

**THE DRUG ENFORCEMENT ADMINISTRATION:
WERE CRIMINAL INVESTIGATIONS SWAYED BY
POLITICAL CONSIDERATIONS?**

HEARINGS
BEFORE THE
**COMMITTEE ON
GOVERNMENT REFORM**
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTH CONGRESS

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**THE DRUG ENFORCEMENT ADMINISTRATION:
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WEDNESDAY, DECEMBER 6, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:40 a.m., in room 2154, Rayburn House Office Building, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Gilman, Shays, Horn, LaTourette, Ose, Waxman, Norton, Cummings, Kucinich, and Tierney.

Staff present: Kevin Binger, staff director; James C. Wilson, chief counsel; David A. Kass, deputy counsel and parliamentarian; Sean Spicer, director of communications; M. Scott Billingsley and Andre Hollis, counsels; Thomas Bowman and Kristi Remington, senior counsels; Pablo Carrillo, investigative counsel; S. Elizabeth Clay and Nicole Petrosino, professional staff members; Marc Chretien, senior investigative counsel; Gil Macklin, professional staff member/investigator; Robert A. Briggs, chief clerk; Robin Butler, office manager; Michael Canty and Toni Lightle, legislative assistants; Josie Duckett, deputy communications director; Leneal Scott, computer systems manager; John Sare, deputy chief clerk; Corinne Zaccagnini, systems administrator; Phil Schiliro, minority staff director; Kristin Amerling, minority deputy chief counsel; Michael Yeager, minority senior oversight counsel; Ellen Rayner, minority chief clerk; and Jean Gosa and Earley Green, minority assistant clerks.

Mr. BURTON. Good morning. A quorum being present, the Committee on Government Reform will come to order.

I ask unanimous consent that all Members' and witnesses' written opening statements be included in the record; and without objection, so ordered.

I ask unanimous consent that all articles, exhibits and extraneous or tabular material referred to in the record be included; and without objection, so ordered.

I ask unanimous consent that a set of exhibits shared with the minority staff prior to the hearing be included in the record; and without objection, so ordered.

And I ask unanimous consent that the questioning in the matter under consideration proceed under clause 2(j)(2) of House rule 11 and committee rule 14 in which the chairman and ranking minor-

ity member allocate time to committee members as they deem appropriate for extended questioning not to exceed 60 minutes divided equally between the majority and the minority.

Mr. WAXMAN. Reserve the right to object, Mr. Chairman, on a couple of the points you just raised.

One, I would like to ask you to defer the request on the timing because we would change from the 5-minute rule to a half an hour each side, and that puts us at quite a long time before we can get our questions in. But I may not object to it. If you would just withdraw that for a minute.

And on exhibits I would ask you to amend your unanimous consent request that the exhibits not go in the record until our staff has an opportunity to review them.

Mr. BURTON. The staff has not had a chance to look at those exhibits yet?

Mr. WAXMAN. Could you also withhold that unanimous consent?

Mr. BURTON. We will withhold that as well, and hopefully they can make a decision here relatively soon while I am making my opening statement.

Mr. WAXMAN. I hope so.

Mr. BURTON. I also ask unanimous consent that questioning in the matter under consideration proceed under clause 2(j)(2) of House rule 11 and committee rule 14 in which the chairman and ranking minority member allocate time to committee counsel as they deem appropriate. And we will defer action on that until I make my opening statement.

Today's hearing focuses on the war on drugs. Specifically, we are focussing on allegations that an important investigation of drug trafficking was shut down because of political pressure.

Of all the things that our government does, protecting the public against drug traffickers has to rank as one of the most important. Drug abuse has destroyed countless lives in this country. It's hard to find a family that hasn't felt the pain of drug addiction. We spend billions of dollars to fight drug trafficking and prosecute drug dealers. If there is one area that we do not want to be undermined by partisan politics it's the enforcement of our drug laws. Unfortunately, that is exactly what has been alleged by some in this case. We do not want to make any allegations about anyone or any individuals before we have all the facts.

Now I am not going to make a long opening statement today because we do not have all the facts at this point. We have been trying very hard to get the facts for about a month and a half, and as usual it's been a frustrating experience. The only way to make progress was to call a hearing and issue subpoenas.

Maybe the best way to start this hearing is to retrace our steps.

This summer, we heard about an investigation of drug trafficking in Houston, TX. There was an investigation involving a man named James Prince. He owns a record company called Rap-A-Lot. He and his associates were believed to be large-scale drug dealers. This investigation produced more than 20 convictions. There were allegations that political pressure was brought to bear, and the Drug Enforcement Administration killed the investigation. So we asked the DEA for a briefing.

In July, the staff was briefed by the head of the DEA's Houston field office, Mr. Earnest Howard. Mr. Howard assured the staff that the DEA's investigation was active and ongoing. He was very convincing, so we didn't pursue the matter any further.

Then, in October, we were told there were e-mails that contradicted what we were told. We asked the DEA to give us the e-mails. I had a personal conversation with Mr. Marshall, the head of the DEA. They were given to us.

The e-mails flatly contradicted what Mr. Howard told us. We have a March 14 e-mail from Mr. Marshall to DEA headquarters in Washington. He states, "I understand that the situation involving Rap-A-Lot and James Smith, a.k.a. James Prince, has only gotten worse. To eliminate any further difficulty in this matter I have decided that the Houston division will curtail any enforcement against this subject." He concludes by saying, "at any rate, it is over; and we are closing our case on Prince."

The next day Mr. Howard sent another e-mail to Washington. This one states, "now we bow down to the political pressure anyway. It is over now. The Houston division will terminate all active investigation of Rap-A-Lot except for those persons who have already been arrested or indicted."

There could not be a starker contrast between what we read in June and what we read in those e-mails. Naturally, we wanted an explanation. We've had a hard time getting one.

This isn't the only time that politics may have intruded into this investigation. Last August, one of our colleagues, a Congressman, weighed in. She accused the DEA of harassing Mr. Prince. She asked the Attorney General, General Reno, for an investigation; and she got one. Within a month, the DEA had removed the lead agent, Jack Schumacher, from the case and started an internal investigation of him.

