

Ronald Reagan Presidential Library  
Digital Library Collections

---

This is a PDF of a folder from our textual collections.

---

**Collection:** Cribb, T. Kenneth: Files  
**Folder Title:** [National Drug Policy Board]  
Prosecution 11/16/1987 (1)  
**Box:** 13

---

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: [reagan.library@nara.gov](mailto:reagan.library@nara.gov)

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>



**NATIONAL DRUG POLICY BOARD**

Washington, D.C. 20530

November 10, 1987

The Honorable T. Kenneth Cribb, Jr.  
Assistant to the President for  
Domestic Affairs  
The White House  
Washington, D.C. 20500

Dear Mr. Cribb:

*Ken*

Enclosed are the copies of the Briefing Books prepared by the National Drug Policy Board Staff for your use at the Intelligence, Investigation and Prosecution Strategy Presentations.

As you know, these presentations will be given to the National Drug Policy Board on November 13, 1987, at 2:00 p.m., and November 16, 1987, at 10:00 a.m. respectively in the Roosevelt Room at the White House.

It is important that you bring these Briefing Books with you as we will not have additional books available.

Sincerely,

*David Pickens*

David Pickens  
Executive Director

Enclosures

PROSECUTION

Monday, November 16, 1987

BRIEFING BOOK

for

PROSECUTION COMMITTEE STRATEGY PRESENTATION

NATIONAL DRUG POLICY BOARD  
November 16, 1987

Prepared by the  
NDPB Staff



TABLE OF CONTENTS

Agenda/Fact Sheet.....TAB 1  
NDPB Staff Strategy Outline.....TAB 2  
Committee Executive Summary.....TAB 3  
Significant Issues and Discussion.....TAB 4  
Regulatory/Legislative Changes.....TAB 5  
Committee Resource Summary.....TAB 6  
Official Agency Comments on the Prosecution Strategy...TAB 7  
List of Department/Agency Abbreviations.....TAB 8

Prosecution Committee Membership

Coast Guard  
Customs Service  
Department of Justice  
Department of the Treasury  
Drug Enforcement Administration  
Internal Revenue Service  
Federal Bureau of Investigation



FACT SHEET  
AGENDA  
NATIONAL DRUG POLICY BOARD  
MONDAY, NOVEMBER 16, 1987  
10:00 A.M. - 11:00 A.M.  
ROOSEVELT ROOM, THE WHITE HOUSE

I. Introductory Remarks (Chairman Meese)

II. Prosecution Committee Strategy Presentation  
(Mr. William Weld)

The Prosecution Committee is chaired by Mr. William Weld, Assistant Attorney General, and vice-chaired by Mr. Frank Keating, Assistant Secretary for Enforcement, Department of the Treasury. Other member agencies include: FBI, IRS, DEA, Customs Service and Coast Guard.

III. New Business



THE NATIONAL PROSECUTION STRATEGY

A primary purpose of the National Prosecution Strategy is to ensure that the limited prosecution resources of the federal government, as well as the unique capabilities of federal law enforcement, are generally directed toward those significant national and international targets where successful prosecution can have a lasting impact on the national drug problem. A major new focus over the next two years will be to increase to 80% the percentage of federal narcotics prosecution resources devoted to priority targets, including multistate and international cartels.

Two other goals of this strategy include: (1) assistance to state and local narcotics prosecution and (2) maintaining a federal enforcement presence on all fronts of the drug war (supply and demand). Selective user prosecution programs would be a part of the latter goal to convey a strong "zero tolerance" message to the public.

The measure of success contained in the strategy will be quality and result-oriented focusing on indictment and conviction as well as the quantity of narcotics seized and the assets forfeited.

Full implementation of the Prosecution Strategy will require the need for additional investigative agents, prosecutors, judges, court personnel and prison space. The strategy states that at least one new prosecutor will be needed to support the work of every three additional investigative agents authorized in connection with the Investigations and Interdiction standing committee reports.

The FY88 budget request for Prosecution programs is estimated to be \$1.236 billion. The 1989 OMB budget identifies \$1.896 billion which represents a net change of \$.660 billion over the President's FY88 Budget. The total prison and detention budget has been included. Entire facilities must be constructed, activated, and operated in order to house drug offenders. The inclusion of all prison and detention resources is consistent with the prison and detention strategy adopted by the NDPB.

The Prosecutions Committee proposes to implement its strategy with the resources that are included in the OMB budget submissions of the affected organizations. However, the need to adjust its resource estimates if any enhancements are authorized for the investigative agencies involved in drug enforcement is emphasized.





# NATIONAL NARCOTICS PROSECUTION STRATEGY

## EXECUTIVE SUMMARY

### I. POLICY STATEMENT AND OVERVIEW

The principal goals of the National Narcotics Prosecution Strategy are as follows:

#### Strategy 1: Priority Targets

Extend efforts to reduce the supply of illegal drugs in the United States to the maximum extent possible by increased pro-active targeting of the major national and international cartels responsible for narcotics importation and distribution in this country.

#### Strategy 2: Assistance to State and Local Narcotics Prosecution

Continue to work with state and local narcotics enforcement authorities and expand efforts to assist them in narcotics prosecution at the state and local levels.

#### Strategy 3: Local and Regional Narcotics Threats

Attack other significant local and regional narcotics threats as identified by federal, state and local law enforcement authorities and maintain a federal enforcement presence in every district.

