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CONFIRMATION HEARING ON THE NOMINATION OF ASA HUTCHINSON TO BE ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

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CONFIRMATION HEARING ON THE NOMINATION OF ASA HUTCHINSON TO BE ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION

TUESDAY, JULY 17, 2001

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The committee met, pursuant to notice, at 10:06 a.m., in room SD–226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senators Leahy, Biden, Feingold, Durbin, Hatch, Specter, DeWine, and Sessions.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

Chairman LEAHY. Good morning. The committee today is going to consider the nomination of Asa Hutchinson. Mr. Hutchinson is a distinguished Member of the House of Representatives, and he has been nominated by President Bush to serve as head of the Drug Enforcement Administration.

Many of us on the committee know Representative Hutchinson well from his service within the House Judiciary Committee, where he has earned the respect of his peers from both sides of the aisle. Indeed, 14 of the committee's Democrats wrote me in support of his nomination, and the chairman and ranking member of the House Judiciary Committee have strongly supported his nomination. Now, their support does not surprise me. I have known Asa Hutchinson for a number of years. I know him as a man of integrity and intelligence who is committed to reducing drug abuse in this country.

Representative Hutchinson has been deeply involved in drug issues as both a United States Attorney in Arkansas in the 1980's and as a House Member. In addition to serving on the House Judiciary Committee, he is a member of the Committee on Government Reform's Subcommittee for Criminal Justice, Drug Policy, and Human Resources, has served on the Speaker's Task Force for a Drug Free America. He has reviewed Plan Colombia as a member of the Permanent Select Committee on Intelligence.

Representative Hutchinson and I have similar views about some of the drug issues facing the United States, and I am sure we will occasionally have differing views about others. I will discuss some of the issues that I believe are important, and I look forward to hearing his testimony and his responses.

Drug abuse has become an increasingly serious problem even in my own State of Vermont. Indeed, although Vermont has historically had one of the lowest crime rates in the Nation, its crime rate rose 5 percent last year as the national rate held steady, and drug crimes have increased by 7 percent. Recent estimates show that heroin use in Vermont has doubled in just the past 3 years, and the number of people seeking drug treatment has risen even more rapidly. The average age of a first-time heroin user dropped from 27 to 17 during the 1990's, a very frightening thing to every parent in Vermont. This has signaled the sharp rise in teenage drug abuse.

Earlier this year, to give one example, Christal Jones, a 16-year-old girl from Burlington, Vermont, was murdered in New York City. According to the reports, she was recruited in Burlington to move to New York and become part of a prostitution ring to earn money to feed her heroin habit. When she died, drugs were found in her body, although that was not the cause of her death. Murder was. Christal Jones' tragedy apparently is not unique. As many as a dozen Vermont girls may have been involved in this New York ring. And since her death, others have come forward to say that teenage girls in Burlington are prostituting themselves to get money to buy heroin.

Now, when we look at the drug problems facing Vermont and all of our States, we find the same thing. It seems clear there is a shortage of drug treatment. All of us serving on this committee know that the answer is not just law enforcement alone, even though that is such a significant and important part of it. Senator Hatch and I have joined together with a bipartisan coalition of Senators on this committee to introduce S. 304, the Drug Abuse Education, Prevention, and Treatment Act. Both Senator Hatch and I agree that as important as law enforcement is in battling drug abuse, it does not solve our drug problem alone. The bill would provide millions of dollars not only in my State but all 50 States for programs to offer treatment for people addicted to heroin and other drugs, hopefully to prevent them from using illegal drugs in the first place.

Donnie Marshall, whom Asa Hutchinson would be succeeding as head of the DEA, testified before this committee in March that treatment and prevention efforts play a vital role in assisting law enforcement. I hope the new director will take a similar view.

I have a number of other concerns about our current drug policies. I am increasingly skeptical about the need for and fairness of mandatory minimum sentences, and I am pleased that we have not imposed mandatory minimums in S. 304, and I compliment Senator Hatch for that. I hope we can begin to look at amending existing law to reduce our use of them. A 1997 study by the RAND Corporation of mandatory minimum drug sentences found that "mandatory minimums are not justifiable on the basis of cost-effectiveness at reducing cocaine consumption, cocaine expenditures, or drug-related crime." Despite this study and the mounting evidence of prison overcrowding, legislators continue to propose additional mandatory minimums. I know that Representative Hutchinson has expressed some hesitancy about expanding mandatory minimums, and I hope we can work together.

He has also expressed concerns about the sentencing disparity between those convicted of offenses involving crack and powder cocaine. Current Federal sentencing guidelines treat one gram of crack cocaine and 100 grams of powder cocaine equally for purposes of determining sentences. I don't think that is justifiable. Unfortunately, Congress has not followed the recommendation of the U.S. Sentencing Commission, which also found it not justifiable.

Last, I want to see how Federal law enforcement will address the tension between Federal power and States' rights in those States that have adopted laws permitting marijuana to be used for medicinal purposes.

I will put the rest of my statement in the record because I know that the distinguished senior member of the Republican side of this committee has a conflict with the Finance Committee, so I would yield to Senator Hatch.

[The prepared statement of Senator Leahy follows:]

STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT

The Committee will today consider the nomination of Asa Hutchinson, a distinguished Member of the House of Representatives, to serve as head of the Drug Enforcement Administration. Many of us on the Committee know Representative Hutchinson well from his service with the House Judiciary Committee, where he has earned the respect of his peers from both sides of the aisle. Indeed, 14 of the Committee's Democrats wrote me in support of his nomination, and the Chairman and Ranking Member of the House Judiciary Committee are here today to introduce him. Their support does not surprise me, as I know that Asa Hutchinson is a man of integrity and intelligence who is committed to reducing drug abuse in this country.

Rep. Hutchinson has been deeply involved in drug issues as both a United States Attorney in Arkansas in the 1980s and as a House member. In addition to serving on the House Judiciary Committee, he is a member of the Committee on Government Reform's Subcommittee for Criminal Justice, Drug Policy, and Human Resources, has served on the Speaker's Task Force for a Drug Free America, and has reviewed Plan Colombia as a member of the Permanent Select Committee on Intelligence.

Rep. Hutchinson and I have similar views about some of the drug issues facing the United States, and I am sure we will occasionally have differing views about others. I will discuss some of the issues that I believe are important in my statement today, and look forward to hearing Rep. Hutchinson's testimony and his responses to Committee members' questions.

Drug abuse has become an increasingly serious problem in my State of Vermont. Indeed, although Vermont has historically had one of the lowest crime rates in the nation, its crime rate rose 5 percent last year as the national rate held steady, with drug crimes increasing by 7 percent. Recent estimates show that heroin use in Vermont has doubled in just the past three years, and the number of people seeking drug treatment has risen even more rapidly. The average age of a first-time heroin user dropped from 27 to 17 during the 1990s, signaling a sharp rise in teenage drug abuse.

Earlier this year, Christal Jones, a 16-year-old girl from Burlington, was murdered in New York City. According to news reports, she was recruited in Burlington to move to New York and become part of a prostitution ring, so she could get money to feed her heroin habit. When she died, drugs were found in her body, although they were not the cause of her death. Christal Jones' tragedy apparently is not unique - as many as a dozen Vermont girls may have been involved in this New York ring. And since her death, others have come forward to say that teenage girls in Burlington are prostituting themselves to get money to buy heroin.

In looking at the drug problems facing Vermont and all of our States, it seems clear that there is a shortage of drug treatment. In response to that shortage, Senator Hatch and I have joined together with a bipartisan coalition of Senators on this Committee to introduce S. 304, the Drug Abuse Education, Prevention, and Treatment Act. Senator Hatch and I agree that as important as law enforcement is in battling drug abuse, it cannot solve our drug problems alone. This bill would provide

millions of dollars for my State and all 50 States for programs to offer treatment for people addicted to heroin and other drugs and to prevent people from using illegal drugs in the first place. The legislation provides Federal funding specifically directed to drug treatment in rural States like Vermont, residential treatment centers for mothers, drug treatment programs for juveniles, and drug courts for juvenile and adult offenders. It also includes funding for drug treatment programs in prisons and jails, to help break the cycle of recidivism that so often accompanies drug-related crime.

Donnie Marshall, whom you would be succeeding as head of the DEA, testified before this Committee in March that treatment and prevention efforts play a vital role in assisting law enforcement. I hope that you will take a similar view and offer your support for the proposal that Senator Hatch and I have made.

In addition to my interest in placing a higher Federal priority on drug treatment, I have a number of other concerns about our current drug policies. First, I am increasingly skeptical about the need for and fairness of mandatory minimum sentences. I am pleased that we have not imposed mandatory minimums in S. 304, and I hope that we can begin to look at amending existing law to reduce our use of them there. A 1997 study by the RAND Corporation of mandatory minimum drug sentences found that "mandatory minimums are not justifiable on the basis of cost effectiveness at reducing cocaine consumption, cocaine expenditures, or drug-related crime." Despite this study and the mounting evidence of prison overcrowding we have seen in the ensuing years, legislators continue to propose additional mandatory minimums. I know that Rep. Hutchinson has expressed some hesitancy about expanding mandatory minimums, and I hope we can work together on this issue.

The nominee has also expressed concerns about the sentencing disparity between those convicted of offenses involving crack and powder cocaine. Current Federal sentencing guidelines treat one gram of crack cocaine and 100 grams of powder cocaine equally for purposes of determining sentences. The U.S. Sentencing Commission has previously recommended equalizing these penalties by reducing the mandatory minimum penalties that currently apply to crack offenses. Unfortunately, Congress has not followed that recommendation. Finding a fair solution to this problem has been stalled by concerns that addressing this issue is too politically perilous—this Congress should overcome those fears and solve this discrepancy.

Finally, I am concerned about how Federal law enforcement will address the tension between Federal power and States' rights in those States that have adopted laws permitting marijuana to be used for medicinal purposes. The Supreme Court recently decided in *U.S.* v. *Oakland Cannabis Buyers' Cooperative* that there is no medical necessity defense under the Controlled Substances Act, at least for the manufacture and distribution of marijuana. This decision has created a conflict in those States with medical marijuana laws, as—Federal law criminalizes conduct condoned under State law. Although I have not endorsed those medical marijuana initiatives, I am curious as to what balance our law enforcement officials will strike between our Federal drug laws and our commitment to State sovereignty, and I would appreciate hearing any thoughts our nominee may have on this question.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you so much, Senator Leahy.

I certainly join with Senator Leahy in welcoming Congressman Hutchinson, his wife, and his family here today. We are very proud of you. You are good people, and we are grateful that you are willing to serve in this capacity.

Earlier this year, President Bush announced that his administration will "wage an all-out effort to reduce illegal drug use in America." Considering the growing amount of illicit drugs flooding into America each year and the increasing pervasiveness of drug use among our youth, I welcome President Bush's commitment. And today we will consider the nomination of a person who, as Administrator of the Drug Enforcement Administration, will help spearhead the President's efforts in this regard.

I want to begin by taking a moment to thank the outgoing DEA Administrator, Donnie Marshall, for his service to this country. In the course of his distinguished 32-year career with the DEA, he

rose from special agent to the highest position in the agency. Countless times he made himself available to this committee for hearings, and under his direction, the DEA played a helpful role in our successful effort to pass meaningful drug legislation. So, while I know Mr. Marshall is not here today, I want him to know how appreciative we are of his service to our country.

Congressman Hutchinson, in my view, the President has picked the right person to succeed Administrator Marshall.

DEA needs a dynamic, innovative, and experienced leader, and I am confident that, Congressman Hutchinson, your past experiences prosecuting drug crimes as a United States Attorney and formulating drug policy as a Congressman have prepared you, and prepared you well, to take the helm of the DEA. I applaud President Bush for focusing intently on this crucial issue and for his excellent choices of nominees to head America's two most important anti-drug offices, the DEA and ONDCP.

The epidemic of illegal drug use in this country remains one of our most urgent priorities. I believe all of us here today will agree that we need a comprehensive strategy embracing both demand and supply reduction in our struggle against drug abuse. I have said repeatedly that the time has come to increase the resources we devote to preventing people from using drugs in the first place and to breaking the cycle of addiction for those whose lives are devastated by these circumstances. This is a bipartisan view, which I am pleased to say is shared by our President and by our chairman of this committee, Senator Leahy.

To address this deficit in demand reduction, earlier this year I was joined by Senators Leahy, Biden, DeWine, Thurmond, and Feinstein in introducing S. 304, the Drug Abuse Education, Prevention, and Treatment Act of 2001. Since its introduction, S. 304 has received strong widespread support from Federal and State law enforcement agencies, prevention and treatment entities, and community groups. What has brought these groups together? The realization that this legislation will ultimately help to cut supply by reducing the demand for drugs by preventing our youth from using drugs in the first place and by treating those who are the most consistent and addicted users.

However, let there be no misunderstanding of our intent with this legislation. While we need to shore up the resources dedicated to prevention and treatment, we remain committed to the necessary and integral role law enforcement plays in combatting drug use.

Congressman Hutchinson, I know you are acutely aware of the enormity of this problem, this drug problem that our Nation faces. In my opinion, the previous administration lost ground primarily because it failed to make the issue of drug use a national priority.

All Americans should be encouraged that this administration will correct this mistake. The President has taken a fresh look at how to lower drug use in America and is ready to employ effective law enforcement strategies supported by education, prevention, and treatment programs that are science-based and have been proven effective.

Congressman Hutchinson, I know that you share my concerns and all of our concerns up here, and I am interested in your

thoughts on these issues. I commend Chairman Leahy for holding this very important confirmation hearing, and I urge him to schedule in the near future a hearing for John Walters, the nominee for Director of the Office of National Drug Control Policy. It is important that the DEA and the ONDCP have effective leadership, especially now that we are heading into this appropriations season. Once the top positions of both the DEA and ONDCP have been filled, we can all begin to work together to effect real change that will benefit all Americans.

Let me just say that I can only be here part of the time because of the markup in the Finance Committee and the reorganization of the Finance Committee, so I will have to leave. But I will try and get back as much as I can. But I certainly respect you very, very much. I think we all do. And we look forward to working closely with you and helping you every step of the way. And I believe you will make a tremendous difference in this country and I look forward to working with you.

Thank you, Mr. Chairman.

[The prepared statement of Senator Hatch follows:]

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

I'd like to join Senator Leahy in welcoming Congressman Hutchinson here today. Earlier this year, President Bush announced that his Administration will "wag[e] an all-out effort to reduce illegal drug use in America." Considering the growing amount of illicit drugs flooding into America each year and the increasing pervasiveness of drug use among our youth, I welcome President Bush's commitment. And today we will consider the nomination of a person who, as Administrator of the Drug Enforcement Administration, will help spearhead the President's effort.

I want to begin by taking a moment to thank the outgoing DEA Administrator, Donnie Marshall, for his service to this country. In the course of his distinguished 32 year career with the DEA, he rose from special agent to the highest position in the agency. As Administrator, he was committed to his agency's mission, and what is more, he took a personal interest in working to educate our youth about the dangers of drugs. Countless times he made himself available to this Committee for hearings, and under his direction, the DEA played a helpful role in our successful effort to pass meaningful drug legislation. So, while I know Mr. Marshall is not here today, I want him to know how appreciative we are of his service.

Congressman Hutchinson, in my view, the President has picked just the right person to succeed Administrator Marshall.

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The epidemic of illegal drug use in this country remains one of our most urgent priorities. I believe all of us here today will agree that we need a comprehensive strategy embracing both demand and supply reduction in our struggle against drug abuse. I have said repeatedly that the time has come to increase the resources we devote to preventing people from using drugs in the first place and to breaking the cycle of addiction for those whose lives are devastated by these substances. This is a bipartisan view, which I am pleased to say is shared by our President and by my colleague, Chairman Leahy.

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However, let there be no misunderstanding of our intent with this legislation. While we need to shore up the resources dedicated to prevention and treatment, we remain committed to the necessary and integral role law enforcement plays in combating drug use. The DEA has a long, distinguished history of protecting America's citizens from the destructive drugs sold by traffickers and the attendant violence. Particularly in today's world, where drug trafficking is an international, multibillion dollar business, DEA's cooperative working agreements with foreign source and transit countries are essential in preventing illegal drugs from being smuggled into the United States. Moreover, the DEA provides needed training and support to State and local law enforcement agencies in the investigation of drug trafficking and manufacturing cases. For example, DEA plays a vital role in methamphetamine lab detection and cleanup. Without the DEA's assistance, State and local law enforcement agencies would lack the knowledge and resources necessary to investigate and cleanup methamphetamine labs safely.

Congressman Hutchinson, I know you are acutely aware of the enormity of the drug problem our country faces. According to national surveys, since 1990, the number of first time users of marijuana has increased by 63 percent, of cocaine by 37 percent, of hallucinogens, including ecstasy, by 91 percent, and of stimulants by 165 percent. The use by teens of so-called "designer drugs," such as Ecstasy and GHB, is soaring. Last year, annual use of ecstasy among 10th and 12th graders rose sharply, an increase of 33 percent and 55 percent respectively. It is simply shocking that by the time of graduation, over 50 percent of our youth have used an illicit drug.