Last month, we interviewed several local Houston City policemen. They were assigned to a joint investigation of Mr. Prince with the DEA. They told us that they were removed from the case about a month after the Congresswoman's letter arrived. They told us they were called to a meeting with Special Agent Howard, the head of field office. Mr. Howard told them that the investigation was over, and he cited the Congresswoman's letter.

Well, something is terribly wrong here. On one hand, we are told by the head of the DEA's field office that the investigation is open and leads are being followed. On the other hand, we are being told by everyone else that the investigation has been shut down not once but twice.

I asked to interview all of the DEA officials who were involved. I received no response. I asked again. I called the head of the DEA, Mr. Marshall, to ask for his corporation. He did not return my call, and I was told that he and the DEA were told not to cooperate with the committee. I was informed that the Attorney General had ordered Mr. Marshall not to speak to me. I was also informed that an inspector general investigation would be done and the committee would not be allowed to speak to anyone because of that investigation.

That's inexcusable. We're the Congress of the United States. We have an obligation to conduct oversight. We are asked to appro-

appropriate billions of dollars to fund those government agencies. We have to conduct oversight to make sure the money is being wisely spent and the laws are being followed, and yet I am told the head of a major agency like the DEA cannot pick up the phone and talk to a committee chairman here in Congress.

We could not get any explanation whatsoever as to what was going on. That's tantamount to telling the Congress to just go home and mind its own business and let the executive branch do whatever it wants. Well, that's not how it should work.

So I issued subpoenas and called this hearing. We are not going to make any assumptions about anyone's guilt or innocence here. We are not going to make any allegations about any political influence being exerted until we have all the facts. But if there was a significant investigation of drug trafficking and it was shut down for no apparent reason other than politics then we need to know about that and get the facts out to the American people.

We have a lot of unanswered questions. I want to get answers to all of them, so I would like to get started.

Before I yield to my colleague from California, Mr. Waxman, let me say that appearing on the first panel will be DEA agent Jack Schumacher and Houston police officers Bill Stephens, Larry Jean Allen and Ralph G. Chaison.

Appearing on the second panel will be DEA Special Agent in Charge Ernest Howard, DEA Chief Inspector R.C. Gamble, and DEA Deputy Administrator Julio Mercado. I hope I pronounced that correctly. DEA Administrator Donnie Marshall had a scheduling conflict for today, and so he will appear tomorrow afternoon at 1 o'clock.

I want to thank all of our witnesses for being here, and I yield to Mr. Waxman for his opening statement.

Mr. WAXMAN. Thank you, Mr. Chairman.

The chairman discussed the committee's investigation of the James Prince Rap-A-Lot records matter in the Dallas Morning News last month. He said that the Department of Justice is purposefully interfering with the committee's investigation, charging that, "Janet Reno is blocking and I believe obstructing justice for political reasons."

Discussing Mr. Prince, Mr. Burton further stated, "he gives a million to a church, the Vice President goes to that church, and 2 days later somebody says they are closing the case. Something is wrong. They're blocking us because I think they're afraid that this might be an embarrassment to the Vice President."

I just want to point out that, based on the information the committee has gathered, these allegations are wholly speculative. They are also under active investigation by the Justice Department's Office of Inspector General. When the chairman made a passionate plea a few minutes ago that our committee is not being fully cooperated with in getting all the information, having people talk to us, I would just point out that it is not unusual and in fact it's usually the case where the Department of Justice is pursuing its own inquiry that they do not want to be interfered with by a committee of the Congress. They are conducting an investigation, and they do not want to and in fact I think they have a responsibility not to

be talking to any committee of Congress while that investigation is going on.

But we simply don't know all the facts. None of us should draw conclusions before the facts are in. I hope we spend today making productive use of our time to understand what are legitimate questions in this case, but as we move forward we should be mindful of the need not to complicate or undermine ongoing criminal investigations and especially if we undermined them for what appears to be casting political aspersions. And we should also try to avoid naming individuals connected to this matter who have never been tried for or convicted of any criminal offense.

Mr. Chairman, I look forward to the testimony of the witnesses. I know that you are approaching this as a way for us to get the facts, and that's what I think we ought to do. So I will work with you in that regard.

You were going to ask—I do not know if you will have opening statements from other Members.

Mr. BURTON. I will be happy to, if they like.

Mr. WAXMAN. I have completed my opening statement. I know you asked we proceed under the 30 minutes for each side. We will not object to that.

Mr. BURTON. Without objection, it is so ordered.

Do other Members have opening statements they would like to make or comments? Mr. Horn. Mr. Shays. Mr. LaTourette. Mr. Cummings.

Mr. CUMMINGS. Thank you, Mr. Chairman.

This hearing brings to bear interesting issues that do require some clarification, Mr. Chairman. However, I have paused in the reviewing of the documents for this hearing because time after time the majority, no matter what the issue, seeks to place the blame on President Clinton or Vice President Gore. Even this week we will have our umpteenth hearing on missing White House e-mail.

So here we are again. This time, unfortunately, the integrity of one of our colleagues and a Member of Congress has been called into question.

As you may know, many African American Members of Congress serve not only their geographic constituencies but also a national constituency. We often receive requests to help on issues that affect African Americans on a national level. Racial profiling in particular has been a key problem of concern. I have personally travelled around the country listening to this constituency tell me over and over again how they are often subject to harassment and intimidation by a group that is sworn to serve and protect them. Unfortunately, despite our best efforts, it will continue. In the last few weeks, African American voters in Florida have raised similar concerns.

I have noted a majority of our law enforcement officers serve their community and do a good job. However, as it is often said, one bad apple spoils the bunch.

I just wanted to quote from the letter of the Congressperson who the chairman referred to, just a small part of the letter, to emphasize what I am talking about. In that letter the Congressperson says, in talking about Mr. Prince, says,

Mr. Prince alleges that the DEA has accused him of earning the profits of his business illegally. In addition, he alleges that he has been subjected to racial slurs, illegal search of his automobile and that his customers and workers are stopped and questioned without provocation by the DEA.

