U.S. SENATE, COMMITTEE ON THE JUDICIARY

Executive Nominations Hearing
WEDNESDAY NOVEMBER 17, 2010

Questions for the Record from SENATOR CHARLES E. GRASSLEY to

Michele Leonhart to be Administrator U.S. Drug Enforcement Administration

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1. **Methamphetamine**

Methamphetamine continues to plague states across the country, particularly in rural areas in the Midwest that were hit hard by the spike in meth labs in the 1990's. However, because tough laws such as the Combat Meth Enforcement Act were enacted at both the state and federal level, there has been a dramatic decrease in the amount of domestically produced methamphetamine. This drop in production is largely attributed to the reduction in available precursor chemicals such as Pseudoephedrine or PSE.

However, recent trends indicate meth cooks are circumventing the law by going store to store to buy legal amounts of precursors until they obtain a large enough quantity to make meth. This new trend, commonly known as "smurfing," illustrates that more work remains to remove meth from our streets. One alternative to combat "smurfing" is to make precursor chemicals controlled substances. However, there is concern that this action would result in increased costs and burdens for legitimate consumers. Another alternative is to expand the use of electronic, interoperable log book systems that will more effectively track questionable purchases of precursors while allowing legitimate consumers minimal burdens to obtain cold medicine.

a) Do you believe that electronic, interoperable log book systems are necessary to help crack down on meth cooks that "smurf" between stores to buy meth precursors?

At the federal level, DEA is committed to exploring all options, including legislative changes to place pseudoephedrine, ephedrine and their analogues in Schedule V, as prescription only substances.

The use of log books as an investigative tool has proven to be problematic and ineffective at eliminating or even reducing domestic clandestine meth labs. Log books, regardless of their form, can only identify some smurfing activity that has already taken place; they do not prevent these products from reaching clandestine laboratories. The majority of enforcement successes that can be attributed to log books have been regulatory, through administrative sanctions and fines, and not criminal prosecutions. The information contained in commercially available log book monitoring systems is deemed not sufficiently reliable for purposes of identifying and prosecuting criminals. As a result, many federal and state prosecutors have questioned the

reliability of log book data. This is due to the use of multiple fictitious identification cards by some individuals involved in smurfing activity. In order to develop prosecutable cases, investigators must follow smurfers from store to store, as they use multiple false identification documents to purchase ephedrine-based products without interruption, even though they have clearly exceeded federal purchase thresholds. Since log books are a reactive tool rather than a proactive tool, states are reporting increases in the number of meth labs within their state.

Compared with other drugs of abuse, meth is arguably the most devastating. The collateral damage left in the wake of this drug, from purchase of the precursor material, through the manufacturing and distribution process to the ultimate drug seeker/abuser is enormous. Clandestine methamphetamine labs are frequently the cause of fires or explosions; they generate toxic waste; those exposed to lab material, including children and law enforcement officials, require chemical decontamination; clandestine labs seized within a neighborhood/community contribute to reduced real estate values; and the identification, dismantling and cleanup/disposal of these labs drain precious law enforcement, public safety and social service resources.

Although there is disagreement about what legislative course of action needs to be pursued, there is no disagreement with the general principle that the key to stopping these labs is limiting the access to precursor chemicals by the individuals manufacturing methamphetamine. If confirmed, I will support continued evaluation of all potential options and solutions to ending this ongoing public health and safety issue.

b) Do you believe scheduling precursors is the most effective way to crack down on "smurfing?"

As a Special Agent, Deputy Administrator and Acting Administrator, I have seen the devastating effects of methamphetamine use, the power of precursor chemical control, and the unfortunate resurgence of clandestine laboratory production here in the U.S. DEA is supportive of efforts by state, county, and municipal jurisdictions to control access to the precursor chemicals from which methamphetamine can be manufactured, while at the same time, ensuring that such substances remain available for legitimate medical purposes. At the federal level, DEA is committed to exploring all options, including legislative changes to place pseudoephedrine, ephedrine and their analogues in Schedule V, as prescription only substances.

As noted in the President's 2010 National Drug Control Strategy, "Effective July 1, 2006, the State of Oregon returned pseudoephedrine to a prescription drug, as it was prior to 1976. There was extensive debate in Oregon as to whether this law would prevent smurfing and meth labs and whether there would be public outcry or other adverse consequences. More than 3 years later, smurfing within the State of Oregon has been virtually eliminated, meth labs have been nearly eradicated, and local officials report little or no public outcry or other adverse consequences." Since 2006, Oregon has been able to sustain a more than 90 percent reduction in meth labs within their state. I believe that the success in combating methamphetamine labs in Oregon makes a compelling argument for scheduling as we continue the debate on what further legislative controls are needed to put an end to this public health and safety nightmare.

Unfortunately, cartels outside the country have also filled the void for domestic meth, and now a significant amount of this drug is imported from outside the U.S. Although Mexico took drastic actions to ban PSE in that country in 2006, the National Drug Intelligence Center (NDIC) has stated in the 2010 Drug Threat Assessment that methamphetamine availability increased in the U.S. as a result of higher production in Mexico because cartels are using alternative, less efficient precursors to manufacture meth.

c) If you are confirmed as DEA Administrator, how will you prioritize efforts to combat the manufacture, distribution and importation/smuggling of methamphetamine?

If I am confirmed, methamphetamine will remain a top priority for DEA. Mexican drug cartels continue to be the predominant source of supply for methamphetamine available in the U.S. Disrupting and dismantling the cartels in Mexico is one of my top three priorities, in addition to Afghanistan and prescription drug abuse.