A primary purpose of this national strategy is to ensure that the limited prosecution resources of the federal government, as well as the unique capabilities of federal law enforcement, are generally directed toward those significant national and international targets where successful prosecution can have the most lasting impact on the national drug problem (Strategy 1). At the same time, the strategy is designed to ensure that state and local law enforcement authorities are properly staffed, equipped, funded and trained to maximize the impact of drug enforcement efforts within their jurisdictions (Strategy 2). In addition, the national strategy seeks to maintain a federal narcotics enforcement presence in each district to avoid the perception or reality of gaps in law enforcement (Strategy 3).

### II. STRATEGY STATEMENT

#### Strategy 1. Priority Targets

Since the Organized Crime Drug Enforcement Task Force (OCDEF) program was created in October of 1982, federal law



enforcement agencies, working closely with their state and local counterparts, have achieved considerable success in attacking high-level participants in drug trafficking organizations and in utilizing the significant investigative tools, asset forfeiture provisions and penalty enhancements provided by recent drug enforcement legislation.

Building upon this success will require more concerted, pro-active and persistent federal targeting of the major identifiable national and international enterprises, including individuals who may operate entirely overseas, so that none are overlooked and all are pursued to the point of substantial disruption if not destruction.

It is the aim of the national prosecution strategy to make certain that a sufficient number of people in federal law enforcement wake up every day with nothing in front of them but the task of pursuing certain identified major organizations, putting their leadership in prison, and seizing their assets. This is consistent with the approach that enabled the FBI and federal prosecutors to disrupt so effectively the leadership levels of La Cosa Nostra and that has enabled the OCDETF program to develop many of its most successful prosecutions against high level traffickers and cartels.

Beginning in Fiscal Year 1989 and thereafter, the federal government will devote 80 percent of its total federal narcotics prosecution resources (attorney work years) to pursuing Strategy 1 priority targets. It is anticipated that OCDETF prosecutors, beginning in FY 89, will devote virtually 100 percent of their time to this effort.

Strategy 1 priority targets are defined as any of the following:

- A. Specially designated targets. The most significant national and international enterprises, wherever located, which are responsible for drug importation, manufacture, and distribution in the United States. These enterprises will be identified by investigative agencies with input from the U.S. Attorneys, OCDETF Coordinators, and the intelligence community, and will be designated by a targeting group chaired by the Chairman of the NDPB Enforcement Coordinating Committee.
- B. Other major multistate or multinational enterprises. Other multistate or multinational enterprises or organizations believed to traffic annually in amounts of narcotics equal to 100 times the amount required to qualify for mandatory minimum penalties under 21 U.S.C. 841(b) (1) (B) [e.g., 10 kilograms of heroin, 50 kilograms of cocaine, or 10,000 kilograms of



marijuana]; or which is believed to receive in excess of \$5,000,000 in gross receipts in any 12-month period; or which is believed to launder in excess of \$5,000,000 in any 12-month period.

- C. Exclusive jurisdiction and interdiction. Enterprises or individuals believed to have committed a narcotics offense within the special maritime and territorial or other exclusive jurisdiction of the United States; cartels involved in the organized smuggling of illegal drugs across U.S. borders.
- D. LECC targets. Significant local and regional narcotics violators specifically designated for federal prosecution by a District Law Enforcement Coordinating Committee (LECC) as part of an approved District Law Enforcement Plan.
- E. Major drug laboratory and precursor chemical cases. Enterprises or organizations believed to be involved in the illicit production or attempted illicit production or diversion of controlled substances in quantities equal to 50 times the amount required to qualify for mandatory minimum penalties under 21 U.S.C. 841(b)(1)(A) or in the illegal possession or use of precursor or essential chemicals in similarly significant quantities.
- F. Principal administrators, organizers, leaders. An individual who is employed by or associated with an enterprise described in paragraph A, B, C, D or E, above, at the level of principal administrator, organizer or leader.
- G. Public corruption. Any enterprise or individual whose narcotics-related offense involves corruption or venality on the part of a public official.
- H. Related targets. Ancillary individuals who, in the interest of economy of judicial administration, should be prosecuted together with targets described in A through G, above.

\* \* \*

The heart of the federal prosecution effort directed at multistate and multinational enterprises will be the OCDEF program, supported by the efforts of the Narcotic and Dangerous Drug Section, the Asset Forfeiture Office, and the Office of International Affairs of the Justice Department's Criminal Division.

\* \* \*



Specially designated targets would be likely to include, at any given time, the major importers of Asian and Mexican heroin, the top Colombian cocaine cartels, the highest-dollar-volume money laundering operations wherever they might be worldwide, and the top national distributors for each significant class of controlled substances. As new cartels or trafficking groups of the requisite scale come to the attention of law enforcement, it is expected that they would be added to the internal inventory of specially designated targets. Within each targeted organization, the various leadership positions responsible for obtaining and distributing the drugs, managing the operation, and handling the money would be identified. In addition, with respect to each enterprise identified, an asset inventory may be prepared, identifying the significant known or suspected assets of the enterprise.

Once the internal inventory of top enterprises and assets is compiled, a targeting group composed of representatives of the investigative agencies, United States Attorneys, AUSA OCDETF Coordinators, and the Criminal Division of the Justice Department, and chaired by the Chairman of the NDPB's Enforcement Coordinating Committee, will be responsible for making sure that all specially designated targets are receiving appropriate investigative and prosecutive attention, and that they are pursued to conviction and forfeiture, no matter where they are located. The OCDETF Core City United States Attorneys will be asked to submit their OCDETF quarterly reports to the NDPB Enforcement Coordinating Committee. These reports should assist the targeting group to keep count of all available prosecution resources and their dedication to priority targets, investigations and prosecutions. Allocation of prosecution resources within the Department of Justice will continue to be made by the Departmental Resources Board, in conjunction with the Executive Office for U.S. Attorneys and the Attorney General's Advisory Committee, in accordance with the principles of the national strategy, and prosecutive decisions will continue to be made by U.S. Attorneys in each district.

