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REPORT TO THE CONGRESS

~~74-0493~~



Difficulties In Immobilizing Major Narcotics Traffickers

B-175425

Drug Enforcement Administration
Department of Justice

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

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

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To the President of the Senate and the
Speaker of the House of Representatives

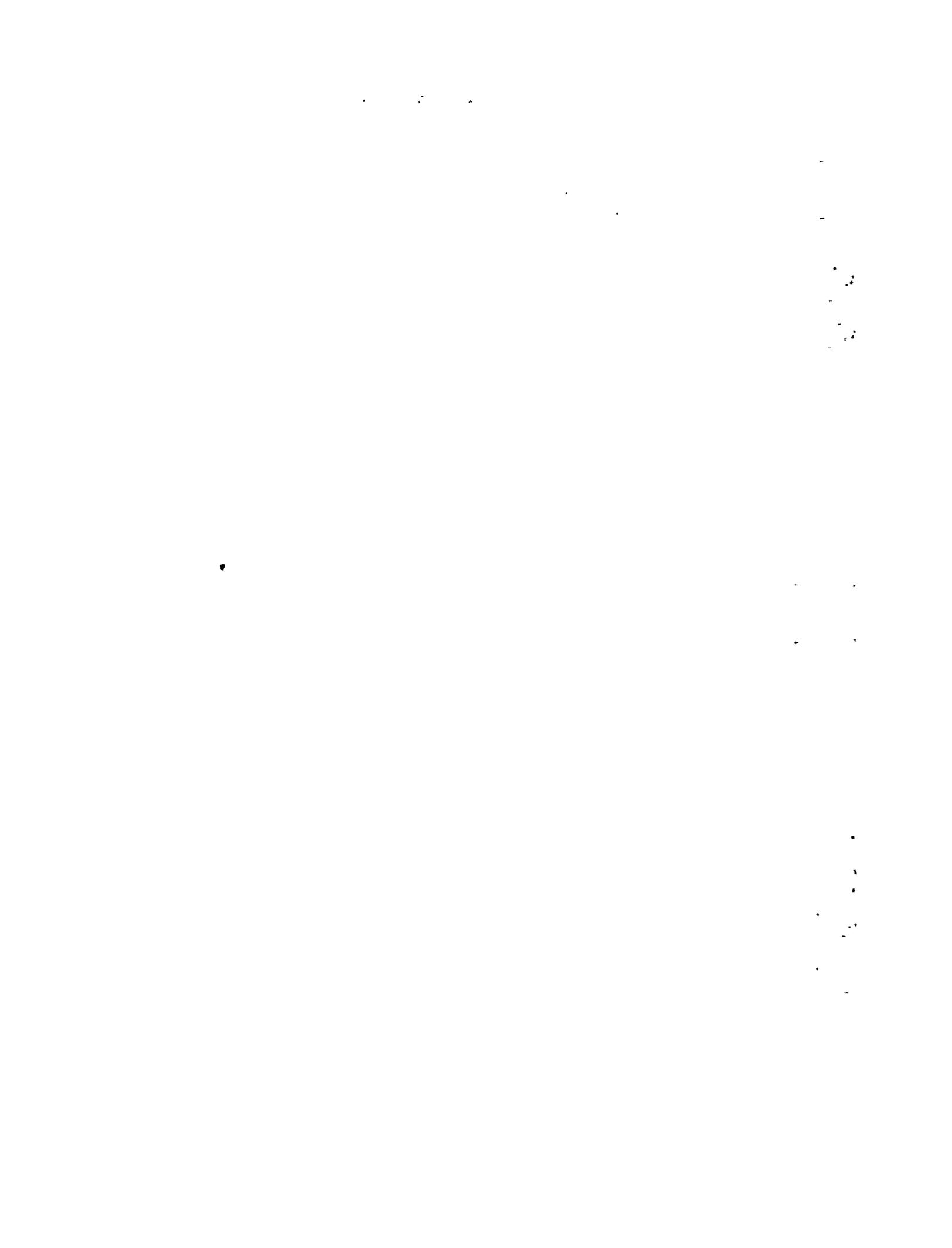
This is our report on difficulties encountered in immobilizing major narcotics traffickers. The programs discussed in the report are currently administered by the Drug Enforcement Administration, Department of Justice.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and to the Attorney General of the United States.

A handwritten signature in cursive script that reads "Thomas P. Staats".

Comptroller General
of the United States



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ABBREVIATIONS

BNDD	Bureau of Narcotics and Dangerous Drugs
DEA	Drug Enforcement Administration
G-DEP	Geographic Drug Enforcement Program
GAO	General Accounting Office
IRS	Internal Revenue Service
NIN	Narcotics Information Network

D I G E S T

WHY THE REVIEW WAS MADE

Drug abuse--still a major social problem in the United States, although the number of addicts is believed to be decreasing--is the direct cause of death for about 2,000 people each year and is still a major cause of crime and property loss. Enforcement costs related to addict-initiated crimes continue to be substantial.

Because the correlation between drug availability and its abuse is high--over 500,000 heroin addicts in the United States require about 10 to 12 tons of heroin a year to satisfy their habits--GAO wanted to know what the Federal Government was doing to immobilize major narcotics traffickers and stop the flow of narcotics into the United States.

The programs and activities discussed in this report were the responsibility of the former Bureau of Narcotics and Dangerous Drugs (BNDD) in the Department of Justice. Effective July 1, 1973, BNDD was merged with other Federal agencies into the new Drug Enforcement Administration (DEA) within Justice.

FINDINGS AND CONCLUSIONS

BNDD established the "systems approach" to arrest and prosecute those major traffickers whose immobilization would most help reduce the availability of illicit drugs in the United States. (See p. 9.)

Using this approach, BNDD identified 10 major and 75 secondary drug distribution systems. About 1,100 individuals were identified as major traffickers in the 10 systems and were selected for investigation and immobilization. (See p. 10.)

Under the systems approach, BNDD's personnel had to make sure that:

- Individuals suspected of being major traffickers were identified as such with reasonable validity.
- Regional offices' resources were directed toward immobilizing specific systems of traffickers.
- Progress in achieving the objectives of the systems approach was evaluated. (See p. 10.)

Shortcomings in accomplishing these functions led BNDD to modify the approach into what is now the Geographic Drug Enforcement Program. At that time, July 1972, BNDD records showed that all 10 major trafficking systems were still operating, although two had been severely disrupted. (See p. 13.)

This program has been continued by DEA, and, if properly implemented, it will improve the effectiveness of Federal drug law enforcement. (See p. 16.)

Some of BNDD's accomplishments and problems in immobilizing traffickers under these approaches follow.

Arresting major traffickers

From July 1, 1971, to January 1, 1973, BNDD arrested 7,402 individuals for narcotics, marihuana, and dangerous drugs violations and cooperated with State, local, and foreign agencies in making 4,575 arrests. BNDD generally made its arrests through the use of undercover agents.

Many individuals arrested were major traffickers. For example, an international heroin-trafficking ring operating in Europe, South America, and the United States was broken up in October 1972. BNDD estimated that this ring was responsible for smuggling one-fourth of the heroin reaching the eastern part of the United States. Also, in April 1973, 65 traffickers, many of whom were major traffickers, were arrested in New York. (See p. 17.)

Although BNDD arrested many traffickers, temporarily disrupted the illicit activities of several of the 10 major systems, and decreased the amount of heroin available, many major traffickers still were considered by BNDD to be operating as of July 1972. (See p. 23.)

GAO's review of BNDD's case files for 90 major traffickers showed the traffickers to be skillful, well organized, and well insulated from normal enforcement techniques. Many live or operate outside the United States, making arrest more difficult. More major traffickers could be arrested if:

--The State Department could (1) persuade the Government of Mexico to modify its laws which inhibit a proven method of gathering intelligence, undercover work, and (2) persuade the Governments of Mexico and some Central and South American countries to honor U.S. requests for extradition of their citizens

for violations of U.S. drug laws or to prosecute their citizens on the basis of evidence supplied by the United States. (See p. 25.)

- Individuals suspected of being major traffickers were properly classified and selected for enforcement action on the basis of current intelligence. (See p. 32.)
- Increased efforts were made to investigate all persons classified as major traffickers except when circumstances dictate that it is unreasonable to do so. (See p. 27.)
- Formal plans were prepared and periodically modified for investigating and immobilizing each major trafficker selected for enforcement action. (See p. 34.)

Arrested traffickers often not immobilized

Many major traffickers arrested (1) were released on bail for long periods and thus were free to continue their operations, (2) received short or no prison sentences which tended to negate the deterrent effect of prosecution, (3) were freed after trial, were acquitted, or had their cases dismissed, because of inadequate development or presentation of case, or (4) were permitted to plead to a reduced charge and thus were immobilized for a much shorter period than might have been the case if prosecuted further.

GAO examined the court proceedings for 128 traffickers arrested during 1971.

--Of the 128 persons arrested, 88 were released on bail.

--Of the 88 released on bail, 12 had been free on bail for an average 506 days and had not been brought to trial as of August 1, 1972, and 76 had been free on bail for an average 165 days before their trials or before their cases were dismissed.

--Most of the 78 defendants convicted and sentenced to prison received sentences of 5 years or less.

--Twelve convicted violators appealed their cases and were released on appeal bonds for an average of about 7 months. (See p. 38.)

Arrested major narcotics traffickers were not, overall, being effectively immobilized because:

--Current bail laws do not consider the likelihood of a person's continuing to deal in drugs when released on bail. (See p. 40.)

--BNDD did not generally keep a close watch on the activities of narcotics traffickers released on bail. (See p. 40.)

--The law prescribes maximum penalties for certain narcotics violations but does not prescribe minimum penalties, except for persons who are engaged in a continuing criminal enterprise and for special dangerous offenders. (Controlled Substances Act of 1970 (84 Stat. 1242). (See p. 41.)

--BNDD did not evaluate cases after court proceedings to determine if its investigation had been weak and ineffective. (See p. 42.)