DEA has worked and will continue to work with federal partners and its state and local counterparts in protecting the public health and safety against the scourge of methamphetamine. DEA is committed to working with the Department of Health and Human Services and other federal agencies to find a solution that best balances the goals of law enforcement and legitimate access to products that provide health benefits.

d) In light of the fact that Mexico still struggles with methamphetamine production despite its actions to ban precursor chemicals would similar actions to ban precursor chemicals in the U.S. yield a similar result?

First, DEA does not support a ban of the methamphetamine precursor chemicals pseudoephedrine or ephedrine.

It should be noted that although there is still reported clandestine laboratory production of methamphetamine in Mexico, it appears that the ban is causing a shift in precursor starting material from pseudoephedrine (PSE)/ephedrine (EPH) to phenylacetic acid (PAA)/phenyl-2-propanone (P2P) and derivative chemicals. An increasing number of samples obtained from seizures that originated from Mexican organizations provide evidence that the PAA/P2P method is now being utilized in addition to pseudoephedrine/ephedrine. In the U.S., the vast majority of clandestine laboratories are driven by PSE and to a lesser extent, EPH. The "one-pot" method, "Nazi" (Birch Reduction) method and other similar small quantity manufacturing processes require the use of PSE/EPH. Methamphetamine could not be manufactured in these types of small domestic labs without PSE/EPH.

Therefore, a total ban on PSE/EPH products would eliminate the vast majority of small domestic lab production. Similar to what has happened in Mexico, I would anticipate that we would see an increase in larger labs potentially driven by chemicals such as PAA/P2P and their derivatives. However, the PAA/P2P method

of synthesizing methamphetamine was utilized in the U.S. in the 1970s and 80s and law enforcement agencies in the U.S. are familiar with these types of labs. It also should be noted that PAA is a listed chemical in the U.S. and domestic sales are closely monitored. P2P is a schedule II controlled substance in the U.S. and the commercially available product is rarely encountered in domestic labs.

2. Prescription Drug and Over the Counter Drug Abuse

Another dangerous trend in drug abuse is the use of prescription drugs and over the counter (OTC) medicines for recreational purposes. The 2009 National Survey on Drug Use and Health states that prescription drug abuse has increased by 12% in the past year. Given that prescription drugs and OTC medications are easy to obtain from virtually any home medicine cabinet or convenience store, this trend threatens to create an explosion of new drug users. Moreover, many users of these kinds of drugs think that they are safe because they are prescribed by doctors or are readily available over the counter.

The DEA Office of Diversion Control is responsible for overseeing the wholesale and retail diversion of prescription drugs, but cannot generally enforce the laws against those who abuse these types of drugs taken from someone with a lawful prescription. This is a tricky situation that requires a multi-faceted approach. I recently joined Senators Klobuchar and Cornyn in cosponsoring the Secure and Responsible Drug Disposal Act of 2010, which will make it easier for communities to establish drug take back sites so consumers can dispose of old medicines and reduce the potential for these drugs to be illegally diverted.

a) Given the increase in abuse of prescription drugs and OTC medications, do you believe DEA should devote additional resources to combat this trend? Why or why not?

The diversion of pharmaceutical controlled substances is a significant problem in the United States, as all reliable studies indicate that the abuse (non-medical use) of these drugs has reached alarming levels in recent years.

Prescription drug abuse is one of my top three priorities, in addition to Mexico and Afghanistan. I support an increase in resources to the Diversion Control Program to address the alarming increases in prescription drug abuse., and in particular I support the President's FY 2011 Budget request for $291.8 million dollars, including funding for 1,373 positions for DEA's Diversion Control Program.

b) What other actions can DEA take DEA [sic] to help stop this abuse from increasing every year?

I fully support the President's 2010 National Drug Control Strategy, which recognizes the significant problem with prescription drug abuse and sets forth several action items to address this problem. These items include:

- **Educating Physicians About Opiate Painkiller Prescribing**

- **Expanding Prescription Drug Monitoring Programs and Promoting Links among State Systems and to Electronic Health Records**
- **Increasing Prescription Return/Take-back and Disposal Programs**
- **Assisting States Address Doctor Shopping and Pill Mills**
- **Driving Illegal Internet Pharmacies Out of Business, and**
- **Cracking Down on Rogue Pain Clinics**

The DEA is working on a two-pronged approach to address the problem of prescription drug abuse. First, DEA is retraining its Diversion Investigators to refocus on enhanced regulatory oversight of the more than 1.3 million DEA registrants. The purpose of this approach is to be proactive and ensure that DEA registrants adhere to their responsibilities under the Controlled Substances Act and its implementing regulations. This approach has resulted in record-breaking civil fines and resulted in registrants implementing more effective control designed to detect and prevent the diversion of controlled substance pharmaceuticals for non-medical purposes.

DEA is also expanding the use of Tactical Diversion Squads (TDS). These enforcement groups combine the skill sets of Diversion Investigators, Special Agents, state and local law enforcement officers, and other federal agencies whose sole mission is dedicated to investigating the criminal diversion of controlled substance pharmaceuticals and listed chemicals. With only 4 operational TDS groups at the beginning of FY-2009, I authorized a plan to expand the number of TDS groups to 65 in two phases. DEA now has 37 TDS groups operational across the United States. Since implementation, these groups have conducted several significant investigations. In FY-2010 alone, TDS groups have seized more than $70 million in drug proceeds and assets derived from the diversion of controlled substance pharmaceuticals.