Pursuit of priority targets under Strategy 1 will include, among other tactical programs:

- concentration on financial investigation and asset forfeiture,
- expanded use of mandatory minimum and recidivist statutes,
- more frequent use of investigative grand juries and immunity powers to compel the testimony of convicted traffickers,
- emphasis on electronic surveillance and undercover operations to penetrate major cartels,
- development of Continuing Criminal Enterprise (CCE) and RICO cases against major traffickers,



- continued support for drug interdiction efforts as well as cases involving exclusive jurisdiction of the United States,
- multiagency intelligence sharing,
- negotiation of Mutual Legal Assistance (MLAT) and extradition treaties with all relevant countries and perfection of extradition requests,
- apprehension of key narcotics fugitives, and
- development of programs for recruiting, retaining and training experienced federal narcotics prosecutors.

Strategy 2. Assistance to State and Local Narcotics Enforcement

Federal efforts to expand assistance to state and local narcotics enforcement programs will involve the following:

- increased use of federal discretionary grants (linked to state and local narcotics enforcement programs),
- equitable sharing, and adoptive forfeiture funds to promote and support anti-drug efforts,
- drafting of model legislation on money laundering, RICO, electronic surveillance, forfeiture, enhanced penalties and grand jury powers,
- extensive training programs for state and local investigators and prosecutors,
- vigorous support for state and local demand reduction efforts,
- use of cross designation and special deputization to assist states in pursuing significant intrastate violators, and
- sharing of intelligence information, technical and laboratory facilities, and non-English language support teams.

Strategy 3. Local and Regional Narcotics Threats

A third element of the national strategy is directed at those violators who, in the judgment of the local United States Attorney, must be prosecuted in order to maintain public confidence in law enforcement, avoid the perception of gaps in narcotics enforcement, respond to urgent or developing local drug problems, and assist and complement state and local law enforcement efforts. The prosecutions in this category will likely be against high visibility local traffickers and emerging intrastate dealers and their organizations, and may include demonstration or precedent-setting cases aimed at deterring particularly blatant or offensive violations. A feature of this strategy will be to maintain a federal narcotics enforcement presence in each district with respect to each class of controlled substances.



In order to implement Strategy 3 and to identify "LECC targets" to be addressed through Strategy 1, each United States Attorney will be asked to update the Narcotics Section of his or her District Law Enforcement Plan within ninety days, in consultation with federal investigative agencies and state and local law enforcement personnel, so as to include a current assessment of the significant local and regional narcotics-related threats that need to be addressed by law enforcement in that district. Each United States Attorney will also be responsible for meeting with state and local law enforcement officials in his or her District to coordinate enforcement strategies. In some jurisdictions this may include the creation and use of joint federal, state and local task forces. Significant local and regional threats specifically designated for federal prosecution in an approved LECC District Law Enforcement Plan will be pursued as Strategy 1 targets. (LECC District Law Enforcement Plans are approved by the Executive Office of U.S. Attorneys.)

Specific initiatives to implement Strategy 3 will include selective user prosecution programs designed to convey a strong "zero tolerance" (demand reduction) message, and programs to target multiple offenders, schoolyard violators, drug paraphernalia suppliers, vice centers, and domestic cannabis producers.

### III. OBJECTIVES/MEASUREMENT

With respect to Strategy 1 efforts, the initial measure of success will be the quality of target selection and the extent to which (after one year) Strategy 1 targets have been placed under active criminal investigation through the development of informants, undercover operations, wiretaps, search warrants and the gathering of evidence necessary to indict and convict on substantial federal charges. The measure of success for Strategy 1 efforts will gradually become more result-oriented, focusing ultimately on the indictment (within 2 to 3 years) and conviction, incarceration and forfeiture of assets of Strategy 1 targets (within 4 years and continuing thereafter with respect to new targets).

With respect to Strategy 2, the principal measure of success will be the extent to which cooperative federal, state and local law enforcement efforts have succeeded in increasing the impact of state and local narcotics prosecutions.

As to Strategy 3 efforts, traditional measurements (including charges brought, conviction and incarceration rates, quantity of narcotics seized and assets forfeited) will be employed.



#### IV. IMPACT ON RESOURCES

Implementation of the national strategy is anticipated to have the following impact on resource requirements:

##### A. Prosecution (OCDETF, Other U.S. Attorney Resources, Criminal Division)

If this strategy is approved, existing prosecutorial resources will be devoted to Strategy 1, 2 and 3 programs as outlined above, independent of any requested increases. At the same time, it must be understood that the tactical programs outlined in this strategy (long-term grand jury investigations, increased use of wiretaps and other electronic surveillance, complex asset forfeiture proceedings, international pursuit of hidden financial assets, and development of comprehensive CCE and RICO prosecutions) are extremely labor intensive for prosecutors, and can be expected to require a substantial number of additional federal investigative agents and prosecutors.

It is anticipated that one new prosecutor will be needed to support the work of every three additional investigative agents that the NDPB may authorize in connection with approval of the Investigations and Interdiction strategies. This ratio of prosecutors to agents is somewhat lower than that which has been applied in criminal cases not so labor-intensive for prosecutors, but it is consistent with the ratio used in connection with the formation of the OCDETF program in 1982 and is essential to support the increasingly pro-active targeting that Strategy 1 entails.