RECOMMENDATIONS

3 If major narcotics traffickers are to be arrested, the Attorney General ^{4 2} should require DEA to:

4 --Work closely with the Department of State to (1) persuade the Government of Mexico to change its laws which inhibit undercover work and (2) persuade the Governments of Mexico and other Central and South American countries to honor U.S. requests for extradition of their citizens for violating U.S. drug laws or to prosecute their citizens on the basis of evidence supplied by the United States. (See p. 36.)

--Make sure that the classifications of individuals as major traffickers are correct and based on current intelligence. (See p. 36.)

--Increase efforts to investigate all persons classified as major traffickers except when circumstances dictate that it is unreasonable to do so. (See p. 36.)

--Prepare and periodically modify plans for investigating and immobilizing each major trafficker selected for enforcement action. (See p. 36.)

If arrested major narcotics traffickers are to be effectively immobilized, the Attorney General should require DEA to:

--Monitor arrested narcotics traffickers who are most likely to continue trafficking while free on bail.

--Establish a system for evaluating cases after court proceedings in order to assess and improve enforcement techniques and to train agents.

--Maintain a close association with U.S. attorneys' offices to obtain legal advice when necessary in developing a case. (See p. 45.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Department of Justice agreed in general with GAO and said that individual recommendations that had not already been implemented were being studied to determine their feasibility. (See app. I.) The Department of State and the Bureau of Customs, Department of the Treasury, reviewed pertinent sections of the report and their comments and suggestions were considered.

DEA officials informed GAO on November 7, 1973, that they were still considering various methods for implementing some of the GAO recommendations and that, when de-

isions were made, GAO would be informed of the corrective actions taken.

MATTERS FOR CONSIDERATION
BY THE CONGRESS

Legislation has been introduced to:

- Amend Federal law to provide pre-trial detention measures for heroin traffickers.
- Provide for mandatory minimum penalties for narcotics trafficking.

The information in this report should be of assistance to the Congress in its consideration of the legislation.

CHAPTER 1

INTRODUCTION

Although the Drug Enforcement Administration (DEA) believes the number of addicts is decreasing, drug abuse is still a major social problem in the United States. The scope of the problem cannot be assessed precisely, but recent Government data shows that:

- The United States has more than 500,000 heroin addicts, still the largest addict population in the world.
- The direct cause of death for about 2,000 people each year is drug abuse. (In New York City more people between the ages of 15 and 35 die from drug abuse than from any other cause.)
- Drug abuse is a major cause of crime, and property losses and enforcement costs related to addict-initiated crimes continue to be substantial.
- Addicts need about 10 to 12 tons of heroin a year to satisfy their habits.

Efforts to control drug addiction have been directed at eliminating both the demand and the supply. Treatment and rehabilitation programs have attempted to reduce individuals' dependence on drugs and enable them to lead socially acceptable lives. Enforcement and control programs have attempted to curtail the supply of drugs, which should decrease the possibility of nonaddicts experimenting with drugs and becoming addicted and provide incentive for addicts to seek treatment to overcome their addiction rather than live with it.

The Bureau of Narcotics and Dangerous Drugs (BNDD), a former agency of the Department of Justice, was responsible for reducing the availability of illicit drugs by enforcing Federal laws relating to narcotics, marihuana, and dangerous drugs. During fiscal year 1973, BNDD had a budget of about \$74 million, and as of June 30, 1973, it had about 1,600 agents and compliance investigators at its headquarters, Washington, D.C.; 19 regional offices; and 94 district offices.

Reorganization Plan No. 2 abolished BNDD, effective July 1, 1973, and transferred to a newly created Drug Enforcement Administration (DEA) in the Department of Justice all the functions and personnel of (1) BNDD, (2) the Office for Drug Abuse Law Enforcement, and (3) the Office of National Narcotics Intelligence. Also transferred to DEA were Bureau of Customs personnel and functions related to domestic and foreign narcotics law enforcement. The purpose of the reorganization was to consolidate into one agency all Federal drug law enforcement activities. DEA has requested an appropriation of about \$107 million for fiscal year 1974.

Since 1971 we have issued several reports on combating drug abuse. (See app. III.)

The programs and activities discussed in this report were BNDD's responsibility; however, since DEA now has responsibility for Federal narcotics law enforcement, our recommendations are directed to DEA.

BNDD-furnished pictures of various forms of opium, its derivatives, and the equipment used by addicts are on page 7. Also, BNDD's estimate of the heroin problem and reported achievements for 1970, 1971, and 1972 are shown in appendix II.

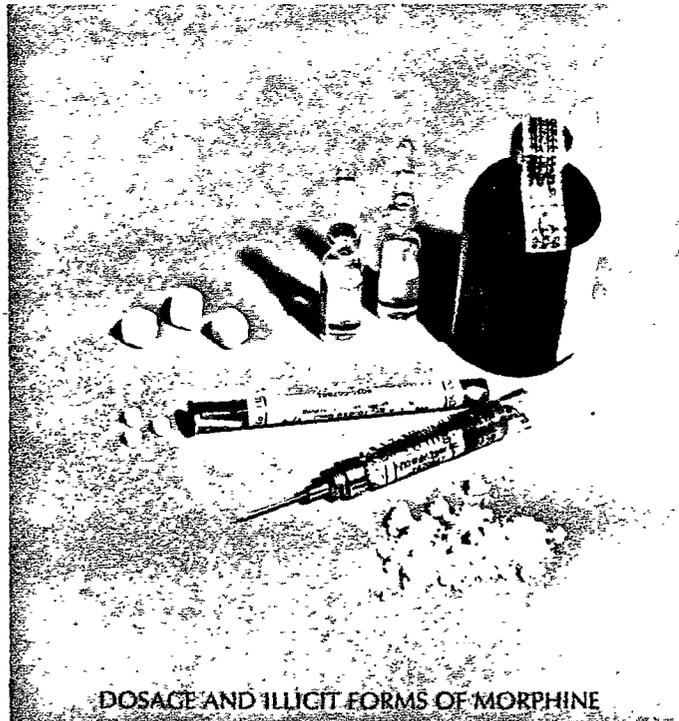
Narcotics



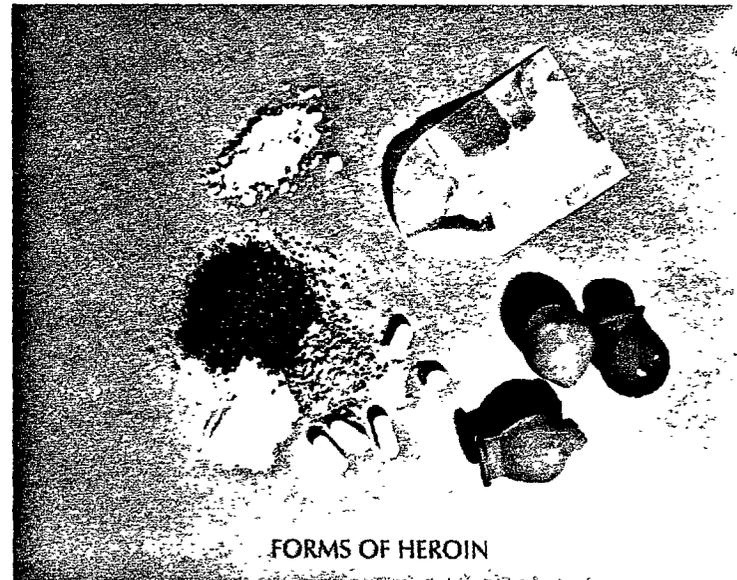
MORPHINE BASE



OPIUM POPPY & DERIVATIVES
ORAL & SMOKING OPIUM, CODEINE, HEROIN, MORPHINE



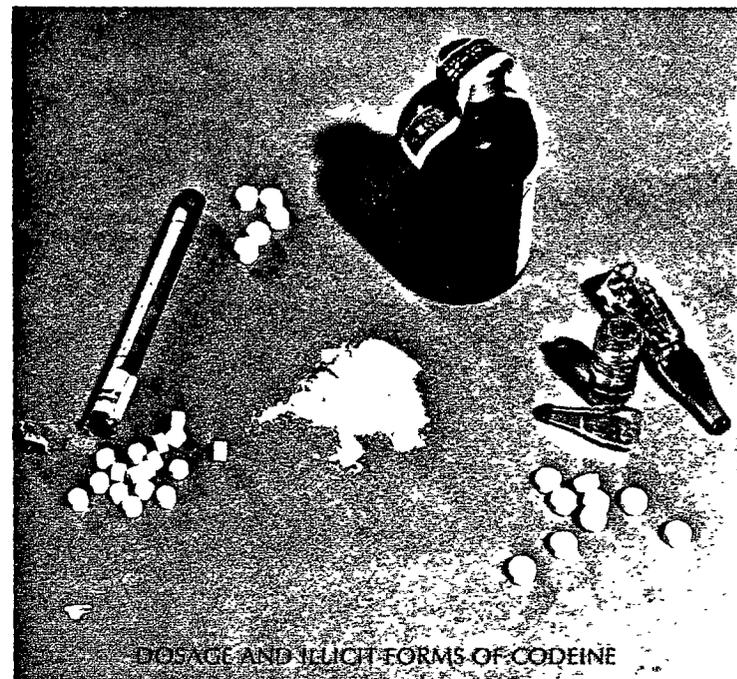
DOSAGE AND ILLICIT FORMS OF MORPHINE



FORMS OF HEROIN



ADDICT'S EQUIPMENT



DOSAGE AND ILLICIT FORMS OF CODEINE

CHAPTER 2

BNDD'S PROGRAMS FOR

IMMOBILIZING MAJOR DRUG TRAFFICKERS

According to BNDD, although some heroin is smuggled into the United States by small, independent operators, most is smuggled in by organized rings of traffickers through extensive national and international distribution systems. Because only the Federal Government has the jurisdiction to stop the flow of illicit drugs into the United States, BNDD committed its resources to breaking up the major organized rings of the illicit drug distribution systems. BNDD's main objective was to arrest and prosecute those major traffickers whose immobilization would have the most significant impact on reducing the availability of illicit drugs. Under this approach, called the systems approach, major traffickers were identified and classified into a series of major and secondary systems.