DEA's Office of Diversion Control, in concert with field elements, continues to work with industry, the medical community, and grassroots coalition groups to identify, develop and implement effective strategies that are designed to curb the growing problem of prescription drug abuse.

Another potential factor that contributes to the increase in abuse is the availability of these drugs in household medicine cabinets. In many cases, dispensed controlled substances remain in household medicine cabinets well after medication therapy has been completed, thus providing easy access to non-medical users for abuse or accidental ingestion. At this time, most U.S. communities do not routinely offer opportunities to properly dispose of unused, unwanted, or expired pharmaceutical controlled substances. As a result, many people keep the drugs because they do not know how to dispose of them.

I thank you and the other members of Congress for your leadership in passing the Secure and Responsible Drug Disposal Act of 2010. The need for this legislation was clearly confirmed by the results of the DEA coordinated National Drug Take-Back

initiative in September 2010. During this one-day initiative, DEA, in partnership with its state and local law enforcement counterparts, collected more than 121 tons of unwanted or expired medications that had accumulated in homes all across the United States.

We are in the process of drafting regulations based on the authority granted to DEA in the Secure and Responsible Drug Disposal Act of 2010, but this will take at least 12 months to complete. Therefore, we will conduct another National Drug Take Back day in the spring of 2011 to provide the public with an avenue to dispose of unused and unwanted pharmaceuticals.

3. K2/Spice

I am increasingly concerned about a growing trend among youth smoking incense laced with currently legal synthetic compounds that supposedly mimic the effects of marijuana. Popular brand names for these products are "K2" and "Spice." This past June, David Rozga, an 18 year old recent high school graduate from Indianola, Iowa committed suicide shortly after smoking a package of "K2" with some of his friends. There have been numerous reports across the country of K2 users committing crimes while under the influence of K2, having to visit the emergency room as a result of smoking K2, and even some dying as a result of K2 use. Calls into poison control centers concerning these products have also dramatically increased in the past year.

a) Do you share my concern about the growing use of these products?

I share your concern about the growing use of synthetic marijuana. I utilized DEA's emergency scheduling authority to temporarily control five chemicals (JWH-018, JWH-073, JWH-200, CP-47,497, and cannabicyclohexanol) used to make "fake pot" products. This authority, contained in 21 USC 811(h), allows DEA to temporarily schedule substances if necessary to avoid an imminent hazard to the public safety. Except as authorized by law, this action will make possessing and distributing these chemicals or the products that contain them illegal in the U.S. for at least one year while the DEA and the United States Department of Health and Human Services (DHHS) further study whether these chemicals and products should be permanently controlled.

DEA's Notice of Intent to Temporarily Control was published in the *Federal Register* on November 24, 2010, to alert the public to this action. Any comments submitted by DHHS will be considered. After no fewer than 30 days (as required by statute), DEA will publish in the *Federal Register* a Final Rule to Temporarily Control these chemicals for at least 12 months with the possibility of a six-month extension. They will be designated as Schedule I substances, the most restrictive category under the Controlled Substances Act, which is reserved for unsafe, highly abused substances with no medical usage.

b) If confirmed, what actions will be taken by the DEA to limit or eliminate use of these products among young people?

I am committed to pursuing the statutory scheduling process for these substances, which includes a substantive research-gathering phase to make determinations on how best to proceed. I also welcome the opportunity to work with Congress to limit or eliminate the use of these substances for an illicit purpose.

Unfortunately, unscrupulous chemists and criminal groups often stay one step ahead of law enforcement by manipulating the molecular structure of controlled substances to create new drugs that are not specifically restricted by the CSA, thereby circumventing the provisions of the CSA.

DEA will continue to work with state, local and tribal officials, coalition groups, and community groups to help educate America's youth on the dangers of these and other substances.

4. Marijuana

According to the 2009 National Survey on Drug Use and Health marijuana remains the most abused illicit drug in America. Even more concerning is the growing evidence that use and abuse of marijuana among teens is increasing after years of declining. I am concerned that the DEA is facing growing challenges to enforce the nation's laws against marijuana due to state efforts to legitimize the drug for medical reasons.

On October 19, 2009, the Department of Justice issued a new memorandum for United States Attorneys regarding the investigation and prosecution of marijuana crimes in states that authorize the use of medical marijuana. This policy seemed to imply that federal law would not be enforced in certain instances.

a) Do you support efforts to decriminalize or legalize the use, production, or distribution of marijuana, for medical purposes or otherwise?

I support the Administration in its clear and steadfast opposition to legalization of marijuana.

b) Do you agree that federal law should be enforced for all violations of the Controlled Substance Act?

I support the Administration's commitment to enforce the CSA in all states. The CSA provides for classifying substances based on careful study and a sound scientific foundation. As the Acting Administrator, I remain concerned with any state actions that attempt to legalize schedule I controlled substances and believe that state legalization efforts lead to increased substance abuse.

c) Do you believe that this policy creates a conflict for the DEA to complete its mission?

I welcomed the issuance of the Department of Justice's October 2009 clarifying guidelines pertaining to the use of federal investigative and prosecutorial resources in states that have enacted laws authorizing the use of marijuana for medical purposes.

These guidelines do not legalize marijuana, which remains illegal under the federal law. As these guidelines point out, marijuana remains a top revenue source for the Mexican drug cartels that are wreaking havoc in Mexico and along the Southwest Border. Consistent with the DOJ guidelines, if confirmed, under my leadership, DEA will continue to identify and investigate illegal drug traffickers, including those that use "dispensaries" as a front. It has never been the policy of DEA to focus resources on individuals with serious medical conditions who comply with state laws authorizing the use of marijuana for "medical" purposes.

d) Do you believe that additional federal resources are needed to stop the growing use of marijuana?