For estimating purposes, the cost of adding 100 new prosecutors (including related support personnel, travel and overhead) to the drug enforcement program is approximately twelve million dollars (\$12,000,000) per year.

It is expected that, subject to approval by the Justice Department's Departmental Resources Board, any new prosecutors authorized by the NDPB as part of its National Drug Strategy would be assigned to the OCDETF program and to specialized Criminal Division units such as the Narcotic and Dangerous Drug Section, Asset Forfeiture Office, and the Office of International Affairs, and would devote virtually 100 percent of their time to Strategy 1 targets.

##### B. Judicial Resources

Additional judges and court personnel may be needed in areas with high volume prosecutorial activity but a determination of how many will be needed and where they

should be deployed should await implementation of the national strategy.

C. Prisons

The number of maximum and medium security prisoners serving long sentences in the federal system should increase gradually. State and local prison populations may also increase as certain states prosecute more significant narcotics violators, resulting in increased pressure on jail space for federal pretrial detainees. A summary of the Federal Prison and Detention Strategy adopted by the NDPB on October 23, 1987, is attached.

V. LEGISLATIVE PROPOSALS

1. Death penalty for principal administrators of top narcotics enterprises in cases where death foreseeably results from trafficking.
2. Specialized precursor chemical and drug diversion legislation (including adding methamphetamine to 21 U.S.C. 841).



# FEDERAL PRISON AND DETENTION STRATEGY

## EXECUTIVE SUMMARY

### I. POLICY STATEMENT AND OVERVIEW

The principal goals of the Federal Prison and Detention Strategy are as follows:

Strategy 1: Expand Federal prison and detention capacity.

Implement a five-year plan, commencing in fiscal 1989, to expand Federal prison and detention capacity to accommodate those arrested and incarcerated for Federal crimes, the number of which will increase greatly because of expanded Federal drug law enforcement resources and initiatives, the national strategies for drug law investigation, interdiction and prosecution, U.S. Criminal code revision, recent drug law enforcement legislation, and the guidelines of the U.S. Sentencing Commission.

Strategy 2: Reduce Federal prison overcrowding systemwide to 20% of rated capacity by 1997.

While expanding Federal prison capacity to accommodate increased inmate populations, simultaneously reduce the current 59% overcrowding to a more manageable and safe 20% by 1997, thereby avoiding Federal court intervention and a forced departure from enforcement (investigation and prosecution), sentencing and incarceration practices.

Strategy 3: Use both the Justice and Treasury Assets Forfeiture Funds to augment appropriated funds for Federal prison and detention expansion.

Without removing the current financial incentives for Federal, State and local law enforcement to identify, seize and obtain the forfeiture of assets used in and acquired from drug law violations, permit excess, carry-over income not required for equitable sharing and program operations to be directed to both Federal prison construction and the expansion of jail capacity for use by unsentenced Federal prisoners.

Strategy 4: Annually update the Federal inmate and detainee population projections and refine capacity requirements, plans and funding requests.

Under the auspices of the National Drug Policy Board and chaired by the Justice Department, establish a standing committee to monitor and update prison and detention population projections and capacity requirements to ensure that the five-year construction and expansion plan is refined annually to remain as accurate as possible.

## II. STRATEGY STATEMENT

Strategy 1: Expand Federal prison and detention capacity.

The Federal Prison System is severely overcrowded; inmate population is rising at an average rate of 15% a year. Unalleviated, this overcrowding may cause a "gridlock" in the Federal criminal justice system, necessitating significant departures from current enforcement, prosecution, sentencing, and incarceration policies and practices.

There are some 44,000 prisoners in the Federal Prison System (October 1987), with a rated capacity to incarcerate only 27,750, resulting in a current overcrowding rate of 59% system-wide.

The Department of Justice estimates that, given current capacity and with only the facilities additions envisioned in the Administration's current budget plan, overcrowding will increase to at least 72% by 1997, when a projected 76,000 inmates will require incarceration. (This estimate is lower than the lowest estimate of 78,000 made by the U.S. Sentencing Commission for 1997.)

The U.S. Sentencing Commission has postulated even greater increases in inmate population--only 10% of which relate to the proposed sentencing guidelines themselves. Ninety percent of the increase is considered virtually "uncontrollable" because of the enhanced penalty provisions of the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Act of 1986. Altogether, the guidelines and new criminal statutes may yield as much as 183% overcrowding, based upon the Sentencing Commission's highest population projection of 125,000 inmates by 1997.

In summary, population projections produced by various sources point to a single conclusion: the demand for prison space will rise well beyond that previously estimated. Only the magnitude is as yet unknown.



The United States Marshals Service, which detains Federal prisoners awaiting trial and sentencing, has 800 contracts in force with local jails to provide space for Federal detainees. However, local jail overcrowding has discouraged local officials from making such space available in many instances, reduced availability in others, and caused space to be unavailable at any price in some cities--all requiring the Marshals Service to transport prisoners over long distances to outlying jails, increasing the possibility of escape, accident, and incident. A study released in October 1987 by the Bureau of Justice Statistics revealed that fully one-half of all city and county jails in the United States are either operating under court orders to reduce populations in line with their capacities or holding prisoners from other jails which are overcrowded.

The Marshals Service, in a recent study, found 21 cities facing an "emergency" jail status, meaning that there is no Federal jail space available where such space is required. Less severe but worsening shortages were identified in many other cities. The emergency jail status is projected to more than treble to 72 urban areas by 1992.

The Marshals Service estimates that the average daily population requiring pre-trial detention will rise from 7,328 in 1986 to 15,300 in 1992. This represents a 115% increase in five years in the number of detainees to be held every day.