Mr. Prince also has raised concerns about the interference in his right to travel, and he has been stopped numerous times on dark stretches of Texas highways. Simply put, Mr. Prince believes strongly that the Department of Justice must intercede into the questionable practices of the DEA and provide him with the necessary protection to ensure that his life and livelihood are not subject to ongoing harassment and intimidation.

The Congressperson goes on to say,

I am often contacted by African Americans who feel helpless when confronted with incidents as described by Mr. Prince. The harrowing details of Mr. Prince's allegations and my reputation in vigorously pursuing such matters warrant that I assist him to the best of my capabilities.

She goes on to ask that the DEA—that the Attorney General look into this matter.

So, Mr. Chairman, I look forward to hearing from today's witnesses to learn more about the investigation, the implications for the future and how Members of Congress can intercede on legitimate issues without being muddied in the process. Thank you very much. Thank you, Mr. Ranking Member.

Mr. BURTON. Thank you, Mr. Cummings.

The gentlelady from Washington.

Ms. NORTON. I am going to try to stay—I am supposed to speak somewhere in my district—because I need to hear what the evidence is here. I am concerned that the Vice President's name would be drawn into this matter since, so far as I know, it raises his profile considerably to say it was marginal at best. That is to say, if the Vice President can go someplace, as public figures do, and thereafter something happens and he then is drawn into it, to call it circumstantial evidence is to raise its probity. That's why I would like to hear whether there is any real evidence about his involvement.

I am concerned that it is alleged that a Member of Congress called, and I don't believe that the majority means to cast any aspersion upon this Member of Congress. I note that when they said it was a Congresswoman, Mr. Chairman, everybody looked at me. I guess there are few enough of us so if you see one of us sitting up here this must be she. This is not she. I do know the Congresswoman in question, and the majority has been careful here, so I make no accusation whatsoever.

But I do wish to say for the record that there should be no implication that this Congresswoman would seek to protect anyone dealing in drugs if she knew he was dealing in drugs and that this Congresswoman has been an outspoken opponent of, by now, the well-documented practice of racial profiling.

It also has been my experience that it is very difficult to get the Department of Justice or the DEA to cease an investigation that it has started, so I would be quite amazed if all it took was a phone call from a Member of Congress and you could then get the investigation called off. In that case, I think you might expect lots more calls from Members who get complaints from their constituents.

Mr. WAXMAN. Would the gentlelady yield to me?

Ms. NORTON. I yield to the gentleman.

Mr. WAXMAN. Thank you for yielding to me.

Representative Maxine Waters' involvement in this matter appears to be explained by her longstanding efforts to address racial profiling and other criminal justice issues affecting African Americans. In addition to serving as a member of the Judiciary Committee and its Constitution Subcommittee, Representative Waters served as chair of the Congressional Black Caucus from 1997 to 1998 and formulated the Agenda for Black America which included a commitment to civil rights. Moreover, she has been particularly active in drawing public attention to the practice of racial profiling by law enforcement organizations.

I would like to ask unanimous consent, Mr. Chairman, to put into the record, so there should be no question about Representative Waters and her involvement in this whole thing, a transcript of an interview with her in August 1999 by the DEA Office of Professional Responsibility and a letter that she had sent to the Attorney General with regard to this issue.

Mr. BURTON. Without objection, so ordered.

[NOTE.—The information referred to may be found at the end of this hearing.]

Mr. WAXMAN. Thank you for yielding to me.

Thank you, Mr. Chairman.

Mr. BURTON. Any other comments?

If not, I would like for witnesses to be sworn. But because we have two undercover agents here who we do not want on television we will ask you to be seated, which is unusual. We would like for all of you to raise your right hand.

[Witnesses sworn.]

Mr. BURTON. Do any of you have opening statements you would like to make? If not, then we will start with our first 30 minute segments, and I will yield to Mr. Shays.

Mr. SHAYS. Thank you.

Before my 30 minutes begins, I would like to offer Mr. Waxman the opening 30 minutes, and I would be happy to follow. I know he voiced a concern about the opportunity to speak.

Mr. WAXMAN. I thank you very much. But this is a hearing called by the majority, so the majority ought to go first.

Mr. SHAYS. I am happy to do that. I just wanted to make sure that was acceptable.

I would like to state for the record that—before my 30 minutes—that two of our four witnesses are African Americans. They happen to be behind the shield doing covert work, but I would like the record to note that.

Mr. WAXMAN. I hope that in no way jeopardizes their security to have identified them in any way. But thank you for your generous offer.

Please let the majority proceed on their 30 minutes. Then we'll take ours.

Mr. SHAYS. Thank you.

Mr. Schumacher, how long have you been a law enforcement officer?

Mr. SCHUMACHER. Approximately 27 years.

Mr. BURTON. Mr. Schumacher, would you pull the mic closer to you? Not real close. Just put it in the direction so we can pick up everything you say. Thank you, sir.

Mr. SHAYS. During those 27 years, approximately how many arrests have you made? More than you can count?

Mr. SCHUMACHER. Somewhere over 1,000.

Mr. SHAYS. How much experience do you have with narcotics investigations?

Mr. SCHUMACHER. About 20 years.

Mr. SHAYS. How many times have you testified in court?

Mr. SCHUMACHER. Several hundred.

Mr. SHAYS. Have you received any awards or commendations?

Mr. SCHUMACHER. Yes, sir.

Mr. SHAYS. A number of them or just a handful?

Mr. SCHUMACHER. Five or six.

Mr. SHAYS. What was your most recent award, recognition?

Mr. SCHUMACHER. Performance award from the DEA.

Mr. SHAYS. Have you been involved in any disciplinary action?

Mr. SCHUMACHER. Yes, sir.

Mr. SHAYS. What have been the outcomes of those?

Mr. SCHUMACHER. Unfounded.

Mr. SHAYS. Are you a rogue DEA agent, as one or two people have accused you of? In other words, operating outside the rules and regulations?