In January 1972, BNDD decided to modify its approach to more adequately manage enforcement operations and to evaluate its effectiveness. This modified approach, called the Geographic Drug Enforcement Program (G-DEP), was implemented in July 1972.

THE SYSTEMS APPROACH

To establish the systems approach, BNDD, in September 1969, directed its regional offices to debrief active informants, review investigative files, and survey intelligence of other law enforcement agencies to identify illicit drug distribution systems. The offices were required by November 30, 1969, to submit organization charts for the systems, flow charts outlining sources and distribution channels, geographic outlines of each system, and complete backgrounds of the major traffickers in each system.

A headquarters-regional office task force was formed to analyze the data submitted by the regional offices and develop the final systems framework. Those traffickers who dealt with each other were grouped into what was called a drug distribution system. The task force classified these systems as major or secondary, depending on the intelligence

available on the volume of drugs distributed, the number of traffickers involved, and other information.

Nine major and 75 secondary systems were identified in early 1970. BNDD estimated that the nine major systems supplied about 80 percent of the Nation's heroin, almost 100 percent of the cocaine, tons of marihuana, and millions of doses of dangerous drugs. The systems' distribution networks spread throughout the United States and extended through countries all over the world. In late 1970, BNDD identified a 10th major system from intelligence supplied by the Bureau of Customs. About 1,100 individuals were identified as major traffickers in the 10 systems and were selected for investigation and immobilization.

The complexity of the systems approach imposed important management responsibility on BNDD personnel, who had to insure that:

- Major traffickers were correctly identified.
- Regional resources were directed toward immobilizing selected traffickers.
- Progress in achieving the approach's objectives was evaluated.

The following shortcomings in accomplishing each of these functions contributed to BNDD's difficulties in effectively managing the systems approach and led to the implementation of G-DEP, which was designed to correct these shortcomings.

Identifying drug traffickers

BNDD's criteria for identifying major traffickers under the approach were not clearly defined and instructions to the regions on developing information about drug distribution systems to submit to the task force did not include specific criteria for measuring the relative importance of individual traffickers. The only criterion for measuring the importance of a trafficker was whether immobilization of the trafficker "would make a significant impact on the availability of illicit drugs in the United States."

The task force, responsible for evaluating the regional submissions, also did not have specific criteria for assessing the importance of the traffickers reported by the regions. The task force relied on the significant impact criterion mentioned above and the experience of its members in identifying the systems.

Because of the lack of adequate and current data, some individuals were wrongly identified as major traffickers. For example, the major systems included dead or incarcerated traffickers and lower echelon traffickers, such as couriers or pushers. Our review of files on 3 of the 10 major systems showed that these 3 systems included the names of at least 46 dead or incarcerated persons and 23 lower echelon traffickers.

Direction of regional office resources

BNDD headquarters initially provided the regions with a list of traffickers but did not assign them specific targets or priorities and did not provide them with guidelines for directing their manpower resources toward immobilizing major traffickers.

Therefore, some regional offices were concentrating on "targets of opportunity"--those considered vulnerable, mostly lower echelon traffickers.

BNDD's Office of Inspection, reporting in 1970 on the overall operation of the New York regional office, stated that:

"* * * the region should direct the enforcement efforts of all groups toward specific systems targets for immobilization to prevent investigative overlap. Emphasis should be placed on the allocation of manpower to primary and secondary systems. Target of opportunity cases should be more carefully selected so that enforcement is not diverted from systems objectives."

In 1971 and 1972 the Office of Inspection made somewhat similar comments regarding the Philadelphia and Chicago regional offices.

Notwithstanding the Office of Inspection reports, BNDD headquarters did not provide the regions with guidelines for allocating manpower to specific targets and some regions continued to select targets of opportunity for investigation. Since July 1971 and December 1971, the Los Angeles and New York offices, respectively, have continued to devote more time to target-of-opportunity cases than to investigations of major traffickers.

Evaluating progress

BNDD did not know how many major traffickers were immobilized as a result of the systems approach nor how many were immobilized while the systems approach was operating. Therefore, it could not find out the approach's strengths or weaknesses.

BNDD used field visits, inspection reports, and productivity analyses to evaluate the approach. Its evaluation emphasized the number of traffickers arrested and the quantity and dollar value of drugs seized; the evaluation, however, did not specifically report on the progress being made in arresting or immobilizing major traffickers and, therefore, was not meaningful in determining whether the approach was effective.

By January 1970, BNDD had identified nine major systems involving 971 major traffickers and had targeted them for immobilization within a 3-year period. In late 1970, BNDD, through intelligence supplied by the Bureau of Customs, identified a 10th major system involving 145 traffickers and targeted it for immobilization by late 1973. By January 1970 about 1,500 secondary system traffickers were also targeted for priority enforcement action, 75 percent of whom were to be immobilized within 1 year.

Due to the many drug traffickers selected for priority enforcement action, the demands on BNDD resources, the capability of the distribution systems to acquire new members, and the changing trafficking patterns of the systems, the long-range goals of the systems approach could not be achieved. Even though BNDD disrupted several major systems and immobilized numerous traffickers as of July 1, 1972--when the approach was replaced by G-DEP--BNDD records showed that all 10 major systems were still operating. Eight systems were essentially unchanged; two had been severely disrupted but were still operating.

G-DEP

By January 1972, BNDD recognized that the systems approach was not producing the desired results; heroin availability simply had not been reduced. Consequently, BNDD decided to revise its approach to more adequately manage enforcement operations and measure its effectiveness.

The revised approach, G-DEP, was implemented in July 1972. Its objective, like that of the systems approach, is to direct priority enforcement action against major illicit drug distribution organizations. The principal difference is that, under the systems approach, traffickers were identified as members of specific illicit drug distribution systems whereas, under G-DEP, they are identified according to their importance and are classified by the type of drug they traffic in and the area where they traffic.

Identifying major traffickers

Under G-DEP, BNDD used predetermined criteria to identify traffickers for priority enforcement action. The criteria spell out the specific factors which are to be considered in determining whether a person is a class I, II, III, or IV trafficker. For example, an individual would be identified as a class I domestic trafficker if evidence or intelligence indicated that he was operating in the United States as head of a smuggling ring and had sold 2.2 pounds of heroin or cocaine, 70 percent pure or higher. If evidence or intelligence indicated, however, that an individual had sold only 1.1 pounds of heroin or cocaine, 35 percent pure or higher, he would be identified as a class II trafficker.

Major traffickers are identified as class I, II, or III according to their importance; all other traffickers are identified as class IV. Detailed criteria for identifying drug traffickers are shown in appendix IV.

BNDD headquarters was responsible for initially identifying class I and II traffickers because it was the central collection point for the intelligence gathered on the major traffickers associated with the 10 major systems identified under the systems approach. As a result of headquarters' review of the 10 major systems, about 250 class I and II traffickers were initially identified.

After they were identified, the regions were assigned responsibility for maintaining current lists of traffickers and identifying new class I and II traffickers. The regions must support their new identifications by either direct evidence or intelligence. Headquarters reviews the regions' identifications and approves or disapproves them. Class III and IV traffickers are identified by the regions and are not subject to headquarters approval.

Traffickers are also classified by "geo-drug areas," a BNDD term used to associate specific illicit drugs with geographic locations. For example, a trafficker dealing in heroin and operating in the United States would be classified in geo-drug area 4; a trafficker dealing in heroin but operating in Latin America would be classified in geo-drug area 2. These classifications determine who is responsible for particular traffickers and who becomes responsible when traffickers and distribution systems change patterns and areas of operation. The six geo-drug areas (representing the principal worldwide trafficking situations) are:

<u>Geo-drug area</u>	<u>Area</u>	<u>Illicit drugs</u>
1	Europe-Middle East	Heroin, morphine, opium
2	Latin America	Heroin, cocaine
3	Southeast Asia	Heroin, morphine, opium
4	United States and Canada	Heroin, cocaine
5	Worldwide	Dangerous drugs
6	Worldwide	Hashish, marihuana

Direction of regional office operations

BNDD provided that, as a general guide for allocating manpower resources under G-DEP, 80 percent of BNDD enforcement manpower should be directed at arresting and prosecuting class I, II, and III traffickers (priority targets). A headquarters unit established by BNDD and continued by DEA has overall responsibility for managing G-DEP. This unit is responsible for:

"* * * the total Bureau enforcement program so that all regions are moving toward a common goal; to assure that necessary assistance is provided the field; and to see that the separate components of the program are implemented effectively by focusing efforts at

most significant substantive violations and conspiracies."

The unit consists of seven geo-drug area managers and as many coordinators as needed to assist them. One manager is assigned to each of the six geo-drug areas except for geo-drug area 4 (United States and Canada), which has two managers.

Evaluating progress

Geo-drug area managers must keep statistical data necessary for ascertaining the effectiveness of G-DEP. The data, required monthly on class I and II traffickers, includes the trafficker's name and file number, the date he was identified for priority action, and the date of any change in status. DEA also keeps data on the kinds and quantities of drugs seized, which should assist in measuring G-DEP's effectiveness.

Applying G-DEP to foreign situations

BNDD European region officials told us that their objective, under G-DEP, was to gather intelligence on the major targets identified within their area and to exploit such information when possible. However, the European regional office cannot investigate any trafficker without the concurrence and cooperation of foreign law enforcement agencies. Further, since neither BNDD nor local authorities can use essential techniques, such as wiretaps and surveillance, BNDD is hindered in collecting intelligence on major traffickers. BNDD considers the above-mentioned techniques vital in developing a conspiracy¹ case.

Some European countries do not permit law enforcement authorities to use conspiracy as a basis for prosecution. Even in countries that do permit conspiracy cases to be developed, it would be virtually impossible to convince some of the foreign law enforcement authorities to try to develop such a case against a class I trafficker without some evidence to link his illicit activities to a recent narcotics seizure.

¹In criminal laws, conspiracy is a confederacy between two or more persons for the purpose of committing, by their joint efforts, some unlawful or criminal act.