These figures are especially frustrating when one considers that from 1980 to 1992, we had made significant progress in curbing drug use. For example, between 1985 and 1992, there was a reduction of almost 80 percent in cocaine use. In my opinion, the previous Administration lost ground primarily because it failed to make the issue of drug use a national priority.

All Americans should be encouraged that this Administration will correct that mistake. The President has taken a fresh look at how to lower drug use in America and is ready to employ effective law enforcement strategies supported by education, prevention, and treatment programs that are science-based and have been proven effective. I agree with the President that if we focus more of America's attention, energy and resources on the problem of drug abuse, we can make real progress.

Congressman Hutchinson, I know that you share my concerns, and I am interested in your thoughts on these issues. I commend Chairman Leahy for holding this very important confirmation hearing, and I urge him to schedule in the near future a hearing for John Walters, the nominee for Director of the Office of National Drug Control Policy. It is important that the DEA and ONDCP have effective leadership, especially now that we are heading into the appropriations season. Once the top positions at both the DEA and ONDCP have been filled, we can all begin to work together to effect real change that will benefit all Americans.

Chairman LEAHY. Thank you.

Just so that the nominee can hear all the nice things that would probably be said at his funeral, for those who have suggested that that is what this hearing might be, because Congressman Hutchinson and I were on opposite sides during a major event in the Congress, the impeachment trial in the Senate, where he was named prosecutor and I was one of the, for want of a better word, defense counsel. The two of us handled a number of the depositions together. I would note for the record that throughout that time, notwithstanding the fact we were on opposite sides, Congressman Hutchinson's word was gold with me. He never broke his word. He never showed anything but the highest integrity and the highest standards of the Congress.

But to continue with the statements, I have to assume that the next person to speak, the senior Senator from Arkansas, is in favor of the nominee, although I have not asked him. So I would ask Congressman Hutchinson's brother, the Senator from Arkansas, Senator Tim Hutchinson, to speak. Go ahead, sir.

STATEMENT OF HON. TIM HUTCHINSON, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator HUTCHINSON. Thank you, Mr. Chairman, and I want to thank you, after our reorganization, for so expeditiously scheduling the confirmation hearing for Asa. And thank you for the opportunity to say a few words of introduction.

I know Senator Lincoln and I have during the Clinton administration years had lots of opportunities to introduce Arkansans who were being nominated for various positions, and it was always an honor to do that. But this is very special to be able to introduce not only a great Congressman from Arkansas but my brother, and I want to say, Senator Biden and Senator Feingold, I have resisted enormous constituent pressure from Arkansans who have urged me to put a hold on his nomination and do everything I could to block it.

[Laughter.]

Senator HUTCHINSON. Because they are going to miss him in the 3rd District. It is a great honor and it is a proud day for the State of Arkansas, and it is especially a proud day for me.

From the introductory opening statements, I know that the committee is already familiar with Asa professionally. You know his work as United States Attorney, and he was a distinguished United States Attorney and did a wonderful job and held the respect of the FBI and the DEA and all of the law enforcement agencies with which he worked in that position and his familiarity with the drug issue in our country and our society because of is role as United States Attorney.

I know you are familiar with his work in Congress, not only as a fair Impeachment Manager but as somebody who on the Judiciary Committee in the House has been very, very involved in this issue and has shown his concern not only through legislation but through his travels, through his work on the task force in the House on this issue.

So let me just speak a little bit about some of his personal qualities, things that I know, not just as the senior Senator from Arkansas but as Asa's brother.

I can assure you that he is going to be aggressive and hard-working and tireless in this job. Every position Asa has ever held, every position, every activity he has been involved in, he has brought the quality of aggressiveness, a great work ethic, and just tireless. And I think that you are going to see that, and I think that is the kind of person that we need in this position.

Let me also say that he brings the quality of being ale to unify people, and that is something that in the effort on the drug issue we desperately need, because there are so many competing viewpoints, so many varying ideas. And Asa has always had the capacity to bring those with varying viewpoints to find common ground, to find common interests, and be able to bring people in a spirit of cooperation and to get something accomplished for the common good.

Let me also say that Asa will bring a spirit of fearlessness. In his role as U.S. Attorney, he was very hands-on, he was very engaged, and there were a lot of some high-profile cases. But he was not just someone who worked in the courtroom, though he is a

great courtroom attorney, but he was out on the front lines. And in the role that he is about to assume, the quality of fearlessness is one I think that is a great attribute.

And, finally, I have found Asa throughout his life to be someone who is compassionate and someone who is passionate. And I have been asked repeatedly by people in Arkansas why, why would someone leave a position in the U.S. House of Representatives to direct the Drug Enforcement Administration, an oftentimes thankless job. And I think the answer is that he is compassionate and he knows the price that America has paid for illegal drugs, and he knows the impact that it has not only upon our country but upon families and individuals, and he is very passionate about doing something about it. So I am very, very pleased and proud to be able to support, to endorse, and to introduce my brother today.

Chairman LEAHY. Thank you very much, Senator Hutchinson.

Senator Lincoln, we are always delighted to have you here. Please go ahead.

STATEMENT OF HON. BLANCHE L. LINCOLN, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Senator LINCOLN. Thank you, Mr. Chairman. It is with great pleasure that I am here this morning to introduce my friend and colleague in the Arkansas congressional delegation, Congressman Asa Hutchinson. I haven't known Congressman Hutchinson for a lifetime, as the senior Senator from Arkansas has. And if I were Congressman Hutchinson, I would be a little nervous if three of my siblings were here who could tell incredibly colorful stories they could tell of our growing up.

Chairman LEAHY. That is in the confidential and classified part of the hearing record.

[Laughter.]

Senator LINCOLN. But I certainly know that Senator Hutchinson has been very supportive of his brother, and that is a great thing for us to see.

President Bush, obviously you all know, has nominated Congressman Hutchinson to head the Drug Enforcement Administration, and I don't believe that the President could have selected a more qualified individual for this position. Much of his background has been described, but as a Federal prosecutor, Congressman Hutchinson observed firsthand the effects of Federal drug policy on our law enforcement system.

As a Member of Congress, he has continued his commitment to anti-drug efforts, holding field hearings to address the methamphetamine explosion, which has been devastating to our State in Arkansas, securing funding for local law enforcement, and supporting measures to stop the flow of drugs into the United States.

But Congressman Hutchinson is much more than a one-note drug warrior. He has a keen appreciation of the effects of drug policy on people's lives, as his brother, Senator Hutchinson, has described, and has a great passion in wanting to do something about that effect on individuals' lives, especially our young people.

He understands that not all drug problems should be addressed through prosecution and punishment. They are also a concern for our communities, for our neighborhoods, and for our families. And

to that end, Congressman Hutchinson is committed to a balanced approach to the drug problem that includes education and treatment. He supports drug courts as an alternative sentencing method for first- and second-time non-violent offenders. He has been a strong advocate of community involvement to educate our children about the dangers of drugs. He has been one of the foremost advocates of social work research to address the social dimensions of substance abuse, such as domestic violence, poverty, and broken families.

As a U.S. Senator, I have enjoyed working with Congressman Hutchinson and his staff on a number of issues important to our State in Arkansas, and I am confident that he will bring to this position at the Drug Enforcement Administration the same diligence, foresight, integrity, and passion, as was mentioned before, that he has brought to his service in the U.S. Congress.

So as a fellow Arkansan, I am very proud to be here, Mr. Chairman and members of this committee, and I am happy to support his nomination to this distinguished position.

Thank you for allowing me to share with the committee this morning.

Chairman LEAHY. Thank you very much.

We are also honored and pleased to have before the committee Congressman John Conyers. Congressman Conyers is the ranking member of the House Judiciary Committee on which Congress Hutchinson serves, and he knows him well from the other side of the aisle, and he put together an extraordinary letter signed by him and all Democratic members of the House Judiciary Committee endorsing Congressman Hutchinson. It is either the case that they think the world of him, or they want him out of town.

[Laughter.]

Chairman LEAHY. I am not sure which, but I suspect it is because they think highly of him, and, Congressman Conyers, you honor us by being here, and I appreciate your being here, sir.

Senator LINCOLN. Mr. Chairman, excuse me. May I just apologize and excuse myself. I have the same markup in the Finance Committee.

Chairman LEAHY. I understand. And I should mention, both you and Senator Hutchinson have other commitments, and please feel free to leave.

Senator LINCOLN. Thank you.

STATEMENT OF HON. JOHN CONYERS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Representative CONYERS. Thank you very much, Mr. Chairman. I am delighted to see all my friends here today: Senator DeWine, former Chairman Biden, Russ Feingold, and, of course, yourself.

I almost got derailed as I listened to Asa's brother, who raised the question why should anyone want to leave Congress. Well, I got about 105 reasons why anybody should want to leave Congress without having any appointment in store. But I digress.

[Laughter.]

Representative CONYERS. I come here representing in an unusual way my colleagues on the Democratic side of the Judiciary Committee just to let you know, as our letter indicates, that we are un-

usually—it is unusual that we bring this level of support to a nominee not from our administration and not from our party.

I think I know the reason why. This is the case of another charming Arkansan coming to Washington.

[Laughter.]

Representative CONYERS. I mean, here we go again. I don't know what they drink down there, but this is what we are in for. This is the way it goes from that State. We all like him a lot. We have fought a lot. But, on the other hand, he has joined with us on the violence against women issue, on the questions of juvenile justice. On health care issues we have enjoyed his support, and on racial profiling legislation, Asa Hutchinson has been there with us.

The reason that I want to invest my credibility in his nomination is that he is going to be able to bring the biggest issue that divides us on how we fight the scourge of drugs in this country by raising the level of discussion of whether it is to be increased punishment, mandatory sentences, lock them up and throw away the key, or whether we will turn to sane methods of prevention and treatment. And it is in that hope for that kind of discussion and leadership, I am willing to bank on Asa Hutchinson as our next Drug Enforcement Administrator.

Now, my chief of staff, Julian Epstein, had written pages and pages of laudatory comments which I will put in the record, and let us all get on with the other issues of the day. But thank you for inviting me here.

Chairman LEAHY. Thank you.

Senator BIDEN. Good to see you, John.

Chairman LEAHY. It is always good to have you here, as you know, and the members of this committee have worked with you over the years, and we appreciate your being here.

I also understand the House schedule is such that you are going to have to go back, so I appreciate your being here.

Representative CONYERS. Thanks.

Chairman LEAHY. I would call the nominee forward.

Would you raise your right hand? Do you solemnly swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Representative HUTCHINSON. I do.

Chairman LEAHY. Please sit down, and I wonder if you might be kind enough to introduce any members of the family who are here.

STATEMENT OF HON. ASA HUTCHINSON, OF ARKANSAS, NOMINEE TO BE ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION

Representative HUTCHINSON. I would be delighted to. I have with me my wonderful wife, Susan—go ahead and stand, Susan—and then my daughter, Sarah, who lives in the Washington, D.C., area, and her husband, Dave Wengel. And I might also say, Senator, that I have my son, Asa, III, who is a lawyer in North Little Rock, and his wife, Holli; my grandson, same age as yours, I think, or close to it, Asa IV; and John Paul, and Seth. And I don't want to neglect any of them.

Chairman LEAHY. Well, you know, the transcript becomes part of also the family archives, I am sure, so they should all be mentioned.

Go ahead. The floor is yours.

Representative HUTCHINSON. Thank you, Chairman Leahy, Senator Biden, Senator Feingold, Senator DeWine. I thank each of your for the courtesies that you have extended to me as a committee during the course of this nomination process. I particularly want to express appreciation to Chairman Leahy and Senator Hatch for their very generous comments this morning.

Chairman Leahy, if I might, it would have been easy for you to yield to some of those who expected a critical view of my nomination because of previous controversies, which found us on different sides. But I want to thank you personally for taking a different approach and for seeing my nomination as an opportunity to demonstrate to the American people that, despite any differences that might exist, we can be harmony on one of the most critical problems that faces our Nation.

I also want to thank Senator Hutchinson, Tim, and Senator Lincoln, Blanche—we go by first names in Arkansas—for their support and confidence in my nomination. I am gratified that my colleagues in Arkansas are excited and supportive of this nomination and this challenge that I face. It meant a great deal to me to have John Conyers, my colleague on the Judiciary Committee, come over here today and his colleagues expressing support for my nomination. Probably one of the most gratifying things that has happened to me in Congress is when people that you fight with and disagree with sometimes but yet you can see through that and see someone's heart. So I am grateful for his testimony today.

I want to introduce Susan, but I want to say a special word that Susan, my wife, has never failed me to join—with a smile, I might add—as I seem always to choose the road less traveled by in life. And now I believe that we are embarking on a noble crusade for the hearts and minds of a generation. And it is good to have Susan travel with me on this road.

I will be gratified to have the opportunity to work in a Justice Department led by John Ashcroft. I think he has set a good example in the Department, and I look forward to working with him, and I am grateful for his support.

Most importantly, it is an honor to be named by President Bush to lead this effort as head of the Drug Enforcement Administration, if confirmed, and I am grateful to the President for the nomination. But, more significantly, I am grateful for what I see as his heartfelt desire to strengthen the American character by reducing the Nation's dependence on drugs. This is accomplished in part through vigorous enforcement of our laws, which I hope to be engaged in, but there is more. It is also important to focus on educating our youth for the best life choices and the rehabilitation of those who have become addicted to drugs. And I fully support the President's balanced approach to the problem of drug abuse.

As everyone in this room knows, it is a high privilege for me to serve in Congress. And it is a distinct honor particularly to represent the people of the 3rd District that have sent me to Congress three times. And people ask me, as Tim mentioned, why I would

leave an institution I love in order to engage in an effort in which success is doubted and progress is hard to measure.

The answer goes back to what I learned as United States Attorney in the 1980's. I learned that drug abuse destroys individuals, it shatters families, and it weakens the fabric of a community and a nation. But I also learned that there is hope, and hope that this Nation can offer that we can be effective in saving lives and rebuilding families and communities. Surely, from this conclusion I reached in the 1980's, this is a noble purpose worthy of a great crusade. And I think it explains why I am willing to accept this responsibility.

Finally, while I was United States Attorney, I learned about the extraordinary and dedicated men and women of the DEA. They put their lives on the line to make a positive difference for our Nation, and they deserve the support and praise of the American people for the great work that they do. I hope to provide leadership that is worthy of such dedication and sacrifice.

Mr. Chairman, when I came to Congress, I continued my personal commitment in this arena by serving on the Speaker's Task Force for a Drug-Free America, and my oversight responsibility on the Judiciary Committee was very instructive to me. I chaired the oversight hearings on methamphetamine and club drug abuse in California and other States, and it gave me an appreciation for the risk our front-line officers take every day. In California, I was able to see the California drug court system. And drug courts impressed me as a very useful tool to provide intensive, long-term rehabilitation for non-violent drug abuse offenders. And I think that long-term rehabilitation is what it takes, particularly when you are looking at intensive drugs such as methamphetamine.

But as a result of my work on the front-line as a Federal prosecutor, working with our drug agents in the field, and my legislative efforts as a Member of Congress, I think I bring experience to this noble cause. This experience includes prosecuting scores of drug cases, providing leadership in the area of cooperation between law enforcement agencies, and encouraging communities to develop anti-drug coalitions to encourage young people to make the correct life decisions.

But I think this job is much more than experience. I pledge to bring my heart to this great crusade. My heart will reflect a passion for the law; it will reflect a compassion for those families struggling with this nightmare; and it will reflect a devotion to helping young people act upon the strength and not the weaknesses of their character.

I want to emphasize that the work of this committee is critical to our anti-drug efforts. Your dedication, your counsel, and your leadership are essential to building an effective Federal team. And I pledge my cooperation and availability to this committee, and I look forward to working with you.

Charles de Gaulle, the former leader of France, one said that France would not be true to herself if she was not engaged in some great enterprise. Well, it is my belief that America cannot be true to its own character without engaging our young people, our families, our communities, and our leaders in this great, just cause of reducing drug abuse.

I thank you, Mr. Chairman, and I will yield to any questions.

[The biographical information of Representative Hutchinson follows.]

Responses Of Asa Hutchinson to Questionnaire for Nonjudicial Nominees

Submitted to the Senate Committee on the Judiciary

1. ***Full name (include any former names used).***

   Answer: William Asa Hutchinson
   Nickname: Asa

2. ***Address: List current place of residence and office address(es).***

   Answer: Residence: Ft. Smith, AR and Arlington, VA
   Office: 1421 LHOB, Washington, DC, 20515

3. ***Date and place of birth.***

   Answer: December 3, 1950, Gravette, AR

4. ***Marital Status (include maiden name of wife or husband's name). List spouse's occupation, employer's name and business address(es).***

   Answer: Married to Susan Burrell, substitute teacher in the public school system. Employer is Ft. Smith Public Schools, 3205 Jenny Lind Rd., Ft. Smith, AR 72902

5. ***Education: List each college and law school you have attended, including dates of attendance, degrees received and dates degrees were granted.***

   Answer: Bob Jones University (1968-1972), B.S. Accounting (1972)
   University of Arkansas Law School (1972-1974), J.D. (1974)

6. ***Employment Record: List (by year) all business or professional corporations, companies, firms or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.***

   Answer: I was engaged in the general practice of law with Jimm Hendren at the corner of 2nd and Main Sts. in Bentonville, AR for one year. I was the sole practitioner in the Asa Hutchinson law firm from 1976-early 1982. The address of my firm was 102 Northwest Second Street in Bentonville, AR. During this time, I also served as City Attorney for Bentonville, an appointed position, from 1979-1980.

