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NOMINATION OF UTTAM DHILLON

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATION OF UTTAM DHILLON, TO BE DIRECTOR, OFFICE OF COUNTERNARCOTICS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

MARCH 31, 2006

Printed for the use of the
Committee on Homeland Security and Governmental Affairs

U.S. GOVERNMENT PRINTING OFFICE

27–757 PDF WASHINGTON : 2006

For sale by the Superintendent of Documents, U.S. Government Printing Office
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NOMINATION OF UTTAM DHILLON

Friday, March 31, 2006

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Committee, presiding.

Present: Senators Collins, Coburn, and Akaka.

OPENING STATEMENT OF CHAIRMAN COLLINS

Chairman COLLINS. The Committee will come to order.

Today, the Committee will consider the nomination of Uttam Dhillon to be the first Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security.

This office, established by the Homeland Security Act of 2002 and strengthened by the Intelligence Reform and Terrorism Prevention Act of 2004, is a key component in our efforts to prevent drug trafficking into the United States.

The Office of Counternarcotics Enforcement is charged with coordinating policy and operations within the Department of Homeland Security and among other Federal, State, and local agencies engaged in stopping the flow of illegal drugs into the United States.

From the personnel guarding our borders to the Coast Guard ships at sea, it must ensure that the resources dedicated to this effort are adequate and properly deployed. And it must work effectively with governments of other nations that have joined us in this vital effort.

The damage that illegal drugs inflict upon American families justifies this concerted national effort. Add to that the mounting evidence of direct links between drug trafficking and terrorism financing and the effort takes on an even greater urgency.

This link was recently brought into sharp focus by the indictments of key leaders of the Revolutionary Armed Forces of Colombia, or FARC. This was the largest narcotics trafficking indictment in U.S. history, charging FARC leaders with importing more than $25 billion worth of cocaine into our country. Not only does FARC control some 60 percent of the cocaine smuggled into the United States, but it is also designated as a terrorist organization with documented ties to another terrorist organization, Hezbollah. Against this power, financial resources, and ruthlessness, we must mount the strongest possible response.

Our enhanced counternarcotics efforts are producing results. The interdiction of U.S.-bound cocaine has increased substantially from 200 metric tons in 2001 to 285 metric tons in 2004. Last year, U.S. Customs and Border Patrol officials seized or destroyed a record-breaking $1.7 billion worth of illegal drugs.

But traffickers are relentless in seeking to defeat our efforts, and the nexus between illegal drugs and terrorism remains.

Mr. Dhillon currently serves as Associate Deputy Attorney General for the Department of Justice. Previously he served as the Majority Chief Counsel and Deputy Staff Director for the House counterpart for this Committee, the House Select Committee on Homeland Security, and as Senior Investigative Counsel for the House Government Reform Committee, our other House counterpart.

Earlier in his career, he served as an Assistant U.S. Attorney for the Central District of California. This extraordinary experience appears to make him very well qualified for the Director's position.

As Director, he would serve as Secretary Chertoff's chief advisor on all counternarcotics issues. This position also carries with it important responsibilities to coordinate counternarcotics efforts across agencies at all levels of government. As this Committee has learned during its investigation into Hurricane Katrina, that is an area where the Department needs to improve greatly. I look forward to Mr. Dhillon's views on the policies and practices that are needed to build an ever more unified and cooperative counternarcotics structure.

Combating the scourge of illegal drugs is one of the greatest challenges facing our Nation in an era of terrorism. Now that we understand better the link between the proceeds of drug trafficking and terrorism financing, the cause is more urgent than ever before. I commend Mr. Dhillon for his willingness to take on this important challenge.

Mr. Dhillon has filed responses to biographical and financial questionnaires, answered prehearing questions submitted by the Committee, and had his financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made part of the hearing record with the exception of the financial data, which are on file and available for public inspection in the Committee's offices.

I am now very proud and pleased today to welcome my friend and colleague, the Senator from Hawaii, Senator Akaka, who is serving as the Ranking Member today.

Senator Akaka, I would invite you to give any opening remarks.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Madam Chairman.

I want to tell you and tell all of those here that it is a pleasure to work with our Chairman. She has been doing a tremendous job for our country as Chairman of this Committee.

Mr. Dhillon, is that the right pronunciation?

Mr. DHILLON. Dhillon, yes.

Senator AKAKA. I, too, want to welcome you and your family to this Committee and thank you for your willingness to serve our country.

You have been nominated to a new position where, as Director of the Office of Counternarcotics Enforcement, you will be the Secretary's chief adviser on all counternarcotics related issues. When I see the word counter, I wish that were to happen immediately, but it is something that we have been working on for years.

You will head a small office with a limited budget. Nonetheless, you will be expected to not only advise the Secretary but also coordinate counternarcotics policies and operations within DHS and with Federal, State, and local agencies. And it is going to be tough. You are going to recommend appropriate financial and personnel resources, track and sever the connections between illegal drug trafficking and terrorism, and represent DHS on all task forces and committees.

You will need to be forceful and effective. Drug traffickers quickly adapt to changing circumstances. And let me mention that, when I was in the House, I was with such a committee. At that time and that year, which was in the 1980s, we traveled to what was called the Golden Triangle and the Golden Crescent. We talked to nations there. We talked to nations in those areas to try to convince farmers to plant crops that would benefit people. And even to the point of trying to fund some of those programs.

When I say changing circumstances, what happened after we convinced farmers that they should switch crops, the people who were buying the poppies from the farmers raised the price. So over the years we lost out on that.

And so I know it is difficult and the circumstances are changing.

Likewise, Federal law enforcement entities must demonstrate the same responsiveness and agility as they face these challenges. Disrupting the illegal flow of narcotics into the United States must be a top priority for the Department of Homeland Security. Drug traffickers flout our Nation's laws and do much to contribute to instability and violence at our borders. The organized criminal organizations that flood the United States with illegal drugs siphon billions of dollars from our economy and wreck the lives of many of our citizens.

The social and economic problems caused by narcotics trafficking are a matter of great concern for the people of my State. More than two decades ago, we saw the first widespread use of methamphetamine in Hawaii. Initially, the drug was brought into our State by organized criminal groups from Asia. Law enforcement had some significant successes in disrupting their activities in Hawaii. Unfortunately, Asian suppliers have largely been supplanted by organized criminal organizations from Mexico and meth abuse has exploded again in Hawaii in recent years and across our country, as well.

Hawaii has the highest meth usage rate in the Nation. This drug abuse saps the productivity and energies of some of our brightest and most promising young people, robbing them of the experiences of youth and leaving them disadvantaged for the future. And we are confronted with ever more alarming statistics. Meth is a factor in 80 percent of the arrests for violent crimes and domestic abuse in Hawaii.

Hospitals report that up to 20,000—and this was difficult for me to believe—but 20,000 babies are born each year to mothers ad-

dicted to meth, and the drug is present in 90 percent of the homes where children are removed by Protective Services because of abuse or neglect.

As disturbing as these statistics are, they still do not show how truly destructive this drug is on the lives of too many of our citizens. I am also reminded of an additional troubling statistic. Law enforcement authorities tell us that 90 percent of the meth seized in Hawaii is transported into our State through couriers on commercial flights, commercial flights that originate on the West Coast or through package delivery services.

It is incredible to consider that organized criminal organizations operating out of Mexico control narcotics trafficking more than 3,000 miles away in Hawaii. We know where the narcotics are coming from. We know precisely where they are going. And we know how the drugs are being transported.

Yet we have been unable to make a serious impact on this illicit trade.

However, I am hopeful that we will see some improvement in our ability to respond to this problem. The Department of Homeland Security employs many of the men and women who are on the front line against narcotics traffickers. Therefore, I am interested in knowing your vision for developing policies for combating the distribution of narcotics, both at our borders and as illegal drugs are trafficked within our Nation.

I look forward, Madam Chairman, to hearing from Mr. Dhillon on these issues and in working with you in the future.

Thank you very much, Madam Chairman.

Chairman COLLINS. Thank you, Senator. I am very pleased that our colleague, Senator Coburn, has also joined us this morning and I would call upon him for any opening remarks.

OPENING STATEMENT OF SENATOR COBURN

Senator COBURN. Thank you, Madam Chairman. I just have a couple questions which I will direct during the appropriate time.

I will note my significant concern with the fact that the Department of Homeland Security is diverting drug interdiction from the core role of Homeland Security. From the testimony in the House in February, it is evident that what we are seeing is something that does not follow the intent of Congress nor the language specific in Congress when DHS was created. And I intend to be very aggressive in raising that issue.

Because if it is not one of the core missions of Homeland Security, and if it is not funded, and if it is not a priority of security—which I believe it is—then it is going to suffer.

As Senator Akaka just outlined, the consequences of failing to have great drug interdiction policies are manifest among the most innocent in our society. And so I will be asking some questions of our witness and our nominee about that, but I also think it needs to go to a higher level because of the potential loss of concentration and focus on this very important and vital aspect of the Department of Homeland Security. Thank you.

Chairman COLLINS. Thank you.

Our Committee rules require that all witnesses at nominations hearings give their testimony under oath. So Mr. Dhillon, if you

would please stand and raise your right hand I will administer the oath.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. DHILLON. I do.

Chairman COLLINS. Thank you.

Mr. Dhillon, I understand that you do have family members here today, and I would invite you to introduce them to the Committee at this time.

Mr. DHILLON. Thank you, Chairman Collins. I would like to introduce my wife, Janet.

Chairman COLLINS. We welcome you to the Committee. Thank you. At this time, I would ask that you proceed with your opening statement.

TESTIMONY OF UTTAM DHILLON,[1] TO BE DIRECTOR, OFFICE OF COUNTERNARCOTICS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. DHILLON. Chairman Collins, Senator Akaka, and distinguished Members of the Committee. I am honored to appear before you today and I thank you for the opportunity to answer the Committee's questions.

On a personal note, I would also like to thank my wife, Janet, who is here today and who, for more than 20 years of marriage, has been a constant source of encouragement and support.

I am honored by the confidence that President Bush has shown in me by nominating me to be the first Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security. And I am grateful to Secretary Chertoff for recommending me for this important position.

Part of the Department of Homeland Security's primary mission, as set forth in the Homeland Security Act of 2002, is to "monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking."

In my view, the core responsibility of the Office of Counternarcotics Enforcement is to ensure that the Department of Homeland Security continues to successfully address this critical element of its primary mission. And, through the statutory responsibilities Congress has provided to the Office, I believe that the Office is fully prepared to continue to do so by, among other things, maintaining its practice of conducting thorough and comprehensive reviews of the Department's counternarcotics budget and activities and by timely reporting its findings to Congress.

Additionally, as the primary policy adviser to the Secretary for all counternarcotics issues within the Department of Homeland Security, I will work to formulate counternarcotics policies that will unify the Department's counternarcotics efforts, fully maximize its counternarcotics resources to stop the flow of illegal drugs into the United States, and promptly address new and growing challenges, such as the increase in methamphetamine trafficking.

[1] The prepared statement of Mr. Dhillon appears in the Appendix on page 17.

If confirmed, I will draw upon my experience at the Department of Justice and as a Congressional staff member to ensure that the Office continues successfully to accomplish its core mission. For the past 2½ years, I have served as an associate deputy attorney general. I have had the privilege of advising and assisting two deputy attorneys general in formulating and implementing policies and programs at the Department of Justice.

My current responsibilities include chairing the Attorney General's Anti-Gang Coordination Committee, which has provided me the opportunity to work with all of the Department's law enforcement components in developing and implementing the Department's anti-gang strategies.

From 1990 to 1997, I served as an Assistant U.S. Attorney in Los Angeles. As an Assistant U.S. Attorney, I chose to prosecute major narcotics cases because I believed then, as I believe now, that aggressively fighting narcotics traffickers must be one of our Nation's highest priorities.