The approximate 8,600 bed shortfall by 1992 in the availability of pre-trial detention space for Federal detainees can be alleviated only by a mix of programs to augment capacity, including Federal construction and Federal support to local jail expansion. Four methods are available to obtain needed jail space: (1) lease space from local governments; (2) build jails together with local governments; (3) contract private sector firms to operate jails; and (4) as a last resort, build Federal jails where no other option is feasible. The estimated overall cost for pre-trial detention space for the next five years is \$534 million. The Marshals Service, in conjunction with the Office of Management and Budget and BoP, is now seeking to determine the most effective mix of Federal construction and local leasing to alleviate the detention problems in the cities with the gravest problems.

Factors creating the prison and detention crises are not likely to diminish. These include the following:

Federal investigative and prosecution resources have steadily increased since 1982. The total investigative and prosecution budget for drug law enforcement, as an example, increased from \$220 million in 1981 to \$625 million in 1986. There are 5,554 agents and 1,191 prosecutors focusing their efforts in the drug area



alone. They have produced record arrests and prosecutions, and are expected to continue to do so.

More Federal criminal prosecutions, particularly for drug violations, are being brought and will continue to be brought. The United States courts reported a 115% increase in the number of drug cases handled and a 94% increase in the number of defendants tried from 1985 from 1986.

The Comprehensive Crime Control Act of 1984 revised the Federal criminal code and enhanced the penalties for various crimes. In addition, the Anti-Drug Abuse Act of 1986 created mandatory minimum prison sentences ranging from five years to life imprisonment for various classes of drug offenders. These so-called "mandatory minimums" will greatly expand the number of prisoners coming into the system, and they will remain incarcerated for longer periods of time.

The critical issue which this Administration must confront is acquiring the levels of detention and prison space necessary to prevent the Federal criminal justice system from breaking down, i.e., losing the discretion to follow current enforcement, detention, sentencing, and incarceration policies.

Strategy 2: Reduce Federal prison overcrowding systemwide to 20% of rated capacity by 1997.

Based on the recommendations of corrections professionals, the Attorney General adopted a policy, endorsed by the NDPB Enforcement Coordinating Group and the National Drug Policy Board itself, to seek a 20% overcrowding rate by 1997. This will better ensure the safety of inmates and staff in the future, provide prison facilities which can be better managed, generally avoiding the disturbances, violence and psychological damage stemming from severe overcrowding, and permit population adjustments which are responsive, in a timely manner, to changes in enforcement, prosecution, sentencing, and incarceration emphases. In concert with current BoP management and staffing practices, the 20% overcrowding level should virtually eliminate the threat of court intervention and the imposition of inmate population "caps", thereby forestalling a forced departure from plans and policies for stepped up enforcement, vigorous prosecution, strict sentencing, and determinate periods of incarceration.

This policy will govern the refinement of capacity requirements and funding requests for the five-year construction and expansion period. Providing sufficient bed spaces based on

the Bureau of Prisons' conservative population projection for this target, and estimating within five years 72,000 of the 76,000 inmates by 1997, will cost \$1.9 billion for construction and activation for 1989-1992.

TABLE 1: Prison Construction and Annual Operating Costs for Three Population Projections at a 20% Overcrowding Rate

Dollars in Millions

The disparate projections of Federal inmates in 1997 yield differing cost estimates, assuming the 20% overcrowding rate:

<u>Inmate Population.....</u>	<u>76,000</u> <sup>1</sup>	<u>100,000</u> <sup>2</sup>	<u>125,000</u> <sup>3</sup>
Construction Cost.....	\$1,654	\$3,100	\$4,510
Activation Cost.....	<u>235</u>	<u>440</u>	<u>640</u>
Total One Time Costs.....	1,889	3,540	5,150
Annual Operating Cost.....	706	1,439	2,094

<sup>1</sup> Federal Bureau of Prisons estimate; near to the 78,000 low estimate of the U.S. Sentencing Commission.

<sup>2</sup> An average of the Sentencing Commission's high and low estimates.

<sup>3</sup> The high estimate of the Sentencing Commission.

Without sufficient prison space, a Federal inmate population "cap", whether imposed or voluntary, would necessitate the following:

Setting higher prosecution declination thresholds. In this way, the Federal Government would refuse to prosecute many of the types of cases that are normally prosecuted today, thereby lowering the number of individuals incarcerated.

Releasing those convicted earlier than is current practice to alternative confinement (halfway houses) and supervised parole prior to completing their terms of imprisonment, lowering prison overcrowding somewhat. Many non-violent inmates now serve the last two to three months of their sentences in halfway houses. Cost avoidances would accrue by increasing the amount of time an inmate spends in a halfway house in lieu of prison.



Considering legislation which would recommend alternative forms of punishment for first-time, non-violent, less serious offenders.

Strategy 3: Use both the Justice and Treasury Assets Forfeiture Funds to augment appropriated funds for Federal prison and detention expansion.

Federal budget constraints are severe and are likely to become even more so. Any increased resources for prison and detention space will be difficult to obtain in this fiscal environment and sufficient appropriated resources may not be available to meet all needs.

Legislative amendments to the Justice Assets Forfeiture Fund and the Treasury Assets Forfeiture Fund are needed to permit the Attorney General to provide excess, "carryover" fund balances to Federal prison and detention programs. "Carryover" funds are defined as those in excess of requirements to operate the program, including all asset management expenses, program-related costs, and equitable sharing disbursements made to State and local law enforcement agencies. By directing only excess funds to Federal prison and detention programs, no diminution of effort in the seizure/forfeiture area will take place, yet the proceeds of crime will help underwrite the detention and incarceration of Federal criminals.

