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Participants – Commission: Col. Lorry Fenner, Barbara Grewe, Caroline Barnes, Peter Rundlet, Gordon Lederman

### BACKGROUND

This briefing was requested by the Commission to learn how the DEA operates across the foreign/domestic divide and how DEA fuses intelligence and law enforcement. The briefing was led by Judith Bertini, Acting DEA Assistant Administrator for Intelligence.

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She joined DEA's Office of Intelligence in 1975 and since then has served always in DEA's headquarters. In the last few years, she has been dealing with policy issues related to intelligence.

### DEA'S INTELLIGENCE PROGRAM

Intelligence has been a part of DEA since DEA's creation. The DEA created a separate intelligence division in 1992 due to the increased demand for information, interaction with the Intelligence Community (IC) and the influence of the military. DEA's intelligence program is world-wide. DEA has 740 intelligence analysts, with 10% stationed overseas in places such as 9/11 Law Enforcement Sensitive – as compared with 4,500 agents total. (DEA has 58 offices overseas in areas where there is a lot of narcotics transit.) DEA officials overseas generally have language capabilities, depending on the country.

DEA is a law enforcement agency, not an intelligence agency; as a result, everything at DEA has to do with operations, and there is no separation between intelligence and operations. Having said that, DEA is a model for how to integrate analysts and agents. DEA has only one type of analyst: the intelligence analyst. Some analysts at

headquarters do investigative intelligence, while others have a more strategic focus; analysts overseas must do both. Analysts have a separate training program, and the DEA analysts program has a strategic plan and career development specifically for analysts. All analysts must have a college degree. The top rank for analysts in DEA is the Senior Executive Service, and the lowest is GS-7. Intelligence managers in the field are GS-15s. In contrast, the Federal Bureau of Investigation (FBI) needs standards for hiring and to establish career tracks for analysts. The FBI calls everyone not an agent "support," while the DEA lingo is "analysts, agents" – indicating the importance that DEA places on analysts.

As agents are making cases, analysts are with them. DEA's key mission is to put people in jail, not collection of intelligence for the sake of intelligence. Law enforcement needs intelligence "to do;" the IC needs intelligence "to know." DEA analysts have one job: to support DEA cases. DEA will collect intelligence on a target for 2-3 months in a "general file," and then if there is no case, DEA will drop the collection. DEA analysts do not do the actual collection but have access to all the information that agents have or collect. CIA has a distinction between operations and intelligence, and the FBI has internal compartmentalization that limits internal information-sharing. The primary report for DEA information is the "DEA-6." Contractors are used to review these reports for information on names and locations to enter this information into DEA's names database.

All information is put in the DEA database called the Narcotics and Dangerous Drugs Information System (NADDIS). The database is at the law-enforcement-sensitive level. Although DEA relies heavily on human source intelligence, it does not classify any of this information. Both analysts and agents can access it, as well as State and local law enforcement officials who are on narcotics task forces. Because this information is not classified, there is no need for security clearances for persons from other agencies to access the system. The database points users to specific files, so it is more an index than a database. There is no access to NADDIS at the CIA headquarters. [REDACTED]

[REDACTED] NADDIS includes biographical information, cases people are mentioned in, and investigative-related information. There is a tracking system to follow who uses NADDIS. NADDIS can now be searched by topic (e.g., terrorism) in addition to name and number. FBI puts information into NADDIS as well but may not put everything relevant into NADDIS. However, you must be in a DEA space to access NADDIS, although DEA is beginning to relax that rule in certain circumstances where its analysts are not in DEA-controlled spaces.

Tandy Corporation is setting up a \$24 million "fusion center" for drug information out of the OCEDTF money. "Drug X" combines FBI and NADDIS information, but DEA does not use it. Every FBI agent, however, has access to it.

After 911, an ad hoc group was established at DEA headquarters that knows about all cases in the field that could concern counterterrorism. The group has 2 agents and 1 analysts assigned, although it is augmented with extra analysts as needed. Currently, agents must include questions about terrorism when debriefing every confidential source.

### DEA'S RELATIONSHIP WITH OTHER FEDERAL AGENCIES

In general, DEA collects information and makes its information available to the Intelligence Community (IC) and the FBI.

DEA has detailees at the Dept. of Defense (DoD) (e.g., the U.S. Southern Command and Joint Task Force – South), the State Dept., and [REDACTED]

[REDACTED] DEA has two people detailed to the Dept. of Homeland Security to assist with its intelligence structure. In some field divisions, DEA does have a representative on Joint Terrorism Task Forces (JTTFs), DEA does this when necessary and when DEA has the resources to do so. These representatives serve primarily a liaison function.