As an Assistant U.S. Attorney and Organized Crime Drug Enforcement Task Force prosecutor, I handled cases investigated by the DEA, FBI, ATF, and legacy Customs and Immigration and Naturalization Services. The investigations and cases for which I was responsible largely targeted major narcotics traffickers and money launderers, some of whom had links to foreign narcotics traffickers.

Through handling these cases, I learned firsthand about interdiction techniques used in undercover operations, how intelligence is gathered through confidential informants and others, and the importance of working with local law enforcement officers within a Federal task force.

I also have experience as a Congressional staff member that I believe will serve me well if confirmed. In 2003, I served as Chief Counsel and Deputy Staff Director of the House Select Committee on Homeland Security. As the Chief Counsel, I provided legal advice on all matters before the Committee, and as the Deputy Staff Director, I was responsible for various administrative matters involved in running a Congressional committee.

My Hill experience also includes serving as the Policy Director for the House Policy Committee in 2002 and as a Senior Investigative Counsel for the House Government Reform and Oversight Committee from 1997 to 1998.

In conclusion, I believe that my background and experience have prepared me to take on the unique and varied responsibilities of the Director of the Office of Counternarcotics Enforcement.

I would like to thank the Committee for taking the time to consider my nomination. If confirmed, I will look forward to working closely with Members of the Committee, the Committee staff, and the Congress as a whole. Thank you.

Chairman COLLINS. Thank you, Mr. Dhillon.

I am going to start my questioning with the standard three questions that we ask of all the nominees. First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. DHILLON. No.

Chairman COLLINS. Second, do you know of anything personal or otherwise that would, in any way, prevent you from fully and honorably discharging the responsibilities of the office?

Mr. DHILLON. No.

Chairman COLLINS. Third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. DHILLON. Yes.

Chairman COLLINS. You passed that first round.

We are now going to have a round of questions of 6 minutes each for the first round, and we will conduct additional rounds as necessary.

First, let me say that last year more people died in the State of Maine from illegal drugs than from automobile accidents. That was a tragic and serious milestone for the State of Maine.

What can be done to strengthen law enforcement efforts across all levels of government? This is a mission that requires cooperation and coordination at the Federal, State, and local level if we are going to address the epidemic of drugs in this country, which has spread even to a rural State like Maine.

Mr. DHILLON. Chairman Collins, I think the first thing that needs to be done is there needs to be coordination within whatever agency is attacking the problem. So the first step that I think needs to be taken is to ensure that there is adequate coordination among all of the counternarcotics related components within the Department of Homeland Security.

The next step, of course, is to ensure that there is coordination between all of the counternarcotics related—such as DEA—there is full coordination within the Federal Government.

And then of course, the problem of attacking drugs cannot be done only at the Federal level. It is critical that State and local law enforcement also be included in that mission.

So I believe that the primary way to attack the drug problem is to ensure that there is a concerted, coordinated effort on the part of all Federal and all local law enforcement in the particular area.

Additionally, I would say that many of these problems are local in the sense that the local law enforcement best understand how to attack the problem but do not necessarily have the resources to do it. That is why I believe it is critical that there be coordination with local law enforcement.

Chairman COLLINS. I think the Joint Terrorism Task Force has been a very useful model for getting all levels of law enforcement to work together. It has not been perfect, but it has at least ensured that there is far more sharing of information.

And as I said in my opening statement, the evidence is becoming overwhelming of the link between the proceeds of drug trafficking and terrorism financing. One has only to look at Afghanistan or Colombia to see the funds produced from drug trafficking being used to support terrorist attacks.

It seems to me we need to do more to break up that link. That has the advantage not only of saving a great deal of misery for families in our country from drug abuse problems, but also of disrupting financial support for terrorist groups.

Is the Joint Terrorism Task Force working on that angle, the link between drug trafficking and terrorism financing?

Mr. DHILLON. I cannot answer that question with any specificity. I believe that is part of their mission. I will say that it is within the statutory language creating the Office of Counternarcotics Enforcement; it is one of the duties of the Director to track and sever those connections using the JTFF construct.

And if I am conformed as the Director, I will engage the National JTTF to determine what is being done to track and sever those connections and ensure that the Department of Homeland Security is actively involved in that process. And I believe the statutory language requires that the Office attack that problem in a general way, also.

So we will work closely with the JTTFs to ensure that is being done.

Chairman COLLINS. My next question I think refers to the issue that Senator Coburn raised in his opening comments, although I am not quite sure. I am concerned that the 2007 DHS budget classifies the Coast Guard's counternarcotics funding as non-homeland security mission funding.

I agree with Senator Coburn that this seems contrary to our intent in crafting Section 888 of the Homeland Security Act, and I would like to hear your comments on what the implications of that change are.

Mr. DHILLON. My understanding is that occurred in the Coast Guard budget, in one area of the Coast Guard budget. I do not know much more than that, except to say that, if confirmed, I will work with the Coast Guard, with the Department of Homeland Security Budget Office, and with OMB to assess first, why that change was made. And second, as part of the statutory responsibilities of the Office, to determine if in fact that change will have an adverse impact on the funding for counternarcotics efforts within the Department of Homeland Security and the operational activities of the counternarcotics related components within the Department.

Chairman COLLINS. Let me say that I think it is clear it will have an adverse impact, and it is on top of the Coast Guard's budget request being some $18 million lower in the Administration's proposed budget for drug interdiction than the enacted amount last year. So that, too, is troubling.

I am going to pursue some other issues with you in the second round.

Senator Akaka.

Senator AKAKA. Thank you very much, Madam Chairman.

Mr. Dhillon, as I mentioned in my opening statement, I have visited Asia and some of the trafficking centers on major narcotic source regions of the world, such as the Golden Triangle and the Golden Crescent.

Can you tell me and tell the Committee about some of your objectives concerning the major narcotic source regions of the world?

Mr. DHILLON. I think I would like to answer that question by talking about the objectives I have for the Office and what I view as the challenges facing the Office going forward.

I think in order to make the Office of Counternarcotics Enforcement, to ensure that it is doing its job, I think there are three short-term goals that we need to achieve. First is to raise the profile of the Office within the Department of Homeland Security and on the Hill, within Congress.

Second, is to grow and enhance a policy, full policy office, within the Office of Counternarcotics Enforcement.

And third is to establish Department-wide counternarcotics performance measures. The reason I am answering your question by talking about the goals of the Office is because I think if we achieve these goals we will be able to achieve the goals that you are asking about.

I also think that there are some long-term goals the Office needs to focus on. Maintaining an adequate Maritime Patrol Aircraft fleet will be critical to counternarcotics interdiction in the areas you are talking about.

And as I am sure you know the Department of Homeland Security is faced with limitations with respect to its Maritime Patrol Aircraft. If confirmed, I assure you that I will prioritize identifying and recommending options that will preserve MPA in the short-term, as well as focusing on long-term ways to ensure that we have aircraft going forward.

The second important thing I think the Department and the Office needs to focus on is coordinating counternarcotics operations within the Department. It is critical that all of the drug related components within the Department of Homeland Security coordinate their efforts and cooperate with each other. I think it is incumbent upon the Director of the Office of Counternarcotics Enforcement to work closely to make sure that happens. That would be the second long-term goal that I think would benefit counternarcotics interdiction.

And third is improving Southwest border interdiction. Although that was not specifically your question, I want to point out that we have a 30 percent interdiction rate in the drug transit zone but only a 5 percent interdiction rate in the arrival zone. That is the Southwest border region, that includes the Southwest border region.

That 5 percent interdiction rate, in my view, is too low, and that will be one of our other long-term goals.

So I think if we achieve those short- and long-term goals that will assist us in achieving the goals that you are focusing on.

Senator AKAKA. Thank you very much.

As you mentioned, those goals will be huge challenges. And one of them, as you mentioned to the Chairman, is one of coordination, and as you repeated, it is a huge challenge, not only between agencies but between levels of government, Federal, State, and local or county governments. So you have a huge task ahead of you.

Mr. Dhillon, as I pointed out in my opening statement, and I am repeating, it is incredible to consider that organized criminal organizations operating out of Mexico control narcotics trafficking more than 3,000 miles away to Hawaii. And I said we know where the narcotics are coming from. We know precisely where they are going. And we know how the drugs are being transported.

Will you commit to reporting back to this Committee about how we can do a better job of closing down the flow of meth to Hawaii?

Mr. DHILLON. Yes, I will, Senator. I believe methamphetamine trafficking is an important issue. It is an issue of concern to me, and it will be an issue, if I am confirmed, that the Office of Counternarcotics will focus on.

Senator AKAKA. Mr. Dhillon, Larry Burnett, the Executive Director of the Hawaii High Intensity Drug Trafficking Agency remarked, and I am quoting him, "The Central Valley of California is such a large manufacturer of methamphetamine that if it were a foreign country the United States would put economic sanctions on it."

Unfortunately, much of the methamphetamine produced in that region finds its way to Hawaii. I know that you have some familiarity with this area of California, both as a resident and from prosecuting large drug cases in the State. What role do you see for DHS in targeting and dismantling large-scale operations like those found in the Central Valley of California?

Mr. DHILLON. Senator, I actually think that looking forward our biggest methamphetamine problem will come from foreign countries. I recognize that historically that part of California has been an area where methamphetamine is manufactured. But I believe that legislation enacted by local law enforcement and recently by Congress as part of the Patriot Act will probably have a significant impact on the methamphetamine production within this country.

As a result what we are seeing is increased methamphetamine production outside of this country. And that, of course, is the responsibility of the Department of Homeland Security to interdict that methamphetamine.

So I believe the same practices we use to attack heroine coming into this country and cocaine coming into this country will, in the future, be the main way we have to attack the methamphetamine problem.

Senator AKAKA. Thank you very much. My time has expired.

I just want to also add my welcome to your wife to this Committee. Thank you very much.

Chairman COLLINS. Thank you. Senator Coburn.

Senator COBURN. First of all, I think meth production in this country is going to go way down with the new meth bill that we put through. It is modeled on Oklahoma, and we saw about a 95 percent decrease in local production. So our problem with methamphetamine now is south of the border coming to Oklahoma.

I want to go back to the question that the Chairman mentioned, and that is the budget request by the Coast Guard and the fact that drug interdiction is now a non-homeland security focus. And I want to set it up by the fact that by 2016 in this country 64 percent of everything we spend in the Federal Government will be mandatory spending, 17 percent at that time will be interest charges at today's interest rates. It will be higher than that if interest rates are higher. Which leaves 19 percent of the total budget to do everything.

And when we take and down-prioritize drug interdiction by what has been done in this budget request for the Coast Guard, and we know budget cuts are coming—I mean there is no question they are

going to come—what it says is we are going to put less emphasis on drug interdiction if it is made a non-homeland security priority.

My question to you, as Director, how are you going to change that and again make it part of the core mission of the Coast Guard and make it to where it is not going to suffer a disproportionate increase in cuts because it is so important to everything else that we do?

Mr. DHILLON. Senator, the first thing I will do is I will figure out why that occurred. I do not know the details of how this occurred in the budget. I do not know that I would agree that drug interdiction is now a non-homeland security function. In my opening statement, I pointed out that it is one of the primary missions of the Department of Homeland Security, as set forth in the Homeland Security Act of 2002.

I recognize that there is a budget item, the Coast Guard budget now places it in the non-homeland function, and I recognize that that could create budget concerns going forward.

My pledge to you is that I will engage the leadership of the Coast Guard, engage the leadership within the Office of Management and Budget and the budget people within the Department of Homeland Security to determine why this decision was made, how it could be made in light of the statutory language setting forth drug interdiction as one of the primary responsibilities of the Department of Homeland Security and as a Homeland function. I will certainly examine that and, as part of my statutory responsibility, report to Congress on any issues that are raised as a result of that, which means if there were any operational deficiencies that occur or budget deficiencies.