At this juncture, the Senate has passed Senator Lawton Chiles' amendment to the Justice Assets Forfeiture Fund, as part of the 1988 Justice Department Appropriations Bill. The administration should support such legislation for both Funds.

Strategy 4: Annually update the Federal inmate and detainee population projections and refine capacity requirements, plans and funding requests.

A standing committee under the auspices of the NDPB and chaired by the Department of Justice should continually monitor prison and detention space requirements and offer related action plans and refined resource estimates. Membership would continue to include those agencies instrumental to the development of this study report and its recommendations: the Federal Bureau of Prisons, the U.S. Marshals Service, the Immigration and Naturalization Service, the Office of Management and Budget, and the Department of Defense.



### III. OBJECTIVES/MEASUREMENT

With respect to Strategy 1 efforts, the most telling measure of success will be the adequacy of Federal prison space to meet the increased inmate population in 1989. Prior to that time, another critical measure will be the acquisition of additional appropriated resources, prison sites and the completion of construction plans and contracts because at least three years are required from the point in time when funds are appropriated to the activation of a prison to meet the anticipated demand for such capacity.

Equally important, success will be measured by the acquisition of jail space for Federal detainees of sufficient capacity in suitable locations, alleviating the necessity for U.S. Marshals to engage in costly transport and overtime expenses.

With respect to Strategy 2, the initial measures of success will be a diminution of the Federal prison overcrowding rate such that it may be seen to be moving steadily downward toward 20% of rated capacity by 1997. The final measure of the success of this policy will be the actual overcrowding rate of the Federal prison system in 1997. More difficult to quantify, perhaps, will be the success of the Federal prison system in avoiding increases in violence, loss of life, and unacceptable staff turnover stemming from overcrowded institutions. Clearly, the most important measure of success will be that there is no Federal court intervention, or voluntary actions, in relation to overcrowding or conditions of confinement which force a departure from enforcement, investigation, prosecution, sentencing and incarceration policies and practices.

For Strategy 3, success will be defined by the enactment of the proposed legislative amendments concerning the Justice and Treasury Assets Forfeiture Funds.

Strategy 4 is in place following the October 23, 1987, action of the NDPB.

### IV. IMPACT ON RESOURCES

Implementing Strategies 1 and 2 will require the five-year appropriation of \$3.3 billion in addition to those funds anticipated by OMB for the budget outyears commencing in 1989. These funds will be expended through fiscal 1996 as the construction and activation of new jail and correctional institutions is completed.

The table on the following page summarizes the funding requirements for the prison and pre-trial detention plans. It



begins with OMB's most recent "outyear" funding estimates, as contained in the FY 1988 allowance to the Justice Department. Traditionally, these serve as the foundation for any subsequent incremental funding. Funding requirements, dictated by current and anticipated circumstances, follow for the BoP and USMS. Adding the needed \$3.3 billion in enhancements to the "outyear" estimates provides the total costs, per fiscal year, for the plans.

It is important to remember that the prison population projections made by the U.S. Sentencing Commission are for eight years. Moreover, the inmate population trend lines are not simple linear projections. For comparative purposes, BoP has extended its inmate population projections in this report to cover the same eight years.

However, the funding estimates presented cover only the next five fiscal years. Therefore, for prisons, consider the funding plans as an expression of what is required to be in place for the first five years of the eight year time period covered by the population projections. The Bureau of Prisons funding requirements are spread over the five year period, indicating the staggered schedule of the three-year periods required for construction and phased activation of facilities.

The Marshals Service funding requirements are shown in the 1989-1991 period, indicating the fiscal years in which budget appropriations will be needed for Federal Bureau of Prisons and Cooperative Agreement Program (CAP) construction to commence so as to have detention bed spaces in place for the anticipated detainee population.

TABLE 2: Five Year Funding Requirements

Budget Authority in Millions

	<u>Fiscal Years</u>				
	<u>1989</u>	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
PRESIDENT'S 1988 BUDGET <sup>1</sup> . . . .	\$1,045	\$1,072	\$1,169	\$1,097	\$1,122
BUREAU OF PRISONS					
FIVE YEAR PLAN <sup>2</sup> . . . .	613	463	450	742	503
U.S. MARSHALS					
FIVE YEAR PLAN <sup>3</sup> . . . .	73	230	231	0	0
TOTAL, BOP & USMS . . . . .	\$1,731	\$1,765	\$1,850	\$1,839	\$1,625

- 
- <sup>1</sup> Includes the Buildings and Facilities and the Salaries and Expenses accounts of the Bureau of Prisons and the Support of U.S. Prisoners appropriation account of the U.S. Marshals Service.
  - <sup>2</sup> Incremental funding based on BoP population projections as of August 1987 for 72,000 inmates with a 20% overcrowding target; includes cost of constructing, activating, and operating the new prison facilities.
  - <sup>3</sup> Assumes acquisition of 3,140 bed spaces through the CAP program and 5,486 bed spaces through the construction of Federal jails; includes the cost of constructing and activating these jails.

V. LEGISLATIVE PROPOSALS

In mid-October 1987, the Senate passed, as part of the 1988 Justice Appropriations Bill, an amendment proposed by Senator Lawton Chiles to permit the Attorney General to provide excess income from the Justice Assets Forfeiture Fund to the Bureau of Prisons Building and Facilities Appropriation to expand prison and BOP-operated detention facilities. To implement the proposed policy, similar legislation will be needed for the Treasury Assets Forfeiture Fund.