European regional officials told us that foreign police are usually reluctant to gather intelligence on the traffickers BNDD selects for priority action because (1) their countries have exerted pressure on their enforcement agencies to seize illicit drugs and clandestine laboratories, (2) law enforcement agencies do not have enough narcotics agents to honor BNDD's frequent requests for current intelligence on traffickers' activities, and (3) local police officials may disagree with BNDD's selection of traffickers for priority action.

CONCLUSIONS

G-DEP is designed to correct the deficiencies in the systems approach. Of particular merit are the:

- Specific criteria for determining the relative importance of traffickers.
- General guide that 80 percent of enforcement resources should be directed at priority targets.
- Headquarters unit established to coordinate regional enforcement efforts, especially with regard to the more important targets.
- Information accumulated to form the basis for evaluating the effectiveness of G-DEP.

G-DEP, if properly implemented, should assist DEA in:

- Obtaining reasonable uniformity and validity in identifying and classifying traffickers for enforcement action.
- Controlling, coordinating, and analyzing investigations.
- Evaluating G-DEP's performance.

CHAPTER 3

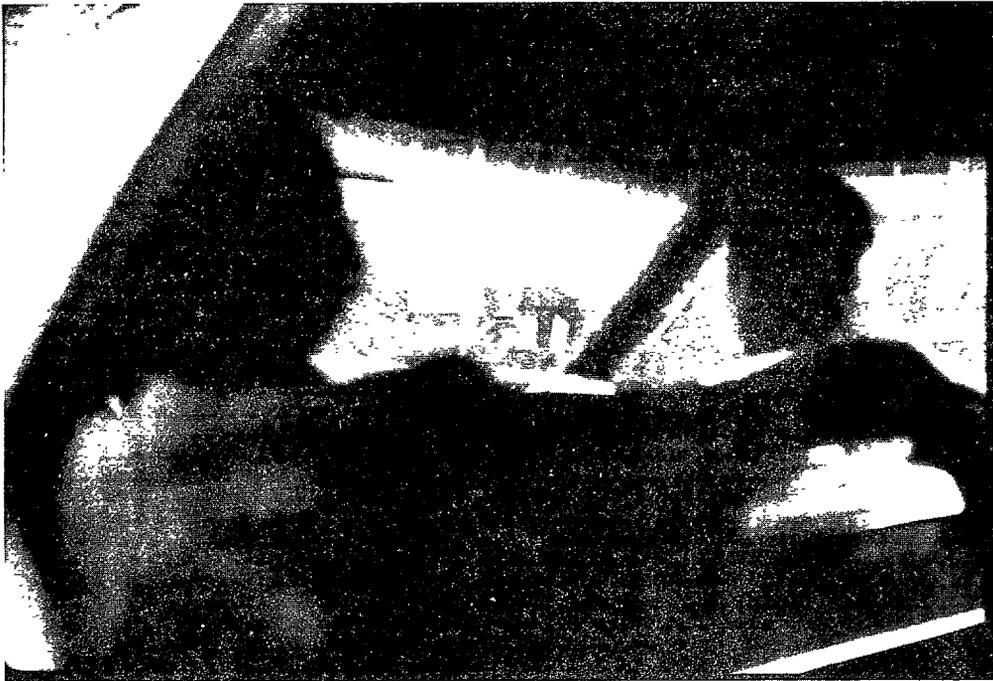
PROBLEMS IN ARRESTING MAJOR TRAFFICKERS

From July 1, 1971, to January 1, 1973, BNDD arrested 7,402 individuals for narcotics, marihuana, and dangerous drugs violations and cooperated with State, local, and foreign agencies in making 4,575 other arrests (3,690 with State and local agencies and 885 with foreign agencies). Many of these arrests involved major narcotics traffickers, but we were unable to obtain statistics on how many. For example, in October 1972, through BNDD and Bureau of Customs efforts, a major international heroin ring operating in Europe, South America, and the United States was broken up. BNDD estimated that this ring was responsible for smuggling one-fourth of all heroin reaching the eastern part of the United States.

In April 1973, 65 traffickers, including 6 class I and 16 class II traffickers, were arrested in New York by a task force of approximately 130 officers from BNDD, the Office for Drug Abuse Law Enforcement, the New York City Police Department, the Internal Revenue Service, and the Department of the Treasury's Bureau of Alcohol, Tobacco and Firearms. These arrests were a result of BNDD's investigation which began in November 1971 in cooperation with the New York City Police Department.

The pictures on the following pages demonstrate law enforcement methods to arrest traffickers.

Law Enforcement Methods Used
To Arrest Narcotics Traffickers



BNDD-furnished photos

Surveillance



Surveillance



BNDD-furnished photos

Wiretap

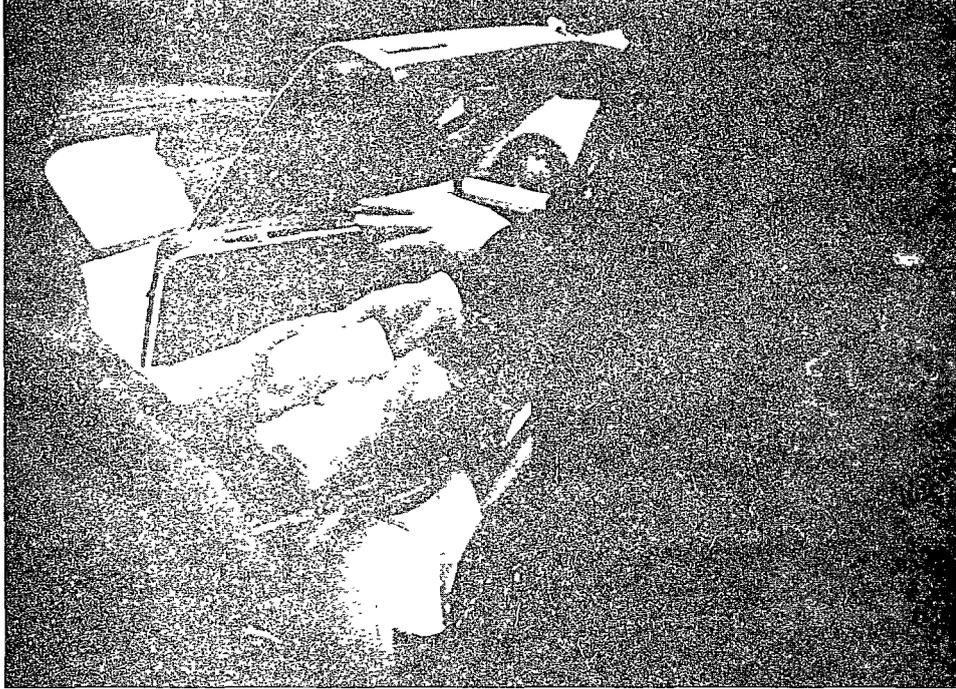


Above--Planning the arrest



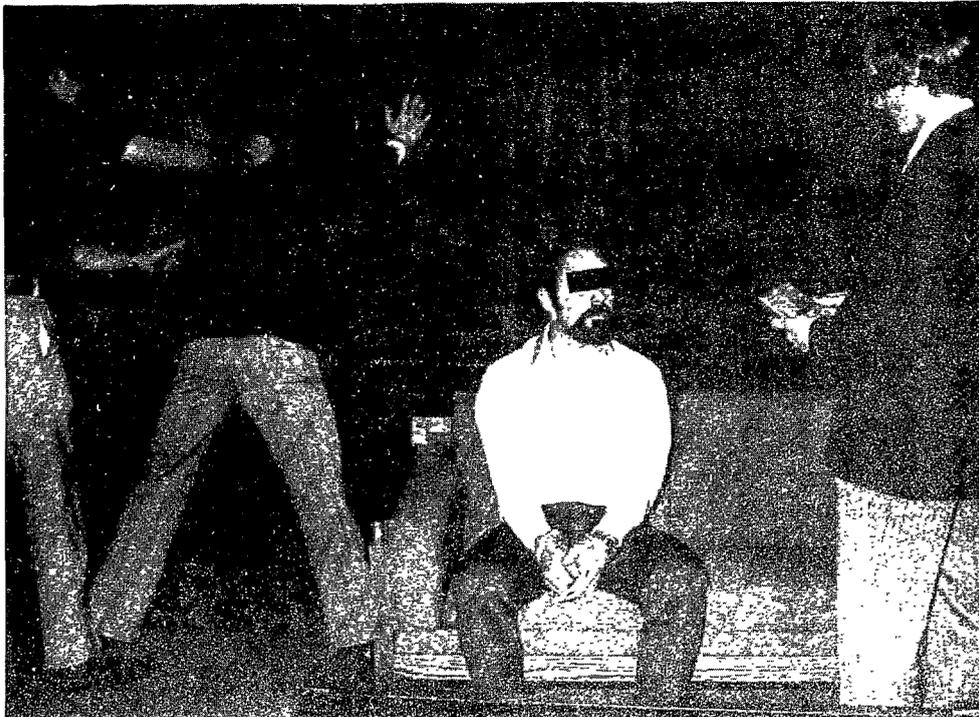
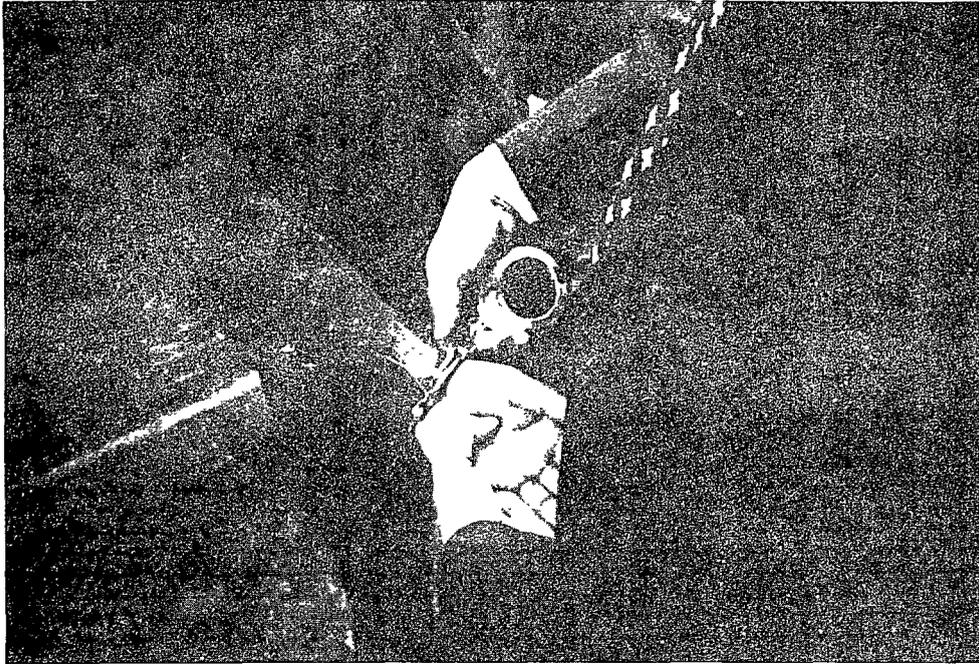
Left--Undercover buy