Senator COBURN. Madam Chairman, I would like to submit for the record a portion of Public Law 107–296, Section 888 where the Congress, with the President's signature, set Homeland Security missions.[1] One of those security missions is drug interdiction. And that is the law.

And so the request from the Coast Guard actually violates the law. It is my hope that you will be a fighter for this because there is a real risk for drug interdiction if it is outside as a non-homeland security mission.

And I do not think we are probably going to tolerate this request in this year's budget and appropriations cycle as submitted by the Coast Guard.

I am very much interested in High Intensity Drug Trafficking areas and Byrne and JAG grants, and I would love to hear your comment about local coordination with Byrne and JAG grants. Because one of the ways we really handled methamphetamine and continue to handle it in Oklahoma is through Byrne and JAG grants.

Properly supervised, no money wasted, I want them to be run right. But I would love your opinion on that because that is coming under increased budget pressure, as well.

Mr. DHILLON. Senator, I am actually not that familiar with the Byrne and JAG grants. With respect to working with local law en-

[1] Copy of a section of Public Law 107–296 submitted by Senator Coburn appears in the Appendix on page 53.

forcement, I firmly believe that is the only way to fight the narcotics problem and a number of law enforcement problems that we attack from a Federal point of view.

I would be happy to educate myself more on that and, if confirmed, discuss that in further detail with you at a later time.

Senator COBURN. Thank you, Madam Chairman.

Chairman COLLINS. Mr. Dhillon, according to a recent GAO report, the backbone of DHS's drug interdiction operations in the transit zone is the fleet of Maritime Patrol Aircraft operated by the Department of Defense, the Office of Air and Marine Operations within Customs and Border Protection, and foreign governments. Maritime patrol is also provided but at a lesser extent by Coast Guard aircraft.

The GAO report highlighted the fact that both of these fleets are aging, and they will need to be completely overhauled or replaced soon.

In your answers to the Committee's prehearing questions you indicated that you would "optimize the performance of the Department's efforts" in order to meet the challenges presented by the aging aircraft fleets.

I must say, I am always suspicious of words like optimize because I do not know what that really means. So I am going to ask you that question again.

There really is a problem when the Maritime Patrol Aircraft are so aging that many of them are grounded for repairs frequently. We have seen that with Coast Guard assets, as well.

What do you mean when you say that you are going to "optimize the performance," given that the real problem is that we need to make a capital investment?

Mr. DHILLON. There is a short-term and a long-term problem. The short-term problem is we have to keep MPA in the air safely for as long as we can. But as we know, planes can only fly for so long. We then need a long-term solution. We need to look at how we are going to maintain the MPA fleet going forward.

With respect to optimizing, we are capable, as I understand it, of making up for MPA deficits through actionable intelligence, and that has occurred. JITF South, using intelligence they have been able to direct planes to locations where narcotics traffickers are, avoiding flying around to locate narcotics traffickers. So we are able to use intelligence to make up for airtime deficits.

I will say this though, there is obviously a limit to how much we can do that. And so we obviously have to use our intelligence effectively. We have to use our fleet effectively. But if I am confirmed as Director, one of the first things I want to do is to determine what our MPA needs are, where the deficits are, and to immediately begin to address that problem. Because we cannot successfully interdict narcotics in the transit zone without an effective MPA fleet.

Chairman COLLINS. Let us talk a little bit more about actionable intelligence because you are right that it helps you focus your resources. A November 2005 GAO report indicated that the Joint Interagency Task Force South in Key West has been able to detect less than one-third of the known and actionable maritime illicit drug movements. More specifically, GAO found that 76 percent of

the known actionable maritime illicit drug traffic movements between 2000 and 2005 were not acted on due to lack of resources.

So here we have actionable intelligence which, as you just pointed out, helps you focus your resources. But we have a GAO report with alarming statistics, saying that 76 percent of events could not be responded to.

Mr. DHILLON. Obviously in our assessment, and if I am confirmed as Director, any assessment the Office does would take into account the fact that there is actionable intelligence that is not being acted on in determining what are appropriate MPA levels.

I think one of the reasons that is happening is because DHS now—there are inter-agency intelligence programs that have enabled us to collect more intelligence over the years. And as a result, we now have more actionable intelligence than we did a few years ago.

Nonetheless, the Department of Homeland Security and JITF South should be in a position to respond to as much actionable intelligence as possible.

Chairman COLLINS. Thank you. Senator Akaka.

Senator AKAKA. Thank you, Madam Chairman.

Mr. Dhillon, Honolulu International Airport is the primary port of entry for meth transported into Hawaii. Ninety percent of the meth seized in the State passes through this facility. As you know, DHS includes agencies such as TSA, ICE and CBP that all operate at Honolulu International Airport.

My question to you is how will you ensure that these DHS components better coordinate their activities to curtail the flow of illicit drugs?

Mr. DHILLON. I would draw upon my experience at the Department of Justice chairing the Attorney General's Anti-Gang Coordination Committee. The Attorney General tasked that Committee with drawing together all of the anti-gang resources within the Department of Justice and causing them to coordinate with one another. And I believe that we have been successful in doing that.

One of the things that we have learned is that no law enforcement agency within the Department of Justice was an anti-gang only law enforcement agency, just like no law enforcement agency within the Department of Homeland Security is a counternarcotics-only law enforcement agency.

Nonetheless, we were able to bring all of those agencies together, have them segregate out their anti-gang activities, and we now treat that and view those anti-gang activities as a single kind of activity. And the agencies have actually come to the point where I think they view the anti-gang activities as a single activity.

We have done budget crosscuts for anti-gang efforts within the Department so we know how much money we are spending on them and that sort of thing.

I think the same thing goes for counternarcotics efforts within the Department of Homeland Security. We need to bring the counternarcotics-related components together. We need to get them to talk about their counternarcotics mission together and get them to realize that by working together they will be more effective in their counternarcotics mission. So I think that is how we bring them together.

Frankly, on the Honolulu Airport issue, my first reaction to that is we may need to look at how many drug sniffing dogs we have working at that airport. I do not know the answer to that but they tend to be very effective. So that may be one of the solutions to that problem.

Senator AKAKA. Two things I want to mention. One of them is to ask you to come to Hawaii and look at that airport.

Mr. DHILLON. I am delighted to do so, Senator.

Senator COBURN. I am trying to decrease travel.

Senator AKAKA. And see for yourself what the problem is. When I say 90 percent, that is really high. And we are looking for a way of trying to turn this around. And your presence there and looking at the components that are there, too, I am sure will help.

Let me just point out to you that typically in Hawaii the agencies talk to each other. And they do make a huge difference in the results of what they do. And I think you will find that to be true in Hawaii. So again I hope you can find time to come Hawaii.

In your interview with Committee staff you noted that the State and local resources are critical in disrupting the transportation of narcotics. I do agree with you. The Hawaii High Intensity Drug Trafficking Agency, as an example, has been instrumental in bringing Federal, State, and local law enforcement assets together to confront drug trafficking organizations.

What would your role in working with State and local law enforcement authorities be to enhance DHS's abilities in counternarcotics enforcement?

Mr. DHILLON. With respect to working with State and locals, it would be to encourage them to work with the State and locals where appropriate.

ICE, for example, is part, I believe, of various task forces that work with State and locals, and it is important that they continue to do so. So it would be to encourage, to the extent possible, the counternarcotics-related components within the Department of Homeland Security to work with State and local governments and to recognize that once again State and locals often have a better understanding of their problems and can assist us in fighting those problems.

So that would be my general approach to that.

Senator AKAKA. Thank you very much for your responses.

Madam Chairman, my time is almost up.

Chairman COLLINS. Thank you.

Senator Akaka, I would note that in the nearly 10 years that I have served on this Committee with you, never once has a witness turned you down when you have invited them to come to Hawaii.

Senator AKAKA. I hope they will listen and they will be out there to help our country. Thank you.

Chairman COLLINS. Senator Coburn.

Senator COBURN. I just have one other question and want your viewpoint. Do you see counternarcotics as complementary to counterterrorism or distracting from counterterrorism?

Mr. DHILLON. I see it as complementary, and I am glad you asked that question, Senator, because I think one of the things we do is we segregate that out. And it is important to realize that everything we do at the border from an immigration point of view,

counterterrorism point of view, can also be counternarcotics. And one of the things that I want to do is I want to be sure that as we are setting forth policies within the Department of Homeland Security on counterterrorism and on other issues that we are remembering that it is very easy to also ensure that the counternarcotics mission is being achieved.

So I believe counternarcotics equals counterterrorism and vice versa, and that is one of the messages I want to be delivering to the Department of Homeland Security.

Senator COBURN. Thank you.

Madam Chairman, I have no additional questions.

Chairman COLLINS. Thank you.

Mr. Dhillon, I have a few additional questions, which I am going to submit for the record. But let me just end by asking you to describe for the Committee your experience as it relates to counternarcotics enforcement, and specifically highlight any on-the-ground operational experience that will assist you in carrying out the duties of this office.

I think you have a great deal of experience and that we are fortunate to have someone with your background, and I think that it would be helpful to have that described for the Committee and for the record.

Mr. DHILLON. I think my experience as an Assistant U.S. Attorney will serve me very well. I am not sure it felt like an on-the-ground experience at the time. The kind of cases I handled were cases, for example, where narcotics were being moved from Mexico to the United States.

The one case that I remember the most is an undercover operation where undercover State and locals working in a DEA task force were posing as truck drivers who were bringing narcotics from Mexicali up through the Central Valley. And through cases like that I learned a lot about how intelligence is used to prosecute cases, but also how intelligence is used to continue to develop leads to other narcotics traffickers.

So I believe that kind of experience will serve me very well because I, frankly, have an understanding of what it takes to actually put the bad guys in jail. And I also have a great respect for working with State and local law enforcement. Most of the cases I had had one or two Federal agents but almost all of the people who I worked with were State and local law enforcement, working as part of a task force.

I think my experience as an Associate Deputy Attorney General will also serve me well. As I discussed earlier, the Attorney General's Anti-Gang Coordination Committee, we have been very operational. We have been very hands-on with the Department of Justice law enforcement components. I have assisted the Deputy Attorney General in crafting policies that affect the entire Department of Justice, policies that require that where there are multiple anti-gang task forces within a certain city or location that they be co-located to ensure coordination of intelligence and target deconfliction. And the same goes for intelligence information systems.

So I have had the opportunity to work very closely with the law enforcement components within the Department and to assist the Deputy Attorney General in crafting policies, operational policies

that will ensure that there is coordination and deconfliction and that all of the law enforcement components within the Department are working together on the anti-gang mission.

Chairman COLLINS. Thank you very much. I want to thank you for appearing today and for your public service.

Without objection, the record will be kept open until 11 a.m. on Monday, April 3, for the submission of any written questions or statements for the record.

I would advise you, Mr. Dhillon, that the fastest response possible to those questions will help the Committee move your nomination along. So I would encourage you to turn around those questions very quickly for the Committee.

Thank you for your testimony.

This hearing is now adjourned.

[Whereupon, at 11 a.m., the Committee was adjourned.]

APPENDIX

OPENING STATEMENT OF UTTAM DHILLON
BEFORE THE SENATE COMMITTEEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
March 31, 2006

Chairman Collins, Senator Lieberman, and Distinguished Members of the Committee, I am honored to appear before you today and I thank you for the opportunity to answer the Committee's questions. On a personal note, I would also like to thank my wife, Janet, who is here today and who, for more than 20 years of marriage, has been a constant source of encouragement and support.

I am honored by the confidence that President Bush has shown in me by nominating me to be the first Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security. And I am grateful to Secretary Chertoff for recommending me for this important position.

Part of the Department of Homeland Security's primary mission, as set forth in the Homeland Security Act of 2002, is to:

> "monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking."