The illegal distribution and sale of marijuana is a serious crime, and it provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. I assure this Committee that I will utilize DEA's limited resources wisely to get the maximum impact on disrupting and dismantling violent criminal organizations and significant drug traffickers. If confirmed, I will continue to assess resource needs and advocate for necessary resources in the budget process.

e) Will the DEA ramp up efforts to crack down on marijuana cultivation, trafficking, and use?

Consistent with the DOJ guidelines, if confirmed, under my leadership, DEA will continue enforcement activities against those who attempt to mask drug trafficking activities in the guise of marijuana for medical use and against those who would unlawfully market and sell marijuana for profit. I assure this Committee that I will utilize DEA's limited resources wisely to get the maximum impact on disrupting and dismantling violent criminal organizations and significant drug traffickers.

5. Money Laundering

The financing of drug cartels and terrorist organizations remains a top priority. I believe that more work needs to be done to reform our Nation's anti-money laundering laws to ensure we cut off the life blood of criminals, DTOs, and terrorist organizations—their financing. We need wide ranging reforms to curb abuses of our financial system that hide and transfer money from ill gotten gains. I plan to reintroduce comprehensive legislation to target the weaknesses in our current anti-money laundering laws. This legislation will restructure our anti-money laundering laws to stop new trends such as bulk cash smuggling and use of monetary instruments in blank or bearer form. It also prohibits unlicensed money transmitting businesses, and brings stored value instruments within the money laundering statutes.

a) Do you believe that efforts to combat illegal money laundering operations and bulk cash smuggling are integral to efforts to combat DTOs? Why or why not?

Yes. As the National Drug Control Strategy appropriately states: "Attacking the drug-trafficking organizations' profits, assets, and money laundering operations is a critical component of a comprehensive strategy."

Bulk cash smuggling is not a new trend. Cash wealth is the goal of drug trafficking organizations; however, the movement of cash also is vulnerable to strategic law enforcement efforts. The principal challenge to law enforcement is identifying illicit drug proceeds in the form of cash once it is no longer immediately identifiable as being from an illicit drug transaction. A major part of DEA's strategy is to trace the flow of this bulk drug cash to the command and control of international sources of supply.

If I am confirmed, targeting drug proceeds in the form of bulk cash and investigating to identify the source of the same will remain a top priority for DEA; however, DEA is not limiting its attack on illegal drug proceeds to just bulk drug cash. We recognize that the majority of illegal drug proceeds are not confiscated at their source and make it to the money laundering stage. To counter this threat, DEA is continuing to develop its anti-money laundering enforcement programs to identify and target the money managers of major international DTOs and the sophisticated money laundering organizations that service them

b) If you are confirmed, how will you coordinate with other government agencies to address money laundering and bulk cash smuggling?

If confirmed, I will continue DEA's history of coordinating and collaborating with other government agencies to address money laundering and bulk cash smuggling. I strongly support the interagency efforts of the DEA Special Operations Division, the Organized Crime and Drug Enforcement Task Force Fusion Center, and the El Paso Intelligence Center to specifically target the lifeblood of drug trafficking organizations—their illicit proceeds. Each of these entities is deeply involved in all of DEA's bulk cash and anti-money laundering initiatives and make the pursuit of illegal drug proceeds an integral part of every investigation or intelligence analytical package that they produce. To that end, I am fully committed to minimizing any duplication of effort and maximizing the use of the finite resources of the USG to achieve this objective.

c) Will you pledge to work cooperatively with Congress to ensure that our anti-money laundering laws are strengthened?

If confirmed, I pledge to work cooperatively with Congress in coordination with the Department of Justice to ensure that our anti-money laundering laws and Bank Secrecy Act regulations are strong. DEA has considerable experience and insight into the methodologies utilized by drug trafficking organizations and their money laundering operations.

6. DEA Budget

In the midst of this economic downturn, our country will face difficult budget decisions.

a) What programs at DEA would you fight to keep funded or seek increased funding?

DEA is a single mission agency; our job is to disrupt and dismantle the world's largest drug trafficking organizations and prevent them from bringing their drugs into the United States. DEA's workforce makes this possible. Our workforce is made up of people with a wide variety of responsibilities, specialties and skills; each is necessary and each makes an important contribution. DEA's Special Agents are on the front lines and, without their dedication and hard work, we simply could not accomplish our mission; therefore, they must be our highest priority. But to be effective, these agents need the support of intelligence analysts, chemists, tech specialists and others who provide IT support, buy equipment, execute our budgets and perform a number of other critically important support activities. It's important that all of the critical functions performed by DEA's workforce be performed if our front-line agents are to be effective. However, if faced with significant budget cuts, I would prioritize funding for our agents, analysts and other core positions and look for opportunities to find savings in the support areas of our budget.

b) What programs would you cut or deemphasize? Would these corresponding reductions in funding hinder the ability of DEA to complete its mission?

DEA has been experiencing tight budgets for a number of years and we have found ways to adjust to them as best we could. The primary tool we use to do this is Zero Based Budgeting (ZBB), a model for allocating resources that DEA adopted about four years ago. ZBB ensures that every year, every program and every expenditure is examined to ensure that it is necessary and that we are getting what we should from it. ZBB allows us to move money from one program to another, so that our highest priorities can be funded.