In March of 1982, I was appointed United States Attorney for the Western District of Arkansas. I was United States Attorney from 1982-November 1985.

During the 1985/1986 election cycle, I made an unsuccessful bid for U.S. Senate and was unemployed. From 1987 until 1996, I was a partner in the law firm Karr and Hutchinson. In 1997, I was elected to the United States House of Representatives, where I presently serve.

In addition to my employment above, I was the principal stockholder, director and chairman of the board for Rocky Haven Investments, Inc. d/b/a KBCV Radio of Bentonville, AR from the 1980 timeframe through 1988. This corporation put on the air Bentonville's first FM radio station, and when the radio station was sold, the corporation became non-active.

During the course of my law practice, I may have temporarily been a director of a corporation until the permanent slate of directors was elected. This activity was in conjunction with my law practice.

I also served on the board of directors for the Western Arkansas Alzheimer's Association (1992-1995) and the board of directors for the Set Free Prison Ministries (1990-present).

7. ***Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.***

Answer: None.

8. ***Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.***

Answer: In 1997, I was designated a Paul Harris Fellow of Rotary International. I received an honorary Doctor of Laws degree from Bob Jones University, Greenville, SC in 1999.

9. ***Bar Association: List all bar associations, legal or judicial-related committees or conferences of which you are or have been a member and give the titles and dates of any offices which you have held in such groups.***

Answer: Benton County Bar Association, Bentonville, AR, former member (1975-1982) and former president (1980); Sebastian County Bar Association, Ft. Smith, AR, member (1982-1996, with intermittent years of inactivity); Arkansas Bar Association, member (1975-current); American Bar Association (intermittently from 1975-1996); Arkansas Judicial Discipline Committee, appointed by Governor Frank White (1980-1982)

10. ***Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.***

Answer: I do not belong to any organizations that are active in lobbying before public bodies. I am a member of the Arkansas Bar Association, the First Baptist Church of Fort Smith, the Republican Party of Arkansas, the National Association of Former United States Attorneys and the Reagan Alumni Association.

11. ***Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.***

Answer: Supreme Court of Arkansas, United States District Court for the Eastern and Western Districts of Arkansas, 8th Circuit Court of Appeals, Supreme Court of the United States. I have also practiced before the 5th Circuit Court of Appeals and, therefore, may have been admitted to that bar. I was admitted to practice before the Supreme Court of Arkansas in 1975, and that has been continuous to the current date. In the federal courts, I was admitted to practice in roughly in 1976, and it has been current through the present date. The Supreme Court of the United States came a little bit later – probably in 1979 and remains current.

In addition, I was admitted to practice before the Court of Veterans Appeals in Washington, DC in roughly 1987, and as far as I know, it remains current.

When I was elected to Congress in 1996, my license to practice was put on inactive status in order to obviate the necessity of continuing legal education requirements.

12. ***Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.***

Answer: The following is a list of published articles:

i. "Congress Can Reform - Honest" (with Rep. Tom Allen), Washington Post, 4 August 1997.
ii. "A Trial Without Evidence," New York Times, 31 December 1998.
iii. "The Campaign Integrity Act - A Product of Bipartisanship," Northwest Arkansas Times, 21 May 1999.
iv. "A Realistic Approach to Passing Campaign Finance Reform," Roll Call, 31 May 1999.
v. "Let's Be Realistic," USA Today, 1 June 1999.
vi. "Youth Violence Must Be Curbed," Roll Call, 21 June 1999.
vii. "Did the Senate Trial Satisfy the Constitution and the Demands of Justice?," Hofstra Law Review, Winter 1999.
viii. "Racial Profiling Endangers Justice," Roll Call, 7 February 2000.
ix. "Commission Would Encourage E-Commerce While Protecting Online Consumer Privacy" (with Rep. Jim Moran), KPMG E-Commerce Update, May 2000.
x. "Eyewitnesses Under Attack," New York Times, 22 June 2000.
xi. "Commission is First Step to Privacy" (with Rep. Jim Moran), The Hill, July 2000.
xii. "Prescription Drug Coverage - Affordable, Flexible, Voluntary," Northwest Arkansas Times, 24 September 2000.
xiii. "Let's Establish a National Commission on Privacy," Oncology Times, January 2001.
xiv. Regular opinion columns on Congressional news published regularly in Arkansas weekly newspapers
xv. A Gathering of Eagles, Evergreen Press, 1999.
xvi. Electronic newsletter providing Congressional updates to 7,000 consituents sent weekly

In reference to speeches I have given, I have been a candidate for Prosecuting Attorney, Justice of the Peace, United States Senate, Attorney General and United States Congress. I have also served as Chairman of the State Republican Party of Arkansas. In these various capacities, I have given over 1,000 speeches to various groups from virtually every civic club in Arkansas to Republican groups to League of Women Voters to community picnics. I have not maintained a list of such speeches. Often, I did not have prepared remarks. I also wrote regular opinion columns on Congressional news, which were published in Arkansas weekly newspapers, and I distributed a weekly electronic newsletter providing Congressional updates to 7,000 constituents.

In regard to speeches on Constitutional and legal policy, I have made the following speeches:

American College of Trial Lawyers
Anti-Defamation League
Arkansas Law Enforcement Training Academy
Capitol Hill e-Gov't Seminar
Citizens Against Drugs Membership Drive Kick-Off
Colorado Bar Assn.
Gentry Community Drug Forum
Georgetown Law School
Harvard Law School
Lawyers for Civil Justice, Reserve Officers Assn
Global Privacy Summit
Nat'l Commission on Federal Election Reform Panel
Nat'l Community Prosecution Conference
Nat'l Narcotic Officers' Assn Coalition
Nat'l Press Club Forum
Prosecuting Attorney Conference
Quinnipeac Law School
Sebastian County Bar Assn
Texas General Counsel Group
University of Chicago Law School
University of Kentucky Law School
Wall Street Journal Technology Summit Exec. Roundtable
Youth Violence Summit

I have attached copies of speeches for which I have manuscripts and/or intelligible notes.

13. ***Health: What is the present state of your health? List the date of your last physical examination.***

Answer: Excellent. Last exam was approximately January 2000.

14. ***Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.***

Answer: City Attorney for Bentonville, AR (1979), an appointed position at the time; Arkansas Judicial Discipline Committee, appointed by Governor Frank White (1981); United States Attorney (1982-1985), appointed by President Ronald Reagan; United States Congress – 1997-present.

In addition, I have served in various Republican Party positions from county chairman to state party chairman and, under Arkansas law, the chairman of the Party is automatically on the state or county election commission, and I served in those capacities the following years:

Benton County – 1980-1982;
Sebastian County – 1987-1988;
State Election Commission – 1991-1995;

In addition to the above public positions, I ran unsuccessfully for the following elective offices:

Justice of the Peace, Benton County, AR-1976;
Prosecuting Attorney, Benton County, AR-1978;
United States Senate-1986
Attorney General of Arkansas-1990.

15. ***Legal Career:***

A. ***Describe chronologically your law practice and experience after graduation from law school including:***

1. ***whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;***

Answer: No.

2. ***whether you practiced alone, and if so, the addresses and dates;***

Answer: Sole practitioner at 102 Northwest Second Street in Bentonville, AR.

3. ***the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;***

Answer: Law firm of Jimm Hendren, corner of 2nd and Main Sts., Bentonville, AR; Law firm of Asa Hutchinson, 102 N.W. Second St., Ft. Smith, AR; Law firm Karr and Hutchinson, 602 Garrison Ave., Suite 600, Ft. Smith, AR; United States Attorney; United States House of Representatives, 1421 LHOB, Washington, DC

B. What has been the general character of your law practice, dividing in into periods with dates if its character has changed over the years?

2. Describe your typical former clients and mention the areas, if any, in which you have specialized.

Answer: During the seven years in Bentonville, my practice consisted primarily of real estate transactions, wills, domestic relations and general litigation. My typical former clients ranged from wrongfully discharged employees to white-collar crime defendants. In addition, I had a certain amount of political litigation that didn't pay much, but involved certain constitutional questions as stated below. The general nature of my practice in Ft. Smith was criminal defense work, general litigation and a significant amount of employment-related litigation, including Title VII civil rights actions.

In March of 1982, I was appointed United States Attorney for the Western District of Arkansas, closed my law practice down and moved to Fort Smith, AR. I was United States Attorney from 1982-November, 1985. During this time, I supervised attorneys, investigations and trials. I focused on the anti-drug area as well as other criminal prosecutions. In 1986, I ran for United States Senate and did not practice law.

In December of 1986, I joined the law firm of Charles Karr and subsequently became a partner. The law firm's name was Karr, Vater and Hutchinson and subsequently, Karr and Hutchinson, and at one time, Karr, Hutchinson and Stubblefield. The office was at 605 First National Bank Building, 6th and Garrison, Ft. Smith.

I continued in this partnership agreement until I was elected to the United States House of Representatives in 1996. In the 5 years I have been a Member of the House, I have served on the following committees and subcommittees:

Committee on the Judiciary – Subcommittee on Crime, Subcommittee on the Constitution and Subcommittee on Courts, Internet and Intellectual Property

Committee on Transportation and Infrastructure – Subcommittee on Aviation and Subcommittee on Water Resources and the Environment and Subcommittee on Surface Transportation

Committee on Government Reform – Subcommittee on Criminal Justice, Drug Policy and Human Resources

Committee on Standards of Official Conduct

Committee on Veterans' Affairs

Permanent Select Committee on Intelligence – Subcommittee on Human Intelligence, Analysis and Counterintelligence, Subcommittee on Intelligence Policy and National Security and the Working Group on Terrorism and Homeland Security

C. ***Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.***

Answer: I appeared in court frequently at all times during my years of practice.

2. ***What percentage of these appearances was in:***
   a. ***federal courts;***

      Answer: 50%

   b. ***states courts of record;***

      Answer: 40%

   c. ***other courts.***

      Answer: 10%

3. ***What percentage of your litigation was:***
   a. ***civil;***

      Answer: 66%

   b. ***criminal***

      Answer: 34%

4. ***State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.***

Answer: I would estimate the number would be well over 200 cases tried. I personally tried over 100 jury cases, in which I was the sole counsel or chief counsel.

5. ***What percentage of these trials was:***
   a. ***Jury;***

      Answer: 50%

   b. ***non-jury.***

      Answer: 50%

***16. Litigation:** Describe the ten most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation on the litigation and the final disposition of the case. Also state as to each case:*

(a) the date of representations;
(b) the name of the court and the name of the judge or judges before whom the case was litigated; and
(c) the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Answer:

1) *Sam Anderson, Jr. v. United States*

Citation: 788 F.2d 517 (8th Circ. 1986)

Docket Number: No. 85-1551

Date: Decided 4/14/86

Summary: This case involved the distribution of cocaine in the Hot Springs, AR area. The cocaine was supplied by Maurice Rodriguez of New York City, who received the cocaine from Colombia. Two defendants pled guilty and Sam Anderson went to trial.
Parties Represented: United States of America

Nature of Participation: I supervised the investigation and tried the case to the jury. Convictions were upheld on appeal.

Court/Judges: Oren Harris, District Judge (deceased). US Court of Appeals for the 8th Circuit; Arnold and Wollman, Circuit Judges, John Regan, Senior District Judge
Opposing Counsel (with Address and Phone): Jack Lassiter, 401 W Capital, Little Rock, AR, 501-374-9010

2) *United States v. James D. Ellison*

Citation: 793 F.2d 942 (8th Circ. 1986)

Docket Number: Nos. 85-2094, 85-2095

Date: Submitted 3/10/86; Filed 6/17/86

Summary: This was the prosecution of the leader of a paramilitary, neo-Nazi group known as the Covenant, the Sword, and the Arm of the Lord (CSA). The charges were criminal racketeering (RICO). During the execution of the search warrant, I assisted in the negotiation of the surrender of Ellison after a three day siege involving 200 law enforcement officers and SWAT teams from five states. I received a citation from the FBI and the ATF for my assistance.

Parties Represented: United States of America

Nature of Participation: I personally tried the case as well as supervised the investigation.

Court/Judges: US District Court Judge Franklin Waters, Fayetteville, AR. US Court of Appeals for the 8th Circuit; Judges: McMillian and Bowman, Circuit Judges, William Hanson, Senior District Judge

Opposing Counsels (with Address and Phone): Neal Kirkpatrick, 6626 East 65th Street, Tulsa, OK, 74133, phone number unknown.

Co-Counsel (with Address and Phone): Sidney Glaser, handled case on appeal for DOJ, address and phone number unknown.

3) *Richard G. Bennett v. State of Arkansas*

Citations: 297 Ark. 115; 759 S.W.2d 799; 1988 Ark.
302 Ark. 179; 789 S.W. 2d 436 1990 Ark.

Docket Number: No. CR 88-57
No. CR 89-149

Date: Decided 11/21/88; 4/30/90

Summary: I defended Richard Bennett who was charged with first degree murder of his wife, whose death occurred in 1978. Nine years later, he was charged with murder. The case was tried three times before a jury with the Supreme Court reversing the convictions twice. Ultimately, Bennett was convicted and died in prison. The issues on appeal were constitutional issues of the right to confront witnesses, due process, and delay in bringing charges.

Parties Represented: Richard Bennett

Nature of Participation: I tried the case before the jury twice and handled the appellate work, resulting in two reversals and final affirmation of the conviction.

Date of Representation: 1989-1994

Court/Judges: Arkansas Supreme Court; Judges: Chief Justice Jack Holt, Jr.; Justice Robert Dudley, Charles Eddy (deceased)

Opposing Counsel (with Address and Phone): Brent Standridge, Asst. Attorney General, 323 Center Street, Suite 200, Little Rock, AR, 72201, 501-682-2007

4) *United States v. Ed Udey; United States v. Arthur Russell; United States v. Leonard Ginter; United States v. Norma Ginter*

Citation: 748 F.2d 1231; 1984 US App.

Docket Number: Nos. 83-2615, 83-2632, 83-2654, 83-2655

Date: Submitted 5/14/84; Decided 11/7/84

Summary: The defendants were charged with harboring a fugitive, Gordon Kahl, who had killed a U.S. Marshal in North Dakota and fled to Arkansas. All 3 defendants were convicted after a jury trial and the cases were affirmed on appeal.

Parties Represented: United States of America

Nature of Participation: I tried the case and supervised the investigation. Of note is the fact that the Covenant, the Sword and the Arm of the Lord (CSA) later plotted assassinations of the government officials in this trial which was aborted after a vehicle accident. The CSA were sympathetic and supportive of the violent antigovernment views of Gordon Kahl and his followers.

Court/Judges: Western District of Arkansas, Judge H. Franklin Waters; US Court of Appeals for the Eighth Circuit. Judges: Lay, Chief Judge; Ross and Fagg, Circuit Judge

Opposing Counsel (with Address and Phone): Charles Karr, First National Bank Smith, AR, 501-782-4028.

5) *William E. Spradlin v. Arkansas Ethics Commission*

Citation: 314 Ark. 108; 858 S.W.2d 684; (1993)

Docket Number: No. 92-371

Date: Decided 7/19/93

Summary: This case was a constitutional challenge to the makeup of the states ethics commission. The challenge was based upon the appointment of the commission in a way that violated the state constitutional provision on separation of powers.

Parties Represented: Spradlin

Nature of Participation: I prepared and tried the case which was a non-jury trial. I also handled the appeal resulting in a reversal of the case and ultimately a remake of the commission.

Date of Representation: 1992-1993

Court/Judges: Arkansas Supreme Court; Judges: Martin Gilbert, Special Chief Justice. Special Justices Sherry Bartley; Cyril Hollingsworth; Scotty Shively; James Wallace; Don Hamilton; Larry Wallace

Co-Counsel (with Address and Phone): Bob Brooks, Jr, 2104 Rayburn Building, Washington, DC, 20151, 202-225-3545

Opposing Counsel (with Address and Phone): Dinah Dale, Asst. Attorney General, 323 Center Street, Suite 200, Little Rock, AR, 72201, 501-682-2007

6) *Dana N. Throgmorton v. United States Forgecraft Corporation*

Citation: 965 F.2d 643; (8th Circ. 1992)

Docket Number: No. 91-1574

Date: Submitted 11/12/91; Filed 6/1/92

Summary: This was a Title VII case of gender discrimination in which my client was discharged. The verdict for the plaintiff was affirmed on appeal.

Parties Represented: Dana Throgmorton

Nature of Participation: I tried the case and handled the appeal.