In my view, the core responsibility of the Office of Counternarcotics Enforcement is to ensure that the Department of Homeland Security continues to successfully address this critical element of its primary mission. And, through the statutory responsibilities Congress has provided to the Office, I believe that the Office is fully prepared to continue to do so by, among other things, maintaining its practice of conducting thorough and comprehensive reviews of the Department's counternarcotics budget and activities and by timely reporting its findings to Congress.

Additionally, as the primary policy advisor to the Secretary for all counternarcotics issues within the Department of Homeland Security, I will work to formulate counternarcotics policies that will unify the Department's counternarcotics efforts, fully maximize its counternarcotics resources to stop the flow of illegal drugs into the United States, and promptly address new and growing challenges such as the increase in methamphetamine trafficking.

If confirmed, I will draw upon my experience at the Department of Justice and as a Congressional staff member to ensure that the Office continues successfully to accomplish its core mission.

For the past 2 ½ years, I have served as an Associate Deputy Attorney General. I have had the privilege of advising and assisting two Deputy Attorneys General

in formulating and implementing policies and programs at the Department of Justice. My current responsibilities include chairing the Attorney General's Anti-Gang Coordination Committee, which has provided me the opportunity to work with all of the Department's law enforcement components in developing and implementing the Department's anti-gang strategies.

From 1990 to 1997, I served as an Assistant United States Attorney in Los Angeles. As an Assistant United States Attorney, I chose to prosecute major narcotics cases because I believed then, as I believe now, that aggressively fighting narcotics traffickers must be one of our nation's highest priorities. As an Assistant United States Attorney and Organized Crime Drug Enforcement Task Force prosecutor, I handled cases investigated by the DEA, FBI, ATF and legacy Customs and Immigration and Naturalization Services. The investigations and cases for which I was responsible largely targeted major narcotics traffickers and money launderers, some of whom had links to foreign narcotics traffickers. Through handling these cases, I learned first-hand about interdiction techniques used in undercover operations, how intelligence is gathered through confidential informants and others, and the importance of working with local law enforcement officers within a federal task force.

I also have experience as a Congressional staff member that I believe will serve me well if confirmed. In 2003, I served as Chief Counsel and Deputy Staff Director of the House Select Committee on Homeland Security. As the Chief Counsel, I provided legal advice on all matters before the committee, and as the Deputy Staff Director I was responsible for the various administrative matters involved in running a Congressional committee. My Hill experience also includes serving as the Policy Director for the House Policy Committee in 2002 and as a Senior Investigative Counsel for the House Government Reform and Oversight Committee from 1997 to 1998.

In conclusion, I believe that my background and experience has prepared me to take on the unique and varied responsibilities of the Director of the Office of Counternarcotics Enforcement.

I would like to thank the Committee for taking the time to consider my nomination. If confirmed, I will look forward to working closely with members of the Committee, the Committee staff, and the Congress as a whole. Thank you.

BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES

A. BIOGRAPHICAL INFORMATION

1. **Name:** (Include any former names used.)

   Uttam Anthony Singh Dhillon

2. **Position to which nominated:**

   Director, Office of Counternarcotics Enforcement, Department of Homeland Security

3. **Date of nomination:**

   November 10, 2005

4. **Address:** (List current place of residence and office addresses.)

   Office: 950 Pennsylvania Avenue, NW, Washington, DC 20530

5. **Date and place of birth:**

   September 4, 1960 – El Centro, California

6. **Marital status:** (Include maiden name of wife or husband's name.)

   Spouse: Janet Louise Dhillon (maiden name: Janet Louise Wilcox)

7. **Names and ages of children:**

   None.

8. **Education:** List secondary and higher education institutions, dates attended, degree received and date degree granted.

   Boalt Hall School of Law, University of California, Berkeley – 1984 to 1987 – J.D., May 1987

   University of California, San Diego – 1982 to 1984 – M.A. in Psychology, June 1984

   California State University, Sacramento – 1980 to 1982 – B.A. in Psychology, May 1982

   Imperial Valley College, Imperial, California – 1978 to 1980 – A.A. in Psychology, June 1980

   Central Union High School, El Centro, California – 1974 to 1978 – High School Diploma, June 1978

9. **Employment record:** List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment. (Please use separate attachment, if necessary.)

   U.S. Department of Justice – Washington, D.C – Associate Deputy Attorney General – 2003 to Present

U.S. House of Representatives, Select Committee on Homeland Security – Washington, D.C. – Majority Chief Counsel and Deputy Staff Director – 2003

U.S. House of Representatives, Republican Policy Committee – Washington, D.C. – Policy Director – 2002

Milbank, Tweed, Hadley & McCloy LLP – Los Angeles, CA – Litigation Attorney – 1998 to 2001

Seebach & Seebach – Los Angeles, CA – Litigation Attorney – 1998

U.S. House of Representatives, Committee on Government Reform and Oversight – Washington, D.C. – Senior Investigative Counsel and Counsel to Christopher Cox, Vice Chairman – 1997 to 1998

U.S. Attorney's Office, Central District of California – Los Angeles, CA – Assistant United States Attorney – 1990 to 1997

Stroock & Stroock & Lavan – Los Angeles, CA – Litigation Attorney – 1988 to 1990

Gray, Cary, Ames & Frye – San Diego, CA – Litigation Attorney – 1987 to 1988

10. **Government experience:** List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.

California Supreme Court – San Francisco, CA – Extern to the Honorable Stanley Mosk, Associate Justice – 1986

11. **Business relationships:** List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.

None.

12. **Memberships:** List all memberships and offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable and other organizations.

Woodside Estates Citizens Association

Woodside Lake Association

The Federalist Society (formerly Vice-President/Capitol Hill Chapter)

Knights of Columbus

State Bar of California

The District of Columbia Bar

California Republican Party*

Buck and Ballot Brigade (Board Member)*

Glendale/Burbank Republican Assembly (Board Member)*

Whiting Woods Homeowners Association*

Academy of Model Aeronautics*

Gopher Flats Sportsmen's Club*

California Republican Assembly (District Director, 21st Senate District)*

California Republican Attorneys Association*

National Rifle Association*

*No longer a member.

13. **Political affiliations and activities:**

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

None.

(b) List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

2000 Bush for President Campaign (Volunteer Chairman, 43rd Assembly District, California)

2000 Rogan for Congress Campaign (fundraising)

2000 Missakian for Assembly Campaign (organization and fundraising)

California Republican Party (Associate Member and Member)

Buck and Ballot Brigade (Board Member)

Glendale/Burbank Republican Assembly (Board Member)

California Republican Assembly (District Director, 21st Senate District)

California Republican Attorneys Association (organization)

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of $50 or more for the past 5 years.

Bill Simon for Governor Committee	$200
Bob Yousefian for City Council	$99
Bush-Cheney '04	$2,000
California Lincoln Clubs	$100
California Republican Party	$123
D.A. Steve Cooley Officeholder Account	$100
Dan O'Connell for Assembly	$150
Dhillon Campaign	$750

Friends of Chris Oprison	$50
Friends of George Allen	$200
Friends of Jeff Frederick	$125
Friends of Keith Richman	$78
Hammill for School Board	$50
J.D. Hayworth for Congress	$250
Ken Cuccinelli for State Senate	$225
Noel Irwin Hentschel for Congress	$200
Republican Buck and Ballot Brigade	$125
Republican Party of Los Angeles County	$70
Republican Party of Virginia	$375
Richman for Treasurer	$50
RNC	$445
Royce Campaign Committee	$150
Steve Cooley for D.A.	$100
Strickland for Assembly	$250
Victory 2004	$250
Virginians for Jerry Kilgore	$250

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service or achievements.

Letter of Commendation from Attorney General Janet Reno, June 10, 1996

Letter of Commendation from FBI Director Louis Freeh, April 8, 1996

Special Achievement Award, Department of Justice, 1993 and 1994

Moot Court Letter of Commendation, 1985

Mexican-American Legal Defense and Educational Fund Scholarship, 1984

15. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.

None.

16. **Speeches:** Provide the Committee with four copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics relevant to the position for which you have been nominated.

None.

17. **Selection:**

(a) Do you know why you were chosen for this nomination by the President?

I possess the background and experience necessary to serve effectively as the Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security. My experience as a federal narcotics prosecutor, Congressional staff member, and Associate Deputy Attorney General, uniquely qualifies me to fill this position.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

From 1990 to 1997, I served as an Assistant United States Attorney in the Central District of California. I chose to prosecute major narcotics cases because I believed then, as I believe now, that aggressively fighting narcotics trafficking should be one of our nation's highest priorities. As an Assistant United States Attorney, I gained valuable experience working with federal and local law enforcement agencies investigating and prosecuting narcotics traffickers and narcotics trafficking organizations.

During a total of approximately six years as a civil litigator in private practice, I developed legal skills and learned the discipline and critical judgment central to the successful practice of law. I have continued to draw on these important skills throughout my career.

In 2003, I served as the Chief Counsel and Deputy Staff Director of the House Select Committee on Homeland Security. As the Chief Counsel, I provided legal advice on all matters before the committee including the drafting of committee rules and legislation. As the Deputy Staff Director, my administrative responsibilities included supervising legal, professional and support staff, and the formulation and execution of personnel policies and procedures.

As an Associate Deputy Attorney General, I have been privileged to advise and assist the Deputy Attorney General in formulating and implementing policies and programs at the Department of Justice. My responsibilities include chairing the Attorney General's Anti-Gang Coordination Committee, which has provided me with the opportunity to work with the Department's law enforcement agencies in developing and implementing the Department's anti-gang strategies.

I believe that my experience in the Office of the Deputy Attorney General, coupled with my experience investigating and prosecuting federal narcotics cases and serving as the chief legal advisor for the House Select Committee on Homeland Security, qualifies me to serve as the Director of the Office of Counternarcotics Enforcement at the Department of Homeland Security.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?

Yes.

2. Do you have any plans, commitments or agreements to pursue outside employment, with or without

compensation, during your service with the government? If so, explain.

No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?

No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service?

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy other than while in a federal government capacity.

None.

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. To your knowledge, have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

AFFIDAVIT

Uttam Anthony Singh Dhillon being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Subscribed and sworn before me this 21st day of November, 2005

My Commission Expires: 2/29/09

Notary Public

United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

December 2, 2005

The Honorable Susan M. Collins
Chair
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510-6250

Dear Madam Chair:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Uttam S. Dhillon, who has been nominated by President Bush for the position of Director, Office of Counternarcotics Enforcement, Department of Homeland Security.

We have reviewed the report and have also obtained advice from the Department of Homeland Security concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is a letter dated November 30, 2005, from Mr. Dhillon to the Department's ethics official, outlining the steps that Mr. Dhillon will take to avoid conflicts of interest. Unless a specific date has been agreed to, the nominee must fully comply within three months of his confirmation date with the actions he agreed to take in his ethics agreement.

Based thereon, we believe that Mr. Dhillon is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Marilyn L. Glynn
General Counsel

Enclosures

U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the
Nomination of Uttam Dhillon to be
Director, Office of Counternarcotics Enforcement, Department of Homeland Security

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you to serve as Director of the Office of Counternarcotics Enforcement for the Department of Homeland Security (DHS)?

   ANSWER: I believe that my experience as an Associate Deputy Attorney General, coupled with my experience investigating and prosecuting federal narcotics cases and serving as the chief legal advisor to the House Select Committee on Homeland Security, qualifies me to serve as the Director of the Office of Counternarcotics Enforcement for the Department of Homeland Security.

2. Were any conditions, expressed or implied, attached to your nomination?

   ANSWER: No conditions, either expressed or implied, were attached to my nomination.

3. What specific background and experience affirmatively qualifies you to be Director of the Office of Counternarcotics Enforcement for DHS?

   ANSWER: Because of my experience as a federal narcotics prosecutor, congressional staff member, and Associate Deputy Attorney General, I believe that I possess the background and experience necessary to effectively serve as Director of the Office of Counternarcotics Enforcement and that I am uniquely qualified to fill that position if confirmed.