Mr. SCHUMACHER. Absolutely not.

Mr. SHAYS. When you started work on the investigation that I am going to refer to as Rap-A-Lot, when did you start?

Mr. SCHUMACHER. August 1998.

Mr. SHAYS. When were you assigned to the joint DEA/Houston Police Department Task Force?

Mr. SCHUMACHER. Well, actually, shortly after I was assigned the case I began to recruit HPD officers to participate in the investigation.

Mr. SHAYS. I want you to bring the mic closer to you, if you could. You have a rather mellow voice.

What results had you obtained up until September 1999, what results in this investigation?

Mr. SCHUMACHER. The investigation resulted in numerous arrests, grand jury indictments, seizures of crack and powder cocaine.

Mr. SHAYS. Do you remember how many arrests, how many indictments, how many convictions?

Mr. SCHUMACHER. At least 20.

Mr. SHAYS. Twenty arrests or 20 indictments or 20 convictions?

Mr. SCHUMACHER. Well, some arrests generated more than one indictment. But if I reflect on it everyone we arrested has been convicted.

Mr. SHAYS. Was information developed on illegal activity that in your opinion warranted further investigative work when the task force's work was suspended?

Mr. SCHUMACHER. Yes, sir.

Mr. SHAYS. Now we're going to get into specifics later, but do you think sufficient work was done to develop leads that you were investigating in 1999 and early 2000?

Mr. SCHUMACHER. I'm sorry, would you repeat that?

Mr. SHAYS. We're going to get into more specifics later, but do you think sufficient work was done to develop leads that you were

investigating in 1999 or early 2000 or do you think more work needed to be done?

Mr. SCHUMACHER. More work needed to be done.

Mr. SHAYS. I would like to ask Mr. Stephens—Mr. Chaison, is that how you say your name?

Mr. CHAISON. That's correct.

Mr. SHAYS. You both will have to switch the mic back and forth.

Mr. BURTON. You need to point the mic right at your mouth and have it relatively close.

Mr. SHAYS. Mr. Stephens, could each of you please provide a short summary of your law enforcement background and experience.

Mr. STEPHENS. I've been a police officer with Houston Police Department for 20 years and 6 months. I spent a short time in patrol, made sergeant and went to the homicide division for 10 years. I've been in the narcotics for 6 years.

Mr. SHAYS. Mr. Chaison.

Mr. CHAISON. Yes. I've been a police officer for 21 years. I've worked out of the Special Operations Division where we have provided security for the President, Vice President and any dignitary that came to the city of Houston. I was assigned to narcotics in 1993 where I have worked since then.

Mr. SHAYS. And you are an undercover officer at times.

Mr. CHAISON. That's correct.

Mr. SHAYS. Mr. Allen.

Mr. ALLEN. Yes I've been a police officer 17 years. I have worked in narcotics 9 years. I have worked as a polygraph examiner 4 years.

Mr. SHAYS. It's my understanding that all three of you have been involved in the joint task force with the DEA to investigate the Rap-A-Lot organization, is that correct, Mr. Stephens?

Mr. STEPHENS. Yes, sir, it is.

Mr. SHAYS. Mr. Chaison.

Mr. CHAISON. That's correct.

Mr. SHAYS. Mr. Allen.

Mr. ALLEN. That's correct.

Mr. SHAYS. When were you on the task force and what were your assignments, as best you can tell us? Again, we will go down. Mr. Stephens.

Mr. STEPHENS. In October or November 1998 Jack Schumacher came to the Houston Police Department, to the Narcotics Division, and requested assistance from a squad to help him with an investigation which was the Rap-A-Lot case. My captain at the time then assigned my group and myself to work on that case with Agent Schumacher, and we stayed on the case until it was closed.

Mr. SHAYS. Mr. Chaison—when you say until it was closed, not that you had finished your work, Mr. Stephens, is that correct?

Mr. STEPHENS. That's correct.

Mr. SHAYS. The work still needed to go on, is that correct?

Mr. STEPHENS. Yes, sir.

Mr. SHAYS. Thank you.

Mr. Chaison.

Mr. CHAISON. Yes, after our group was assigned to assist the DEA, my primary function was a case agent and UC—UC being undercover officer.

Mr. SHAYS. When were you assigned?

Mr. CHAISON. In September 1998.

Mr. SHAYS. Mr. Allen.

Mr. ALLEN. My role started in September 1998 also. My primary assignment was case agent and undercover officer.

Mr. SHAYS. I want each of you to give me the date on which your work was suspended. Mr. Stephens.

Mr. STEPHENS. I don't know the exact date, but it was in the period between September 20 and 25, I believe, 1999.

Mr. SHAYS. Mr. Chaison.

Mr. CHAISON. September 1999.

Mr. ALLEN. September 1999.

Mr. SHAYS. In all three cases, gentlemen, you were involved in investigating the Rap-A-Lot organization, is that correct? Mr. Stephens.

Mr. STEPHENS. That's correct.

Mr. CHAISON. That's correct.

Mr. ALLEN. That's correct.

Mr. SHAYS. At the first meeting of the joint task force, did Special Agent Ernie Howard make comments about how the task force was not going to be affected by political influence like others have been? And I would like to know, what did he say? Mr. Stephens.

Mr. STEPHENS. It's my recollection that he gave us his full support. He wanted the case investigated in the manner that if there was something there to be done, to do it; if there was not, to let him know. He was our biggest support during the period that we investigated the case.

Mr. SHAYS. Mr. Chaison.

Mr. CHAISON. Yes, it was my understanding from Mr. Howard that he would assist us in anything that we needed. He was 100 percent behind us and that if there was anything there he wanted it uncovered; if not, accept that.

Mr. ALLEN. To my knowledge, it was the same thing that Mr. Chaison said. It started out where we had all the resources we needed up until the time it was stopped.

Mr. SHAYS. Mr. Stephens, you worked out of the Houston office of DEA in October 1998.

Mr. STEPHENS. We actually moved over there I believe in December 1998. My squad relocated to the DEA office, yes, sir.