It is difficult to answer your question specifically about what programs we might cut without knowing the size of the budget cut you have in mind. However, I can tell you that I would be guided by the principle expressed above, i.e., that virtually all programs in DEA contribute to our core mission in one way or another. While believing this to be true, however, it is clear that some programs contribute more directly to our mission than others. If we have to make major budget cuts in the future, I will preserve funding for those programs that most directly contribute to our core mission and look for

opportunities to reduce spending in the supporting programs wherever possible. I would use ZBB to help me prioritize funding and understand the unique contribution of each program to the agency so we could identify the programs that could sustain a reduction without making a major, adverse impact on our core mission.

7. Performance-Enhancing Drugs/Steroids

I am concerned about a growing practice of steroids and other performance-enhancing drugs being masked as legitimate products. A popular trend among steroid dealers is to mask steroids as dietary supplements in order to avoid legal scrutiny and sell them over the internet. This practice is problematic for the DEA considering the limited ability of the agency to regulate dietary supplements and the time consuming process it takes to determine whether a new chemical falls under the jurisdiction of the Controlled Substances Act. Unfortunately, this practice can lead to dangerous consequences for legitimate supplement consumers who may be unaware that they are ingesting steroids.

a) What can DEA do to more effectively disrupt this practice?

If confirmed, I will continue in my commitment to protecting the health and welfare of the American people and pledge to work with Congress in coordination with the Department of Justice to ensure DEA has the proper tools to counter this threat. DEA continues to investigate and uncover dietary supplement products that contain either controlled anabolic steroids or designer steroids that are structurally similar to testosterone. Once found, DEA initiates a scientific review and analysis to determine if the substance meets the criteria for an administrative scheduling action. Depending on the substance, the administrative scheduling process may take many months and possibly years to complete. However, unscrupulous chemists take advantage of this lengthy administrative scheduling process as they continue to create and market products that contain chemicals which have never been adequately tested on humans. These substances may remain on the market for extended periods of time before government agencies become aware of the product and its associated adverse effects.

b) What can Congress do to help DEA in this effort?

With the passage of the Anabolic Steroid Control Act of 2004, Congress refined the definition in the original 1990 law (21 U.S.C. 802(41)(A)) to allow DEA to administratively classify additional steroids as schedule III anabolic steroids. The statute defines an anabolic steroid as a substance that is both chemically and pharmacologically related to testosterone; is not an estrogen, progestin or corticosteroid; and is not dihydroepiandrosterone (DHEA). Using this provision, DEA identifies substances marketed as anabolic products in the dietary supplement market and then conducts a chemical and pharmacologic analysis of the substance to determine if it is related to testosterone, conducts a comprehensive review of existing peer reviewed scientific literature and if necessary, conducts additional

pharmacologic testing to ultimately determine if the substance meets the criteria for a schedule III anabolic steroid. The scheduling process requires an interagency review, the publication of a Notice of Proposed Rulemaking, a review of public comments, and the publication of a Final Rule in the *Federal Register* that provides notice to the public and industry that the substance will be designated as a schedule III anabolic steroid. This process is conducted in accordance with the Administrative procedures Act and takes many months and possibly years to complete. There is no method, under the current statute, to expedite the scheduling process.

<u>8. Heroin</u>

According to the NDIC's 2010 Drug threat Assessment heroin production estimates from Mexico have increased 342% from 2004 through 2008. Accordingly, this increased production has led to an increase in heroin abuse and increases in heroin overdoses and overdose deaths in the U.S. There is also evidence that some prescription drug abusers are switching to heroin due to the drug's increased purity and lower prices.

a) Do you believe this increase in heroin production and use in the U.S. is a sign of Mexican cartels expanding operations into new drug markets?

Mexican drug trafficking organizations (DTOs) continue to dominate the U.S. drug market. Mexican drug trafficking organizations (DTOs) are polydrug and have long been involved in heroin trafficking, as well as with marijuana, methamphetamine, and cocaine trafficking. Mexican drug cartels have expanded their criminal enterprise by diversifying drug production and distribution operations, and their organizations distribute both significant quantities of South American heroin and domestically-produced heroin. South America continues to be the primary source of heroin shipped to the United States. Mexican heroin remains, for the most part, confined to markets west of the Mississippi River, and South American-source heroin is increasingly smuggled via the US-Mexico border. However, over the past five years, Mexican DTOs have begun to produce high quality heroin at competitive prices and assume a greater share of the US heroin market. The uptick in heroin overdoses and overdose deaths could also be explained by fluctuating purities, relapses by recovering addicts, and heroin use in conjunction with other illicit substances.

b) Do you believe any such expansion is a result of the cartels strengthening or weakening? Why or why not?

Mexican drug trafficking organizations (DTOs) are in a unique position to dominate the U.S. drug market due to their ready access to all major drugs of abuse. The polydrug nature of Mexican cartels is one reason why they are a dangerous and pernicious threat. With increasing heroin production in Mexico and the involvement of major Mexican DTOs in heroin trafficking, the amount of Mexican

heroin in the United States may well increase. In the late 1970s, heroin from Mexico dominated the US market but was then supplanted by Southwest Asian-origin heroin, then with heroin from Southeast Asia and, more recently, in the mid-1990s, by heroin from Colombia. Mexican DTOs have demonstrated their ability to effectively diversify drug operations and to develop new production and smuggling methods; they can be expected to increase control over the wholesale drug trade in the United States. Opium poppy eradication in Mexico declined between 2006 and 2009 due in part to the government of Mexico's use of military resources and personnel to combat the DTOs, provide security and enforcement in "hot spots" throughout the country, and identify and dismantle clandestine methamphetamine laboratories.

c) What actions would you take, if confirmed, to crack down on this increased production?