Date of Representation: 1991-1992

Court/Judges: US Court of Appeals for the 8th Circuit; Judges: McMillian, Circuit Judge; Bright, Senior Circuit Judge; John Gibson, Circuit Judge

Opposing Counsel (with Address and Phone): George A. Wooten, 214 N 6th Street, Ft Smith, AR, 501-782-6040

7) *Peggy Sue Qualls v. Hickory Springs Manufacturing Company, Inc.*

Citation: 9044 F.2d 505; (8th Circ. 1993)

Docket Number: No. 92-2420

Date: Submitted: 1/15/93; Filed 6/1/93

Summary: This case was an unlawful discharge based upon the failure of the defendant company to follow its own drug testing policy.

Parties Represented: Peggy Sue Qualls

Nature of Participation: I handled the case at the trial court and appellate level.
Date of Representation: 1992-1993

Court/Judges: US Court of Appeals for the 8th Circuit; Judges: John Gibson, Circuit Judge; Bright, Senior Circuit Judge; Bowman, Senior Circuit Judge.

Opposing Counsel (with Address and Phone): Charles Reynolds, Dover & Dixon, 425 W. Capitol, Suite 3700, Little Rock, AR 72201, 501-375-9151. Allen Dobson, McGlinchey & Stafford, 425 W. Capitol Street, PO Box 3178, Little Rock, AR, 72203, 501-371-9999.

8) *Larry Shaffer, Northwest Financial Express, Inc. and NWFX, Inc. v. Charles A. Wilkes, Jr. and James K. Kreutz and Associates*

Citation: 65 F. 3d 115; (8th Circ. 1995)

Docket Number: No. 94-3318, No. 94-3320; No. 94-3360

Date: Submitted 4/12/95; Filed 9/8/95

Summary: This was a civil suit for legal malpractice. The judgment for the plaintiff was set aside, and the verdict was in favor for the defendant on the retrial. The verdict was affirmed on appeal.

Parties Represented: James Kreutz

Nature of Participation: I represented Mr. Kreutz at trial and on appeal.

Date of Representation: 1994-1995

Court/Judges: US Court of Appeals for the 8th Circuit. Judges, Wollman, Circuit Judge; Murphy, Circuit Judge; Michael Davis, District Judge.

Opposing Counsel (with Address and Phone): John Elrod, 100 W Center, Fayetteville, AR, 72701, 501-582-5711.

9) *United States v. Loren Reeves*

Citation: 730 F.2d 1189 (8th Circ. 1984)

Docket Number: No. 83-1292

Date: 12/12/83

Summary: The defendant was the elected sheriff of Searcy County and was distributing illegal drugs. He was convicted after a jury trial and the case was affirmed on appeal.

Parties Represented: United States of America

Nature of Participation: I tried the case before a jury, and the case was affirmed on appeal.

Court/Judges: Western District Court of Arkansas, Judge H. Franklin Waters. US Court of Appeals for the 8th Circuit. Judges, Wollman, Circuit Judge; Murphy, Circuit Judge; Michael Davis, District Judge.

Opposing Counsel (with Address and Phone): Jerry Goldstein, Houston, TX

10) *United States v. Mark Willson*

Citation: None

Docket Number: No. 90-20018-03

Date: 1989-1990

Summary: This was a criminal case for mail and wire fraud and securities fraud. The verdict acquitted the defendant.

Parties Represented: Mark Willson

Nature of Participation: Jury trial defense

Date of Representation: 1989-1990

Court/Judges: H. Franklin Waters, U.S. District Court Judge, Western District of Arkansas

Opposing Counsel (with Address and Phone): Mike Fitzhugh, U.S. Attorney, Fort Smith, AR, 501-783-5125

17. ***Legal Activities:*** ***Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).***

Answer: The most significant legal activities that I have pursued were principally conducted during the time that I was United States Attorney and in the United States House of Representatives. As United States Attorney, I not only managed the attorney and support staff, but I also helped coordinate investigations between the various state, local and federal law enforcement agencies. Frequently, I moderated disputes of jurisdiction between the FBI, DEA and ATF. I also formed the first law enforcement coordinating committee for the Western District of Arkansas which had regular meetings of law enforcement agencies at all levels from the federal agencies to the state police to the county sheriffs and chiefs of police. This was a lasting contribution to better coordination among the law enforcement agencies.

As a result of the increased cooperation, we were able to intensify our anti-drug investigations and prosecutions. One of the greatest instances of overseeing joint investigations was the investigation of the terrorist group called the Covenant, the Sword and the Arm of the Lord (CSA), which involved coordination of over 200 law enforcement personnel from a multitude of agencies, including SWAT teams from five states. This was a joint operation between the ATF, FBI and Arkansas State Police. It was one of the most successful law enforcement operations in the history of Arkansas with the leader and followers of the terrorist group surrendering after a three-day siege, without a shot being fired. I was present on the scene to help negotiate the surrender and assure the highest level of cooperation between the agencies. As a result of this work, I received a citation from both the FBI and the ATF. Although my district did not have an OCDEF taskforce, I worked with the taskforce out of the Eastern District of Arkansas and prosecuted cases arising out of the OCDEF investigations in my district.

The second phase of significant legal activity was when I was elected to the House of Representatives. Speaker Newt Gingrich followed by Speaker Denny Hastert asked me serve on the Speaker's Taskforce for a Drug Free America and coordinated the legislative and oversight support for our national and international anti-drug effort. As a result of this responsibility, I conducted oversight hearings with my colleagues in South America, California and Puerto Rico. These trips involved oversight of our interdiction efforts through the Coast Guard and the methamphetamine problems on our southwest border.

This Congress, I was appointed by the Speaker to the Permanent Select Committee on Intelligence and traveled with my Senate counterparts to Colombia, Venezuela and Ecuador, meeting with President Pastrana and President Noboa. The purpose of this oversight trip was to review Plan Colombia.

I have had the privilege of pursuing a variety of significant criminal and civil cases during my career as an attorney. I have also been privileged to work in public policy in the national arena in the House of Representatives. All of this gives me a good perspective to manage and contribute to the historic anti-drug effort led by the Drug Enforcement Administration.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. ***List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, clients, or customers. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.***

   Answer: I do not expect to derive any receipts from deferred income arrangements, stock, options, uncompleted contracts or other future benefits from pervious business relationships, clients or customers.

2. ***Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.***

   Answer: I will consult with the Department of Justice ethics official in the event of a potential conflict of interest.

3. ***Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service in the position to which you have been nominated? If so, explain.***

   Answer: None.

4. ***List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding $500 or more. (If you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here.)***

   Answer: See attached SF-278

5. ***Please complete the attached financial net worth statement in detail (add schedules as called for).***

   Answer: See attached Net Worth Statement.

6. ***Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.***

Answer: In 1980, I was the Benton County Coordinator for the Frank White for Governor Campaign. In 1980, I was also the County Coordinator for Ronald Reagan for President Campaign.

In 1988, I was a delegate to the Republican National Convention for Bob Dole. In 1992, I was the General Chairman for the Tim Hutchinson for Congress Campaign. In 1992, I was also a delegate to the Republican National Convention for George Bush. I may have had a title in the Bush Campaign, but I was primarily active in the Hutchinson for Congress Campaign.

In the year 2000, I was state Vice-Chairman of the George W. Bush for President Campaign in Arkansas. I was also a delegate to the Republican National Convention for George W. Bush.

In each of these campaigns, I provided general guidance to the local effort, helped put up yard signs, assisted in raising money and various other types of general support to get out the vote during the election.

U.S. Department of Justice

Washington, D.C. 20530

JUN 18 2001

Ms. Amy L. Comstock
Director
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3919

Dear Ms. Comstock:

In accordance with the provisions of Title I of the Ethics in Government Act of 1978 as amended, I am forwarding the financial disclosure report of William Asa Hutchinson, who has been nominated by the President to serve as Administrator, Drug Enforcement Administration (DEA), Department of Justice.

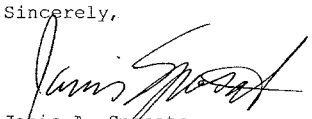
We have conducted a thorough review of the enclosed report. The conflict of interest statute, 18 U.S.C. 208, requires that Mr. Hutchinson recuse himself from participating personally and substantially in a particular matter in which he, his spouse, minor children or anyone whose interests are imputed to him under the statute, has a financial interest. We have counseled him to obtain advice about disqualification or to seek a waiver before participating in any particular matter that could affect his financial interests.

We have advised Mr. Hutchinson that because of the standard of conduct on impartiality at 5 CFR 2635.502 he should seek advice before participating in a particular matter involving specific parties in which a member of his household has a financial interest or in which someone with whom he has a covered relationship is or represents a party. Mr. Hutchinson will have a covered relationship with his spouse's employer.

Based on the above agreements and counseling, I am satisfied that the report presents no conflicts of interest under

applicable laws and regulations and that you can so certify to the Senate Judiciary Committee.

Sincerely,



Janis A. Sposato
Acting Assistant Attorney
General for Administration and
Designated Agency Ethics Official

Enclosure

SF 278 (Rev. 03/2000)
5 C.F.R. Part 2634
U.S. Office of Government Ethics

Executive Branch Personnel PUBLIC FINANCIAL DISCLOSURE REPORT

Form Approved:
OMB No. 3209 - 0001

Date of Appointment, Candidacy, Election, or Nomination *(Month, Day, Year)*	**Reporting Status** (Check Appropriate Boxes)	Incumbent ☐	Calendar Year Covered by Report	New Entrant, Nominee, or Candidate ☑	Termination Filer ☐ Termination Date *(If Applicable) (Month, Day, Year)*
Reporting Individual's Name	Last Name: Hutchinson			First Name and Middle Initial: William Asa	
Position for Which Filing	Title of Position: Administrator, Drug Enforcement Administration			Department or Agency *(If Applicable)*: Department of Justice	
Location of Present Office (or forwarding address)	Address *(Number, Street, City, State, and ZIP Code)*: 1421 Longworth, Washington DC 20515			Telephone No. *(Include Area Code)*: 202-225-4301	
Position(s) Held with the Federal Government During the Preceding 12 Months *(If Not Same as Above)*	Title of Position(s) and Date(s) Held: Member of Congress 1/97 to present				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Senate Judiciary			Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☑ No	
Certification: I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge.	Signature of Reporting Individual: [signature]			Date *(Month, Day, Year)*: 6/12/01	
Other Review (If desired by agency)	Signature of Other Reviewer			Date *(Month, Day, Year)*	
Agency Ethics Official's Opinion: On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments in the box below).	Signature of Designated Agency Ethics Official/ Reviewing Official: [signature]			Date *(Month, Day, Year)*: 6/18/01	
Office of Government Ethics Use Only	Signature			Date *(Month, Day, Year)*	

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if filing extension granted & indicate number of days _____) ☐

(Check box if comments are continued on the reverse side) ☐

Fee for Late Filing
Any individual who is required to file this report and does so more than 30 days after the date the report is required to be filed, or, if an extension is granted, more than 30 days after the last day of the filing extension period, shall be subject to a $200 fee.

Reporting Periods

Incumbents: The reporting peroid is the preceding calendar year except Part II of Schedule C and Part I of Schedule D where you must also include the filing year up to the date you file. Part II of Schedule D is not applicable.

Termination Filers: The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination. Part II of Schedule D is not applicable.

Nominees, New Entrants and Candidates for President and Vice President:

Schedule A -- The reporting period for income (BLOCK C) is the preceding calendar year and the current calendar year up to the date of filing. Value assets as of any date you choose that is within 31 days of date of filing.

Schedule B -- Not applicable.

Schedule C, Part I (Liabilities)--The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

Schedule C, Part II (Agreements or Arrangements)--Show any agreements or arrangements as of the date of filing.

Schedule D -- The reporting period is the preceding twocalendar years and the current calendar year up to the date of filing.

Agency Use Only

OGE Use Only

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5 C.F.R. Part 2634
U.S. Office of Government Ethics

Reporting Individual's Name: Hutchinson, William Asa

SCHEDULE A

Page Number: 2 / 6

Assets and Income — BLOCK A

For you, your spouse, and dependent children, report each asset held for investment or the production of income which had a fair market value exceeding $1,000 at the close of the reporting period, or which generated more than $200 in income during the reporting period, together with such income.

For yourself, also report the source and actual amount of earned income exceeding $200 (other than from the U.S. Government). For your spouse, report the source but not the amount of earned income of more than $1,000 (except report the actual amount of any honoraria over $200 of your spouse).

None ☐

Valuation of Assets at close of reporting period. — BLOCK B

Income: type and amount. If "None (or less than $201)" is checked, no other entry is needed in Block C for that item. — BLOCK C

	Assets and Income (Block A)	None (or less than $1,001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Excepted Investment Fund	Excepted Trust	Qualified Trust	Type: Dividends	Type: Rent and Royalties	Type: Interest	Type: Capital Gains	Amount: None (or less than $201)	$201 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	Over $5,000,000	Other Income (Specify Type & Actual Amount)	Date (Mo., Day, Yr.) Only if Honoraria
Examples	Central Airlines Common				X												X						X										
	Doe Jones & Smith, Hometown, State			X																												Law Partnership Income $130,00.0	
	Kempstone Equity Fund					X								X										X									
	IRA: Heartland 500 Index Fund							X						X											X								
1	First National Bank, Fort Smith, AR - checking		✓																✓		✓												
2	National Traveler's Life Insurance Annuity Fund (fixed)		✓																✓			✓											
3	Marjorie Hutchinson Testamentary Trust (asset list attached)				✓														✓			✓											
4	Fort Smith Public Schools (Spouse - substitute teaching)																															Salary	
5																																	
6																																	

* This category applies only if the asset/income is solely that of the filer's spouse or dependent children. If the asset/income is either that of the filer or jointly held by the filer with the spouse or dependent children, mark the other higher categories of value, as appropriate.

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Do not complete Schedule B if you are a new entrant, nominee, or Vice Presidential or Presidential Candidate

Reporting Individual's Name
Hutchinson, William Asa

SCHEDULE B

Part I: Transactions

Report any purchase, sale, or exchange by you, your spouse, or dependent children during the reporting period of any real property, stocks, bonds, commodity futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss.

Do not report a transaction involving property used solely as your personal residence, or a transaction solely between you, your spouse, or dependent child. Check the "Certificate of divestiture" block to indicate sales made pursuant to a certificate of divestiture from OGE.

None ☐

	Identification of Assets	Transaction Type (x): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (x): $1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000*	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000	Certificate of divestiture
Example	Central Airlines Common	X			2/1/99			X								
1																
2																
3																
4																
5																

* This category applies only if the underlying asset is solely that of the filer's spouse or dependent children. If the underlying asset is either held by the filer or jointly held by the filer with the spouse or dependent children, use the other higher categories of value, as appropriate.

Part II: Gifts, Reimbursements, and Travel Expenses

For you, your spouse and dependent children, report the source, a brief description, and the value of: (1) gifts (such as tangible items, transportation, lodging, food, or entertainment) received from one source totaling more than $260, and (2) travel-related cash reimbursements received from one source totaling more than $260. For conflicts analysis, it is helpful to indicate a basis for receipt, such as personal friend, agency approval under 5 U.S.C. § 4111 or other statutory authority, etc. For travel-related gifts and reimbursements, include travel itinerary, dates, and the nature of expenses provided. **Exclude** anything given to you by the U.S. Government; given to your agency in connection with official travel; received from relatives; received by your spouse or dependent child totally independent of their relationship to you; or provided as personal hospitality at the donor's residence. Also, for purposes of aggregating gifts to determine the total value from one source, exclude items worth $104 or less. See instructions for other exclusions.

None ☐

	Source (Name and Address)	Brief Description	Value
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/99 (personal activity unrelated to duty)	$500
	Frank Jones, San Francisco, CA	Leather briefcase (personal friend)	$300
1			
2			
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4			
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U.S. Office of Government Ethics

Reporting Individual's Name: Hutchinson, William Asa

SCHEDULE C

Page Number: 4 / 6

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at **any time** during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☐

	Creditors (Name and Address)	Type of Liability	Date incurred	Interest Rate	Term if applicable	Category of Amount or Value (x): $10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.			X								
	John Jones, 123 JSt., Washington, DC	Promissory note	1999	10%	on demand					X						
1	City National Bank, Ft Smith	Promissory note	1987	9.5	5yrs	☐	☑	☐	☐	☐	☐	☐	☐	☐	☐	☐
2	First National Bank, Ft Smith	Promissory note	1994	9.5	1yr	☐	☐	☑	☐	☐	☐	☐	☐	☐	☐	☐
3	First National Bank, Ft Smith	Promissory note - business	1995	9.5	1yr	☑	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐
4	MBNA, Wilmington, DE	Personal Loan	2000	7.9	rev	☐	☑	☐	☐	☐	☐	☐	☐	☐	☐	☐
5	GE Capitol, Tempe AZ	Personal Loan	1999	11.5	5yrs	☑	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

* This category applies only if the underlying liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None ☑

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example	Pursuant to partnership agreement, will recieve lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
1			
2			
3			
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5			
6			

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Reporting Individual's Name	SCHEDULE D	Page Number
Hutchinson, William Asa		5 / 6

Part I: Positions Held Outside U.S. Government

Report any positions held during the applicable reporting period, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

None ☑

	Organization *(Name and Address)*	Type of Organization	Position Held	From *(Mo., Yr.)*	To *(Mo., Yr.)*
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/92	Present
	Doe Jones & Smith, Hometown, State	Law firm	Partner	7/85	1/00
1					
2					
3					
4					
5					
6					

Part II: Compensation in Excess of $5,000 Paid by One Source

Report sources of more than $5,000 compensation received by you or your business affiliation for services provided directly by you during any one year of the reporting period. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any other non-profit organization when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

Do not complete this part if you are an Incumbent, Termination Filer, or Vice Presidential or Presidential Candidate.