BNDD-furnished photos



BNDD-furnished photos

Undercover buys



BNDD-furnished photos

Arrests

Although BNDD has arrested many traffickers, many of the major traffickers identified under the systems approach-- some of whom were identified as early as December 1969-- were still trafficking in drugs as of July 1972. To determine the obstacles to arresting major traffickers, we reviewed BNDD's activities relating to 90 of these traffickers. For our review we selected, from the 250 class I and II traffickers who were originally identified under the systems approach (see p. 13), those who were subsequently reassigned for investigation under G-DEP to the New York, Miami, Los Angeles, or European regional offices.

We chose these traffickers because they were considered to be the most important and the most difficult to immobilize. We reviewed each trafficker's case file and discussed each case with the BNDD agent assigned. The number of traffickers whose files we reviewed in each region and the investigative status at the time of our review are shown below.

<u>BNDD region</u>	<u>Re- viewed</u>	<u>Being investi- gated</u>	<u>Not being investi- gated</u>	<u>Arrested (note a)</u>
Miami	29	17	12	-
Los Angeles	29	13	9	7
New York	16	11	4	1
European	<u>16</u>	<u>5</u>	<u>10</u>	<u>1</u>
Total	<u>90</u>	<u>46</u>	<u>35</u>	<u>9</u>

^aThese individuals were arrested before G-DEP began; however, according to G-DEP procedures, arrested individuals are considered potential traffickers until incarcerated.

The files showed the following obstacles to arresting traffickers: (1) they were skilled (for example, they did not personally handle illicit drugs), (2) they lived or operated outside the United States where BNDD activities and authority were limited, or (3) their cases were not being investigated due to lack of informants, intelligence, and/or BNDD resources. We also found other factors which made arrests difficult, such as (1) some individuals had been erroneously identified as major traffickers, (2) written plans for investigations were lacking, and (3) better coordination between BNDD and other Federal law enforcement agencies was needed.

TRAFFICKERS' SKILLS

Traffickers' skillfulness and the difficulty in obtaining informants were the reasons BNDD agents most often gave for not having arrested the traffickers. BNDD agents described the major traffickers as being highly skilled in their activities and told us that certain traits, common to all major traffickers, make it difficult to arrest them. For example:

- Major traffickers deal only with trusted friends they have known for many years. This diminishes the possibility of introducing undercover agents to the traffickers and makes it difficult to find reliable informants. Many times, however, friendship is not the only bond; fear of swift reprisal for any breach of trust is also a significant factor.
- Major traffickers do not handle illicit drugs and are often separated by 3 or 4 organizational levels from persons who do handle the drug (the ones who will deal with strangers--such as undercover agents).

MAJOR TRAFFICKERS LIVING OR OPERATING OUTSIDE THE UNITED STATES

Besides being skilled, 42 of the 90 major traffickers reviewed lived or operated outside the United States where BNDD authority and activities were limited. Of the 42 major traffickers, 12 resided in Mexico and were assigned to the BNDD Los Angeles regional office for enforcement action. These traffickers seldom entered the United States and therefore would have to be arrested in Mexico by Mexican Police. Los Angeles regional officials pointed out that BNDD's efforts in Mexico were restricted by:

1. Lack of legal authority to develop a case or to make an arrest in Mexico.
2. Mexican laws which inhibit undercover work. Under Mexican laws, the buyer of illicit drugs--even if he is an undercover law enforcement agent--is as guilty as the seller. Therefore, law enforcement agents cannot buy illicit drugs but must arrange for the Mexican authorities to arrest a trafficker for possession prior to the exchange of the drugs.

Because he cannot make "buys" an undercover agent has difficulty establishing the credibility necessary for penetrating the higher levels of drug-trafficking organizations.

3. Mexico's past refusal to extradite its citizens to the United States for alleged violations of U.S. laws.

Of the 12 major traffickers living in Mexico, 1 was arrested in Mexico in May 1972 and 4 had been indicted but not arrested as of February 1973. The outstanding arrest warrants for the four indicted traffickers are not current (1949, 1959, 1963, and 1966), and the chances for arrest on these warrants appear slim. Three of the four indicted traffickers, according to BNDD records, are Mexican citizens. Because of the age of the cases, the Department of State could not readily tell us whether it had sought extradition of the four. If extradition was sought, it is unlikely that it would have been honored in view of Mexico's past refusals to extradite its citizens. BNDD told us that, although Mexico had refused to extradite its citizens, it can try its citizens under Mexican law for alleged violations of U.S. laws based on evidence furnished by the United States. However, at the time of our review, BNDD had never used this approach.

Nine of the major traffickers whose case files we reviewed were citizens of, or operated in, various Central and South American countries and were assigned for investigation to the BNDD Miami regional office. BNDD secured sealed indictments against four of the nine traffickers on the basis of evidence obtained in the United States; however, arresting them is difficult because they live in countries which will not extradite their citizens. Sealed indictments were obtained so that it would not become public knowledge that the traffickers had been indicted and so that the traffickers could be arrested immediately if they entered the United States.

State Department officials advised us that in many countries any extradition of nationals might require the countries to change their customs, laws, or sometimes their constitutions. The officials pointed out that any accomplishments in this area would naturally require long-term efforts.

Sixteen of the 90 major traffickers lived in Europe, and BNDD's European regional office was assigned responsibility for investigation. BNDD's activities in Europe were limited because the police forces of many European countries do not, and in some countries cannot, use enforcement techniques, such as informants, wiretaps, and undercover work, which BNDD feels are essential in developing cases against major traffickers.

Five of the major traffickers lived in Canada and supplied narcotics to the United States. A BNDD agent told us that coordination and cooperation with Canadian law enforcement agencies had been good; however, the traffickers were so well insulated that BNDD efforts were limited to collecting intelligence.

Although local laws inhibiting undercover work and certain countries' refusal to extradite their citizens to the United States were major factors which hindered BNDD's efforts in immobilizing narcotics traffickers, we found little indication that BNDD had seriously tried to get the State Department to persuade these countries to change their laws and/or permit extradition. We believe that BNDD should make a concerted effort, through cooperation with the State Department, to get other countries to recognize the need for change and to act accordingly.

INVESTIGATING CASES

To immobilize identified major narcotics traffickers, it is necessary to keep them under constant investigation. We reviewed 90 cases and found that in 35 the traffickers were not being investigated. BNDD officials told us that these cases were not being investigated primarily because of a lack of informants and intelligence and/or a lack of resources.

We recognize that it may not be feasible or practical for BNDD to investigate all major identified narcotics traffickers all the time; however, because the percentage of cases not being investigated was high--38.8 percent--and because some of the 35 cases should have been kept under investigation, we believe BNDD should increase its efforts to keep more identified major traffickers under investigation.

A summary of the cases not being investigated by BNDD regional offices follows.

New York regional office--16 cases reviewed, 4 not being investigated. One of the four involved a fugitive wanted by the New York Police Department on a murder charge, and we agree it should no longer be investigated. However, BNDD told us that the other cases were not being investigated because of a lack of informants. Two cases, BNDD said, involved traffickers who were too well insulated for normal enforcement techniques to be effective. It may be true that these traffickers are untouchable without informants; however, these are major traffickers and we believe that BNDD should not give up trying to immobilize them. By keeping them under investigation, it might be possible to develop leads on other illegal activities, such as income tax evasion, which might be used to immobilize them. Investigations would also show who they are dealing with, which might be used as leads in developing informants who would provide information to immobilize them.

European regional office--16 cases reviewed, 10 not being investigated. European regional officials told us that one of these cases had been turned over to the French police for investigation. We agree that DEA should not investigate this case while it is being investigated by the French police. However, concerning the other nine cases, regional officials informed us that traffickers may become

inactive for indefinite periods of time, particularly after they make a shipment of narcotics, making it difficult to obtain intelligence. However, the fact that it is difficult to obtain intelligence is no justification for not trying. BNDD's files contained no information indicating that these traffickers intended to discontinue their operations permanently. Therefore, for BNDD to be in a position to know when a trafficker is getting ready to make another shipment and to take action to immobilize him, he should be kept under investigation.

Los Angeles regional office--29 cases reviewed, 9 not being investigated. The nine traffickers had been indicted but not arrested (four because they lived in Mexico and five because their whereabouts were unknown). We agree that these cases should not be kept under active investigation. However, followup action should be taken to try to locate these traffickers, such as (1) asking all agents to ask their informants if they know the whereabouts of these traffickers, (2) asking the Federal Bureau of Investigation to include them in its National Crime Information Center's wanted list and (3) asking the Immigration and Natralization Service to include them in its lookout book. In reviewing the nine cases we noted only two instances of follow-up action. In one instance an informant was asked if he knew the whereabouts of the trafficker. The other instance involved asking the post office if it had a new address for the trafficker.