Mr. SHAYS. I would like to ask each of you, was this the only time that you worked on a joint task force for the DEA in Houston?

Mr. STEPHENS. No, sir.

Mr. CHAISON. No.

Mr. ALLEN. No.

Mr. SHAYS. Did all of you work under the DEA Special Agent in Charge Earnest Howard? Mr. Stephens.

Mr. STEPHENS. We are assigned to the Houston Police Department, sir. The ultimate person we worked for would be our chief. But, yes, during that task force, he was our supervisor.

Mr. SHAYS. And for all three.

Mr. CHAISON. That's correct.

Mr. ALLEN. That's correct.

Mr. SHAYS. In January 1999 the task force made a significant arrest in the case. Could you please explain what happened at that time? And I would open it to up to Mr. Stephens. And if any of you, Mr. Chaison or Mr. Allen, want to add to it you can join in afterwards. Mr. Stephens.

Mr. STEPHENS. It was January 7, 1999. It was a reversal operation—

Mr. BURTON. May I interrupt real quickly here? Just to clarify this was the arrest of McCarter, Ballard, Russell, et al, and McCarter was the No. 3 in the Rap-A-Lot organization and the arrest involved 6 kilos of cocaine, correct?

Mr. STEPHENS. Yes, sir.

Mr. BURTON. Thank you.

Mr. SHAYS. Can you add to that?

Mr. STEPHENS. It was actually Steven McCarter, Edward Russell, William Ballard and Eric Bradley, in a reversal operation that took place on January 7 where Mr. McCarter and Mr. Russell, Mr. Bradley and Mr. Ballard came to a hotel in Houston, TX, and took 6 kilos of cocaine and the \$90,000.

Mr. SHAYS. Anything that you gentlemen would add?

OK. Note that for the record.

Mr. Schumacher, in August 1999 our colleague, Congresswoman Maxine Waters, wrote a letter to Attorney General Janet Reno concerning the Prince investigation or what I call the Rap-A-Lot investigation by the DEA. The letter alleged that Prince was the subject of racial harassment by the DEA. The DEA's Office of Professional Responsibility launched an investigation into the actions of its agent. Did you all know about this letter, Mr. Schumacher?

Mr. SCHUMACHER. Yes, sir.

Mr. SHAYS. Mr. Stephens.

Mr. STEPHENS. Yes.

Mr. SHAYS. First off, I would like to know when you knew, Mr. Schumacher. This was August 1999, that the letter was written.

Mr. SCHUMACHER. The latter part of August.

Mr. STEPHENS. The same.

Mr. SHAYS. Mr. Chaison, did you know of the letter?

Mr. CHAISON. Yes, the same.

Mr. ALLEN. The same.

Mr. SHAYS. Now I would like to know—first off, no one is questioning the integrity of our colleague. We might question the judgment, but that's another issue. But I would like to know how did the letter affect your work, Mr. Schumacher?

Mr. SCHUMACHER. Well, it was a multi-step process.

Mr. SHAYS. Are you referring to a multi-step because of the Office of Professional Responsibility?

Mr. SCHUMACHER. Well, it was a series of events, sir.

Mr. SHAYS. OK, let's run down them as quick as you can.

Mr. SCHUMACHER. The letter came in. We were told about it. We were told subsequently that a DEA internal OPR investigation was launched and that Ms. Waters was actively pursuing—advocating these allegations.

Mr. SHAYS. We're kind of running out of time here, but the bottom line is you were then investigated, is that correct?

Mr. SCHUMACHER. Yes, sir, we were.

Mr. SHAYS. And what was the result of the investigation?

Mr. SCHUMACHER. Of the OPR investigation?

Mr. SHAYS. Yes, sir.

Mr. SCHUMACHER. In October 2000, myself and Agent Scott received clearance letters from OPR.

Mr. SHAYS. Mr. Chaison and Mr. Allen and Mr. Stephens, do you want to add anything?

Mr. STEPHENS. As far as morale for the letter, what I think hurt us as much as anything was the fact that it alleged racial profiling of Mr. Smith. And myself, my team members, Agent Schumacher and the ones on the task force at that time had never been around Mr. Smith except for in the courtroom where he was there to see Mr. McCarter and Mr. Russell during the trial.

Mr. SHAYS. So just for the record, all four of you, do you believe this investigation was motivated by race in any way? Mr. Schumacher.

Mr. SCHUMACHER. Absolutely not.

Mr. SHAYS. Mr. Stephens.

Mr. STEPHENS. No.

Mr. SHAYS. Mr. Chaison and Mr. Allen.

Mr. CHAISON. No.

Mr. ALLEN. No.

Mr. SHAYS. Just note for the record that, Mr. Chaison and Mr. Allen, you both are African Americans, is that correct?

Mr. CHAISON. That's correct.

Mr. ALLEN. That is correct.

Mr. SHAYS. It is our understanding that in September or October 1999 Special Agent in Charge of the DEA office in Houston, Mr. Howard, called a meeting of the task force investigating the Rap-A-Lot matter. Were you called to a meeting of the whole task force by Agent Howard in September/October 1999, and what happened at that meeting, Mr. Stephens?

Mr. STEPHENS. Yes, I was called to a meeting; and Mr. Howard said that we were shutting down the investigation or that he was shutting down the investigation.

Mr. SHAYS. Was it your understanding that as to the exact date and time of this meeting—when was it, do you remember?

Mr. STEPHENS. I don't recall the exact date. I think it was in the range of September 20 through the 25th.

Mr. SHAYS. Mr. Chaison or Mr. Allen, were you at this meeting?

Mr. CHAISON. Yes.

Mr. ALLEN. Yes.

Mr. SHAYS. And you verify that basically you were told it was being shut down?

Mr. CHAISON. Yes.

Mr. ALLEN. That's correct.

Mr. SHAYS. What was the reason, what was the explanation, Mr. Stephens?

Mr. STEPHENS. Political reasons.

Mr. SHAYS. That's your interpretation.

Mr. STEPHENS. Those were his words, political reasons.