None ☑

	Source *(Name and Address)*	Brief Description of Duties
Examples	Doe Jones & Smith, Hometown, State	Legal services
	Metro University (Client of Doe Jones & Smith), Moneytown, State	Legal services in connection with university construction
1		
2		
3		
4		
5		
6		

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U.S. Office of Government Ethics

Reporting Individual's Name: Hutchinson, William Asa

SCHEDULE C

Page Number: 5 / 6

Part I: Liabilities

Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent children. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances; and liabilities owed to certain relatives listed in instructions. See instructions for revolving charge accounts.

None ☐

	Creditors (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (x): $10,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	$250,001 - $500,000	$500,001 - $1,000,000	Over $1,000,000 *	$1,000,001 - $5,000,000	$5,000,001 - $25,000,000	$25,000,001 - $50,000,000	Over $50,000,000
Examples	First District Bank, Washington, DC	Mortgage on rental property, Delaware	1991	8%	25 yrs.											
	John Jones, 123 JSt., Washington, DC	Promissory note	1999	10%	on demand											
6	First USA Bank	Personal loan	2000	1.9	rev	✓										
7	Traveler's Bank, Carol Stream Il	Personal loan	1999	15.1	rev	✓										
8	American Express	Rev credit	1999	18.6	Rev	✓										
9																
10																

* This category applies only if the underlying liability is solely that of the filer's spouse or dependent children. If the liability is that of the filer or a joint liability of the filer with the spouse or dependent children, mark the other higher categories, as appropriate.

Part II: Agreements or Arrangements

Report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None ☐

	Status and Terms of any Agreement or Arrangement	Parties	Date
Example	Pursuant to partnership agreement, will recieve lump sum payment of capital account & partnership share calculated on service performed through 1/00.	Doe Jones & Smith, Hometown, State	7/85
7			
8			
9			
10			
11			
12			

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May-23-2001 4:59PM No.0247 P. 6/7

Attachment I
p.1

UNITS/ DESCRIPTION	RATING	BOOK VALUE	MARKET VALUE	% ACCT	INCOME
— CASH EQUIVALENTS —					
— MASTER NOTES & MONEY MKT FUNDS —					
FEDERATED MONEY MARKET FUND 92					
— BONDS —					
— BONDS CORPORATE —					
50,000 DISNEY WALT CO NOTES 6.375%, DUE 3/30/2001	A2	49,933.00	50,000.00	2.86	2,500 - 5,000
50,000 WAL-MART STORES 8.625% DUE 4-1-2001	AA2	50,359.75	50,000.00	2.86	5K - 15K
100,000 GENERAL MOTORS ACCEPTANCE CORP MEDIUM TERM NOTE 5.80% DUE 04-09-2001	A2	99,800.50	100,013.00	5.73	5K - 15K
47,000 GTE NORTHWEST INC SER A DEBS 7.375% DUE 05-01-2001	AA3	47,180.01	47,080.37	2.70	2,500 - 5,000
50,000 KIMBERLY CLARK CORP NOTES-REG 8.6250% DUE 05-01-2001	AA2	50,391.25	50,130.00	2.87	5K - 15K
50,000 AT&T CAP CORP MED TERM NOTES 6.250% DUE 05-15-2001	A1	49,895.38	50,040.50	2.86	2,500 - 5,000
— REAL ESTATE —					
— REAL ESTATE NON RENTAL —					
1 172.36 ACRES AND 19 ACRES (2 TRACTS) IN W/2 SW/4 IN SEC 25, T4N, R5E PONTOTOC CO, (HOME PLACE)		297,360.00	297,360.00	17.02	0

Attachment 1
p. 2

UNITS/ DESCRIPTION	RATING	BOOK VALUE	MARKET VALUE	% ACCT	INCOME
TOTAL REAL ESTATE					
— MORTGAGES —					
— MORTGAGE NOTES —					
60,000 WILLIAM R. & BARBARA M. FUGH NOTE DATED 7-30-91/VARIABLE INT RATE		60,000.00	60,000.00	3.44	5K-15K
43,203.160 TIM & DONNA HUTCHINSON NOTE DATED 03-07-1990&		43,203.16	43,203.16	2.47	5K-15K
— TIME DEPOSITS —					
— CTFS OF DEPOSIT OTHER BANKS —					
38,000 MENA AMERICA BANK, N.A. 5.25% DUE 04-30-2001 SEMI-ANNUAL		37,737.92	37,737.92	2.16	2500 - 5,000
50,000 CITIZENS - CERTIFICATE OF DEPOSIT 6.785% DUE 05-11-2001 INT. PD MONTHLY		50,000.00	50,000.00	2.86	5K-15K
100,000 COMMERCIAL FEDERAL CD #3019-712-971 4.879% DUE 4-7-00 (1ST PRESBYTERIAN CHURCH-CHECK MAILED)		100,000.00	100,000.00	5.73	5K-15K

Attachment p.3

UNITS/ DESCRIPTION	RATING	BOOK VALUE	MARKET VALUE	% ACCT	INCOME
99,000 COMMUNITY BANK, PASADENA,CA 7.25% - 9 MOS. DUE 04-16-2001 (#909022313 BK#)		99,000.00	99,000.00	5.67	5K-15K
100,000 SUPERIOR FEDERAL BANK CERTIFICATE OF DEPOSIT 7.00 % APY 7.16% DUE 04-30-2001		100,000.00	100,000.00	5.73	5K-15K

Attachment 1
p.4

DATE	DESCRIPTION	INCOME CASH	PRINCIPAL CASH	INVESTMENTS
03/16/01	FIRST UNITED BANK 6.79% APR 7% (#147635) DUE 3-15-2001 COMPOUND MONTHLY $50,000. INTEREST RECEIVED	57K - 15K		
03/16/01	FIRST UNITED BANK 6.79% APR 7% (#147635) DUE 3-15-2001 COMPOUND MONTHLY $50,000. REDEEMED		50,000.00	50,000.00-
03/21/01	FEDERAL HOME LOAN BANK CONS BONDS 5.625%, DUE 3/19/2001 85,000 PV MATURED		85,000.00	85,000.00-
03/21/01	FEDERAL HOME LOAN BANK CONS BONDS 5.625%, DUE 3/19/2001 MARKET DISCOUNT ACCRETION	203.90	203.90-	203.90
03/02/01	U.S. TREASURY NOTE 5.625%, DUE 2/28/2001 200,000 PV MATURED		200/000.00	200,000.00-
03/02/01	U.S. TREASURY NOTE 5.625%, DUE 2/28/2001 MARKET DISCOUNT ACCRETION	151.04	151.04-	151.04
03/05/01	U.S. TREASURY NOTE 5.625%, DUE 2/28/2001 INTEREST ON 200,000 PV	5,625.00		

FINANCIAL STATEMENT

NET WORTH

Asa Hutchinson 6/12/01

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bar accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debt mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS			LIABILITIES		
Cash on hand and in banks	3	000	Notes payable to banks—secured	48	300
U.S. Government securities—add schedule			Notes payable to banks—unsecured	20	900
Listed securities—add schedule			Notes payable to relatives		
Unlisted securities—add schedule			Notes payable to others		
Accounts and notes receivable:			Accounts and bills due	25	900
Due from relatives and friends	3	000	Unpaid income tax	-0	
Due from others			Other unpaid tax and interest	-0	-
Doubtful			Real estate mortgages payable—add schedule Home	50	100
Real estate owned—add schedule Home	90	000	Chattel mortgages and other liens payable		
Real estate mortgages receivable			Other debts—itemize:		
Autos and other personal property	55	000	Auto Loan	57	000
Cash value—life insurance	1	800	MBNA	12	000
Other assets—itemize:			Traveler's Bank	34	600
Thrift Savings	15	000	First Nat'l Bank-Law Note	14	662
Inheritance Receivable	30	000		12	800
			Total liabilities	278	262
			Net worth	80	462
Total assets	197	800	Total liabilities and net worth	197	800

CONTINGENT LIABILITIES			GENERAL INFORMATION	
As endorser, comaker or guarantor Children's School + Auto Loan	11	000	Are any assets pledged? (Add schedule.) Not other than as stated	No
On leases or contracts	N/A		Are you defendant in any suits or legal actions?	No
Legal Claims	N/A		Have you ever taken bankruptcy?	No
Provision for Federal Income Tax	N/A			
Other special debt	N/A			

Schedule of Real Estate Owned

- Home at 1108 Adelaide Fort Smith Ar 90,000

Schedule of Mortgages Payable

City National Bank on home 50,100

III. GENERAL (PUBLIC)

1. ***An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.***

   Answer: I participated while in private practice with Arkansas Volunteer Lawyers for the Elderly and took the assignment of the representation of the elderly in a variety of cases from Social Security disputes to rental problems to domestic relations. Throughout my practice I have also received referrals from Ozark Legal Services or Western Arkansas Legal Services for overflow cases that they could not handle. I do not remember the specifics of these cases, but they were consistent throughout my practice. In addition, I have, from time to time, received criminal defense appointments to represent indigent defendants on a *pro bono* basis or on a set fee basis established by the court.

   I also was supportive of a prison ministry called Set Free Prison Ministry. I have also supported church programs that serve the disadvantaged.

2. ***Do you currently belong, or have you belonged, to any organization which discriminates on the basis of race, sex or religion – through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What have you done to try to change these policies?***

   Answer: No. As stated previously, I attended Bob Jones University, which had a non-discriminatory admissions policy but a discriminatory dating policy. I expressed my objection to this policy and personally communicated my objections to the president of the university during the 2000 election cycle, and subsequently to this, the policy was changed.

Chairman LEAHY. Thank you, Congressman, and I appreciate and applaud your statement.

As you know from our earlier discussions, Senator Hatch and I have introduced S. 304, the Drug Abuse Education, Prevention and Treatment Act. The bill we have introduced would devote substantial Federal funding to improving drug treatment and other demand reduction programs, as well as drug courts for adults and juveniles, drug treatment and testing for prisoners, and other programs.

Now, I know as head of DEA your primary concern is law enforcement, but do you believe that improving drug treatment and prevention programs actually assists law enforcement?

Representative HUTCHINSON. Yes, I do, Mr. Chairman, without any doubt whatsoever. I don't think there is anyone more than folks in law enforcement that understand we keep the finger in the dike and keep the dam from breaking, but it is ultimately education, prevention and treatment that is going to make ultimately the biggest difference in our society.

So I applaud you, Chairman Leahy, for this legislation, as well as the others that have introduced this. I think that if you can find more money in the budget to put in treatment—and I noted trying to provide treatment for those in prison; I think that is a very important part of it. More education for our young people—I applaud you for that, and I know the Department is looking at that legislation and I wish you success as you try to increase funding for the demand side.

Chairman LEAHY. During floor debate in the House last year, you said "We should not extraordinarily expand mandatory minimums. I think that moves us in the wrong direction." I have actually voted for some mandatory minimums in the past, and some of them I now look at and question whether I voted the right way.

I have severe reservations about the usefulness and the effects of many of the mandatory minimum sentences Congress has passed over the past few decades. A lot of the Federal judges, as you know, have complained openly about this.

So I might ask you this: under what circumstances do you think mandatory minimums are helpful to law enforcement, but are there also mandatory minimum sentences under current law that we ought to look at possibly to change?

Representative HUTCHINSON. Well, Mr. Chairman, I think mandatory minimums reflect the concern of society for a particular problem. Primarily, they are directed at the drug offenses and the gun offenses, and I think that the mandatory minimums have been helpful in reducing violent crime in our country.

I think Congress was very wise in coming back—was it in 1994—in creating the safety valve so that under certain circumstances the judge can revert to the Sentencing Guidelines rather than to the mandatory minimum sentence. There is always those extraordinary circumstances that it is appropriate. As I stated in the committee and on the floor, I have been reluctant to expand mandatory minimums because I think they are directed at the serious problems.

You asked about the future, and I think we have to be careful, recognizing that you don't want to overly tie the hands of the

judge. But this is a way that Congress sometimes finds to express the outrage of a community.

Ecstasy, for example, is an extraordinary problem and if you offered mandatory minimums for someone who was selling 1,000 pills of Ecstasy at an event that they advertised as alcohol- and drug-free, I think it would probably be appropriate. I mean, it would be hard for me to say that is not an appropriate discouragement for that activity and you have to assess a firm penalty.

Chairman LEAHY. Do you think that possibly with the number of mandatory minimums on the books that there will be a time that Congress would do well to go back and review them all?

Representative HUTCHINSON. I would have no problem in Congress reviewing the mandatory minimums, and that is not prejudging any outcome, but I think it is appropriate whenever you have that type of a mandatory sentence that takes it out of the discretion of a judge that from time to time Congress review that.

Again, my policy has been trying to be hesitant about expanding those. I think that in the drug arena and in the violent crime arena, they have been very effective, but I would certainly support a review of it by Congress.

Chairman LEAHY. A number of States, including fairly conservative States like Arizona, have adopted initiatives in recent years legalizing the use of marijuana for medical purposes. The Supreme Court recently affirmed the Federal Government's power under the Controlled Substances Act to prosecute those who distribute or manufacture marijuana, including those who distribute it to people who are ill in the States that have voted to allow it.

I have not been one supporting the legalization of marijuana and I have not taken any position on these initiatives the States have passed. It is not something Vermont has taken up and has left that to other States to determine what they want to do, but I am concerned about the tension between the State and Federal authority in those States.

There are a lot of drug cases that Federal agents and prosecutors can bring, and you were a prosecutor, too, and you understand the discretionary part. Do you think the Federal Government should make it a priority to prosecute people who are distributing marijuana to ill people in those States that have voted to make it legal?

Representative HUTCHINSON. Well, there is a tough tension that is there, Mr. Chairman, and you phrased the question as tough as it can be phrased. You are clearly a good former prosecutor.

I think that the Supreme Court decision was correct because it affirmed Congress' discretion in designating marijuana as a Schedule I drug that has no legitimate medical purpose. I think we have to listen to the scientific and medical community. At this point, they have said that there is not any purpose from a medical standpoint for marijuana that cannot be satisfied by some other drug.

So I think it is very important that we do not send the wrong signal from a Federal level to the young people, to the people in this State, or California or wherever, that marijuana use is acceptable practice. It is still illegal and it is harmful and there are many potential dangers, and the scientific community does not support the medical use of it. And so I think that as far as the enforcement policies, that is something that I want to work with the Attorney

General on and develop an appropriate policy there reflecting those points.

Chairman LEAHY. In other words, you can't take a position today, and that is understandable, but let me urge this, and my time is up and I will wait for the next round. More States are going to do this and I think you and the Attorney General should start having some long talks with the attorneys general of those States that have done it because this could create a real problem between State and Federal relations. There are enough areas where you are going to have to cooperation in the drug war. I am not suggesting what the outcome should be, but this is something that I think should be fairly high up on your radar screen.

Senator DeWine is also, like the two of us, a former prosecutor, and I will yield to Senator DeWine.

Senator DEWINE. Mr. Chairman, thank you very much. Let me ask that my opening statement be made a part of the record.

Chairman LEAHY. Without objection.

[The prepared statement of Senator DeWine follows:]

STATEMENT OF HON. MIKE DEWINE, A U.S. SENATOR FROM THE STATE OF OHIO

Mr. Chairman, thank you for holding this hearing today to consider the nomination of Representative Asa Hutchinson to be Administrator of the Drug Enforcement Agency.

As you know, this position is vital in our fight against illegal drugs, and Representative Hutchinson is an excellent choice to head the Drug Enforcement Agency. During his time in Congress, he has shown great integrity and thoughtfulness in his work, gaining him the respect of colleagues on both sides of the aisle. Moreover, Representative Hutchinson understands that we must remain steadfast in the fight against drugs if we are to protect our children, restore our cities, and strengthen our families.

Mr. Chairman, in our continuous fight against illicit drugs in this country, it is becoming increasingly clear that we need a balanced, comprehensive anti-drug strategy—a strategy that includes the elimination of both the demand for and supply of drugs, as well as adequate treatment for addicts and anti-drug education. I have long maintained that to be to be effective, our national drug control strategy must be a coordinated effort that directs resources and support among domestic law enforcement, international eradication, and interdiction efforts.

As we know all too well, when drugs are cheap and plentiful, kids buy them and kids use them. More children today are using and experimenting with drugs—many, many more. According to the "2000 Monitoring the Future Study," since 1992

- Overall drug use among 10th graders has increased 53 percent;
- Marijuana and Hashish use among 10th graders has increased 88 percent;
- Heroin use among 10th graders has increased 83 percent; and
- Cocaine use among 10th graders has increased 109 percent!