SIGNIFICANT ISSUES  
THE NATIONAL PROSECUTION STRATEGY

- (1) The impact of increased pro-active targeting to the current prosecution program is not clear.
  - o Strategy 1 priority targets appear to be so broadly defined that nearly all drug offenses could be placed in that category.
  - o What will be the mechanism for national oversight or coordination to ensure that the strategy is appropriately pursued in each of the judicial districts?
  
- (2) One of the programs contained in the strategy is assistance to state and local narcotics prosecution.
  - o What is the incentive to state and local prosecutors to participate in this program? Will the states respond favorably without an increase in funding?
  
- (3) Selective user prosecution programs are part of the Prosecution Strategy.
  - o With current emphasis on demand reduction, should user prosecution and/or zero tolerance programs have a higher priority?
  - o The criteria for determining when and where selective user prosecution will be applied is not effectively defined.
  - o Is there a legal question with selective prosecution?
  - o Is the Prosecution Committee strategy that calls for selective user and/or zero tolerance prosecutions in conflict with the Investigations Committee concept of minimum standards or threshold levels for initiating cases?
  
- (4) The strategy recommends that there should be one new prosecutor for every three additional investigative agents.
  - o How was the three to one ratio determined?
  - o Will the three to one ratio impact on the level and nature of assistance and support provided to local authorities?



## LEGISLATIVE PROPOSALS

1. Death penalty for principal administrators of top narcotics enterprises in cases where death foreseeably results from trafficking. Legislation which would permit imposition of the death penalty for defendants convicted of being the principal administrator of a continuing criminal enterprise (21 U.S.C. 848) in cases where death foreseeably results from narcotics trafficking has been included in a recent legislative package sent to Congress.

2. Specialized precursor chemical and drug diversion legislation (including adding methamphetamine to 21 U.S.C. 841). A legislative package titled the Precursor and Essential Chemical Act has been submitted to Congress which would fill in certain gaps that exist in the current law and which would expand the ability of the federal government to prosecute organizations and individuals involved in the diversion of certain precursor and essential chemicals (which are not presently controlled substances) for the purpose of manufacturing or producing dangerous drugs.





RESOURCE OVERVIEW

1. The Prosecutions Committee has requested a 1989 Budget totalling 15,605 FTE workyears and \$1.896 billion. This represents a net change of 1559 FTE workyears (11.1%) and \$.660 billion (53.4%) over the 1988 estimate of 14,046 FTE workyears and \$1.236 billion.
  
2. A majority of the program increase (98%) has been targeted for the Bureau of Prisons, Support of Prisoners and the Office of Justice Programs:

	<u>FTE</u>	<u>\$</u> (millions)
o BOP .....	890	\$706.1
o OJP.....	11	65.3
o Support of Prisoners.....	---	41.4

PROSECUTION RESOURCE SUMMARY  
(dollars in thousands)

	1988			1989 BASE			Program Inc.			1989 OMB REQUEST		
	Pos	FTE	\$	Pos	FTE	\$	Pos	FTE	\$	Pos	FTE	\$
OCDETF	563	536	\$36,400	563	546	\$37,886	108	81	\$4,191	671	627	\$42,077
U.S. ATTORNEYS	1,084	953	66,121	1,084	1,047	68,796	42	31	1,969	1,126	1,078	70,765
CRIMINAL DIVISION	41	41	3,446	41	41	3,502	...	...	...	41	41	3,502
TAX DIVISION	42	40	3,450	42	41	3,570	...	...	...	42	41	3,570
U.S. MARSHALS	N/A	966	73,800	988	1,016	69,715	108	54	12,785	1,096	1,070	82,500
SUPPORT OF PRISONERS*	...	...	81,914	...	...	79,667	...	...	41,396	...	...	121,063
BUREAU OF PRISONS*	11,979	11,510	971,185	11,963	11,847	800,807	1,914	890	706,141	13,877	12,737	1,506,948
OFFICE OF JUSTICE PROGRAMS	...	...	...	...	...	...	...	11	65,300	N/A	11	65,300
TOTAL	N/A	14,046	1,236,316	14,681	14,538	1,063,943 <sup>1/</sup>	2172	1067	831,782	N/A	15,605	1,895,725

<sup>1/</sup> Decrease from 1988 is a result of non-recurring capital, principally within the Bureau of Prisons.

\* The resources associated with maintaining drug offenders in prisons and detention centers cannot be separately identified. Thus, the amounts reflected represent the total resources associated with providing necessary prison and detention capacities.





## memorandum

DATE: OCT 22 1987  
John C. Lawn  
Administrator, DEA

SUBJECT: Comments Concerning the NDPB Prosecution Strategy

TO: Honorable Stephen S. Trott  
Associate Attorney General

DEA has carefully reviewed the National Narcotics Prosecution Strategy dated October 16, 1987. The prosecution strategy is a well written document and appears to fully complement the investigations strategy. This draft of the prosecutions strategy has addressed our main concerns relating to the process of identifying and targeting of priority violators. There are several areas in the strategy where we believe additional clarification would be beneficial.

On page 2 of the Executive Summary, the explanation of the targeting of Designated Priority Targets suggests that this process will take place through the OCDETF committees now in place in the core cities. DEA has no objection to this proven method, but we point out that there will be investigations so sensitive in nature that utilizing OCDETF would be inappropriate. In these instances, we would initiate prosecution approval through the U.S. Attorney of that District. DEA concurs with the general definition of Designated Priority Targets on page 3 but we would add "production" to the types of enterprises identified. DEA intends to develop internally in conjunction with the FBI a more specific definition of what Designated Priority Targets should be. DEA further plans to develop a Headquarters approval system for such targeting before these investigations are proffered through the OCDETF process for prosecution consideration.