   From 1990 to 1997, I served as an Assistant United States Attorney in the Central District of California. I chose to prosecute major narcotics cases because I believed then, as I believe now, that aggressively fighting narcotics trafficking should be one of the nation's highest priorities. As an OCDETF prosecutor, I gained valuable experience working with federal and local law enforcement agencies investigating and prosecuting narcotics traffickers and narcotics trafficking organizations.

   During my approximately six years as a civil litigator, I worked diligently to develop the necessary legal skills, discipline and critical judgment central to the success of any good lawyer. I have continued to draw on these important skills throughout my career.

   In 2003 I served as the Chief Counsel and Deputy Staff Director of the House Select Committee on Homeland Security. As the Chief Counsel, I provided legal advice on all

matters before the committee including drafting committee rules and legislation. As Deputy Staff Director, my administrative responsibilities included hiring staff, supervising legal, professional and support staff, and formulating and execution of personnel policies and procedures.

As an Associate Deputy Attorney General, I have been privileged to advise and assist the Deputy Attorney General in formulating and implementing policies and programs at the Department of Justice. My responsibilities include chairing the Attorney General's Anti-Gang Coordination Committee which has provided me with the opportunity to work with the Department's law enforcement agencies in developing and implementing the Department's anti-gang strategies.

4. Currently, the Director of the Office of Counternarcotics Enforcement is the only person eligible at DHS to be the United States Interdiction Coordinator (USIC), a position with the responsibilities of coordinating and overseeing the use of Federal resources in drug interdiction.

   a. Please provide specific information detailing your experience with and knowledge of drug interdiction operations.

   b. If confirmed, would you expect to serve concurrently as the USIC?

ANSWER: Any decision regarding whether the Director of the Office of Counternarcotics Enforcement will concurrently serve as the USIC is within the sole discretion of the Director of the Office of National Drug Control Policy. As an Assistant United States Attorney, I handled cases investigated by legacy Customs and Immigration and Naturalization Services. As a result, I am generally familiar with their operations as they relate to prosecuting cases by the Department of Justice.

5. Have you made any commitments with respect to the policies and principles you will attempt to implement as Director of the Office of Counternarcotics Enforcement? If so, what are they and to whom have the commitments been made?

ANSWER: I have not made any commitments regarding policies or principles that I will implement.

6. If confirmed, are there any issues or matters from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please describe them and explain what procedures you will use to carry out such a recusal or disqualification.

ANSWER: There are no issues that I am presently aware of that will require me to recuse or disqualify myself because of a conflict of interest or the appearance of a

conflict of interest.

7. For the positions that you have listed in the biographical information that you provided to the Committee, please provide the months as well as the years you held each position.

ANSWER:

U.S. Department of Justice – Washington, D.C – Associate Deputy Attorney General – 10/2003 to Present

U.S. House of Representatives, Select Committee on Homeland Security – Washington, D.C. – Majority Chief Counsel and Deputy Staff Director – 1/2003 to 10/2003

U.S. House of Representatives, Republican Policy Committee – Washington, D.C. – Policy Director – 1/2002 to 1/2003

Milbank, Tweed, Hadley & McCloy LLP – Los Angeles, CA – Litigation Attorney – 9/1998 to 8/2001

Seebach & Seebach – Los Angeles, CA – Litigation Attorney – 7/1998 to 8/1998

U.S. House of Representatives, Committee on Government Reform and Oversight – Washington, D.C. – Senior Investigative Counsel and Counsel to Christopher Cox, Vice Chairman – 5/1997 to 6/1998

U.S. Attorney's Office, Central District of California – Los Angeles, CA – Assistant United States Attorney – 10/1990 to 5/1997

Stroock & Stroock & Lavan – Los Angeles, CA – Litigation Attorney – 9/1988 to 10/1990

Gray, Cary, Ames & Frye – San Diego, CA – Litigation Attorney – 10/1987 to 9/1988

8. In the biographical information you submitted to the Committee, you write that while serving as an Assistant United States Attorney in the Central District of California, you "chose to prosecute major narcotics cases." Please describe the five (5) most significant narcotics cases which you personally handled during this time. Describe in detail the nature of your participation in the litigation and the final disposition of the case.

ANSWER:

1. United States v. Juan Benito Castro

This case involved a multi-year investigation culminating in a thirteen-week trial of four defendants charged with narcotics trafficking, firearms offenses, engaging in a continuing criminal enterprise, and murder in furtherance of a continuing criminal enterprise. The case was indicted in 1993 as a routine small-scale narcotics prosecution by a DEA task force. As a result of additional investigation involving the FBI in Arkansas and local and federal law enforcement in Virginia, evidence emerged that the lead defendant was a gang member and a large-scale narcotics trafficker who had been importing substantial amounts of cocaine from Mexico and distributing it as far east as Virginia. Additional investigation revealed evidence that the lead defendant had committed a narcotics-related murder several years earlier. After the murder case was declined by local prosecutors, the United States Attorney's Office, working closely with homicide detectives at the Anaheim Police Department, added the killing to the federal case as a drug-related murder charge. The case went to trial in 1996. During trial, one defendant pled guilty. Two of the defendants, including the lead defendant, were convicted of various narcotics and firearms-related crimes. The jury hung on the murder count against the lead defendant and on all counts against the remaining defendant. I was the lead counsel throughout the investigation and trial.

2. United States v. Teodoro Sumabat

This case involved a jury trial of a defendant charged with possession with intent to distribute a crystallized form of methamphetamine known as "ice." The defendant was convicted and sentenced to 151 months in prison for possession of over 440 grams of ice. I was the sole trial counsel.

3. United States v. Baraza-Torres

This was a multi-defendant narcotics case charging conspiracy and possession with intent to distribute over one ton of cocaine. The case culminated in a two-week jury trial of three defendants. The defendants were convicted. The lead defendant was sentenced to 360 months in prison based on his possession and importation of 1,761 kilograms, or approximately 1.9 tons, of cocaine. I was the sole trial counsel.

4. United States v. Carlos Alberto Figueroa

This was a multi-defendant narcotics money laundering case resulting from a multi-state investigation of Columbian narcotics traffickers and money launderers. All defendants pled guilty prior to trial. I was the sole counsel.

5. United States v. Cesar Augusto Velandia

This was a multi-defendant narcotics case charging conspiracy and possession with intent to distribute several hundred kilograms of cocaine. The case culminated in a two-week jury trial of two defendants. One defendant was convicted and sentenced to 300 months in prison. I was the sole trial counsel.

9. Under political affiliations and activities, you state that you were a board member of the "Buck and Ballot Brigade" What was the mission of this organization? What was your role as a board member?

ANSWER: The Buck and Ballot Brigade was a Republican grassroots organization whose mission was to raise money for candidates in California's 43rd Assembly District. The group primarily sponsored two fund raising events a year – the annual Lincoln Day Dinner and a summer BBQ. As a board member, I helped plan and coordinate these events.

10. You currently serve as Associate Deputy Attorney General for the Department of Justice. What are your specific responsibilities in this position? Are any of these responsibilities related to counternarcotics enforcement? If so, please describe them.

ANSWER: My responsibilities have included advising and assisting the Deputy Attorney General in formulating and implementing Department of Justice policies and/or programs in the areas of gangs and violent crime, capital punishment, explosives, firearms, civil rights, grant programs and deadly force policy. I presently serve as the chair of the Attorney General's Anti-Gang Coordination Committee and as the Deputy Attorney General's representative on the Attorney General's Review Committee on Capital Cases. I previously served as the Executive Director of the President's Board on Safeguarding Americans' Civil Liberties. I have tangentially dealt with counternarcotics issues while advising and assisting the Deputy Attorney General on issues relating to gangs and capital punishment.

11. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

ANSWER:
State Bar of California
The District of Columbia Bar
The Federalist Society (formerly Vice-President/Capitol Hill Chapter, approximately 2002-2003)
American Bankruptcy Institute
California Republican Attorneys Association

II. Role of the Director of the Office of Counternarcotics Enforcement, Department of Homeland Security

12. What is your view of the role of the Director of the Office of Counternarcotics Enforcement?

ANSWER: My view of the role of the Director of the Office of Counternarcotics Enforcement is consistent with the responsibilities of the Director as set forth in the statute creating the position and Departmental Management Directive 6400. Specifically, the Director is to serve as the chief advisor to the Secretary on all counternarcotics related issues; coordinate counternarcotics policy and operations within the Department and with federal, state and local agencies; ensure the adequacy of resources within the Department for stopping the entry of illegal drugs into the United States; recommend the appropriate financial and personnel resources necessary to help the Department fulfill its counternarcotics mission; track and sever the connections between illegal drug trafficking and terrorism; and, represent the Department on all task forces, committees and other entities.

13. In your view, what are the major internal and external challenges facing DHS and the Office of Counternarcotics Enforcement? If confirmed, what would you do, specifically, to address these challenges?

ANSWER: If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components in order to identify and assess the major internal and external challenges the Department faces in fully performing its counternarcotics mission and ensuring that there are sufficient resources to do so.

14. If confirmed, what would you do to solicit input from Office of Counternarcotics Enforcement staff to receive their input on the activities and policies of the office?

ANSWER: If confirmed, I will review present practices and procedures and, if warranted, provide guidance on all communication practices and procedures within the Office of Counternarcotics Enforcement to ensure that the staff's input on the activities and policies of the Office are being fully communicated and considered. I will value staff input and I ensure that the Office takes a team approach to problem solving.

15. Are you aware of the current funding or staffing level for the Office of Counternarcotics Enforcement? If so, please provide this information to the Committee. What kind of resources do you envision the Office of Counternarcotics Enforcement will need to be effective? Do you anticipate a need for additional staffing or funding beyond its current level?

ANSWER: I am generally aware of the current funding and staffing levels for the Office of Counternarcotics Enforcement. If confirmed, I will review and analyze funding and staffing levels to determine if they are adequate for the Office of Counternarcotics Enforcement to fulfill its statutory mandate.

16. Currently one person serves as both Director of the Office of Counternarcotics Enforcement and as the USIC. If passed, H.R. 2829, the Office of National Drug Control Policy Reauthorization Act of 2005, would remove the requirement that the Director of the Office of Counternarcotics Enforcement also serving concurrently as the USIC. The House report for H.R. 2829 states that the dual role has "become increasingly problematic," and that the position of Director of the Office of Counternarcotics Enforcement, "is simply too large to allow sufficient time and attention for the mission of the USIC."

    a. Do you agree with this view?

    b. If confirmed, how would you divide your responsibilities for each position?

    c. What would your approach be towards working for two different offices that may have different priorities?

    ANSWER: I have not reviewed H.R. 2829 or examined the consequences of the USIC leaving the Department. Under current law, although the Director of the Office of Counternarcotics Enforcement may concurrently serve as the USIC, that decision is within the sole discretion of the Director of the Office of National Drug Control Policy.

17. The mission of the White House Office of National Drug Control Policy (ONDCP) is to establish policies, priorities, and objectives for the nation's drug control program. Among other things, the ONDCP goals include reduction of drug manufacturing and trafficking. ONDCP also has budgetary review duties.

    a. To what extent do you believe the responsibilities of the Office of Counternarcotics overlap with those of the ONDCP, such as stopping the entry of illegal drugs into the United States and budget review activities regarding drug control?

    ANSWER: As I understand their respective roles and responsibilities, the Office of Counternarcotics Enforcement and ONDCP are more aptly described as complementary rather than overlapping. ONDCP establishes the National Drug Control Strategy and the overall counternarcotics policy direction for the entire federal government. The Office of Counternarcotics Enforcement serves as the principal counternarcotics office within the Department of Homeland Security and, through its Director, serves as the principal advisor to the Secretary on all

counternarcotics matters. In fulfilling these roles and its other responsibilities as established by statute and under Departmental Management Directive 6400, the Office of Counternarcotics Enforcement serves as a critical partner in advancing the efforts of ONDCP in the development and implementation of the National Drug Control Strategy.

b. If confirmed, what approach would you take to ensure that any overlaps are well-coordinated and that programs and policies are consistent and integrated?