Miami regional office--29 cases reviewed, 12 not being investigated. One case involved a trafficker who was serving a 3-month prison term for tax evasion. We agree that this trafficker should not be investigated while in jail. However, Miami regional officials told us that 5 of the 11 remaining cases were not being investigated because of a lack of either intelligence or informants and 6 were not being investigated because of the lack of resources. We have already stated above that we believe that major traffickers should be investigated to obtain intelligence and to develop informants. We recognize that lack of resources is a problem, and details of this problem are set forth below. However, BNDD possibly could use its resources better. We did not make a detailed analysis of BNDD's use of resources; however, we did note that, although the six major traffickers were not being investigated, the Miami regional office was investigating lower level traffickers.

Lack of resources

Besides the six cases not being investigated because of a lack of resources, investigations of three other cases were curtailed because of a lack of resources. For example, the agent assigned to an investigation involving one class I and two class II traffickers was reassigned after 29 months of effort because resources were not available to continue the investigation and because the agent would be more effective by concentrating on a more active investigation.

BNDD headquarters was aware of the problem and had been assigning new agents to the region. As of December 1972, the Miami regional office had 94 agents. The Regional Director told us, however, that he needed more agents because drug traffic through south Florida, Puerto Rico, and the Caribbean was increasing.

Another reason cases were not being investigated in the Miami region was that many of the 94 agents assigned to that region were not available for investigative duty. For example, on August 3, 1972, only 55 of the 94 agents were available for investigating cases, as shown below.

Agents assigned	94
Less:	
On loan to the Office of Drug Abuse Law Enforcement	15
Extended illness	3
Awaiting removal	1
New agents awaiting school	5
Assigned to training and prevention	2
Assigned to technical work	3
Assigned to compliance work	9
Strike force representative	<u>1</u>
Total not available	<u>39</u>
Total available for investigating cases	<u>55</u>

BNDD headquarters has recognized the need for more agents not only in the Miami region but throughout BNDD. Since 1968, the number of agents has been increased by about 850.

In our report to Congressman Charles B. Rangel entitled "Efforts to Prevent Heroin from Illicitly Reaching the United States" (B-164031(2), Oct. 20, 1972), we pointed out that lack of staff was a problem in BNDD's European regional office. Lack of staff continues to be a problem. The European regional office had 24 agents stationed in England, France, Germany, Belgium, Spain, Italy, and Morocco. These agents are charged principally with providing foreign country law enforcement agencies with operational assistance to enable them to make drug seizures and arrests.

BNDD European regional officials are aware of several areas in Europe where underworld activity has reached such proportions that an additional agent should be assigned to the area or a district office should be established. A regional official told us, however, that, because of political or diplomatic ramifications, the regional office could not just open or close a district office when staff became available or traffic patterns changed.

IDENTIFYING CLASS I AND II TRAFFICKERS

Valid identification of major traffickers is a critical element in immobilizing them. The number and level of importance of the traffickers identified are two of the primary considerations in assigning manpower to investigate the traffickers. As noted on page 11, under the systems approach, BNDD erroneously identified some persons as major traffickers. We pointed out on page 16 that G-DEP procedures should help DEA obtain uniform and valid identification of major traffickers. Case files for the 90 selected major traffickers showed, however, that 3 BNDD regions did not follow G-DEP procedures and that erroneous identification of persons as major traffickers was repeated during the initial implementation of G-DEP.

G-DEP procedures state that the identification of persons as class I and II traffickers must be supported by direct evidence and/or intelligence on file. The procedures also require headquarters and the responsible regions to agree on the identifications. Of the 90 traffickers whose case files we reviewed, 12 were erroneously identified as class I or II traffickers because the Miami, Los Angeles, and European regional offices did not follow the procedures. We questioned 15 identifications, and BNDD regional and headquarters officials downgraded 12 of them to concur with

WRITTEN PLANS

Once a major trafficker has been identified, enforcement strategies leading to effective immobilization must be selected and implemented. Our review of the case files for 74 major traffickers assigned for investigation to the New York, Los Angeles, and Miami regional offices showed that they contained few written plans for immobilizing the traffickers.

The case files for 59 of the traffickers did not contain any written plans outlining enforcement strategies; the case files for the remaining 15 traffickers contained "planning documents" consisting of agent assignment sheets which listed specific tasks, such as surveillance or researching files, that had been assigned to the agents on the cases. Regional office officials and agents told us that, although the planning may not have been formal, it was generally adequate and considered all possible alternatives.

Our review showed that the case files did not include plans for investigating and immobilizing major traffickers and generally did not include information on:

- the type of investigation to be made,
- the kind of evidence needed to bring the investigation to a successful conclusion,
- other traffickers involved in the investigation,
- possible avenues of arrest and selection of the most appropriate one,
- various sources of intelligence and possible assistance from other law enforcement agencies,
- a realistic evaluation of the possibilities of completing the investigation,
- a general time frame for accomplishing significant milestones in the investigation, and
- the personnel assigned to specific aspects of the case.

Since investigations often extend over several years, involve a number of agents, and include contacts with or data on other traffickers or informants, we believe that formal plans and complete data on actions taken should be developed and maintained as evidence of what should be and what has been done. Formal plans for immobilizing traffickers would provide a means for management and agents to monitor the progress of the investigations and, coupled with an ongoing record of actions taken, would provide needed information for new agents and/or supervisors assigned to the cases. These plans and records should also be useful in determining if and when a trafficker should be reclassified.

It should be recognized that any plan developed may have to be modified as evidence is gathered and evaluated to keep the investigation moving toward the primary objective of immobilizing the major trafficker.

COORDINATION WITH OTHER LAW ENFORCEMENT AGENCIES

BNDD took various actions to coordinate its enforcement activities with those of other law enforcement agencies. For example, it supplied the names of all class I and II traffickers to the Internal Revenue Service (IRS) for investigating possible tax evasion. In addition, regional officials routinely visited local law enforcement agencies to coordinate drug enforcement activities.

Case files for 90 major traffickers showed that, in most of the cases, BNDD had coordinated with other enforcement agencies. In Europe, where BNDD had no arrest or investigation authority, its cooperation and sharing of intelligence with other U.S. agencies and foreign enforcement agencies was generally good.

For the 74 cases that we reviewed in the New York, Miami, and Los Angeles regional offices, BNDD provided data to other enforcement agencies on the traffickers' arrest records, associates, and activities. In some cases, BNDD obtained pertinent data from other agencies and in some cases participated in investigations with other enforcement agencies.

An example of good cooperation was BNDD's participation in the Narcotic Information Network (NIN) in Los Angeles. NIN is an association of several State, city, and Federal

law enforcement agencies concerned with narcotics trafficking. During some investigations, NIN agencies cooperate in surveillance, undercover purchases of narcotics, intelligence gathering, and arrests. An NIN task force was involved in three cases we reviewed.

IRS's participation in BNDD investigations is illustrated by a case involving one of the largest traffickers in Los Angeles. The trafficker was the subject of a 1-year investigation by NIN. Despite an all-out effort by NIN--surveillance, undercover purchase of narcotics, wiretaps--data sufficient for a conviction had not been developed. Through the aid of an IRS unit, long after the NIN investigation started, this trafficker and several others are being indicted for tax fraud. The IRS unit was part of an IRS Narcotics Task Force set up to work with other organizations, such as the local police.

Some of the case files indicated that poor coordination resulted from a jurisdictional problem between BNDD and the Bureau of Customs over international narcotics law enforcement. We previously reported on the matter of poor coordination in a report to Congressman Charles B. Rangel entitled "Heroin Being Smuggled into New York City Successfully," (B-164031(2), Dec. 7, 1972). However, with the establishment of DEA--a consolidation of Federal drug law enforcement functions--interagency friction should be eliminated.

CONCLUSIONS

BNDD arrested many drug traffickers and temporarily disrupted the illicit activities of several of the 10 major drug distribution systems. Available heroin in the United States has decreased, its street price has increased, and its quality has decreased.

BNDD's successes were noteworthy; however, many known major traffickers have not been immobilized and have continued to operate for a long time. Because of the enormous profits which can be made from "peddling drugs," we believe that trafficking will continue until the Government, through enforcement efforts against major traffickers, makes it unprofitable for them to continue operations.

Major traffickers are skillful, well organized, and well insulated from normal enforcement techniques; many live or

operate outside the United States. However, more could be done to arrest them.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

To reduce the availability of narcotics, we recommend that DEA:

- Work closely with the Department of State to (1) persuade the Government of Mexico to modify its laws which inhibit undercover work and (2) persuade the Governments of Mexico and other Central and South American countries to take appropriate steps to honor U.S. requests for extradition of their citizens for violating U.S. drug laws and to prosecute their citizens on the basis of evidence supplied by the United States.
- Insure that the classifications of individuals as major traffickers are correct, by requiring G-DEP managers and coordinators to periodically visit the regions to determine that the classifications are supported by direct evidence and/or intelligence in the files.
- Increase efforts to investigate all persons classified as major traffickers, except when circumstances make it unreasonable to do so.
- Prepare and periodically modify, as circumstances dictate, plans for investigating and immobilizing each major trafficker selected for enforcement action.

- - - -

The Department of Justice (see app. I) generally agreed with the report and said that recommendations not already implemented were being studied to determine their feasibility with respect to DEA.

We did not request written comments from either the Department of State or the Bureau of Customs; however, their comments and suggestions on pertinent sections were considered in preparing this report.

CHAPTER 4

ARRESTED TRAFFICKERS NOT IMMOBILIZED

BNDD's effectiveness in immobilizing narcotics traffickers depended not only on the speed with which traffickers were arrested but also on swift and appropriate punishment.

Law enforcement authorities have stated that allowing most major narcotics violators to be free on bail for long periods before trial or sentencing them for short terms negates both the deterrent effect and the immobilization objective of narcotics law enforcement. These authorities have expressed the need for pretrial detention measures which will eliminate bail for major narcotic offenses and the need for mandatory minimum sentences for major narcotic traffickers. Legislation providing for this has been introduced in the Congress.