Mr. SHAYS. Would you add to that, Mr. Chaison, Mr. Allen?

Mr. CHAISON. We were told the investigation was being stopped because of political pressure.

Mr. SHAYS. Mr. Allen.

Mr. ALLEN. Same response. Because of political pressure.

Mr. SHAYS. Mr. Schumacher, were you at that meeting?

Mr. SCHUMACHER. Yes, sir, I was.

Mr. SHAYS. Does your recollection coincide with Mr. Stephens, Mr. Chaison and Mr. Allen?

Mr. SCHUMACHER. Yes, it does.

Mr. SHAYS. In your own words, what was the reason?

Mr. SCHUMACHER. Mr. Howard said it was headquarters, politics—or politics and headquarters and that as of 10:21 this morning we're shutting it down.

Mr. SHAYS. Now it's our understanding that a total of seven Houston policemen were taken off the case. What was done to replace them, Mr. Stephens?

Mr. STEPHENS. There was nothing done to replace them.

Mr. SHAYS. They were taken off the case?

Mr. STEPHENS. Yes, sir. We did continue with the judicial process. Anyone going to court we did follow through with that. But as far as any proactive investigation they were not replaced.

Mr. SHAYS. So those who were indicted, the indictments were pursued, but there was no further investigation, to the best of your knowledge.

Mr. STEPHENS. There was no proactive investigation, no, sir.

Mr. SHAYS. Given that all of you had important work to do, what did Mr. Howard do to ensure that the level of effort did not drop off? Mr. Stephens.

Mr. STEPHENS. Nothing that I know of, sir.

Mr. SHAYS. Mr. Chaison, Mr. Allen.

Mr. CHAISON. I am not understanding your question.

Mr. SHAYS. Mr. Schumacher, let me just ask you that question.

Mr. SCHUMACHER. I'm sorry, would you repeat that?

Mr. SHAYS. Given that—all the important work to do, what did Mr. Howard do to ensure that the level of effort did not drop off?

Mr. SCHUMACHER. What efforts were made by—in September? None.

Mr. SHAYS. Seven policemen are taken off the case.

Mr. SCHUMACHER. Right.

Mr. SHAYS. So what effort was made by Mr. Howard to make sure that the effort of investigation did not drop off? Seven officers were removed. Who took their place?

Mr. SCHUMACHER. None, no one.

Mr. SHAYS. So it's your testimony that, to the best of your knowledge, Mr. Howard did nothing to make sure that this investigation continued.

Mr. SCHUMACHER. Yes, sir.

Mr. BURTON. If the gentleman would yield. The investigation stopped at that point. Mr. Howard put nobody else on the firing line to go out and continue the investigation, correct?

Mr. SCHUMACHER. That is correct sir.

Mr. BURTON. Thank you.

I thank the gentleman for yielding.

Mr. SHAYS. You told the committee staff, Mr. Stephens, that Mr. Howard had been one of your biggest supporters and he put a No. 1 priority on the investigation. Do you believe—first off, what was his demeanor? Can you gentlemen tell me? Was he happy about ending this case or unhappy or what?

Mr. STEPHENS. On which part? At the beginning or at the end?

Mr. SHAY. At the end.

Mr. STEPHENS. At the end it was my opinion he was uncomfortable when he told us to shut it down. When the group started asking questions about it, that's when he time stamped it and gave a date and time. The date I don't remember. The time I don't. But I know that he did say, it's so and so, it's this time, this date, I'm telling you it's shut down.

Mr. SHAYS. Mr. Chaison, Mr. Allen, you want to add to that?

Mr. CHAISON. Yes. I think as far as how it affected my morale it was—being in police work so long and doing many, many, many investigations and to be assured in this investigation that we had 100 percent support and then have the rug snatched from under us, it was like it wasn't worth it all. What are we out here doing? Are we on the same page as everybody here, concerned about the war on drugs or just what is it? Tell me.

Mr. SHAYS. Mr. Chaison, Mr. Allen, both of you do undercover work. When you do this kind of work do you fear that your life is in danger?

Mr. ALLEN. Yes, I do, especially after the meeting we had with Mr. Howard. It took a lot out of me because I couldn't understand, I couldn't get an answer why. We were doing well, and all of sudden it was stopped. But there was no answer why, and that bothers me till this day.

Mr. SHAYS. Let me ask each of you, Mr. Stephens, Mr. Chaison, Mr. Allen, you are in the process of investigating this work. It was shut down. Was it shut down because you basically had run out of leads and it wasn't going anywhere or were you fairly certain that you were making progress in this investigation?

Mr. Allen, let's start with you.

Mr. ALLEN. Based on all the information we had, we were still continuing with the investigation. There were more leads that we can follow. There was more undercover work we could have done, but due to the fact it was shut down we couldn't do any more because we still had informants out there working the streets for us.

Mr. SHAYS. So when it was shut down this was kind of out of the blue. This wasn't something that you were expecting.

Mr. ALLEN. That's correct.

Mr. SHAYS. Mr. Chaison.

Mr. CHAISON. That's correct. We had informants that were still in the picture, and all of a sudden we had to go to them and explain to them that—don't do anything else. Again, it was—when you see officers hurt in the line of duty and especially in narcotics investigations and then you have this happen to you it's very depressing.

Mr. SHAYS. Do you feel you have the support of your fellow officers coming up here or do you they kind of think that you are making a mistake coming up here? Are they happy to see you up here do you think or are they disappointed that you're here?

Mr. CHAISON. No, I think—when we left, the officers that know us well, we have 100 percent support of our department and our co-workers. It's almost like a rooting section we may receive when we return.

Again, we make many arrests, small people and people with notoriety; and the Federal Government and the States have invested a lot of time and money into our investigations. And then we get someone to come along with money and can halt an investigation and then can have music done behind it, bragging about what they have done, it's a slap in the face.

Mr. SHAYS. You're making reference to the fact that Mr. Prince, basically, his legitimate business is hard-core gang rap music. And maybe you could make reference a little more clearly here. Are you saying that one of rapsters was mentioning this case or mentioning any of the officers?