If confirmed, I will continue to direct DEA's resources and enforcement efforts toward disrupting and dismantling the command and control elements of major Mexican drug trafficking organizations that significantly impact the United States. Mexican Consolidated Priority Organization Targets (CPOTs) are closely linked with active priority target heroin investigations, with the Sinaloa Cartel accounting for approximately one-third of these cases.

Targeting CPOTs has proven to be effective. For example, Operation Xcellerator was a 21-month investigation targeting members of the Sinaloa Cartel that culminated in February 2009, had a significant destabilizing effect on the organization. Targeting of Mexican DTOs involved in heroin trafficking will continue. For example, an ongoing operation is targeting a Michoacán, Mexico-based DTO involved in the production of black tar heroin in Mexico, as well as the importation and distribution of the drugs from Mexico into the United States, with distribution networks in a variety of locations in the United States, including California, Washington, Texas and Illinois. To date, there have been 157 subjects arrested, 743 pounds of heroin and nearly $6.2 million seized under this operation.

I also will continue to work closely with Mexican counterparts to further develop the Drug Flow Attack Strategy in Mexico to focus on the criminal organizations, their communications and logistics related to the production, manufacture, transportation and distribution of heroin. DEA will provide training and resources and exchange information under the provisions of the Merida Initiative which has proven successful for the transfer of critical law enforcement investigative information within and between regional governments.

9. Southwest Border

Drug trafficking and violence along the Southwest Border continues to threaten the security of both the United States and Mexico. As a result, the governments of both countries continue to work for the expansion of coordinated intelligence sharing and joint strategic, intelligence-driven plans.

a) What do you believe have been the most productive programs and/or steps taken by the U.S. Government to expand intelligence sharing?

Currently, DEA has several programs to address intelligence sharing that I believe are most productive:

- **The Southwest Border Intelligence Collection Plan (SWBICP), provides operational, tactical, strategic, and policy-level intelligence used to support investigations, regional planning, and resource decision-making.**

- **The DEA Special Operations Division (SOD) facilitates coordination and communication amongst law enforcement entities and ensures that tactical and operational intelligence is shared.**

- **DEA Task Forces, OCDETF Strike Forces and HIDTA Task Forces have had enormous success dismantling major Mexican drug trafficking organizations linked to Mexico-based cartels.**

- **The OCDETF Fusion Center (OFC) provides investigative and operational intelligence support to OCDETF investigations through the development of organizational target profiles and the development of specific investigative leads.**

- **DEA's Drug Flow Attack Strategy (DFAS) is an innovative, multi-agency strategy, designed to disrupt significantly the flow of drugs, money, and chemicals between source zones and the United States by attacking vulnerabilities in the supply chains, transportation systems, and financial infrastructure of major drug trafficking organizations.**

- **The El Paso Intelligence Center (EPIC) is a national tactical intelligence center that focuses its efforts on supporting law enforcement efforts in the Western Hemisphere, with a significant emphasis on the SWB.**

b) What problems has the DEA encountered in coordinating these and other programs designed to combat violence and narcotics trafficking? What do you see as the most effective steps needed to resolve these problems?

I am committed to working within the U.S. Government and with the Government of Mexico (GOM) to overcome any challenges to ensure DEA and Mexican law enforcement officials work cooperatively and seamlessly to disrupt and dismantle drug trafficking organizations. DEA currently enjoys an excellent working relationship with the current Mexican administration of President Calderon. Through the Merida Initiative, DEA, partnering with

the Department of State, along with other federal law enforcement components of the United States Government, provide much needed assistance to the Mexican Government in its fight against the powerful drug cartels.

Although a variety of challenges exist in establishing a streamlined system, several important steps have been taken to enhance bilateral intelligence sharing capabilities. For example, the Mexican Fusion Center (led by DNI with DEA) is a US interagency center responsible for developing intelligence relating to high value targets for action by the GOM. This platform was critical in targeting and apprehending several key Mexican drug trafficking organizations during the past year.

DEA and the U.S. interagency is challenged by corruption and the limited capacity of the GOM to investigate and prosecute the major DTOs in Mexico. However, programs such as the DEA Sensitive Investigative Unit (SIU) program and other Plan Merida initiatives will provide the foundation for building strong and trustworthy security forces in Mexico.

10. Mexican Drug Related Violence

In Mexico, the rise in violence and the need to dedicate government personnel and assets to curbing the violence, has led to a rise in drug cultivation in unsecured areas of that country over the past few years.

a) What programs are being implemented by the DEA to address this rise in drug production and cultivation?

DEA works closely with the Government of Mexico (GOM) to target illegal drug cultivation and production in Mexico. During the past year, GOM police and security forces have increased their seizures of clandestine laboratories utilized to manufacture large quantities of methamphetamine and confiscated large shipments of precursor chemicals, solvents and derivatives utilized to produce meth.

GOM Marijuana eradication efforts were reduced as the result of the Mexican military's involvement in restoring public security at various hot spots throughout the country. This mission required that forces traditionally involved in the eradication effort be reassigned to support public security functions.

b) What additional programs do you think should be implemented to best address this situation?

DEA will continue to provide clandestine laboratory and chemical recognition training to the Government of Mexico (GOM) and increase the detection and eradication capabilities of the GOM. DEA also will continue to work closely with the GOM and U.S. interagency partners to ensure that the

objectives of the Merida Initiative are achieved and together, we build strong and effective institutions to support the rule of law throughout Mexico.