ANSWER: I understand that the Office of Counternarcotics Enforcement has provided support to ONDCP by representing the Department's interest in the development of the National Drug Control Strategy and by working with the Department, including through the budget review process, to ensure that appropriate levels of resources and coordination are provided to implement the National Drug Control Strategy. If confirmed, I will review the present practices and procedures to ensure that the Department's counternarcotics programs and policies are coordinated, consistent and integrated.

18. One of the Office of Counternarcotics Enforcement's responsibilities is to coordinate policy and operations within DHS, between DHS and other federal departments and agencies, and between DHS and state and local agencies with respect to stopping the entry of illegal drugs into the United States. Within DHS, the Coast Guard, Customs and Border Protection, and Immigration and Customs Enforcement all have drug interdiction roles.

a. What specific organizational arrangements, decisionmaking mechanisms, and procedures would you implement to ensure coordination of policies and operations within DHS? Between DHS and other federal departments and agencies? Between DHS and state and local agencies?

ANSWER: With the signing of Departmental Management Directive 6400, the Secretary has authorized the Director of the Office of Counternarcotics Enforcement to coordinate all drug policy within the Department. If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components as well as the leaders of other federal, state and local counternarcotics-related agencies to ensure that drug policy within the Department is being fully coordinated.

b. What, if any, difficulties do you believe you might face in ensuring there is coordination, particularly since your office is new? What, if anything, do you believe the Director can do to resolve any problems the Office of Counternarcotics Enforcement may have with in having the necessary visibility and leverage in the Department's strategic and performance plan for

counternarcotics enforcement?

ANSWER: I am presently not aware of any difficulties facing the Office of Counternarcotics Enforcement relating to the coordination of counternarcotics policies and operations within the Department. Given the Office's unique role within the Department with respect to counternarcotics policy, I do not anticipate any such difficulties and believe that any issues that do arise can be resolved expeditiously through the active engagement of the leaders of the Department's counternarcotics-related components.

19. The Director of the Office of Counternarcotics Enforcement is to review and evaluate for various House and Senate committees the President's request for DHS expenditures regarding how such requested funds would be or could be expended in furtherance of counternarcotics activities and compare such requests with requests for expenditures and amounts appropriated by Congress in the previous fiscal year. The Director is also to review and evaluate counternarcotics activities each February for the previous year.

    a. What criteria would you use to review and evaluate the expenditure requests?

    ANSWER: I believe that it is important that the Office of Counternarcotics Enforcement, in collaboration with the Department's counternarcotics-related components, develop and implement performance criteria and measures. These measures will assist the Director in making recommendations to the Secretary on resource levels for the Department's counternarcotics programs. If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components as well as federal, state, and local counternarcotics-related agencies in order to develop, implement and evaluate the Department's counternarcotics performance criteria and measures.

    b. Do you have previous experience in reviewing budget requests?

    ANSWER: Yes. I have dealt with budget issues as Chief Counsel and Deputy Staff Director of the House Select Committee on Homeland Security and as an Associate Deputy Attorney General with the Department of Justice.

    c. What performance measures would you propose to review and evaluate the counternarcotics enforcement activities of the Office of Counternarcotics Enforcement?

    ANSWER: At this time, I do not have any specific proposals for performance measures. I believe, however, that it is important that the Office of Counternarcotics Enforcement, in collaboration with the Department's counternarcotics-related components, develop and implement performance

measures as anticipated under the statute establishing the responsibilities of the Director. I believe that such performance measures must assist the Department in understanding how drugs are entering the United States, how the Department aligns its resources against the drug threat, and how the Department can more effectively allocate counternarcotics resources in the future.

d. What steps will you take to coordinate performance measures across DHS agencies? For example, what steps will you take to coordinate performance measures of the many agencies that are involved in counternarcotics efforts in the transit zone (South American through the Carribbean Sea and eastern Pacific Ocean)?

ANSWER: The development of performance measures is a critical component of the Director's ability to make sound policy and budget recommendations to the Secretary. If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components and secure information from federal, state, and local counternarcotics-related agencies to assist the Office of Counternarcotics Enforcement in developing, implementing and evaluating the Department's counternarcotics performance measures.

20. While the Office of Counternarcotics Enforcement has been given statutory responsibility for policy and operations within DHS with respect to stopping the trafficking of illegal drugs, other entities within the Secretary's office have overarching responsibility for policy (Assistant Secretary for Policy) and operations coordination (Director of Operations Coordination). What will your relationship be to these offices and officials?

ANSWER: The Office of Counternarcotics Enforcement has primary responsibility for counternarcotics policy within the Department. Accordingly, if confirmed, I will ensure that the Office of Counternarcotics Enforcement engages and confers with the Department's other policy offices to ensure that all Department policies fully support the Department's counternarcotics mission.

21. Since the formation of DHS, concerns have been raised regarding the balance between attention given to countering terrorism in contrast to those programs that do not deal with terrorism. One of the Office of Counternarcotics Enforcement's duties is to assist in tracking and severing connections between illegal drug trafficking and terrorism, but the bulk of its duties is not terrorism related. What approach will you take to ensure that the majority of your activities reflect an appropriate balance between terrorist activities and other concerns?

ANSWER: If confirmed, I will examine how resources within the Office of Counternarcotics Enforcement are allocated to ensure that the Office's activities reflect an appropriate balance between terrorist-related activities and other concerns.

III. Policy Questions

22. If confirmed, you will have responsibility for leading an office within the Department of Homeland Security with specific responsibilities, including: (1) coordination of policy and operations within DHS, between DHS and other federal departments and agencies, and between DHS and state and local agencies with respect to stopping the entry of illegal drugs into the United States; (2) ensuring the adequacy of resources within DHS for stopping the entry of illegal drugs into the United States; (3) recommending the appropriate financial and personnel resources necessary to help DHS better fulfill its responsibility to stop the entry of illegal drugs into the United States; (4) tracking and severing connections between illegal drug trafficking and terrorism within the Joint Terrorism Task Force; and (5) representing DHS on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of DHS and other federal, state or local agencies.

    a. Taking each of these five areas, what do you see as the major counternarcotics enforcement policy and operational issues the office will have to contend with during the next year? During the next five years?

    b. If confirmed, what will be your policy and operational priorities in the first year in each area? During the next five years?

    ANSWER: If confirmed, I will thoroughly examine and assess the Department's counternarcotics enforcement policies and operations in order to identify the priorities and issues to be addressed by the Office of Counternarcotics Enforcement. I will use the statutory language setting forth the duties of the Director of the Office of Counternarcotics Enforcement to assist me in establishing these policy and operational priorities.

23. The Department of Homeland Security recently announced that the Coast Guard will likely be assuming the airspace security mission for the National Capitol Region (NCR). What impact do you believe this new mission could have upon current Coast Guard missions and capabilities, including on the Coast Guard's aviation use of force and drug interdiction programs, noting their limited resources to perform the missions already assigned to them?

    ANSWER: If confirmed, I will engage Coast Guard leadership in order to fully assess the impact on the Department's counternarcotics mission of placing Coast Guard assets within the National Capitol Region.

24. In a recent report (GAO-06-200), GAO found that various factors pose challenges to maintaining the current level of illicit drug transit zone (South America through the

Caribbean Sea and eastern Pacific Ocean) drug trafficking interdiction operations. These factors include reduced availability of naval maritime patrol aircraft, the declining readiness rates of older Coast Guard ships, often inoperable surface radar systems on the Coast Guard's long-range surveillance aircraft, and budget constraints and other priorities that may affect maintenance of efforts. GAO recommended that the Departments of Defense and Homeland Security: (1) plan for likely declines in interdiction assets; and (2) develop measures with ONDCP to better assess interdiction operations, and that ONDCP address prior recommendations to improve drug data.

a. In light of GAO's recommendations, what would you propose as a possible strategy to maintain the current level of transit zone drug trafficking interdiction operations?

b. In the context of the GAO analysis above, what are your thoughts on ways to improve the detection and interdiction capability of counternarcotics enforcement at DHS?

c. In coordinating with ONDCP, what performance measures would you recommend for assessing interdiction operations in the transit zone?

d. If confirmed, what specific actions will you take to align the resources and capabilities of the operational agencies in the counternarcotics arena with the national Drug Control Strategy?

ANSWER: With respect to improving detection and interdiction capabilities and the alignment of resources, I will examine existing capabilities and use existing forums, such as The Interdiction Committee (TIC), and other appropriate interagency groups to identify a long term comprehensive strategy to optimize the performance of the Department's counternarcotics efforts. With respect to performance measures, in collaboration with Department's counternarcotics-related components, I will examine and evaluate current methods of measuring performance and recommend improvements where needed.

25. In DHS's response to this report, Steven J. Pecinovsky, Director of the Departmental GAO/OIG Liaison Office wrote: "DHS has - through a management directive - made clear that the responsibility for the development of performance measurements rests with the DHS Office of Counternarcotics Enforcement (DHS-CNE). DHS-CNE currently is undertaking an effort to develop and coordinate a performance measurement system to better assess DHS counter drug activities, including transit zone interdiction operations."

a. Are you aware of this management directive? If so, please elaborate on the additional responsibilities given to the Office of Counternarcotics Enforcement.

ANSWER: I am aware of Departmental Management Directive 6400. It is my understanding there are no new responsibilities given to the Office of Counternarcotics Enforcement.

b. If confirmed, what do you anticipate your role will be in developing this performance measurement system?

ANSWER: If confirmed, I will work in collaboration with the Department's counternarcotics-related components to develop and implement performance measures pursuant to statutory requirements. I will ensure that all performance measures developed by the Office provide the necessary information to allow policy makers to effectively allocate existing and new counternarcotics resources against the drug threat.

c. What would you do to ensure that Customs and Border Protection (CBP), the Coast Guard, and other parts of DHS that play a significant role in counternarcotics enforcement properly measure their counter drug activities?

ANSWER: I believe that coordination and cooperation with the Department's components are statutory requirements for the Office of Counternarcotics Enforcement and are critical to the development of a successful Department-wide counternarcotics strategy. If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components to develop practices and procedures to properly measure and report their counternarcotics activities and enable the Office of Counternarcotics Enforcement to be a strong advocate for the technology, personnel, and resources necessary to improve the Department's ability to stop the flow of illegal drugs into the United States.

26. In this same response to the GAO report, Mr. Pecinovsky wrote that "Despite planning efforts, unforseen events such as Hurricane Katrina relief efforts may temporarily impact asset availability."

a. If confirmed, what will you do to ensure that significant events like Katrina or a terrorist attack do not have a significant impact the mission of your office?

ANSWER: If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components that have been affected by an unforeseen event and work with the Secretary to address any shortfalls that may result from the Department's response.

b. In light of the findings of the GAO report about declining interdiction assets, do you believe that in the future unforseen events may have a greater impact on asset availability? If so, if confirmed, what would you do to minimize the potential impact?

ANSWER: If confirmed, I will engage the leaders of the Department's counternarcotics-related components to address ways for the Department to deal with both short and long term asset shortfalls in the wake of unforeseen events.

27. The "backbone" of DHS drug interdiction operations in the illicit drug transit zone, according to the GAO report (GAO-06-200), is the fleet of P-3 maritime patrol aircraft (MPA) operated by DOD, the Office of Air and Marine Operations (AMO) at Customs and Border Protection (CBP) and foreign governments. MPA flight hours are also provided, to a lesser extent, by Coast Guard C-130 aircraft. The GAO report (GAO-06-200) discusses how the declining readiness rates of the Coast Guard fleet poses a challenge to drug interdiction efforts. In light of this information, both of these fleets are aging and may need to be completely overhauled or replaced soon.

    a. Do you believe these fleets need refurbishment and/or replacement? Why or why not?

    b. If you agree, how and when would you propose to refurbish or replace these aircraft?