These statistics represent an assault on our children, on our families—and on the future of our country. That's why I fought hard to include the reauthorization of the "Safe and Drug-Free Schools and Communities Program" in the education reform bill that we recently passed. This program is the primary federal source of drug and violence prevention efforts in 97 percent of America's schools. As a member of the ESEA conference committee, I will remain dedicated to keeping the reauthorization of this program in the final bill.

In addition, I joined the Chairman and the Ranking Member in introducing the "Drug Abuse Education, Prevention, and Treatment Act of 2001." This bill would help us maintain a balanced drug policy among demand, supply, and drug interdiction by increasing resources for prevention and treatment.

Ultimately, Mr. Chairman, I believe we must protect our kids before the drug dealers get to them. That means we must get drugs out of our schools and communities, prevent them from ever entering our country, and maintain balance in our overall national anti-drug policy. I believe that Representative Asa Hutchinson can lead us on a solid path to these important goals.

Senator DEWINE. I will spare you all the nice things I was saying about you; you can read them in the official record.

We welcome you here today, and I think this is a great nomination by the President. We are very happy about it.

Representative HUTCHINSON. Thank you, Senator.

Senator DEWINE. I wonder if you could outline for me what you think DEA's role in the President's Andean initiative is going to be and how you see that part of the world, that very, very important, troubling part of the world.

Representative HUTCHINSON. Well, as you have, Senator, I have traveled down there, looked at Colombia, but also the circumstances in Ecuador. They are concerned about a pour-over effect into that country, and I believe that it is a risk that we have to take in order to support a very old democracy in South America and make sure that it survives. I think we should not delude ourselves, but our efforts there hopefully will have some good side benefit for the drug supply in America. But we have to realize the primary impact is to support that democracy.

In reference to the DEA's role, one of the probably not so greatly emphasized portions of the initiative is the criminal justice sector. And if we are going to have an impact on the supply of drugs coming in, we have got to put the major trafficking organizations in jail. That takes investigation.

The DEA will be training, supporting better law enforcement efforts in Colombia, in Venezuela, in Peru, in the South American countries, in addition to making sure that they have quality prosecutors, law enforcement people that can get the job done. So we are backing them up. We are doing the training there, and that criminal justice sector is probably as important as any portion of the Andean initiative.

Senator DEWINE. Well, I am delighted to hear you say that because I think when we look at this whole battle of preserving democracies—certainly, Colombia is not an emerging democracy, but it is true with some of the emerging democracies that they do need help as well, and that it is the developing of that criminal justice system that actually does work and that gets results.

The ability that we have as a country to train and the ability to share our ideas and our expertise, I think, is very, very valuable. You have a lot of that expertise at the DEA, and so I am delighted to see that you intend to do that.

Another area I would just mention—and this is not directly under your portfolio in DEA, but I just think that as you will become one of the senior counselors to the President on drugs that I would just urge you to always keep the balance that you and I have talked about in the past with drug treatment, drug education, domestic law enforcement, and international interdiction.

I think it is important that every one of us who has any input into this from the point of view of Congress, or in your case from the administration, weigh in heavily and make it clear to the country that this is what we have to do. It has to be a balanced approach.

Representative HUTCHINSON. I agree completely, Senator DeWine, and you can be assured that I will support the President's intention to have a very balanced approach to our anti-drug effort.

I have been delighted to know of the success and energy of the demand reduction section of the DEA. I believe that if you are talking about a law enforcement initiative, there is probably nothing more important than educating folks to obey the law and what the law is. The demand reduction section has been very effective in the DEA working with community coalitions, working to educate schools, administrators and teachers about the new wave of drugs coming in. So I think it is something that I intend to make sure is alive and well at the DEA, as well as our enforcement efforts.

Senator DEWINE. Let me just close with a question in regard to Haiti. Last year, it is estimated that about 15 percent of the drugs destined for the U.S. passed through Haiti as a transit point, and you and I the other day talked a little bit about this. I would just urge you to keep the few DEA agents that we do have down there, and I would be interested to get reports periodically on how they are doing.

Representative HUTCHINSON. I would be happy to, and thank you for that counsel, Senator.

Senator DEWINE. Thank you. Thank you, Mr. Chairman.

Chairman LEAHY. Thank you.

The former chairman of this committee, Senator Biden, has probably spent more time on the issue of illegal drugs and how to combat them than any other member of the committee, and I yield to Senator Biden.

Senator BIDEN. Thank you very much, Mr. Chairman.

Congressman I am for you, and I ask unanimous consent that my statement laying out my reasons why I support your nomination be placed in the record at this time.

Chairman LEAHY. Without objection.

[The prepared statement of Senator Biden follows:]

STATEMENT OF HON. JOSEPH R. BIDEN, JR., A U.S. SENATOR FROM THE STATE OF DELAWARE

Today the Judiciary Committee considers the nomination of William Asa Hutchinson to head the United States Drug Enforcement Administration. I intend to support this nomination.

Congressman Hutchinson is well known to all of us on this Committee not only because he has served in the House of Representatives where he has been a member of the Judiciary Committee, but also because he is the brother of our colleague Senator Tim Hutchinson.

Asa Hutchinson has had an impressive legal career and is quite an adept lawyer. He was just 31 years old when he was appointed by President Reagan to be the U.S. Attorney for the Western District of Arkansas, making him the youngest federal prosecutor in the country at the time. He has also distinguished himself as a lawyer in the private sector.

I am pleased to note that Congressman Hutchinson's nomination has been endorsed by the majority of his Democratic colleagues on the House Judiciary Committee and by the International Association of Chiefs of Police.

The next head of the IDEA will have a great opportunity to influence the shape of our nation's response to illegal drugs - both domestically and internationally.

I urge you, Congressman Hutchinson, to keep a number of important issues in mind as you consider what drug policy should look like in the future:

First, we need to prove that we can walk and chew gum at the same time by passing S. 304, the Drug Abuse Education, Prevention and Treatment Act, a bill that I am working on with the Chairman, Senator Hatch, and several other members of this committee, which authorizes $2.7 billion for drug treatment and prevention programs over the next three years. I hope we can pass this bill out of Committee soon and I hope that we will have Congressman Hutchinson's support.

Second, we have to deal effectively with the emergence of new "club drugs," particularly Ecstasy. Parents and kids are under the false impression that these drugs

are "no big deal." We need to educate kids so that they know the risk involved with taking Ecstasy, what it can do to their bodies, their brains, their futures. Adults also need to be taught about this drug - what it looks like, the paraphernalia - pacifiers, water bottles, glow sticks, etc. - that go along with Ecstasy use, and what to do if they discover that someone they know is using it.

Third, the United States must continue to stay engaged with Colombia. Last year, the United States made a major commitment to help Colombia and other Andean nations stem the production and trafficking of illicit drugs. We must continue this essential effort, not only in Colombia but with the other countries in the Andean region.

Fourth, we must build on the new level of cooperation with the Mexican government. President Fox has recently extradited several Mexican nationals wanted in the United States on drug trafficking charges. This is both courageous and historic - and it should be commended. The Fox Administration has also acknowledged the corruption in its police forces and has signaled its willingness to work with the United States to bolster Mexican law enforcement.Fifth, we need to make sure that new antiaddiction medications such as buprenorphine are made available to those who need them. Senators Hatch, Levin, Moynihan, and I worked with IDEA agents and others last year to pass a law to create a new system that would allow select qualified doctors to prescribe certain pharmacotherapies from their offices rather than through a series of clinics on the periphery of the medical world. We need to make sure that this new system is given a chance to work so that we begin to close the "treatment gap" and also move drug treatment into the medical mainstream.

I hope that we can work together on these and other issues. In drug policy, we tend to become overwhelmed with the enormity of the task ahead of us. We focus on the fact that we have nearly 15 million drug users in this country, four million of whom are hard-core addicts. But we lose sight of the fact that we have cut the number of drug users by almost half since 1979. And far too often we forget that this is our second wave of drug addiction in this country. We beat the first wave back in the 1880s, and I remain confident that we can beat this one too.

Mr. Hutchinson, as I told you when me met last week, I intend to support your nomination. You have a tough job ahead of you, but I sincerely believe that you have what it takes to be a strong IDEA Administrator. I wish you the best of luck and I look forward to working closely with you on both domestic and international drug policy matters.

Senator BIDEN. One of the things that you and I talked about is this notion about whether or not we are winning or losing in this effort to deal with the drug problem. We have a semantic disagreement we have not discussed, and that is I have never called it a war. I read your statement about your not wanting to have it referred to as a cancer, like the last drug director did, because you were concerned that it would appear as though we thought there wasn't a solution.

The thing that worries me most after all these years, and every single year writing a national drug strategy—I am the guy who wrote the law, and it took 6 years to get it passed, setting up the drug director's office. When I was chairman of this committee, a previous administration wanted to merge the DEA with the FBI. I don't think it is an exaggeration to say my opposition to that played some role in it not being merged.

My consistent fear has been that we will yield to the frustration that there is not much we can about this problem, and therefore why not ultimately legalize it. Where I have some concern about the States that have passed referenda for medical use or marijuana, I have less concern about the actual medical use than the message it sends.

There are other substances, there are other drugs that can alleviate the pain for those who have debilitating and in many cases terminal illnesses. I don't want to quarrel about that now, but what I do worry about is I worry about this notion, whether it is marijuana or Ecstasy, or I might point out initially the club drugs,

rohypnol and ketamine, or initially angel dust—I mean, I can go down the list, and initially we have tended to embrace every drug that has come forward as not being as harmful as other drugs.

You may recall, because you were a Federal prosecutor at the time, the debate I had with the Carter administration and a gentleman who was the chief adviser to the Carter administration, a medical doctor, who came up to see me and asked me why I was "picking on cocaine." Why was I picking on cocaine? To put it in perspective, the American Medical Association did not declare cocaine an addictive substance until the late 1980's. It was a constant battle.

So the point I want to make is this: there is a frustration in dealing with this problem, and when we don't come up with the right answers and reduce the numbers of people who are consuming these drugs, the tendency is, out of frustration—well-thought-out, like Former Secretary of State Shultz, a very fine man, and William Buckley and others, leading conservative voices, as well as liberal voices—Mayor Schmoke, a Rhodes scholar—talking about the legalization of drugs.

I think we don't focus on the facts here. The facts are we have made great progress. In 1979, there were 25 million Americans regularly using and abusing controlled substances in America. That is down to 14.8 million. Years ago when I chaired this committee, there were 5.6 million hard-core addicts. That number is down to 4 million, still too many, but we have actually made some genuine progress.

It seems to me we are right at the point—I making a statement, not asking a question here—it seems to me the whole point here is that we don't want to let ourselves get into this mind set that we can't do anything about it, and the key to me at this point is treatment. Treatment works, but it does not work unless we provide the funding for it.

In the United States of America, nearly 769,000 people between the ages of 18 and 25 who need drug treatment can't get it. You show up at any municipal organization in the United States of America and walk and in say, I am a drug addict, I am out there committing crimes, I have committed 3 felonies in the last 4 weeks—by the way, they commit between 90 and 180 felonies a year to sustain the habit, depending on what figure you take—help me. And they will say come back in 4, 6, 8, 10 weeks, and 6 months in most major cities.

So, Asa, it took me 4 years to get drug courts endorsed. Your endorsement of them is very helpful. The fellow we are about to bring in as the head of ONDCP does not share your view, unless he has a conversion at the moment of his confirmation hearing. Mr. Walters is a fine man. We have argued for 14 years about treatment.

I hope that you will be willing not only to do the job of managing that vast department—I realize my time is up, Mr. Chairman—but I hope you will weigh in. And the reason it is important is you will be the head of DEA and you are viewed as a strong conservative voice. And that is the next stage here; we have got to move to treatment and availability of treatment on demand.

That is why I didn't give my opening statement. I have no questions for you because I asked you all the questions I needed to ask you in our private meetings.

Thank you, Mr. Chairman.

Representative HUTCHINSON. Mr. Chairman, can I just respond real quickly and just express my appreciation to Senator Biden for his leadership?

Chairman LEAHY. Of course, you can.

Representative HUTCHINSON. I think your leadership has made a difference, and I am grateful to you. I am particularly grateful about the hope you expressed to the American people as to the progress that we have made.

You know, I perhaps could have been wiser in reference to my criticism of General McCaffrey on not using the word "war" because I didn't mean to get into a semantic battle.

Senator BIDEN. It is not a big deal.

Representative HUTCHINSON. What I believe is important, as you said, is that we send the right signals, that we express intensity. And so the way I express that intensity is talking about a great crusade, and I think that is good, strong language we need to use.

And you indicated that the key is treatment. I agree that treatment is a critical element of this. I do believe that the law enforcement community forces people to treatment many times by making an arrest, and I have had that expressed to me many, many times. And so it all works together, and I appreciate again your leadership.

Senator BIDEN. You ask any law enforcement officer in a rural community whether or not they would rather have two more officers or two serious treatment facilities that rural America can get to, where the use of drugs is increasing faster than in the inner-city. I bet you eight to one that you will find them saying, give me the treatment facilities.

Chairman LEAHY. Well, they would in Vermont. I know that.

The Senator from Pennsylvania.

Senator SPECTER. Thank you, Mr. Chairman.

Congressman Hutchinson, I compliment you on your nomination. I know your record in the House of Representatives and I think it is an exemplary one. I appreciated the opportunity to talk to you when you came by for the informal visit and the extensive conversation we had at that time.

A couple of points that I would like to make this morning really more for the record involve some items we talked about, and it picks up on what Senator Biden has talked about on rehabilitation. I came in at the very end of his questioning.

I would renew my request formally to you at this time when you have the position officially to make a study as to the cost-effectiveness of the very substantial funds that the Federal Government is putting into the war against drugs. I will use the term "war against drugs." We have to fight it at many, many levels.

We are currently considering an appropriation for Colombia, close to $900 million, which would supplement the $1.3 billion from last year. As I said to you privately and at a hearing of the Foreign Operations Subcommittee, I have grave doubts about the value of that kind of a Federal expenditure.

I am very much concerned about what happens to the government of Colombia and the people of Colombia, and they have had a very, very tough time, including the attack by the drug warlords on the supreme court of Colombia. But when we make an analysis as to where we ought to put U.S. dollars, it seems to me we do not get much for our money.

I would like your analysis as to the expenditures which we have made in Colombia before the $1.3 billion and the efficacy of another large investment. Then I would also like your analysis as to where we ought to be putting our money on the supply side versus the so-called demand side.

Interdiction, I think, is important, but how effective is it? When we put funding into limiting the growth of drugs in Colombia, what effect does it have beyond pushing drugs into Bolivia or Peru? I have made a number of trips into that area over the past two decades and still wonder if there is any value to our putting a lot of money into discouraging people in one country from growing drugs when it seems to move right into the next country. Then the issue comes up on the so-called demand side, where education, I believe, has worked and rehabilitation has a prospect.

Let me give you a chance to respond as to your approach philosophically to the allocation of Federal funds on supply versus demand.

Representative HUTCHINSON. Thank you, Senator Specter, and I did enjoy our discussion on that issue. I think in reference to Colombia and the investment in that region, I have supported it. I believe that it is important that we do support that democracy and their struggle there.

I think it is certainly appropriate that Congress continue to look at the effectiveness of the money that we invest there. Are we getting a good return? Are we having proper accountability? I feel confident that the DEA role in the criminal justice sector will work well. I think that is a good investment.

In reference to the supply versus demand side debate, I think we have to be careful about the debate itself. I think the question should be are we investing what we should be on the supply side, the law enforcement side. Are we taking care of folks there, protecting them against the dangers of going up against a methamphetamine group in a search warrant? On the demand side, are we investing enough in education?

In both of them, we could probably invest as much as you could write a check for out of Congress because there is great need there, but the balance we should always be looking at. But I think they work together. I have been impressed with the letters that I have gotten in my initial phase here during the confirmation——

Senator SPECTER. Congressman Hutchinson, I am going to interrupt you because my yellow light went on and I am about to be interrupted by the red light which goes on. So let me raise one other issue here again for the record, and it is something we discussed, and that is the issue of taking Cuba up on Castro's offer to cooperate with us on drug interdiction.

There was a day when Castro was a real threat, when he had Soviet missiles in Cuba back in 1962 or when there was a problem about turning Latin America communistic, but I think those dan-

gers have lost since past. I made a trip to Cuba 2 years ago and had a talk with President Castro about many items—human rights, Lee Harvey Oswald, the Cuban Missile Crisis, and drugs.

It seems to me that we ought to be using every facility we have as to intelligence and to drug interdiction without respect to the kinds of concerns we have had about Castro in the past. My red light is on, so I will stop, but that doesn't stop you from responding.

Representative HUTCHINSON. Well, thank you, Senator Specter. I certainly think one of the great things about the DEA is that many countries, even when we have a philosophical difference of viewpoint, are willing to work together fighting drugs. Certainly, when you look at the Caribbean, we have a strong investment there to interdict, to stop the supply coming in.

I don't, quite frankly, know as much as you do about our relationship with Cuba on that issue. That is something that the State Department will weigh in on, I am sure, but I will certainly take your views into consideration there.