11. Corruption in Mexico

Corruption among Mexican officers and government officials has been a serious problem and has been an impediment to reform in the past. The Government of Mexico has been active in instituting judicial and institutional reforms to help fight corruption and I commend them for their efforts.

a) What is the status of these reforms and are they making a difference?

In April 2009, in response to a request by the Government of Mexico (GOM), DEA provided a list of recommendations to the Attorney General of Mexico (PGR)/ Assistant Attorney General for Special Investigations and Organized Crime (SIEDO) focusing on; internal security, operational security, physical security, organizational efficiency, process efficiency and reinforced productivity. SIEDO instituted many of the recommendations, including the improvement of the case management system in an effort to reduce corruption and improve the integrity of its criminal justice system.

Furthermore, the GOM passed new judicial reforms to address organized crime and corruption to include;

- **wire communication intercept authority to the Federal Police (SSP) in order to conduct judicial and intelligence wire intercepts to investigate and address all types of federal crimes, including drug trafficking,**
- **legislation to control the sale of Phenyl Acidic Acid, Pseudoephedrine, and other precursor chemicals utilized in the manufacture of methamphetamine and other illicit drugs,**
- **formal authorization to GOM Armed Forces to assist GOM law enforcement in operations targeting DTOs and to provide security to states,**
- **money laundering legislation (SARS for financial institutions and the mandatory sharing of property records by states to Federal Government.**

These are newly instituted reforms that will take some time before any measurable outcomes can be assessed.

b) What programs have been provided by your agency to help reduce corruption among Mexican officials?

Our ability to operate in these challenging environments is made possible principally through our Sensitive Investigative Unit (SIU) programs. The mission of the SIU program is to cooperatively train, equip, and support specialized units within host nation police forces and military commands with law enforcement authority, in order to develop and share intelligence to target, disrupt, dismantle and prosecute major international drug trafficking organizations impacting the United States. SIU members undergo robust background investigations and polygraph examinations.

c) What additional programs are being implemented in the future to help the Government of Mexico implement the reforms?

The SIU program is the foundation for building an effective and trustworthy unit capable of conducting complex investigations targeting major Mexican DTO's. The additional programs, funded by Merida, facilitate anti-corruption and police professionalization efforts on a broader context. For example, development of basic and complex narcotics investigations curriculum for all Mexican police, and establishing an effective internal affairs and police integrity program are examples of key reform programs which DEA is currently supporting.

12. Afghanistan

Afghanistan produces approximately 90 percent of the world's opium with an estimated value of over 3 billion dollars. The DEA plays a vital role in the U.S. effort to combat drug trafficking in that country and recently executed a series of major heroin drug and clandestine lab seizures in Afghanistan.

a) What do you believe were the most effective aspects of this operation that should be replicated for successful future operations?

If confirmed, I will continue to identify and replicate best enforcement practices. In Afghanistan, DEA works bi-laterally with our Afghan counterparts and in coordination with International Security Assistance Force (ISAF) to identify, target, and disrupt/dismantle the most significant Drug Trafficking Organizations (DTOs) by attacking the vulnerabilities in the leadership, the production, the transportation, the communications, the finances, and by driving a wedge between the insurgency/Taliban and DTOs based in Afghanistan and the region. One of the most important keys to successful operations is the capabilities of our host nation partners. DEA was instrumental in the initial and continued development of three specialized units of the Counter-Narcotics Police – Afghanistan (CNP-A); the National Interdiction Unit (NIU), the Sensitive Investigative Unit (SIU), and the Technical Investigative Unit (TIU). DEA will continue to guide, mentor, and develop these specialized units. The DEA is also committed to increase the integration and synchronization of intelligence-driven targeting operations through participation in such vehicles as the Northern Route

Working Group, the Major Crimes Task Force (MCTF) and the Interagency Operations Coordination Center (IOCC).

b) What are some of the biggest impediments to conducting effective interdiction operations? What programs would be the most helpful in addressing these impediments?

Since 2008, DEA has expanded the staff of its Kabul Country Office from 13 permanent positions to 82 permanent positions. This expansion effort was funded through supplemental appropriations and transfer funding from the Department of State (DoS). These personnel are forward-deployed throughout Afghanistan, to include Kabul, Helmand, Kandahar, Herat and Konduz.

Some impediments to joint interdiction operations include aviation support. Although the U.S Military (USMIL) and Department of State have provided significant assistance with airlift, these aircraft are already heavily committed. This has delayed past DEA/NIU enforcement operations for several months due to the lack of rotary wing support. Currently, DEA, specifically the Foreign-deployed Advisory Support Teams (FAST), rely heavily on USMIL/ISAF for air support. With the anticipated draw down of USMIL forces next year, aviation support will likely diminish.

By way of background, in June 2010, DEA requested $92 million to purchase and equip six Sikorsky S-61 helicopters. This decision was based on prior discussions between DEA and the DoS's Bureau of International Narcotics and Law Enforcement Affairs/Aviation (INL/A) that concluded the S-61s are the best option for meeting DEA's long-term operational requirements in Afghanistan.

In August 2010, DEA transferred $33 million to DoS for two S-61 helicopters. Each S-61 costs approximately $15 million and the remaining $3 million was used for spare parts. DoS ordered the two aircraft and plans to have them operational in Afghanistan within 12 months.