Mr. CHAISON. That's correct. One of his artists on his label made a song, composed a song about our investigation and bragging how he's had DEA agents replaced and jobs terminated, confidential informants would be killed or killed.

Mr. SHAYS. Did he mention any law enforcement's names in this rap music?

Mr. CHAISON. Yes, he did he mentioned Jack Schumacher and Chad Scott. He mentioned the local police which he called—the local police executing warrants at his house.

Mr. SHAYS. Now we're going to have Agent Howard testify in the next panel, but the bottom line of your testimony—how much time do I have left? I would like each of you to describe to me whether you felt this investigation should have continued. I want you to tell me why you think it ended and tell me what you think if we continued this investigation what we would have achieved. And I'll start with you, Mr. Schumacher.

Mr. SCHUMACHER. Yes, sir. I think that the—based on the results that the investigative team had accomplished I think it should have continued, it being the investigation. We had three informants still plugged in to the Rap-A-Lot gang, if you will; and we were just getting, really, getting to the second phase. And it started out as a drug investigation. It spread out to police corruption, murder. We were in the second phase, and I think it should have continued. We had the investigative leads; and had the investigative resources continued to go forward, I believe we would have met with some success.

Mr. SHAYS. Thank you. I'm going to come back to you, and I will have about 10 questions. I want to go fairly quickly.

Mr. Stephens.

Mr. STEPHENS. OK. I think we definitely had things to do. We had people in jail that, in my opinion and without going into too much detail about the case, hold the key to us being successful. We started to break a stranglehold that Rap-A-Lot had on the 5th ward in Houston where everyone was afraid to talk to us, and we were taking small steps to get big steps, sometimes bigger than others, but there was much more left to be done.

Mr. SHAYS. So Mr. Prince succeeded in stopping the investigation it appears, and the end result is you even have a song celebrating the fact that he was able to stop the police work.

Mr. Chaison.

Mr. CHAISON. That's correct. I definitely feel that—let me relate a hot kitchen to you. When it's hot in the kitchen, when the heat is turned up and you want to alleviate that heat, you get out of the kitchen or you turn your heating system off. The heat was definitely on him and his organization. It was there. The pressure was on, which started to infiltrate his organization, and he knew this. And the best way to—I would assume the best way to stop this investigation was to do it like he had done it before, which I wasn't privileged to that investigation but I understand it was stopped due to political pressure. And if political pressure worked before then it will work again. And this has happened. This is my opinion.

Mr. SHAYS. Is your opinion basically that you—sometimes there's no one to kind of protect the small guy but the big guy has people to find ways to protect him? Is that kind of what you're saying to us?

Mr. CHAISON. Yes, we have small people, small fish ask us all the time, why don't you get the big guy? And we had a big guy and it was evident—

Mr. SHAYS. And yet he may have been found innocent. Your investigation may not have led to something, but it's your testimony that your investigation was stopped in the middle.

Mr. CHAISON. That's correct.

Mr. SHAYS. Mr. Allen.

Mr. ALLEN. Yes, our goal was to target a person. We targeted that person, we started making arrests, we got into the 5th ward, and all of a sudden it was stopped. I feel real bad about it because we were making headway, we were continuing to make headway, and then all of a sudden it stopped.

Mr. SHAYS. I yield back my time.

Mr. BURTON. I would like to ask a couple questions if I might, if the gentleman would yield to me.

How many of the 20 people that were convicted of narcotics trafficking or murder were associated with Mr. Prince and Rap-A-Lot? Were there a lot of them?

Mr. SCHUMACHER. I can think of about 10.

Mr. SHAYS. Were any of them in an executive capacity or in what capacity in which did they serve?

Mr. SCHUMACHER. Two of them, McCarter and Russell, whom we arrested on January 7, 1999, occupied what I would characterize as management-style positions with Prince's Rap-A-Lot company. They had an office on the same floor as Mr. Prince. And during our investigation in January we had numerous calls between an informant and Russell while Russell was at the compound, Rap-A-Lot compound. He would answer the phone Rap-A-Lot. And then we had the informant on two different occasions meet with Russell in his office at the Rap-A-Lot compound.

Mr. BURTON. There was one murder conviction. Was there any association between the person that was convicted of murder and anybody at Rap-A-Lot?

Mr. SCHUMACHER. Yes, sir.

Mr. BURTON. Can you give us that connection?

Mr. SCHUMACHER. Lamar Burkes was recently convicted of murder. And we had been told on several occasions by another inform-

ant that it was the informant's understanding that Prince had solicited Burkes to murder selected key witnesses in this case.

Mr. BURTON. That Prince had himself, according to your informant—this was secondhand information—had been involved.

Mr. SCHUMACHER. Yes.

Mr. BURTON. This is speculative, but you do believe that there would have been more convictions had you been able to continue the investigation and you might have been able to go right up the food chain and nail the kingpin, is that correct?

Mr. SCHUMACHER. I think there would have been more convictions, and we would have tried very, very hard to reach our objective.

Mr. BURTON. Mr. Stephens.

Mr. STEPHENS. Absolutely.

Mr. CHAISON. That's correct.

Mr. ALLEN. That is correct.

Mr. BURTON. So all four of you believe that this case was cutoff in the middle of the stream and that the people who were the big Kahuna or kingpins were saved by the stopping of the investigation, correct?

Mr. SCHUMACHER. They received a reprieve, yes, sir.

Mr. STEPHENS. Yes, sir.

Mr. CHAISON. That's correct, sir.

Mr. ALLEN. Yes.

Mr. BURTON. Any more questions from anybody?

Mr. LATOURETTE. While the yellow light is still on.

Mr. SHAYS. I want to ask one last thing to Mr. Schumacher. Were you transferred to a desk job on March 15, 2000?

Mr. SCHUMACHER. Yes, sir.

Mr. SHAYS. What do you believe was the reason for this transfer?

Mr. SCHUMACHER. I was told that headquarters told our front office to take me out of—off the Rap-A-Lot case, out of the group that has the case and preferably out of the Houston office.