Senator SPECTER. Well, the State Department will weigh in, but the head of the Drug Enforcement Administration should weigh a little more on this issue on that point.

Thank you. Thank you, Mr. Chairman.

Chairman LEAHY. Thank you, Senator Specter.

Senator Feingold?

Senator FEINGOLD. Welcome, Congressman. I greatly admire your abilities. I congratulate you, and I know you have a longstanding commitment both as a Congressman and as U.S. Attorney to our Nation's fight against drugs. I very much look forward to working with you in your new position.

As you know, the role of the DEA in drug interdiction efforts has been invaluable. I do think that the thousands of men and women of the DEA should be proud of their service to our country, but I believe that drug interdiction should be part of a strong multipronged approach to the fight against drugs.

I believe that effective enforcement of our Nation's laws against the production, sale and distribution of drugs is essential, but I also believe that effective drug prevention and treatment is essential. In other words, and as almost every Senator on this committee has said, while we use enforcement tools to fight the supply side of the problem, we must also use prevention and treatment tools to fight demand.

In the brief time I have, Congressman, I would like to ask you about a somewhat related issue, and that is the issue of racial profiling. As you and my colleagues know, both President Bush and Attorney General Ashcroft have strongly expressed their belief that racial profiling is wrong and should end in America.

As you know, as well, your strong supporter, Representative Conyers, and I have introduced legislation to end racial profiling and we look forward to fruitful discussions with the administration on our bill. I am extremely pleased that you, too, have spoken out against racial profiling and supported the Federal Government taking a leadership role in combatting the practice, and I was delighted with your presence at our news conference where we intro-

duced our bill. In fact, I think in this position you will have the opportunity to do just that, to combat this practice.

As you know, many believe that our Nation's so-called war on drugs has resulted in or encouraged racial profiling by law enforcement officers. According to the May 1999 ACLU report entitled "Driving While Black: Racial Profiling on our Nation's Highways," we know that, contrary to popular belief, drug use and distribution are not confined to racial and ethnic minorities. Indeed, five times as many whites use drugs.

Nevertheless, the war on drugs since its inception has targeted racial and ethnic minorities. Through a program called Operation Pipeline, the DEA trained some 27,000 police officers in 48 States to use pretext stops to find drugs in vehicles, and introduced a racially biased drug courier profile.

I understand that the DEA fortunately now claims that it no longer teaches racial profiling in its training courses. So I would ask you, if confirmed, what steps would you take to ensure that the DEA does not engage in racial profiling?

Representative HUTCHINSON. Thank you, Senator Feingold, and I appreciate your leadership on the issue of racial profiling. And I do hope that Congress will respond to your leadership and to the President's statement that racial profiling should end.

I think it is important that the Federal law enforcement agencies set the example for the States. The DEA has a major role to play in training and what I will do at the DEA—I know that we already have a policy that prohibits racial profiling and that needs to be—make sure that it is enforced, make sure that the training is done in conjunction with that. And if the Senate does confirm me, I will certainly go over there with that intent.

Training is important. I would want to look at the training to make sure that as the DEA trains State and local law enforcement on how to do stops for those who are suspected of drug trafficking that there is not race used as—racial profiling used in that context.

Senator FEINGOLD. I really appreciate that because as we work carefully with the State and local law enforcement people on racial profiling, they do point out that the DEA sort of began the concept and the training on it. So that is a helpful statement.

In fact, what steps would you take to address the fact that agents have trained State and local law enforcement officers to use racial profiling techniques in the past?

Representative HUTCHINSON. Well, Senator Feingold, I have not studied Operation Pipeline in detail. I have looked at some of the reports that indicate that there was not racial profiling that was taught in that context. I know the ACLU has a different view on that and I don't know the nuances of it.

All I can say is that as I go over there, I want to make sure that it does not happen and that not only we set the proper example as a Federal agency, but we make sure our training is consistent with our desire to end racial profiling.

Senator FEINGOLD. Thank you. Just a couple of other quick questions in relation to this.

In June 1999, President Clinton signed an executive memorandum ordering all Federal agencies to collect data to determine if racial profiling is occurring. Each Federal agency was asked to

develop a system for collecting data, and it is my understanding that the Bush administration has kept that executive memorandum in place.

As DEA Administrator, would you encourage the Bush administration to continue with the previous administration's executive memorandum to collect data from Federal agencies?

Representative HUTCHINSON. Well, Senator Feingold, that is a major part of the legislation that you have introduced along with others, and as a legislator I supported the need for statistics-gathering because I believe it is a good management tool. The only concern I had was in how some of those statistics might be used in litigation. It is a fair debate.

I look forward in my new position, if confirmed, to work with the administration to develop appropriate policies in that regard. And so I understand the need and we hope that we can accomplish our common goal to end that problem.

Senator FEINGOLD. I appreciate that answer. Finally, I would just ask would you support releasing that data that comes in for public review?

Representative HUTCHINSON. The releasing of the data that is used as a management tool?

Senator FEINGOLD. That is gathered with regard to the executive memorandum from President Clinton that so far the Bush administration has not rescinded.

Representative HUTCHINSON. I need to look at the nuances of that. My reaction is always that we need to have openness in government, but we need to look at the details of that and the extent of the information that would be released.

Senator FEINGOLD. I would just ask, Mr. Chairman, if you could get back to me on that point in a reasonable time, I would really appreciate it. I congratulate you again, Congressman.

Representative HUTCHINSON. Thank you, Senator.

Chairman LEAHY. In fact, the record, of course, will be kept open for questions and answers, and we would ask the nominee to respond to that as quickly as possible.

I would also note just before we go to Senator Sessions that the committee—and we have the agreement of the ranking member for this—will hold a nomination hearing tomorrow afternoon on James Ziglar to be the Commissioner of INS. We were able to juggle around the schedule to do that. Otherwise, we would run into the problem of not getting it done prior to the August recess.

The Senator FROM ALABAMA. I would note, Congressman Hutchinson, you are surrounded by former prosecutors.

Senator Sessions?

Senator SESSIONS. Thank you, Mr. Chairman, and it is a delight to see Congressman Hutchinson here. I have known him for a number of years. I remember on a Saturday morning at a conference in New Orleans we first met, I believe, having a cup of coffee there. My wife and I met with you and I have respected you since that time.

You have tried over 200 cases. That is good experience in itself. You learn what the legal system is all about when you litigate. I was really impressed with your record over the years. I have watched it with great admiration. I was just delighted that the

President saw fit to pick someone of your integrity and dedication and your understanding of what America is about to head the Drug Enforcement Administration.

I have great affection and admiration for the DEA. They are some of the finest investigators I know. They work extremely hard. They often work nights and weekends when a drug deal is going down. It never seems to be during the day, eight to five; it is always when they have planned to be on a vacation with their family or something like that. It is very disruptive. I believe you understand that, and I believe that you will seek to do all you can to affirm them for the important work that they do.

Asa, let me ask you this: do you believe that in our effort to reduce drug use in American that criminal law enforcement plays an important role?

Representative HUTCHINSON. Thank you, Senator Sessions. Absolutely, I believe that criminal law enforcement, as I have mentioned before, does a number of things. It sends the right signal to the Nation that certain conduct is unacceptable, unhealthy, and not consistent with the values of this Nation. That is an important message and law enforcement sends that signal.

Second, we talk about treatment and education. Many times, a law enforcement action will not result necessarily in jail, but many times results in rehabilitation and treatment. So it forces someone to confront their illegal activity, confront their need for help.

Third, what I started to remark earlier, a lot of the letters I get talk about the concern of parents about the easy availability of drugs. And I think that goes to the supply side that you have to have the education and the treatment which is critically important and ultimately the solution, but you have got to deal with the supply side and the law enforcement side as well.

Senator SESSIONS. That is well stated and I certainly agree with that. It is also a part of, I believe, a national statement that drug use is unacceptable. At its base, that is a moral argument that we do not and will not accept drug use in our society and we are prepared to punish those who participate in making that occur. I think that is very, very important.

One of the things that I have expressed concern about recently in a letter to DEA—I believe we have written DEA and GAO—is some of the inaccuracy in reporting from some DEA agents about the number of cases that have actually been made, investigated and prosecuted. It appears that in Puerto Rico, for example, some very serious allegations arose that suggested they were simply claiming credit for any case investigated in their neighborhood almost.

Are you concerned about that, and will you make it a priority of yours to make sure you have accurate accountability in the statistical information that you receive?

Representative HUTCHINSON. I will, Senator, because whenever we have reports of inaccurate information, then that undermines the public confidence in what we are doing. It undermines the investment that we made from Congress' standpoint in law enforcement. So the statistics-gathering, the case reporting is critical. We only take credit for what we do and are responsible for, and so I

will certainly do all that I can to make sure that it is accurate under my watch.

Senator SESSIONS. Well, it will be important for you to evaluate how well your agents are doing, but as you know, more and more we are involved in task forces. There can be a 40-person task force and one DEA agent assigned and one FBI agent assigned and one Customs agent assigned, and they arrest 10 people and all 3 of them claim credit for arresting 10 people. That is not good information to make decisions on, and I hope that you will see if you can go pierce through all of this because we want to encourage task forces and investigative forces and I hope you will work on that.

Another matter that I hope you will wrestle with and will not be afraid to discuss is your budget as compared to other expenditures of money for drug interdiction and resistance. For example, your budget runs about $1 billion; DEA's budget is about $1 billion. We are talking about spending $1.6 billion in Colombia over a year or 2 years to somehow reduce our drug problem.

In my view, there is probably no more effective agency in the country in reducing drugs than DEA, and I hope that in the inner circles you will evaluate DEA's contribution and question some of the other moneys that are out there. Do you have any thoughts about that?

Representative HUTCHINSON. Thank you, Senator, and I do. I think that the DEA, as you mention, is our most effective weapon in this effort from a law enforcement standpoint. It is a single-focus agency. There are extraordinarily professional, talented, dedicated women of the DEA, and I think that needs to be recognized.

Whenever you look at the problem they face, it is enormous. And whenever we look at the budget, I know that in a number of arenas that hasn't been an increase and I will be advocating looking at it carefully as to what is effective, what works, and where your best investment will be, and I will certainly share that when I come to those conclusions.

Senator SESSIONS. Well, I do think, from nearly 15 years working as a Federal prosecutor with DEA agents and other drug agents, that there is no more effective agency fighting drugs than the Drug Enforcement Administration. I do believe that sometimes leaders in Washington want to tell them they can only work some huge, big, big case. As a result of that, they don't start with mid-sized or smaller cases that work their way up into bigger cases.

With regard to drugs, somebody got it ultimately from Colombia if it is cocaine. It always goes up to a higher and bigger organization, and to say you are not going to start at mid-level dealers and work your way up is really short-sighted and typical of a Washington view.

You were the United States Attorney in a middle-America district. Do you have any insight into that mentality of Washington?

Representative HUTCHINSON. I think the goal should be, Senator, that we disrupt the major trafficking organizations. I mean, that should be the focus, but you are exactly right that those cases begin at a lower level.

One instance that you would identify with—I prosecuted a case out of Hot Springs. It was small quantities of cocaine, relatively speaking. They got that cocaine from New York City. The person

in New York City got it from Colombia. I mean, it was a two-step process to bring that cocaine to Arkansas, and you are able to trace that. We have to go after that, but many times it starts at the lower level of the drug culture.

Senator SESSIONS. My time is out.

Chairman LEAHY. Go ahead, go ahead.

Senator SESSIONS. One more comment is I believe you need to look at convictions carefully, get good data, and insist that your agents are out making cases that are prosecutable. Ultimately, that is what you are paid to do, and I am not sure that the numbers that you are receiving based on this task force concept are as accurate as they were 20 years ago and we need to make sure that the taxpayers' money, if you get what you get or even more, is going to be well spent. I think accurate numbers is going to be key to that.

Thank you, Mr. Chairman.

Chairman LEAHY. Thank you.

Before we go to the distinguished Senator from Illinois, my memory was jogged when the Senator from Alabama mentioned three different agencies all coming and taking credit for the same arrests.

When I was prosecuting cases, we had a police chief from a small town, a wonderful person, very popular on the dinner circuit. He spent very little time doing law enforcement and a great deal of time doing PR. We might be totally on the other side of the county and some major arrest would be made and he would hear it on the radio. It was off in the distance, but we would hear the siren as he comes wheeling around, usually getting there ahead of the TV cameras, kind of a four-wheel slide. He would jump out and by then the press would be set up and he would say, thank God we caught them; boy, we worked hard on this one, and off we would go. So I know what you mean. Not that that ever happens in the Congress, I want you to know.

The Senator from Illinois.

Senator DURBIN. Congressman Hutchinson, thank you for joining us and thank you for meeting with me this morning. I really appreciated it very much.

I guess it has been a year ago now that I met with the director of the Illinois Department of Corrections and we talked about some of the problems that he is facing. He gave me a statistic which I think is very important for us to reflect on at this hearing.

In my home State of Illinois, in 1997, we had 500 prisoners in our State corrections system for the possession of a thimbleful of cocaine—500 in 1997. Currently, we have 9,000. The average incarceration period for a drug criminal in the Illinois prison system is 1 year. Yet, during that period of time, my State offers no drug treatment program to these addicts. They come in addicted, they leave addicted, but they have sharpened their criminal skills during their period of incarceration. That, to me, is a hopeless situation to allow that to continue.

We take great comfort in arresting people and sending them off to prison, but if we don't take an honest and realistic view of addiction and how to deal with it, we are turning these addicts back out on the street, now that they have hooked up with gangs, hooked

up with other criminals, still addicted, still looking for victims to finance their habit. That, I think, is a failure in our society if that becomes the norm, which it has been for so many years.

I think that the DEA has taken some positive steps with demand reduction in the last few years. I think there is a lot more that we can do. I know that Senator Biden and others have already spoken about this, but I hope that we can invest in treatment. You just don't get the same kind of press attention to people who are graduating from a drug treatment program who now finally have their high school diploma that you get if you have a raid and you can stack up all the pounds of heroin and cocaine and marijuana in front of you before the cameras. Yet, we know, if the RAND study can be believed, that it is dramatically more effective in reducing drug crime to deal with the treatment situation, and I hope that as the head of the DEA you will do that.

One of the other aspects of this which we discussed this morning that I want to just focus on very briefly is the whole question of racial profiling. Attorney General Ashcroft and members of the administration who have come before this committee have made it clear that they are really dedicated to eliminating racial profiling and I applaud them for that. This shouldn't be a partisan issue. If we are going to have justice blinded to a person's economic status or racial condition, whatever it happens to be, then we have to deal with this, I think, in an honest fashion.

I asked General McCaffrey when he sat in that same chair a few years ago about this. I asked him about some statistics I had read and asked him if they were true. The statistics I read were these: African Americans represent 12 percent of the United States population; they represent 13 percent of its drug users. Keep that number in mind—13 percent of drug users. They represent 35 percent of people arrested for drug possession, 55 percent of those convicted of drug possession, and over two-thirds of those incarcerated in America for drug possession. It starts at 13 percent and ends up being over 60 percent.

There is no way that you can read those statistics and believe that we are doing the right thing here. Filling our prisons with people of color in the name of drug enforcement may give us some comfort when we look at the numbers, but they don't give us comfort when we look at the people and realize that the vast majority of users are not black and brown. They are white, and they don't end up being arrested, convicted or incarcerated.

What would you like to see done when it comes to the DEA and addressing this racial profiling issue?

Representative HUTCHINSON. Thank you, Senator Durbin, and I appreciate your thoughtful attention to that issue and your passion with which you speak about it.

I think it is important, one, on racial profiling that it end, and that obviously has an impact out there. Second, I think that when you look at our enforcement activities and who is targeted, you want to make sure that there is not any racial bias in the law enforcement procedures. That is something that has to be good management, something that comes from the heart, and I pledge that commitment.

In addition, you mentioned the need for more drug treatment programs in prisons, and I share that view. I think that if we are going to send someone to prison, we have an opportunity there to change their lifestyle and we ought to take advantage of that opportunity. So I hope that we can do more in that regard. That is one of the reasons I certainly support drug courts because it intensifies the treatment option.

Senator DURBIN. Let me ask you one other question and then I will stop, and that is on Plan Colombia. I supported it. A number of people on the Democratic side were kind of surprised that I did, but I went to Colombia and met with President Pastrana. He took us out on a helicopter trip with his army in Colombia to a southern province known as Putamayo, and as we flew in that helicopter over these lush green fields the army officers pointed out all of the coca under cultivation, destined to become cocaine destined to come to the United States.

I made a rough estimate that in the province that I visited—you are familiar, being from Arkansas, with St. Louis and the distance between St. Louis and Chicago, which is about 300 miles. I estimated that what I saw under coca cultivation that day on that trip was the equivalent of a one-mile ribbon of coca production from St. Louis to Chicago 300 miles long, 1 mile wide, under cultivation headed for the United States.