During recent testimony before the U.S. Senate Committee on the Judiciary, Attorney General Holder firmly acknowledged the lack of adequate helicopter air lift capacity afforded DEA in Afghanistan and the paralyzing effect this has on counternarcotics operations.

Another impediment to effective enforcement operations is the lack of an extradition treaty or some other judicial mechanism to prosecute and incarcerate the highest level international drug traffickers operating throughout Afghanistan. In fact, extradition to the United States is the biggest fear of most High Value Targets.

Currently, the government of Afghanistan has a draft extradition law under review by their parliament. This draft extradition law has several fundamental flaws which are not complimentary to DEA's mission. The international community, to include the United States (DOJ, DoS and DoD), is in negotiations with the Government of Afghanistan to amend and change these provisions before passage but the end result is still unclear as of February 2009.

In an effort to leverage the unique extraterritorial powers of Title 21 U.S.C. sections 959 and 960a, DEA's Special Operations Division (SOD) created two field enforcement groups - the Bilateral Investigations Unit and the Terrorism Investigations Unit, as fully functioning field groups housed at SOD, collectively referred to as SOD's Field Enforcement Section (OSN).

The unique nature of these investigative groups stems from their mission to bring indictments against significant foreign-based drug traffickers, narco-terrorists, and transnational criminals based on these powerful extraterritorial laws. Practically, this mission differentiates the OSN enforcement groups from most other DEA field groups in that it requires extensive foreign temporary duty and regularly brings complex U.S. indictments against foreign based targets that are not vulnerable to traditional drug conspiracy charges.

Additionally, the Afghan Sensitive Investigative Unit (SIU) requires enhancements to the current Judicial Wire Intercept Program (JWIP) system to further exploit the vulnerabilities of the Drug Trafficking Organizations operating throughout Afghanistan and the region.

Further, the continued successes of the Afghan Counter Narcotics Police – Afghanistan (CNP-A) units are dependent upon thorough initial security and integrity polygraph testing, combined with periodic retesting of personnel. It is important that the CNP-A develop its own capacity for conducting polygraphs. The programs developed for the CNP-A will mirror the training and standards followed by all of U.S. Federal law enforcement agencies, including DEA.

13. West Africa

Due to porous borders and weak governments, West Africa is increasingly being used as a transshipment point by Central and South American Drug Trafficking Organizations. Members of these organizations are able to move around freely, with little fear of having their operations disrupted. This is leading to further to further destabilization and insecurity in the region.

a) What assistance and programs are currently in place or are being considered that will help the countries address the rise in drug trafficking in their countries?

I share the concern that West Africa is increasingly being used as a transshipment point by Central and South American drug trafficking organizations. Under my leadership, DEA recently expanded its presence in West African and now maintains offices in four offices established on the continent of Africa (Nigeria, Ghana, Egypt & South Africa), and is anticipating opening an office in Kenya in FY 2011. Since August 2010, DEA senior leadership has traveled to West Africa on multiple occasions and met with Liberian President Ellen Johnson-Sirleaf and National Security Advisor Fomba Sirleaf as well as Ghanian Minister of Justice and Attorney General Betty Mould-Iddrisu. Discussions centered on continued collaboration and commitment on behalf of the DEA as well as the implementation and expansion of existing programs, such as information sharing, training and vetted units. In addition, in September, I met with General William" Kip" Ward, Commander, U.S. Africa Command, to discuss various issues of mutual interest, to include assigning a DEA liaison officer to AFRICOM. While DEA is increasing its presence in Africa, a critical part of DEA's overall Africa strategy calls for broad interagency support from U.S. government partners for assistance in capacity building and mentoring programs with African law enforcement counterparts.

For DEA's part, several recent initiatives are noteworthy:

- **In July 2010, DEA established the first law enforcement vetted unit in Africa. The Accra, Ghana-based vetted unit is already identifying and targeting the most significant DTOs operating in West Africa and will serve as a model for other countries in the region.**

- **In the last two years, DEA has led multilateral investigations in Senegal, Liberia, Sierra Leone, Ghana, Togo and Nigeria, which have resulted in the expulsion of over a dozen high-level South American and West African drug trafficking operatives, to include three suspected members of the terrorist group Al Qaeda in the Islamic Magreb, to face drug charges in the U.S.**

- **DEA has leveraged its leadership role in global counternarcotics efforts to encourage and facilitate increased intelligence-sharing and operational planning between African and South American law enforcement counterparts.**

b) What are some of the biggest impediments to conducting effective interdiction operations designed to stop drug shipments from reaching Africa?

The versatility of transnational criminal organizations is well-known, as is their penchant for finding and exploiting vulnerable regions of the world to further their illicit activities. Unfortunately, Africa is such a place, with its strategic geographic location, and, in many instances, weak governments, endemic corruption, and ill-equipped law enforcement agencies.

As such, the biggest impediments are:

- **the geographic scope of Africa, which presents a daunting challenge in that it is beyond a single government's capacity to monitor the vast Atlantic coastline**
- **endemic corruption throughout West African nations presents a crucial challenge in the development of prosecutable criminal cases**
- **West African law enforcement agencies are under-staffed, poorly-trained and poorly-equipped**
- **many West African central governments are dealing with significant social issues and civil conflicts, and as such, drug law enforcement is often not a priority issue for government leaders.**

If confirmed, I will ensure that DEA works cooperatively to leverage the resources and expertise of our interagency partners. At present, DEA works closely with its U.S. law enforcement, military, intelligence, and diplomatic counterparts to counteract the wave of drug-related crime impacting many African nations.