If DEA acquires terrorism-related information overseas, it gives that information to the CIA and FBI Legal Attaches. If the DEA acquires such information domestically, it gives that information to the FBI.

### DEA'S RELATIONSHIP WITH THE INTELLIGENCE COMMUNITY

DEA now has very good relations with CIA because there is no conflict in missions. Bertini said that DEA and CIA fought a lot – she called it “attacking the relationship” – because they cared enough to try to improve the relationship. In the 1990s, the CIA and the military thought that counternarcotics was one of their priorities, and DEA was unhappy when CIA started doing liaison with foreign law enforcement agencies. Now, CIA and the military have bigger fish to fry, so there is less conflict.

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NSA has had a representative at DEA for the past 20 years. DEA has access to some National Security Agency (NSA) databases, but there are only 10 analysts at DEA who can access it. The DEA headquarters has a SCIF.

DEA does not want to be part of the IC for several reasons. First, DEA does not want to receive requirements – particularly because DEA would not receive additional money. Second, being part of the IC would interfere with DEA's foreign relationships. Third, DEA would then be overseen by the Congressional intelligence oversight committees. However, DEA attends many IC meetings and has a proverbial seat at the table. For example, participates in certain National Foreign Intelligence Board meetings on certain countries. The Coast Guard became part of the IC and is now trying to get out of it.

If DEA collects information and thinks it is relevant to the IC, it gives the information to the CIA. "We have never allowed ourselves to be part of the IC collection strategy – if it exists – because DEA is not part of the Intelligence Community."

If CIA asks DEA to collect in an area that DEA does not specialize in, DEA will refuse to do so by saying "we're cops." DEA does not want to be recognized as an intelligence agency overseas because it would ruin its relationships with foreign parties.

The DEA does not have reports officers. [REDACTED]

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Under the PATRIOT Act, anyone with foreign intelligence must turn it over to the CIA. There is an ongoing legal discussion about what this means. "Foreign intelligence" is not a known term at DEA. [REDACTED]

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#### DEA'S RELATIONSHIP WITH THE FBI

The jurisdictional line between FBI and DEA over drug cases is easier to draw now that FBI is withdrawing from drug issues. FBI used to do counternarcotics, which led to conflicts between the FBI and DEA and much negotiation between them.

The FBI lacks the administrative subpoena for terrorism. DEA has it for counternarcotics, although she was unsure whether DEA needed to have a case open to be able to use the administrative subpoena.

After 911, DEA sent 33 analysts to FBI; DEA had offered 50. They ended up working in the SIOC, doing telephone linkage. The analysts were very frustrated – the FBI is very compartmentalized. DEA agents and analysts were sent to local JTTFs but have since returned.

#### THE DRUG-ENFORCEMENT COMMUNITY AS A COMPARATIVE MODEL FOR THE IC

The Office of National Drug Control Policy (ONDCP) is a policymaking entity. ONDCP has a strategy document which is not very important. There are no major conflicts, as DEA is continuing in its path that it has done for years. ONDCP is focused on marijuana, and DEA has only recently begun to focus on marijuana – but is unclear whether DEA's shift is due to the ONDCP.

ONDCP has a "stick" regarding the budget but never uses it. ONDCP can oversee DEA and can order the movement of money but has never done so. And in interagency forums, there is no "black-and-white, do-this-and-do-that" directive from ONDCP. ONDCP is not the only forum for interagency dialogue, and in any event DEA generally deals directly with other agencies.

One example of the lack of a national, coordinated counternarcotics effort is that no one knows how many drugs are seized every year by federal, State, and local officials (although the Counter Drug Intelligence Executive Secretariat [CDX] of ONDCP is developing a national drug seizure system in order to find out how many drugs seizures there are in the U.S. at the federal, State, and local levels); another example is that there is a Pennsylvania-based national drug intelligence center that employs hundreds of people and with which DEA has only marginal connections.

### FINAL THOUGHTS

Terrorism is not just a federal issue, yet State and local governments are frustrated due to the lack of national-level guidance and direction. The key is sharing information and building partnerships. There need to be protocols for sharing information, and task forces need to be created. Everyone wants to know what they are supposed to do. Also, there is a question of what terrorism's relationship is to crime: The IC sees terrorism as an intelligence issue, while State and local governments see terrorism as a criminal issue.