So I supported Plan Colombia. I was disappointed that more South American nations did not, and I am curious as to whether or not, on reflection, it was the right vote and whether we should be continuing along this line. I think it is foolish for us to ignore production. It is, I think, foolhardy of us to ignore an administration like President Pastrana's, democratically elected, putting his life and the lives of all of his cabinet on the line trying to fight the narcotraffickers on the right and on the left. But I wonder if we have taken the right approach. If it comes up again, I am going to have to look hard at it and see whether or not it has worked.

What is your impression?

Representative HUTCHINSON. Well, like you, Senator Durbin, I supported Plan Colombia when it came through Congress, and I also believe that when you see President Pastrana taking some very heroic steps to preserve democracy there, when you see so many who are putting their lives on the line, that we need to help them. So I think that was the hard attitude of Congress when we supported that plan.

I think it is important to look at the results that come in. That one-mile stretch—what progress will we make in reducing the coca cultivation there and what impact does that have on the rebel forces? What I have emphasized is the small part of the Plan Colombia, the criminal justice sector, very important, training the Colombian national police not only to obey human rights, but also to properly investigate a case, to help the court system, and I think that is an important part of it as well.

Senator DURBIN. Let me close by saying that I think you are going to do very well by this committee. I am really encouraged by the fact that so many of your colleagues, Democrats and Republicans, on the House Judiciary Committee are standing behind your nomination. I look forward to working with you.

Thank you, Mr. Chairman.

Representative HUTCHINSON. Thank you, Senator.

Chairman LEAHY. Thank you.

We are going to be having a vote soon and normally I would go with the rotation going back to me, but I understand the Senator from Alabama has another question, so I would yield to him.

Senator SESSIONS. I appreciated the comment Senator Durbin made about treatment and intervention in a person's life who is going astray.

You mentioned, I believe, drug courts. I helped bring Judge Goldstein from Miami in the mid-1980's up to my hometown of Mobile, Alabama, to discuss establishing a drug court. One has been established and I think it works well. In my view, the key to it is that when a person is arrested for a drug offense, they are not just released on probation and told to behave. They have to come in on a regular, maybe biweekly basis. They are drug-tested regularly. They are confronted by a probation officer and a judge who watches them, and if they need treatment they are required to go to treatment and fulfill the requirements of that.

When you do it that way, oftentimes you can send a lot fewer people to prison if they are going to be closely monitored when they are released, as compared to what we have been doing in the past, just release them, have them come in once a month and say hello to their probation officer.

Do you favor that? Do you think we could expand our ability to confront people involved with drugs and effectively intervene and change their lives with a combination of tough love from law enforcement and treatment?

Representative HUTCHINSON. I do. I think it is probably one of the most hopeful programs that is out there that combines enforcement and intensive treatment and can make a difference in people's lives.

I was impressed when I went to California and saw a drug court demonstration—not a demonstration; it was a real-life episode where the defendants, the people that were subject to the treatment program came in with their counselor, with the prosecutor. The judge was there. They asked the question how are they doing on their drug test every week. They are taking it. Are they positive or negative? Are they going to the rehabilitation classes? Are they staying out of trouble, going to their job? They are keeping their employment, they are making their children support; that kind of oversight.

It is a year program, and when you are looking at methamphetamine that has an intensive addictive quality to it, 30 days is not enough. And so that is the advantage that drug courts give. The recidivism rate—the temporary statistics show that it is much improved with that kind of supervision.

Senator SESSIONS. We are doing some studies and asking the Department of Justice to study just how well drug courts work, but we do know that in the period of time they are in the drug court's supervision they are certainly much less likely to commit crimes. Some drift back into crime after they get out of that supervision, but I think we have got to use those kinds of ideas.

I would just like to remind you that during the period of time that this Nation took very seriously a resistance to drugs, we were able to reduce, according to the University of Michigan study, drug use by high school seniors by over 50 percent from 1980 through 1992.

We have shown some increases since then, and I think some of that was because we were sending an uncertain message or sounding an uncertain trumpet, that we were suggesting that, well, maybe it is OK to inhale; that is kind of cool. We don't need to be sending that message, and the combination of strong statements and aggressive law enforcement and intensive supervision of people who violate the law are the key, I think, to driving those numbers back down. We ought to not settle for anything less than a reduction in the current use of drugs in American, and we can achieve it.

Chairman LEAHY. I thank the Senator from Alabama. If we can reduce the demand in this country, we are far ahead of the game. We sometimes make a mistake, I believe, in blaming Colombia or any other country for all our ills. We are a Nation of over a quarter of billion people, the wealthiest Nation history has ever known, and with what seems to be an almost insatiable demand for drugs. The money is there. The production is going to show up somewhere. And we have got to do a far better job in decreasing demand here through a whole combination of things, whether it is law enforcement, it is education, it is rehabilitation, and some pretty positive example and reinforcement by parents in this country, too.

I want to submit, because we are coming close to the time for a vote, and I want Senator Biden to have time, I am going to submit my questions for the record, but I do want to raise one issue. I am concerned about the way our asset forfeiture laws are working in this country. I am concerned that sometimes when you have asset forfeiture laws, law enforcement is more interested in what the asset is that may be forfeited than what the crime is that might be stopped.

Somebody with drugs with an expensive car they own looks a little bit different than somebody who is using a beat-up rent-a-wreck. A number of States have reformed asset forfeiture laws that really were becoming scandalous. They found that their police can get around the reforms by turning the seizures over to the Federal law enforcement agencies. An agency will keep 20 percent and give 80 percent back. So even though the States have felt that there was a problem in their own State with the way the asset forfeiture laws were working and reformed them, police get around them by getting 80 percent of it anyway back from the Federal agencies. Now, they then avoid the State restrictions that earmark the forfeiture proceeds to education and treatment instead of going to the police department. They get around the more stringent proof requirements.

I would hope that as head of the DEA your voice will be the strongest voice possible in this, that you will work to develop policies that would make sure Federal agencies are aware of what the States feel and aware that there have been State abuses so that we are not using the forfeiture laws in a way that is really abusive, because if they are, you know the way the pendulum goes. The

States will get rid of them, and the Federal Government will get rid of them. And something that could be a real law enforcement tool will be gone. So will you please assure us—I don't expect you to have all the answers today, but assure us that this is an issue, the forfeiture issue is one you will look into.

Representative HUTCHINSON. Absolutely, and I believe that asset forfeiture is a very important tool for fighting the major drug traffickers. I mean, it hits them where they don't want to be hurt. But we are going to lose that tool, as you pointed out, Senator, if we do not abide by the constitutional protections and by the law in taking that asset and proving the case on it.

I think Congress did the right thing by reforming the asset forfeiture laws, making sure the burden of proof is on the Government and not on the citizen that has that asset to be taken. That was an appropriate reform, but it still allows this very effective tool to be used in the right cases. So I will certainly watch that to make sure that it is used appropriately and not abused.

Chairman LEAHY. Thank you.

Senator Biden?

Senator BIDEN. Thank you.

Plan Colombia, again, sometimes when you get too close to things, you lose your perspective. But I received a call, I guess about 10, 12 days ago, from President Pastrana who periodically—about every 3 weeks—calls and gives me his view of what is going on. And as the record will show—I will not take the time now—his government is actually doing the hard stuff now, taking on the paramilitaries and taking on the paramilitaries up in the northeast where the ELN is operating. They have made some real progress. The coca production level is down, but as you know, it has to get way down for it to have any real impact.

So, again, I would be reluctant for us to—I am not suggesting you are doing it—write off Plan Colombia as not having worked. He is doing about everything we are asking him to do. And now the Third Battalion is about to be fully trained and in the field, and so I hope you will do an analysis. But I suspect, I predict you will find it is more positive than the critics say it is.

On the drug court issue, to put this in perspective, and the reason why you are going to have to fight for these drugs courts is that when that legislation was written, what finally prompted my colleagues to support it was my pointing out there were 600,000 people arrested every year out there who got nothing. Nothing happened to them. They didn't get probation, they didn't get parole, they didn't convicted—I mean, they got convicted, but after that, that was it. They were just released. Nothing.

And so this is a lot tougher than the idea—it was originally characterized, as you will recall, as sort of some soft method of going about this. But as the Senator from Alabama points out and as you pointed out in California, it requires people to show up all the time, twice a week, et cetera.

One of the reasons I raise it is in my State we have now initiated juvenile drug courts, and we have them in all of our counties. We only have three counties. It is easy to say "all of our counties." But we have them in our counties now, and they are really working. I would like to invite you at some point—and I mean this sincerely—

to come up and take a look at our drug courts and the juvenile drug courts to see, to give you a sense, because I think I can say without equivocation the most extensive drug court system in the Nation is in my State. And it has gotten very positive results.

In prison, as you well know, every study shows that somewhere about close to 80 to 85 percent of the prisoners in prison have some substance abuse problem, and that very, very, very few get any treatment when they are in prison. And, again, in terms of cost, it costs $12,500 a year for residential treatment for cocaine addiction. That is a lot of money. It costs $40,000 a year for incarceration. It costs $17,000 a year for an extensive probation program. So the irony is the cheapest of the treatments is residential treatment in these areas. Those are the numbers.

And so I hope that you will be able to, again, as it relates to the prison side of it, the National Center for Addiction and Substance Abuse at Columbia University said 70 to 85 percent of the inmates in State prison need some level of treatment. You know what percent get it? Thirteen percent. Thirteen percent. And so we let out of the State prisons—roughly 200,000, 250,000 people a year walk out of a State prison, get their $10 and their bus ticket, while addicted to drugs as they walk out because they have gotten the drugs in the prison, while they walk out, as they walk out the door of State prisons. And I don't know what you can do federally on that except your voice will be listened to. So I hope you weigh in on the fight to persuade our Governors as well that there is a need for in-treatment facilities.

My one question is this: Do you think that there is a necessity based on your experience in Arkansas, like the Senator's experience in Vermont and mine in Delaware where you have rural States, do you think there is a necessity for you to take a look at the distribution of manpower in DEA and think about according more support to rural areas where the problem is growing faster than urban areas?

Representative HUTCHINSON. Well, I do believe that it is a great need that with the growth of the Internet crime can be committed in a rural area just as easily as going to an urban center. And so coming from a rural State, I believe you have to make an investment of resources. Whenever I was United States Attorney in the 1980's, we had zero DEA agents in my district. They were out of Little Rock station there. We now have a DEA office in Ft. Smith and Fayetteville. It is a high-growth area, but it is still a rural area, but it has made a huge difference.

I have always had the view that we ought to be able to fight the drug problems in rural areas as well as the urban centers. Now, I don't think you can necessarily just deplete the urban areas because there are huge problems there we have got to make investment in. But I would certainly agree that we need to review that to make sure that—I want our agents and our DEA folks out there making the cases where the crime is.

Senator BIDEN. Well, I would like to request that you do take a look at the allocation of manpower, because the Senator from Vermont can tell you, one of the reasons why drug use is up in Vermont is because of the fact the cost of doing business in Boston and in Albany and in other places has gotten too high. It is easier

to crack a market—you know that old expression. They asked Willie Sutton why he robbed banks. He said, "Because that's where the money is." Why are they going to rural America? Because police departments are less prepared to deal with it, because the market is wide open, and because there is little competition. They are not shooting at each other on a corner to make sure Aramingo Avenue in Philadelphia, which has been a drug market, open-air market for years—it is dangerous for them to operate there with one another. But when they move to Harrington, Delaware, it is not as dangerous.

And so I hope you will take a look at it. I appreciate it.

Representative HUTCHINSON. I will and I would certainly love to come see the juvenile drug court in Delaware.

Senator BIDEN. I will take you up on that. Thank you very much.

Thank you, Mr. Chairman.

Chairman LEAHY. I thank the Senator from Delaware, and obviously your answer is music to the ears for anybody from a rural State. And as chairman of this committee and as a member of the Appropriations Subcommittee that funds the DEA, I will followup with you on that. I think it is extremely important.

You know, you and I both come from rural areas, and we know, as Senator Biden has said, it is a different world. Everybody knows everybody else. In some ways, it is far more shocking when we see drug abuse coming there, but we know it is there. And as Senator Biden said, it is where the market is, it is where the money is, and it goes there.

I will put into the record appropriate letters and statements of other members.

I thank you very, very much for being here, and this hearing is recessed.

[Whereupon, at 11:50 a.m., the committee was adjourned.]

[Submissions for the record follow:]

SUBMISSIONS FOR THE RECORD

GRAND LODGE
FRATERNAL ORDER OF POLICE
WASHINGTON, DC 20002
July 17, 2001

The Hon. Patrick J. Leahy
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

I am writing this letter to advise you of the strong support of the Fraternal Order of Police for the nomination of Congressman Asa Hutchinson to head the Drug Enforcement Administration.

We have had the privilege of working with Congressman Hutchinson, who served on the House Judiciary Committee and the Subcommittee on Crime, on a number of important law enforcement issues throughout his tenure in Congress. We worked with him to create and fund the National Center for Rural Law Enforcement, which provides needed training and resources for law enforcement agencies in rural America. According to the National Center for Addiction and Substance Abuse, drug use among young teens in rural America is now higher than in large urban centers. We believe that Mr. Hutchinson will bring a new perspective to fighting drug use in the United States. As a former U.S. Attorney, Congressman Hutchinson understands that our country needs to recommit itself to the war on drugs.

We also worked very closely with Congressman Hutchinson last year on civil asset forfeiture reform. He authored a substitute amendment to protect the ability of law enforcement to continue to use civil forfeiture as an effective crime fighting tool. Ultimately, we succeeded in our joint efforts.

I have every confidence that Asa Hutchinson will provide the same sure leadership for law enforcement at the Drug Enforcement Administration that he did in Congress. He will be an outstanding asset to DEA and to the war on drugs.

If I can provide any further recommendations for Congressman Hutchinson, please do not hesitate to contact me or Executive Director Jim Pasco through my Washington office.

Sincerely,

GILBERT G. GALLEGOS
National President

STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE STATE OF ARIZONA

ARIZONA'S DRUG PROBLEM

• The drug epidemic that America continues to fight takes on a different character in each region of the country.

• This is no more evident than in Arizona where the geographic landscape makes it ripe for: international smuggling; homespun cultivation; and the widespread distribution of drugs.

• First, Arizona shares its 350-mile southern border with Mexico. Drugs are transported across the border by vehicle, on foot, and through underground tunnels. For example, Colombian cocaine is smuggled into Arizona by Mexican trafficking organizations.

• The northern part of the state is very rural and the remoteness and scattered population make it a haven for the cultivation of drugs.

• Apache County, in the northeastern corner of Arizona, spans more than 11,000 square miles and over 60% of the land is situated on various federal reservations consisting of national forests, national parks, and Indian reservations. The population consists of only 70,000 citizens.

• In the middle of the state is Maricopa County, of which Phoenix, Arizona's capitol is a part. The area includes 24 cities and towns, five Indian reservations, and one of the busiest airports in the world. The area also has three Interstate Highways and several State highways intersecting the country. The Phoenix metropolitan area is the fastest growing area in the country.

• The DEA reports that Arizona is notably different than other regions of the country as the majority of drugs seized in the state are not intended for local use, but were seized while en route to other states.

• Phoenix has become a major drug distribution center.

METHAMPHETAMINE LABS

• This problem is reflected in the proliferation of methamphetamine, the production of which, has risen dramatically over the last ten years.

• In the Southwest, production has reached epidemic proportions. In 2000, over 350 clandestine labs, primarily for the production of methamphetamine, were seized in Arizona.

• As a result, Phoenix has the second highest rate for meth emergency room admissions in the U.S., according to the Drug Abuse Warning Network (DAWN).

• The DEA was vital in supporting local law enforcement's seizure efforts by contributing more than $1.8 million to the clean-up of meth labs in Arizona.

• The effort to investigate, seize, and destroy these labs is a daunting task, but is absolutely necessary to fighting the epidemic. The DEA is essential part of the support system.

• The President's FY02 budget includes $48 million to help state and local authorities—$20 million for the clean-up of meth labs and $28 million for enforcement activities aimed at meth.

DRUG LEGALIZATION

• Arizona is one of several states that has served as a testing ground for drug legalization initiatives spearheaded and funded by out-of-state donors.

• In 1996, a ballot initiative, which passed, legalized the medical use of Schedule I drugs, including marijuana, methamphetamine, heroine, and LSD was funded with over $1 million dollars from out-of-state donors looking to fulfill their own agenda.

• These individuals are now funding similar initiatives in other states. In California, they contributed $3 million of the $3.5 million dollar total to fund the passage of Proposition 36, a measure which mandates treatment rather than jail terms for non-violent narcotics offenders.

• The opponents of Proposition 36, backed by dozens of state elected officials, spent only $340,000.

• Now, the same individuals who funded Proposition 36 are planning similar efforts in Florida, Michigan, and Ohio with a budget estimated at $3 million per state.

CONCLUSION

• States like Arizona look to the DEA for support in fighting the infiltration of drugs across our borders; the production of drugs in our backyards; and the undue influence of wealthy special interest groups who impose their personal agenda on communities whose resources are often scarce.

• The partnership between state and local police, and the DEA establishes a united front against the widespread production, distribution, and usage of illicit drugs.

• I am confident with your leadership at the DEA, that partnership will continue. I look forward to your confirmation and to working with you in the future.

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