This "get tough" attitude toward drug traffickers has resulted in proposals for stronger drug laws. Several bills providing for pretrial detention and mandatory minimum penalties for Federal drug offenders have been introduced in the Congress. Some of these provide for mandatory life sentences for certain narcotics cases. Also, New York State recently passed one of the toughest antidrug laws in the Nation. The New York law in general provides for long minimum prison sentences for drug traffickers and the possibility of life imprisonment for drug traffickers violating parole regulations. The New York law also severely restricts the use of plea bargaining.

BNDD officials told us that arrested major narcotics traffickers frequently were not being effectively immobilized because they were (1) released on bail for long periods and thus were free to continue their operations, (2) sentenced to short prison terms which tended to negate the deterrent effect of prosecution, (3) freed after trial and acquitted or had their cases dismissed, because of inadequate development or presentation of cases, or (4) permitted to plead to a reduced charge and thus immobilized for a much shorter period of time than might have been the case if processed further.

We examined the court proceedings for traffickers arrested for narcotics violations during 1971 in the regions we visited to determine the effects that bail action and sentencing had on BNDD's objective of immobilizing them.

The following table shows that 88 of the 128 arrested persons were released on bail. Of the 88, 12 had been free on bail for an average 506 days and had not been tried as of August 1, 1972; 76 had been free on bail for an average 165 days before being tried or dismissed.

Schedule of Bail Action and Sentences Imposed

<u>BNDD region</u>	<u>Arrested persons included in review</u>	<u>Defendants not released on bail</u>	<u>Defendants released on bail</u>	<u>Average period defendants free</u>	
				<u>Defendants free on bail with no trial as of August 1, 1972</u>	<u>Average days on bail</u>
				<u>Num-ber</u>	
New York	48	13	35	7	491
Miami	40	12	28	-	-
Los Angeles	<u>40</u>	<u>15</u>	<u>25</u>	<u>5</u>	532
Total	<u>128</u>	<u>40</u>	<u>88</u>	<u>12</u>	506

^aAverage based on period free on bail for 23 defendants; information was not readily available for 5 defendants.

^bAverage based on period free on bail for 17 defendants; information was not readily available for 3 defendants.

^cAs of April 1972.

^dOf these, 56 were free on bail before trial. An additional six violators were convicted and received other than prison sentences.

Of the 128 persons arrested for narcotics violations, 78 were subsequently convicted and sentenced to prison terms, including 56 who were released on bail before trial. These 78 violators were sentenced for terms averaging 6.18 years. Of the 78 violators convicted, 12 appealed their sentences and were free on appeal bond for an average 225 days.

<u>Average period defendants free</u>		<u>Convictions and sentences of violators arrested</u>			
Defendants free on bail to trial or dismissal		Violators convicted and sen- tenced to prison	Average sentence (years)	Violators appealing their conviction	Average days free on appeal bond as of August 1, 1972
<u>Num- ber</u>	<u>Average days on bail</u>				
28	^a 246	22	10	3	109
28	118	28	4.8	6	270
<u>20</u>	^b 133	<u>28</u>	4.7	<u>3</u>	^c 253
<u>76</u>	165	<u>^d78</u>	6.18	<u>12</u>	225

BAIL ACTION AND BNDD MONITORING OF
VIOLATORS RELEASED ON BAIL

When narcotics violators are released on bail, they have not, in fact, been immobilized and can continue to deal in drugs. Although this potential threat to the community may be a valid reason for setting higher bail, it is not one of the criteria that U.S. magistrates can consider in setting bail.

Current bail laws applicable to narcotics violations set forth the criteria that are to be considered in setting bail. These criteria, such as ties to the community and country of citizenship, deal primarily with the likelihood of the violator's appearing for his legal proceedings and do not consider the likelihood that the violator will continue to deal in drugs. Other bail laws--specifically those dealing with violent crimes--do permit such consideration and, in fact, allow the refusal of bail. But narcotics violations are not considered violent crimes. The bail set for the 88 defendants released on bail and included in our review ranged from \$2,500 to \$100,000; in most cases the bail was \$25,000 or less. It appeared adequate to guarantee the defendant's appearance at his court proceedings, because only four of the defendants released on bail became fugitives.

Under the systems approach, once a trafficker was arrested, he was considered immobilized and became the responsibility of the courts. Arrested major traffickers were deleted from the systems to which they were assigned and enforcement action ceased. BNDD modified this policy under G-DEP to the extent that arrested traffickers are not deleted and are recognized as potentially active traffickers. However, violators are usually not monitored while on bail because it would reduce the enforcement activity directed at traffickers not yet arrested.

It is questionable whether enforcement action should, as a general practice, be discontinued once a major trafficker is arrested because authorities, including the Director of BNDD, are aware that many defendants continue their illicit trafficking activities while free on bail. Many such cases have been documented. A trafficker was arrested by the Miami regional office in January 1972 and, while free on bail, sold heroin to BNDD undercover agents--who were just out making buys--on two occasions; he was rearrested and

again released on bail. He was later sentenced but released on appeal bond and arrested a third time--during an unrelated investigation--for possession of 150 packets of heroin.

Also, BNDD made a study of narcotics traffickers arrested and released on bail to determine whether they continue to traffic. The preliminary results of the study, we were told, indicated that about 47.5 percent of the 500 individuals in the study engaged in illicit drug traffic while free on bail.

Only one European country--Germany--allows a person charged with narcotics trafficking to be released on bail.

SENTENCING

The Controlled Substances Act of 1970 (84 Stat. 1242) provides a maximum penalty of 15 years imprisonment per count for first offenses and 30 years imprisonment per count for second offenses for each of the following violations:

- Illegal possession of heroin or cocaine with intent to distribute.
- Illegal distribution of heroin or cocaine.
- Conspiracy to commit either of the above.

Although the law prescribes the maximum penalties, it does not prescribe minimum penalties, except in cases of chronic abusers, and thus Federal judges have wide latitude in sentencing narcotics violators.

The U.S. attorneys and BNDD officials we contacted expressed differing opinions regarding the adequacy of the sentences imposed on major traffickers. Opinions ranged from (1) sentences imposed on major traffickers are adequate to (2) sentences imposed were much too lenient.

Our review of the sentences imposed on 78 violators charged with narcotics violations showed that most violators received sentences of 5 years or less.

The prison sentences imposed on the 28 convicted violators arrested by the Miami regional office averaged 4.8 years. Of the 28 violators, 26 were sentenced for 5 years or less and 14 of these were sentenced for 3 years or less. Following is a summary of the prison sentences received by the 28 violators.

<u>Prison sentences imposed</u>	<u>Number of violators</u>
1 to 6 months	5
7 to 12 months	-
13 to 24 months	6
25 to 36 months	3
37 to 48 months	2
49 to 60 months	10
More than 60 months	<u>2</u>
Total	<u>28</u>

The prison sentences imposed on the 22 convicted violators arrested by BNDD's New York regional office averaged 10 years; the prison sentences imposed on the 28 convicted violators arrested by the Los Angeles regional office averaged 4.7 years.

We found a tendency to impose considerably less than the maximum sentences even though the cases involved the major traffickers who profited most from their crimes. We also noted a BNDD study which showed that, of 955 narcotics violators convicted in U.S. district courts during fiscal year 1972, 707, or about 74 percent, received sentences of 5 years or less, including 262 who received other than prison sentences.

CASE EVALUATION AFTER ARREST

U.S. attorneys used evidence developed by BNDD to prosecute defendants, and the courts ruled on the quality and sufficiency of that evidence to determine the fate of the accused. Although factors outside its control may have influenced the outcome of a case, BNDD should have been concerned with evaluating its performance. Evaluating court proceedings, not just results, can be a very effective tool for spotting investigative weaknesses and can provide useful information for training agents.

Our review of 116¹ cases in Los Angeles, Miami, and New York showed that in 38 cases the case was dismissed, the defendant was tried and acquitted, or the defendant pleaded guilty to a lesser charge. We noted several of these cases which, we believe, should have been evaluated by BNDD to see what went wrong and how to prevent recurrence. These included cases where:

- Charges were dropped or the case was dismissed because of an invalid search warrant.
- Charges were dropped because investigations did not clearly show the defendants' part in drug conspiracies.
- Cases were dismissed due to insufficient evidence.
- Mistrials were declared because of premature arrests stemming from erroneous information supplied by informants.

For example, one case which resulted in the acquittal of a defendant involved insufficient evidence. The only evidence BNDD provided was a wiretap which did not clearly indicate narcotics trafficking. Reliance on wiretap evidence in bringing a case to court presents a particular problem because violators often use code names for narcotics and drugs and may not identify themselves by name on the telephone. Such situations may leave some doubt as to the violators' involvement in illicit narcotics activities and supportive evidence may be required to complement that acquired through wiretap.

Although factors other than the sufficiency of BNDD's evidence may have influenced the outcome of a case, we believe that, by evaluating past court proceedings, BNDD could have determined where future case preparation could have been improved. BNDD had no system to insure that such evaluations were made. Officials told us that it was up to the agents and various task forces to make whatever

¹The 128 cases included in our review, less the 12 cases which had not been brought to trial as of August 1, 1972.

evaluations they believed necessary. We do not believe, however, that this informal practice provided BNDD sufficient information for

- assessing its performance and improving its enforcement procedures and techniques and
- assisting in the training of agents by actual case review.

Also, U.S. attorneys did not usually become involved with BNDD cases until after the violators had been arrested. Although we did not find any cases which were lost because of the lack of assistance by a U.S. attorney's office, we were informed by officials of a U.S. attorney's office that such assistance would be beneficial and that stronger cases would result.

CONCLUSIONS

Arrested narcotics traffickers were not being effectively immobilized because, for the most part, they (1) were released on bail for long periods, (2) received short or no prison sentences, (3) were not generally monitored when they were free on bail.

These situations exist because:

- The criteria for setting bail did not consider the likelihood of a violator's continuing to deal in drugs when released on bail.
- The Controlled Substance Act of 1970 prescribes maximum penalties for the illegal possession of heroin or cocaine with intent to distribute, the distribution of heroin or cocaine, or conspiracy to commit either but does not prescribe minimum penalties, except for persons who are engaged in a continuing criminal enterprise and for special dangerous offenders.
- BNDD did not generally monitor the activities of arrested narcotics traffickers who were free on bail.

