication;
- (2) a notice to parties from DEA that is sent by registered mail/return receipt advising that petitions for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the letter. This notice from DEA also encloses



copies of Justice Department regulations in 21 CFR 9 and DEA/FBI regulations in 21 CFR 1316.71-1316.81, as well as a copy of the proposed publication. As a result, all registered owners and lienholders are fully advised as to their possible judicial and administrative remedies regarding the seizure and forfeiture.

- (3) and if no claim and bond are filed within the required 20 day period, the agent in charge of the DEA office involved executes a Declaration of Forfeiture to forfeit the property.

Approximately one-half of the petitions submitted by owners and lienholders are granted in drug cases under the remission procedures in 28 CFR 9. No hearings are held on administrative petitions and parties have a period of ten days to request reconsideration of a DEA petition denial. Such requests must be based on evidence recently developed or not previously considered.

DEA also uses a "quick release" procedure on some conveyances in lieu of proceeding with a formal forfeiture. This procedure allows for the "quick release" of conveyances to innocent parties or substantial lienholders and results in substantial

savings in storage costs, agents' time and prosecutors' time. DEA has been using a "quick release" policy since 1972, when the Coin & Currency case from the Supreme Court resulted in the Justice Department remission policy being amended to only deny lienholder's petitions when actual knowledge of drug record or reputation is present. The authority for DEA to "quick release" property is contained in 28 CFR 0.101(c). DEA currently uses a policy of returning conveyances to lienholders when the lienholders equity is within \$1,000 of the appraised value of the property. In a typical case, conveyances are "quick released" by DEA field officials within a week of seizure providing the person receiving the property pays costs and will execute a hold-harmless agreement to protect DEA.

In judicial forfeiture cases, the property is referred by DEA to the U.S. Attorney's office in the place of seizure. These judicial forfeitures necessarily take longer than administrative forfeitures, and if an answer is filed to the Government's Complaint for Forfeiture, the case may not come up for civil trial in the U.S. District Court for a year or more. When such forfeitures are completed, forfeited conveyances will either be placed in official Government service or sold by the U.S. Marshal.

DEA strongly supports the various legislative proposals before the Congress which would reform and add various features to the drug forfeiture statutes. Particularly, the proposal to raise the line between administrative and judicial forfeiture from its current level of \$10,000, to an unlimited level for conveyances, and a level of \$100,000 for all other property, would result in most forfeiture actions being completed within a 60 day period. Once forfeiture action is completed the property would either be placed in official use or referred to GSA for sale. The obvious savings in storage costs, record-keeping, prosecutors time and court time would be of great advantage to all concerned. Also, the legislative proposal to create a central fund in the Justice and Treasury Departments to collect forfeiture proceeds and to use the collections to pay costs of forfeiture, liens, and awards to persons furnishing information leading to forfeitures, would greatly assist law enforcement efforts. This is particularly true as far as awards in forfeiture matters under the CSA are concerned since DEA lost such award authority in 1979 when the CSA was erroneously amended to delete such award authority during an effort to amend the award authority to prevent the payment of awards based on the value of seized contraband drugs.

In addition to benefiting DEA, the proposals to create such central funds would also benefit lienholders since they could be paid their liens shortly after forfeiture from the central fund, rather than waiting for many months for the property to be sold at public auction.

The proposed legislation which would allow the transfer of forfeited property to State and local agencies that assist in Federal drug enforcement matters would also materially assist DEA in its enforcement activities which often require close coordination with local authorities.

Beginning in February of 1983, DEA sought to streamline its forfeiture process and provide for meaningful and accurate data reporting by means of a centralized, computerized automatic data processing system. The program, now completing its final test stages, provides for electronic data transfer of seizure information from the responsible seizing office to headquarters within 48 hours of seizure. From that point in time, one unit within DEA headquarters handles all aspects of the forfeiture process up to the point of disposition, including notice to all parties, public notice by way of newspaper advertisement or letters to U.S. Attorneys, petitions for remission or mitigation of forfeiture and

assignment of the asset to the proper entity responsible for disposition or use. Initial evaluation of the program has shown it to appreciably expedite routine forfeiture actions, thereby reducing agency storage costs and reducing asset depreciation, and allowing for a reduction in waiting periods prior to an asset being utilized for the benefit of the government. The program has also proved to be capable of producing a nearly perfect accounting of asset inventory, costs attendant to each forfeiture and net amounts transferred to the Treasury. It is now projected that the computerized assets forfeiture program will be implemented on a national basis within the following fiscal year.

Attached are seizure statistics which reflect DEA seizures for FY 82 and about one-half of FY 83. I will be happy to answer any questions.

FY 83\* DEA Seizures by Type of Asset

Vehicles	\$5,011,825	=(637)
Vessels	2,657,250	(25)
Aircraft	4,310,000	(22)
Other Conveyances	17,850	(15)
Currency	17,502,599	(741)
Financial Instruments	4,200,233	(99)
Real Property	6,986,381	(55)
Equipment - Chemicals	235,836	(106)
Regulatory	6,617	(2)
Other	1,865,564	(330)
TOTAL DEA SEIZURES	43,150,405	(2,032)
S/L TASK FORCE SEIZURES	13,900,000	

FY 82 DEA Seizures by Type of Asset

Vehicles	\$10,080,317	=(1,269)
Vessels	4,028,500	(55)
Aircraft	4,548,922	(31)
Other Conveyances	20,275	(15)
Currency	23,945,309	(1,259)
Financial Instruments	2,306,315	(69)
Real Property	31,909,298	(73)
Equipment - Chemicals	669,449	(288)
Regulatory	2,000	(1)
Other	25,991,352	(414)
TOTAL DEA SEIZURES	103,501,737	(3,474)

Total DEA Seizures\*\* FY 80 through FY 83

FY 80	\$39,381,705
FY 81	64,657,278
FY 82	103,501,737
FY 83	43,150,405

(through May 19, 1983)

\*As of May 19, 1983

\*\*Does not include other agency cooperative seizures.