ANSWER: I believe that this is one of the most important counternarcotics-related issues facing the Department. If confirmed, I will actively engage the Department's counternarcotics-related components on any potential MPA shortfalls as well as related issues and work closely with those components to fully address these issues.

28. If confirmed as Director, you would be required by statute to advise the Secretary with respect to the adequacy of funding for drug interdiction operations, and to review the annual budget proposals of the Department with respect to that adequacy. The Coast Guard was authorized to provide an Unfunded Priorities List (UPL) with its FY2006 budget request. In addition to requesting $966 million for their Deepwater recapitalization, the Coast Guard provided on the UPL a request for $637 million in additional Deepwater funds and $63 million in vessel and aircraft maintenance funds.

    a. What is your familiarity with and view of the current progress of Coast Guard's "Deepwater" asset modernization project?

    b. Do you believe, based on GAO Report GAO-06-200 or other information, that the Coast Guard needs additional funds for Deepwater assets and additional funding for vessel and aircraft maintenance to help fulfill the missions of Office of Counternarcotics Enforcement? If so, what will you do to ensure adequate resources are provided?

ANSWER: I understand that the Coast Guard's Deepwater Program, formerly known

as the Integrated Deepwater System, is a funding mechanism to support replacement and modernization of the Coast Guard's aging fleet of deepwater capable ships and aircraft. If confirmed, I will work to assist the Coast Guard to ensure that adequate resources continue to be available for the Deepwater Program and other counternarcotics-related efforts.

29. The USIC, a position which is currently held by the Director of the Office of Counternarcotics Enforcement, primarily serves as a strategic advisor to the Director of ONDCP on interdiction efforts in the transit zone. The USIC is also tasked with, among other things, managing the Consolidated Counterdrug Database that contains information on drug trafficking events such as detection, seizures and disruptions. In the GAO report noted above, GAO-06-200, GAO indicated that the data available in this system could be used more effectively to develop performance measures and make deployment and investment decisions.

    a. Do you agree that available data could be better used to make deployment and investment decisions? If so, what do you see as possible ways to improve the DHS data on interdiction operations?

    b. If confirmed and designated as USIC, how would you recommend agencies use information in the Consolidated Counterdrug Database? What changes, if any, would you make to the system?

ANSWER: Any decision regarding whether the Director of the Office of Counternarcotics Enforcement will concurrently serve as the USIC is within the sole discretion of the Director of the Office of National Drug Control Policy. I understand that the Consolidated Counterdrug Database (CCDB) as well as other existing databases provide useful data for making deployment and investment decisions. If confirmed, I will explore options for improving and better utilizing CCDB data in order to enhance interdiction efforts.

30. In its Second Stage Review, DHS chose not to merge the Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP), as some experts proposed. By eliminating the Bureau of Transportation Security Directorate (BTS), an umbrella directorate that included both ICE and CBP, and having both agencies report directly to the Secretary, the reorganization arguably moves in the opposite direction and creates an additional separation between the agencies. What, in your opinion, are the consequences in terms of counternarcotics enforcement of these agencies being separate? If confirmed, what would your role be as Director of Counternarcotics Enforcement in working with these two agencies to ensure that they have dedicated sufficient resources to drug interdiction?

ANSWER: I am presently unaware of any adverse impact on counternarcotics

enforcement resulting from the present organizational structure within the Department. If confirmed, I will actively engage the leaders of the Department's counternarcotics-related components to ensure that the interdiction resources from all of the Department's counternarcotics-related components are fully coordinated and sufficient to achieve the Department's counternarcotics mission.

31. Given the renewed emphasis on proposals to increase security along the land border, what do you believe should be the Department's long-term strategy to counter the inevitable shift to smuggling increased amounts of narcotics and immigrants via maritime routes?

ANSWER: If confirmed, I will engage the leaders of the Department's counternarcotics-related components to assess and develop strategies to address any maritime shortfalls that may develop as a result of refocused law enforcement efforts.

VI. Relations with Congress

32. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

ANSWER: If confirmed, I will respond to any reasonable Congressional request to appear and testify.

33. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

ANSWER: If confirmed, I will respond to any reasonable Congressional request for information.

VII. Assistance

34. Are these answers your own? Have you consulted with the DHS or any interested parties? If so, please indicate which entities.

ANSWER: Yes, these answers are my own, and are based upon my understanding of the information provided to me. Many of the questions posed in this questionnaire do go to a level of specific detail about Department programs, DHS sub-components, or draft proposals for regulations or other efforts about which I have relatively little in the way of current, firsthand, personal or definitive knowledge. The understanding needed for a full response has entailed normal pre-confirmation and departmental orientation consultations with the Department of Homeland Security staff as well as the Office of Government Ethics.

AFFIDAVIT

I, Uttam Dhillon, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

_____

Subscribed and sworn before me this 17th day of January, 2006.

Patricia C Miller
Notary Public

Washington, DC
District of Columbia

My Commission Expires February 28, 2009

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U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire Supplemental Responses for the
Nomination of Uttam Dhillon to be
Director, Office of Counternarcotics Enforcement, Department of Homeland Security

4. Currently, the Director of the Office of Counternarcotics Enforcement is the only person eligible at DHS to be the United States Interdiction Coordinator (USIC), a position with the responsibilities of coordinating and overseeing the use of Federal resources in drug interdiction.

   a. Please provide specific information detailing your experience with and knowledge of drug interdiction operations.

SUPPLEMENTAL ANSWER: As an Assistant United States Attorney (AUSA) and as an Organized Crime Drug Enforcement Task Force (OCDETF) prosecutor serving in the major narcotics section in Los Angeles, I handled cases investigated by the DEA, FBI, ATF and legacy Customs and Immigration and Naturalization Services. The investigations and cases that I was responsible for largely targeted major narcotics traffickers and money launderers; some of whom had links to foreign narcotics traffickers. For example, I was the AUSA assigned to a DEA investigation in which undercover task force members posed as truckers willing to transport large quantities of cocaine across the United States-Mexico border. One of the defendants indicted in the case was a federal police officer in Mexico who was organizing the deliveries. Through handling cases like this one, I learned about interdiction techniques used in undercover operations, how intelligence is gathered and used in such operations through confidential informants and others, and the importance of working with local law enforcement officers within a federal task force.

   b. If confirmed, would you expect to serve concurrently as the USIC?

SUPPLEMENTAL ANSWER: The decision regarding whether the Director of the Office of Counternarcotics Enforcement will concurrently serve as the USIC is within the sole discretion of the Director of the Office of National Drug Control Policy (ONDCP). Accordingly, if confirmed, I do not know whether I will serve concurrently as the USIC.

15. Are you aware of the current funding or staffing level for the Office of Counternarcotics Enforcement? If so, please provide this information to the Committee. What kind of resources do you envision the Office of Counternarcotics Enforcement will need to be effective? Do you anticipate a need for additional staffing or funding beyond its current level?

SUPPLEMENTAL ANSWER: I am generally aware of the current funding and staffing levels for the Office of Counternarcotics Enforcement. It is my understanding that for FY06, the Office received approximately $1.86 million in funding from the budget of the Department's Chief of

Staff. I further understand that the Office has ten full time employees and has the authority to hire one additional full time employee. If confirmed, I will review and analyze the Office's funding and staffing levels to determine if current levels are adequate and work to ensure that the Office has the funding and staff necessary to achieve its mission.

16. Currently one person serves as both Director of the Office of Counternarcotics Enforcement and as the USIC. If passed, H.R. 2829, the Office of National Drug Control Policy Reauthorization Act of 2005, would remove the requirement that the Director of the Office of Counternarcotics Enforcement also serving concurrently as the USIC. The House report for H.R. 2829 states that the dual role has "become increasingly problematic," and that the position of Director of the Office of Counternarcotics Enforcement, "is simply too large to allow sufficient time and attention for the mission of the USIC."

    a. Do you agree with this view?

SUPPLEMENTAL ANSWER: I have not examined the consequences of the USIC leaving the Department. It is my understanding that the Administration has not yet issued a Statement of Administration Policy on H.R. 2829. Accordingly, it would not be appropriate for me to express a view at this time.

    b. If confirmed, how would you divide your responsibilities for each position?

SUPPLEMENTAL ANSWER: Under current law, although the Director of the Office of Counternarcotics Enforcement may concurrently serve as the USIC, that decision is within the sole discretion of the ONDCP Director. Accordingly, if confirmed, I do not know whether I will serve concurrently as the USIC.

    c. What would your approach be towards working for two different offices that may have different priorities?

SUPPLEMENTAL ANSWER: If that were to occur, my approach would be to harmonize any differences in priorities to ensure that the Department can fully and successfully achieve its counternarcotics mission. It is my understanding that both the Department and ONDCP have the same policy objectives with respect to counternarcotics interdiction, i.e., interdicting the greatest amount of illegal narcotics possible. I am confident that if there are different priorities identified, they will be timely and effectively resolved in a manner that will ensure that the Department successfully achieves its counternarcotics mission.

21. Since the formation of DHS, concerns have been raised regarding the balance between attention given to countering terrorism in contrast to those programs that do not deal with terrorism. One of the Office of Counternarcotics Enforcement's duties is to assist in tracking and severing connections between illegal drug trafficking and terrorism, but the

bulk of its duties is not terrorism related. What approach will you take to ensure that the majority of your activities reflect an appropriate balance between terrorist activities and other concerns?

SUPPLEMENTAL ANSWER: The statutory language establishing the Director's responsibilities specifically require that the Director "track and sever connections between illegal drug trafficking and terrorism" within the Joint Terrorism Task Force (JTTF) construct. In addition, the Administration's highest priority is the safety and security of the American people. Accordingly, it is incumbent upon the Director to ensure that sufficient Departmental resources are devoted to tracking and severing terrorist connections to illegal narcotics trafficking. At the same time, the Director must ensure that the Department successfully fulfills its broader counternarcotics mission of interdicting illegal narcotics not related to terrorism. If confirmed, I will examine how resources within the Office of Counternarcotics Enforcement and the Department are allocated to ensure that those allocations reflect an appropriate balance between terrorist-related activities and the Department's other counternarcotics priorities.

22. If confirmed, you will have responsibility for leading an office within the Department of Homeland Security with specific responsibilities, including: (1) coordination of policy and operations within DHS, between DHS and other federal departments and agencies, and between DHS and state and local agencies with respect to stopping the entry of illegal drugs into the United States; (2) ensuring the adequacy of resources within DHS for stopping the entry of illegal drugs into the United States; (3) recommending the appropriate financial and personnel resources necessary to help DHS better fulfill its responsibility to stop the entry of illegal drugs into the United States; (4) tracking and severing connections between illegal drug trafficking and terrorism within the Joint Terrorism Task Force; and (5) representing DHS on all task forces, committees, or other entities whose purpose is to coordinate the counternarcotics enforcement activities of DHS and other federal, state or local agencies.

    a. Taking each of these five areas, what do you see as the major counternarcotics enforcement policy and operational issues the office will have to contend with during the next year? During the next five years?

    b. If confirmed, what will be your policy and operational priorities in the first year in each area? During the next five years?

SUPPLEMENTAL ANSWER: If confirmed, I will thoroughly examine and assess the Department's counternarcotics enforcement policies and operations in order to identify the priorities and issues to be addressed by the Office of Counternarcotics Enforcement. I will use the statutory language setting forth the duties of the Director of the Office of Counternarcotics Enforcement to assist me in establishing these policy and operational priorities. Once established, I will engage the leaders of the Department's counternarcotics-

related components to craft short and long term policy guidance that will address, among other things, funding and asset resource issues.