The effectiveness of BNDD's programs could have been strengthened had it evaluated cases after court proceedings to determine investigative weaknesses.

RECOMMENDATIONS TO THE ATTORNEY GENERAL

We recommend that DEA:

- Monitor arrested narcotics traffickers who are most likely to continue trafficking while free on bail.
- Establish a system for evaluating cases after court proceedings in order to assess and improve enforcement techniques and train agents.
- Maintain a close association with U.S. attorneys' offices to obtain legal advice when necessary in developing a case.

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The Department of Justice (see app. I) generally agreed with the report and said that individual recommendations that had not already been implemented were being studied to determine their feasibility with respect to DEA.

CHAPTER 5

SCOPE OF REVIEW

We reviewed BNDD's efforts to immobilize major narcotics traffickers. We examined pertinent policies, procedures, correspondence, and documentation relating to BNDD's systems approach and the Geo-Drug Enforcement Program and interviewed BNDD officials responsible for managing the programs. We reviewed selected trafficker case files and interviewed BNDD agents and other BNDD officials responsible for the cases. Also, for selected arrested traffickers, we reviewed records and interviewed officials at U.S. attorneys' offices and at U.S. district courts.

We made our review at:

- BNDD headquarters, Washington, D.C., and BNDD regional and selected district offices in New York, California, Florida, and Europe.
- U.S. attorneys' offices in New York, Los Angeles, and Miami.
- U.S. district courts for the Southern District of Florida, the Central and Southern Districts of California, and the Southern and Eastern Districts of New York.



Address Reply to the
Division Indicated
and Refer to Initials and Number

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

August 1, 1973

Mr. Daniel F. Stanton
Assistant Director
General Government Division
United States General Accounting Office
Washington, D. C. 20548

Dear Mr. Stanton:

We have completed our review of the GAO draft audit report entitled "Difficulties in Immobilizing Major Narcotics Traffickers".

We are in general agreement with the proposed report. Individual recommendations that have not already been implemented are being studied to determine their feasibility with respect to the Drug Enforcement Administration.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Glen E. Pommerening".

Glen E. Pommerening
Acting Assistant Attorney General
for Administration

APPENDIX II

BNDD ESTIMATE OF THE HEROIN PROBLEM

AND REPORTED ACHIEVEMENTS

	Calendar year		
	<u>1970</u>	<u>1971</u>	<u>1972</u>
Problem:			
Heroin entering the United States	5 to 6 tons	10 to 11 tons	10 to 12 tons
Achievements:			
Seizures:			
BNDD domestic seizures of heroin	345 lbs.	432 lbs.	820 lbs.
BNDD foreign cooperative seizures:			
Heroin	301 lbs.	937 lbs.	2,416 lbs.
Morphine in heroin equivalent (note a)	811 lbs.	2,271 lbs.	2,104 lbs.
Opium in heroin equivalent (note b)	<u>136 lbs.</u>	<u>144 lbs.</u>	<u>1,738 lbs.</u>
Total	<u>1,593 lbs.</u>	<u>3,784 lbs.</u>	<u>7,078 lbs.</u>
Arrests:			
BNDD domestic arrests for heroin	^c 1,104	^c 1,923	2,159
BNDD foreign cooperative arrests (note d)	<u>188</u>	<u>394</u>	<u>652</u>
Total (note e)	<u>1,292</u>	<u>2,317</u>	<u>2,811</u>

^a Converts to heroin on a 1-to-1 ratio.

^b Converts to heroin on a 10-to-1 ratio.

^c In 1970 and 1971 heroin, cocaine, and other narcotic arrests were reported in total; thus a separate figure for heroin arrests could not be determined.

^d Arrests not reported by drug type.

^e For the arrested traffickers, BNDD could not differentiate between those who were major or lower level traffickers nor could they specify how many were selected targets.

REPORTS ISSUED BY GAO IN
THE DRUG ABUSE AREA

<u>Title</u>	<u>B- number</u>	<u>Date</u>
Limited Use of Federal Programs to Commit Narcotic Addicts for Treatment and Rehabilitation	B-164031 (2)	9-20-71
Efforts to Prevent Dangerous Drugs From Illicitly Reaching The Public	B-175425	4-17-72
Narcotic Addiction Treatment and Rehabilitation Programs in Washington, D.C.	B-166217	4-20-72
Narcotic Addiction Treatment and Rehabilitation Programs in the County of Los Angeles	B-166217	7-21-72
Narcotic Addiction Treatment and Rehabilitation Programs in San Francisco and Alameda Counties, California	B-166217	7-24-72
Drug Abuse Control Activities Affecting Military Personnel (5 Attachments)	B-164031 (2)	8-11-72
Federal Efforts to Combat Drug Abuse	B-164031 (2)	8-14-72
The Heroin Hotline	B-176833	9-26-72
United States Efforts to Increase International Cooperation in Controlling Narcotics Trafficking (Secret)	B-176625	10- 4-72
Efforts to Prevent Heroin from Illicitly Reaching the United States	B-164031 (2)	10-20-72

APPENDIX III

<u>Title</u>	<u>B- number</u>	<u>Date</u>
Narcotic Addiction Treatment and Rehabilitation Programs in Chicago, Illinois	B-166217	11-16-72
Heroin Being Smuggled Into New York City Successfully	B-164031 (2)	12- 7-72
Narcotic Addiction Treatment and Rehabilitation Programs in New York City	B-166217	4-11-73

DEA CRITERIA FOR IDENTIFYING DRUG

TRAFFICKERS

assDomestic trafficker

- I Two or more criteria required:
- a. Sale or seizure of 2.2 pounds or more of heroin or cocaine, 70 percent pure or higher
 - b. Sale or seizure of 100,000 dosage units or more of clandestinely manufactured dangerous drug
 - c. Laboratory operator
 - d. Head of criminal organization
 - e. Financier
 - f. Drug-smuggling head
- II Two or more criteria in class II or one each in classes I and II required:
- g. Sale or seizure of at least 1.1 pounds of heroin or cocaine, 35 percent pure or higher
 - h. Sale or seizure of 250 pounds of marihuana or more
 - i. Sale or seizure of 100,000 dosage units of dangerous drugs or more
 - j. Sale or seizure of 30,000 dosage units of hallucinogenic drugs or more
 - k. Head of a class III drug organization or any identified organized crime subject not listed in class I
- III Any one of the criteria in I, II, or III:
- l. Sale or seizure of 2 ounces or more of heroin or cocaine
 - m. Sale or seizure of 100 pounds of marihuana up to but not including 250 pounds
 - n. Sale or seizure of 10,000 dosage units of dangerous drugs up to but not including 100,000 dosage units
 - o. Sale or seizure of 1,000 dosage units of hallucinogenic drugs up to but not including 30,000 dosage units
- IV All others
- p. Violators not meeting criteria for classes I, II, and III

Foreign trafficker

- Two or more criteria required:
- a. Sale or seizure of 11 pounds of heroin or cocaine, 75 percent pure or higher
 - b. Heroin or cocaine laboratory operator
 - c. Head of criminal drug organization
 - d. Financier
 - e. Drug-smuggling head supplying Western Hemisphere
- Two or more criteria in class II or one each in classes I and II required:
- f. Sale or seizure of 6.6 to 11 pounds of heroin or cocaine, 75 percent pure or higher
 - g. Sale or seizure of 20 pounds of morphine base or more
 - h. Sale or seizure of 50 pounds of opium or more
 - i. Sale or seizure of 30 pounds of smoking heroin
 - j. Sale or seizure of 20 pounds of coca paste or more
 - k. Sale or seizure of 250 pounds of hashish or more
 - l. Sale or seizure of 1,000 pounds of marihuana or more
 - m. Sale or seizure of 50,000 dosage units of hallucinogenic drugs or more
 - n. Head or full-time chemist of any laboratory or plant known to produce or package morphine base, heroin, cocaine, smoking heroin, hashish, marihuana and hallucinogenic drugs in the amount stated for sales or seizures in class II
- Any one of the criteria in I, II, or III:
- o. Sale or seizure of 2.2 to 6.6 pounds of heroin or cocaine (50 percent pure or higher)
 - p. Sale or seizure of 3 to 20 pounds of morphine base
 - q. Sale or seizure of 3 to 20 pounds of smoking heroin
 - r. Sale or seizure of 10 to 50 pounds of opium
 - s. Sale or seizure of 3 to 20 pounds of coca paste
 - t. Sale or seizure of 100 to 250 pounds of hashish
 - u. Sale or seizure of 500 to 1,000 pounds of marihuana
 - v. Sale or seizure of 25,000 to 50,000 dosage units of hallucinogenic drugs
 - w. Sale or seizure of 100,000 dosage units of dangerous drugs
- All others
- x. Violators not meeting criteria in classes I, II, and III

BEST DOCUMENT AVAILABLE

APPENDIX V

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF JUSTICE
 RESPONSIBLE FOR ADMINISTERING ACTIVITIES
 DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
ATTORNEY GENERAL OF THE UNITED STATES:		
Robert H. Bork, Jr. (acting)	Oct. 1973	Present
Elliot L. Richardson	May 1973	Oct. 1973
Richard G. Kleindienst	June 1972	Apr. 1973
Richard G. Kleindienst (acting)	Feb. 1972	June 1972
John N. Mitchell	Jan. 1969	Feb. 1972
Ramsey Clark	Oct. 1966	Jan. 1969
ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION:		
John R. Bartels, Jr.	Oct. 1973	Present
John R. Bartels, Jr. (acting)	July 1973	Oct. 1973
DIRECTOR, BUREAU OF NARCOTICS AND DANGEROUS DRUGS (note a):		
John E. Ingersoll	Aug. 1968	July 1973

^aThe activities discussed in the report were previously the responsibility of BNDD. Effective July 1, 1973, BNDD and several other Federal agencies involved with drug enforcement merged to form the new DEA. All BNDD functions were transferred to DEA.

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