Referencing page 4 of the Executive Summary, DEA submits that frequently when priority targets are initially identified there is little information available concerning the identity or location of their assets. We also believe that the "inventory" will never be compiled in reference to a point in time, but rather will be a continuous process mirroring the ever changing nature of the drug traffic.

DEA intends to structure resource programs that will clearly identify the manhours and dollar costs expended on Designated Priority Targets. We suggest that the U.S. Attorneys and other Federal agencies do likewise to enable the Policy Board to be able to fully enunciate the government's efforts.

As I indicated at the Policy Board meeting on October 16, 1987 DEA is concerned that the prosecution strategy does not identify clandestine laboratories as a high priority (Strategy 1) prosecution objective. During FY-87, 682 clandestine laboratories were seized in the United States. Many of these laboratories were fully sophisticated and capable of producing huge quantities of drugs. Organized crime involvement was identified in a number of these seizures. We believe that this menace, which is peculiarly indigenous to the United States should continue to merit the high priority it has historically received from Federal prosecutors. Also, diversion investigations appear to be relegated to a lesser priority in the strategy. DEA has continually been able to develop major diversion cases which impact entire metropolitan communities. Such cases warrant the highest prosecutive consideration.

Notwithstanding the clarifications identified above, DEA is pleased with the prosecutions strategy and we look forward to implementing it with the prosecutions committee.





## List of Participating Agencies

- |     |  |         |
|-----|--|---------|
| 1.  | Action   |         |
| 2.  | Agency for International Development                   | AID     |
| 3.  | Agriculture, Department of                             | AG      |
|     | - Agricultural Research Service                        | AGRS    |
|     | - U.S. Forest Service                                  | USFS    |
| 4.  | Alliance   |         |
| 5.  | Central Intelligence Agency                            | CIA     |
| 6.  | Commerce, Department of                                | COMM    |
| 7.  | Department of Defense                                  | DOD     |
|     | - Defense Intelligence Agency                          | DIA     |
|     | - Direct Operating Costs                               | DOC     |
|     | - Drug Task Force                                      | DOD/DTF |
|     | - Health Affairs                                       | DOD/HA  |
|     | - Joint Chiefs of Staff                                | JCS     |
|     | - National Security Agency                             | NSA     |
|     | - Other Appropriations                                 | OA      |
| 8.  | Drug Abuse Policy Office                               | DAPO    |
| 9.  | Education, Department of                               | ED      |
| 10. | Energy, Department of                                  | DOE     |
| 11. | Health and Human Services, Department of               | HHS     |
|     | - Alcohol, Drug Abuse and Mental Health Administration | ADAMHA  |
|     | - Natl Inst. on Alcohol Abuse & Alcoholism             | NIAAA   |
|     | - Natl Institute on Drug Abuse                         | NIDA    |
|     | - Natl Institute of Mental Health                      | NIMH    |
|     | - Office of Substance Abuse Prevention                 | OSAP    |
|     | - Administration for Children, Youth & Families        | AGYF    |
|     | - Administration for Native Americans                  | ANA     |
|     | - Family Support Administration                        | FSAD    |
|     | - Food and Drug Administration                         | FDA     |
|     | - Health Resources and Services Admin.                 | HRSA    |
|     | - Indian Health Services                               | IHS     |
|     | - Bureau of Health Care Delivery & Asst                | BHCDA   |
|     | - Bureau of Resources Development                      | BRD     |
|     | - Social Security Administration                       | SSA     |

12.	Housing and Urban Development, Department of	HUD
13.	Information Agency, United States	USIA
14.	Interior, Department of	INT
	- Bureau of Indian Affairs	BIA
	- Bureau of Land Management	BLM
	- Fish and Wildlife Service	FWS
	- National Park Service	NPS
15.	Justice, Department of	DOJ
	- Bureau of Prisons	BOP
	- Criminal Division	CRM
	- Drug Enforcement Administration	DEA
	- Federal Bureau of Investigation	FBI
	- Immigration & Naturalization Service	INS
	- Office of Justice Programs	OJP
	- Bureau of Justice Assistance	BJA
	- Bureau of Justice Statistics	BJS
	- National Institute of Justice	NIJ
	- Office of Justice Programs	OJP
	- Office of Juvenile & Delinquency Prevention	OJJDP
	- Support of Prisons	SUSP
	- Tax Division	TAX
	- United States Attorneys	USA
	- United States Marshal Service	USMS
16.	Labor, Department of	LABOR
17.	Mine Safety and Health Administration	
18.	National Narcotics Border Interdiction System	NNBIS
19.	National Security Council	NSC
20.	Nuclear Regulatory Commission	NRC
21.	Occupational Safety and Health Administration	
22.	Office of Personnel Management	OPM
23.	Organized Crime Drug Enforcement Task Force	OCDETF
24.	State, Department of	STATE
	- International Narcotics Matters	INM
25.	Transportation, Department of	DOT
	- Federal Aviation Administration	FAA
	- Federal Railroad Administration	FRA

- Maritime Administration	MARAD
- National Highway Traffic & Safety	NHTSA
- United States Coast Guard	USCG
26. Treasury, Department of the	Treas
- Bureau of Alcohol, Tobacco and Firearms	ATF
- Internal Revenue Service	IRS
- Payments to Puerto Rico	PPR
- United States Customs Service	USCS
- United States Secret Service	USSS
27. Veterans Administration	VA
28. White House Conference	WHC