24. In a recent report (GAO-06-200), GAO found that various factors pose challenges to maintaining the current level of illicit drug transit zone (South America through the Caribbean Sea and eastern Pacific Ocean) drug trafficking interdiction operations. These factors include reduced availability of naval maritime patrol aircraft, the declining readiness rates of older Coast Guard ships, often inoperable surface radar systems on the Coast Guard's long-range surveillance aircraft, and budget constraints and other priorities that may affect maintenance of efforts. GAO recommended that the Departments of Defense and Homeland Security: (1) plan for likely declines in interdiction assets; and (2) develop measures with ONDCP to better assess interdiction operations, and that ONDCP address prior recommendations to improve drug data.

    a. In light of GAO's recommendations, what would you propose as a possible strategy to maintain the current level of transit zone drug trafficking interdiction operations?

SUPPLEMENTAL ANSWER: If confirmed, I will review current Department transit zone assets and examine specific transit zone resource allocations such as Maritime Patrol Aircraft to determine if they are adequate. Also, I will engage Departmental leaders at the Coast Guard and Customs and Border Protection to identify ways for the Office of Counternarcotics Enforcement to assist them in maintaining current levels of support to transit zone operations.

    b. In the context of the GAO analysis above, what are your thoughts on ways to improve the detection and interdiction capability of counternarcotics enforcement at DHS?

SUPPLEMENTAL ANSWER: If confirmed, and in collaboration with the leaders of the Department's counternarcotics-related components, I will examine existing forums, such as The Interdiction Committee (TIC), and other appropriate interagency groups to coordinate a long term, comprehensive strategy to optimize the performance of the Department's counternarcotics performance as an integrated part of out national efforts.

    c. In coordinating with ONDCP, what performance measures would you recommend for assessing interdiction operations in the transit zone?

SUPPLEMENTAL ANSWER: If confirmed, and in collaboration with the leaders of the Department's counternarcotics-related components, I will examine and evaluate present methods of measuring performance, recommend improvements where needed and coordinate with ONDCP to ensure that there are adequate performance measures for assessing interdiction operations in the transit zone.

d. If confirmed, what specific actions will you take to align the resources and capabilities of the operational agencies in the counternarcotics arena with the national Drug Control Strategy?

SUPPLEMENTAL ANSWER: If confirmed, I will engage the leaders of the Department's counternarcotics-related components to ensure that funding levels requested are maintained and aligned to the priorities of the National Drug Control Strategy.

26. In this same response to the GAO report, Mr. Pecinovsky wrote that "Despite planning efforts, unforeseen events such as Hurricane Katrina relief efforts may temporarily impact asset availability."

a. If confirmed, what will you do to ensure that significant events like Katrina or a terrorist attack do not have a significant impact the mission of your office?

b. In light of the findings of the GAO report about declining interdiction assets, do you believe that in the future unforeseen events may have a greater impact on asset availability? If so, if confirmed, what would you do to minimize the potential impact?

SUPPLEMENTAL ANSWER: Because the Department of Homeland Security is a multi-mission department, many of its assets could potentially be called upon to protect the homeland in the face of significant events, attacks, or other unforeseen circumstances. If confirmed, I will engage the leaders of the Department's counternarcotics-related components that have already been affected by such unforeseen circumstances to ensure that existing counternarcotics assets will be replaced as needed. Additionally, I will closely review all current Departmental guidance relevant to potential reallocation of resources, determine whether Departmental counternarcotics resources and /or components could be vulnerable, and make recommendations to the Secretary to reduce or eliminate any identified vulnerabilities.

29. The USIC, a position which is currently held by the Director of the Office of Counternarcotics Enforcement, primarily serves as a strategic advisor to the Director of ONDCP on interdiction efforts in the transit zone. The USIC is also tasked with, among other things, managing the Consolidated Counterdrug Database that contains information on drug trafficking events such as detection, seizures and disruptions. In the GAO report noted above, GAO-06-200, GAO indicated that the data available in this system could be used more effectively to develop performance measures and make deployment and investment decisions.

a. Do you agree that available data could be better used to make deployment and investment decisions? If so, what do you see as possible ways to improve the DHS data on interdiction operations?

SUPPLEMENTAL ANSWER: Any decision regarding whether the Director of the Office of Counternarcotics Enforcement will concurrently serve as the USIC and thereby manage the Consolidated Counterdrug Database (CCDB) is within the sole discretion of the ONDCP Director. Accordingly, the CCDB may not be under the management of the Director of the Office of Counternarcotics Enforcement. I understand that the CCDB as well as other existing databases provide useful data for making deployment and investment decisions. If confirmed, I will explore options for improving and better utilizing CCDB data in order to enhance interdiction efforts.

b. If confirmed and designated as USIC, how would you recommend agencies use information in the Consolidated Counterdrug Database? What changes, if any, would you make to the system?

SUPPLEMENTAL ANSWER: If confirmed and designated as the USIC, I will carefully examine the CCDB to determine ways for improving and better utilizing CCDB data in order to enhance interdiction efforts and, if appropriate, make recommendations to other agencies on the use of CCDB data.

31. Given the renewed emphasis on proposals to increase security along the land border, what do you believe should be the Department's long-term strategy to counter the inevitable shift to smuggling increased amounts of narcotics and immigrants via maritime routes?

SUPPLEMENTAL ANSWER: If confirmed, I will engage the appropriate leaders within the Department on any potential shift of resources that could adversely impact the Department's counternarcotics mission. Because land border smuggling remains an important concern, I believe that any long-term strategy must include not only increased security along the land border, but also adequate air and maritime interdiction assets.

AFFIDAVIT

I, Uttam Dhillon, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

_____

Subscribed and sworn before me this 2nd day of February, 2006.

Patricia C Miller
Notary Public

My Commission Expires
February 28, 2009

Post-Hearing Questions Submitted by
Senator Susan M. Collins
For the Nomination of Uttam Dhillon to be
Director of the Office of Counternarcotics Enforcement, Department of Homeland Security
March 31, 2006

Secure Border Initiative

1. Secretary Chertoff has launched the Secure Border Initiative (SBI) as a premiere program within the Department. With respect to control of the borders, SBI "is designed to achieve operational control of both the northern and the southern borders within five years." The focus has primarily been on immigration control; however, the Border Patrol has long touted the secondary benefits of increased immigration enforcement, such as dramatic increases in drug seizures and disruption of smuggling rings. Do you expect to have a role in the further design of the Secure Border Initiative to bring the counternarcotics perspective?

   Answer: If confirmed, I expect to work closely with the Department's SBI Program Executive Office to ensure that counternarcotics enforcement is a key component of the Secure Border Initiative.

Counternarcotics mission of ICE and CBP

2. One mission of U.S. Immigration and Customs Enforcement (ICE) is to "identify, disrupt and dismantle significant organizations that smuggle contraband...into the United States." The U.S. Customs Service historically had this same responsibility. What, in your opinion, are the consequences in terms of the counternarcotics missions of ICE and U.S. Customs and Border Protection being separate?

   Answer: I understand that both Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) complement each other in their anti-smuggling activities. CBP's mission is to stop illegal contraband at and between ports of entry. ICE complements this mission through its investigative and interior enforcement operations which are targeted at smuggling organizations. In my opinion, both can successfully achieve their missions if they fully coordinate with each other as well as with counternarcotics-related law enforcement agencies outside of the Department. If confirmed, I will examine the counternarcotics activities of both ICE and CBP and, where appropriate, make recommendations to improve coordination of their counternarcotics activities.

Post-Hearing Questions Submitted by
Senator Joe Lieberman
For the Nomination of Uttam Dhillon to be
Director, Office of Counternarcotics Enforcement, Department of Homeland Security

1. Customs and Border Protection (CBP) recently changed its policy with regards to the importation of prescription medication. Previously, Food and Drug Administration (FDA) allowed Americans to purchase a 90-day supply of prescription drugs from Canada. According to press reports, CBP now sends letters to intended recipients of prescription drugs from Canada to inform them their medication has been confiscated, and that they can challenge the confiscation with the FDA. A CBP spokesman has reported that over 12,000 citizens have received such a letter since the policy began in November, which grew out of an effort to stop controlled substances from crossing the border. There was no official notification that the policy was being changed.

   a. Are you aware of this new policy?

      Answer: Yes, I am generally aware of this new policy.

   b. Do you believe this is an appropriate use of CBP resources?

      Answer: It is my understanding that the Federal Food, Drug and Cosmetic Act prohibits persons from importing into the United States any prescription drug that has not been approved for sale by the United States Food and Drug Administration, which is adulterated or misbranded, or which has been sold abroad by a United States manufacturer and is then imported back into the United States. CBP is charged with enforcing federal laws regarding the importation of prescription medicines and other medical goods. Accordingly, it is my understanding that CBP's new policy is intended to protect the public from counterfeit versions of drugs that are unsafe or ineffective. If confirmed, I will carefully examine the Department's policies and operations regarding the importation of prescription drugs.

   c. What do you believe the role of the DHS should be in policy decisions related to the importation of prescription drugs?

      Answer: The Office of Counternarcotics Enforcement has primary responsibility for counternarcotics policy within the Department. If confirmed, I will carefully examine the Department's policies and operations regarding the importation of prescription drugs.

   d. Do you think DHS components have a responsibility to inform Congress and the public of major policy changes?

      Answer: I believe that it is important for Congress and the public to be informed about counternarcotics policies. If confirmed, I will endeavor to appropriately inform Congress and the public of major counternarcotics policy changes.

   e. If confirmed, what processes will you implement to inform relevant parties about new policies?

      Answer: The Office of Counternarcotics Enforcement has primary responsibility for counternarcotics policy within the Department. If confirmed, I will use appropriate mechanisms, such as Congressional hearings and reports, to inform Congress and the public about new counternarcotics policies.

Post-Hearing Questions Submitted by
Senator Daniel K. Akaka
For the Nomination of Uttam Dhillon to be
Director of the Office of Counternarcotics Enforcement, Department of Homeland Security
March 31, 2006

1. The Food and Drug Administration has a policy which permits Americans to purchase up to a 90-day supply of prescription drugs through the mail or the internet from Canada. However, many Americans have complained in recent months that they have not received their vital medications. They allege that their drugs have apparently been seized at the border by Customs and Border Protection.

   Some say this increased enforcement by CBP is related to the new Medicare prescription drug program. If this is the case, this type of enforcement effort is wrong when law enforcement resources have far more urgent matters to pursue.

   Will you be looking into DHS enforcement priorities in your new role?

   Answer: It is my understanding that the Federal Food, Drug and Cosmetic Act prohibits persons from importing into the United States any prescription drug that has not been approved for sale by the United States Food and Drug Administration, which is adulterated or misbranded, or which has been sold abroad by a United States manufacturer and is then imported back into the United States. CBP is charged with enforcing federal laws regarding the importation of prescription medicines and other medical goods. Accordingly, it is my understanding that CBP's new policy is intended to protect the public from counterfeit versions of drugs that are unsafe or ineffective. If confirmed, I will review the Department's counternarcotics enforcement priorities and, where appropriate, make recommendations to improve the Department's counternarcotics enforcement efforts.

(3) POTENTIAL PUBLIC HEALTH EMERGENCY.—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE. 6 USC 468.

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term "non-homeland security missions" means the following missions of the Coast Guard:

(A) Marine safety.

(B) Search and rescue.

(C) Aids to navigation.

(D) Living marine resources (fisheries law enforcement).

(E) Marine environmental protection.

(F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term "homeland security missions" means the following missions of the Coast Guard:

(A) Ports, waterways and coastal security.

(B) Drug interdiction.

(C) Migrant interdiction.

(D) Defense readiness.

(E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard's capability to perform its missions.

(e) CHANGES TO MISSIONS.—

(1) PROHIBITION.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard's capability to perform those missions, except as specified in subsequent Acts.

(2) WAIVER.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for