Mr. SHAYS. Who told you that?

Mr. SCHUMACHER. I was told by—under confidential circumstances.

Mr. SHAYS. OK. Thank you.

Mr. BURTON. Mr. Waxman, 30 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman.

First, I want to yield 10 minutes to the gentleman from Maryland, Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Waxman.

First, I want to say to all our officers, we applaud what you do every day. As one who has addressed the drug issue head on and lives in a community that's been taken over by drugs to a large degree, I understand what you do, and we want to thank you for doing what you do.

But I want to clear up something very quickly. Mr. Shays said something that tremendously concerns me as a Member of the U.S. Congress when he spoke of Maxine Waters; and he said, I don't question her integrity, but I do question her judgment. And certainly he has that right. But I want to put it on the record that I could think of no Member of Congress who has fought this drug war and put her life on the line on many, many occasions—and I

am talking about even from an international level—than Maxine Waters. And I just want to make sure that that's very clear because I would not want this moment in history to pass without that being abundantly clear.

Let me just ask you, Mr. Schumacher, I want to go for a moment—I am sure Mr. Waxman will go into other issues, but I want to just go to this discussion that was had with Mr. Howard with regard to the investigation being stopped. One of my concerns in sitting on this committee has consistently been is a lot of times people are brought before this committee, accusations are made, and these people have to go back to their communities and live. I want to make sure, just as we would not accuse you of something that you did not do, because you do have to go back to Texas, we wouldn't want that to happen to anyone. I know I wouldn't.

Let me ask you this in that regard in this conversation that you had with Mr. Howard: did he tell you about—did he give up any names of people when he talked about being stopped for—the investigation being halted for political reasons?

Mr. SCHUMACHER. It seems that he mentioned the name Maxine or Waters. I'm sorry. Can you hear me?

Mr. CUMMINGS. Yeah, I can hear you. Can you tell us what he said?

Mr. SCHUMACHER. The best I recall, sir, is he walked into the group, we gathered up—it was not unusual for Mr. Howard to come over and speak to me directly about the case because he had demonstrated an intense interest in it. He was our biggest supporter, our biggest fan; and we cannot have made the progress we had made without him providing the resources for us. But on that particular day he came in, said numerous phrases, etc. What I recall was the words, DEA headquarters or headquarters, politics, Maxine or Maxine's letter, and I am shutting it down. I don't want anybody to get hurt here.

Mr. CUMMINGS. Now, this was—you were—I think you said a little bit earlier that there had been a complaint against you, is that right, with regard to—you had been investigated with regard to what kind of charges, can you tell us, with regard to this case that is?

Mr. SCHUMACHER. Allegations not charges.

Mr. CUMMINGS. Allegations. Were you being investigated?

Mr. SCHUMACHER. Yes, sir.

Mr. CUMMINGS. What were those investigations? What was that in regard to?

Mr. SCHUMACHER. Well, I later found out when I was requested to come and interview up here in Washington, DEA headquarters, OPR, in February 2000. That was the first time I saw what the allegations were.

Mr. CUMMINGS. And what were the allegations?

Mr. SCHUMACHER. Racial profiling, civil rights violation, discrimination, conduct unbecoming of an agent.

Mr. CUMMINGS. During the course of the—I think you mentioned another person who was also investigated, do you recall?

Mr. SCHUMACHER. Agent Chad Scott.

Mr. CUMMINGS. Agent Scott. All right. Now when this discussion was had with Mr. Howard, did he mention at all the investigation

and was the investigation still ongoing at the time that this conversation took place?

Mr. SCHUMACHER. I am not sure which investigation you're referring to.

Mr. CUMMINGS. All right.

Mr. SCHUMACHER. There is the criminal investigation involving Rap-A-Lot, then there's the internal investigation by DEA.

Mr. CUMMINGS. I'll clear that up for you. Let me clear that up, and thank you for bringing that to my attention. What I am asking you is when you had the discussion with Mr. Howard about the ending of this criminal investigation of Rap-A-Lot, was the investigation of you, the internal investigation, still going on?

Mr. SCHUMACHER. I was not aware that it was active or initiated. I want to say at that time my understanding was that Ms. Waters—subsequent to a visit by Mr. Prince to her office, Ms. Waters had sent a letter and followed it up with a phone call to Attorney General Reno, who in turn forwarded that letter over to DEA headquarters. And that was my understanding of where it was at that point.

Now when officially DEA headquarters, OPR initiated that investigation I don't know to this day. I don't know the date.

Mr. CUMMINGS. Let me ask you this: Your visit to Washington, did it come subsequent to your meeting with Mr. Howard about the ending of the criminal investigation? Did it come after that?

Mr. SCHUMACHER. Yes, sir, it did.

Mr. CUMMINGS. All right. Now, when the discussion was—are you clear?

Mr. SCHUMACHER. Yes.

Mr. CUMMINGS. When the discussion was had with the—let me go to this last discussion you said you had with the confidential—this confidential discussion that you had. Was that with a member of the DEA or—can you tell us that—or a member of the Houston Police Department? Can you tell us that?

Mr. SCHUMACHER. It's a confidential matter.

Mr. CUMMINGS. All right. So you can't tell us.

When Mr. Shays asked you whether you were now—or someone over here asked you whether you now had a desk job, you have a desk job now, is that right?

Mr. SCHUMACHER. I did at that time, yes, sir.

Mr. CUMMINGS. Now I think you said something that—I just want you to clear this up for us. You said that it had gotten into the second phase, that you were about to go into the second phase—what does that mean—of the criminal investigation.

Mr. SCHUMACHER. Well, that's my characterization of the situation. As Sergeant Stephens had referred to, we anticipated either McCarter or Russell cooperating and/or some of the other folks we had arrested that they would become defendant/witnesses, if you will. And the second phase would be launched subsequent to that, along with some other information that informants we had working—

Mr. CUMMINGS. And are these cases—let's assume the investigation was started up again, are the cases still viable, you think?

While you're thinking, let me ask Mr. Stephens, do you think the cases are still viable?

Mr. STEPHENS. I think it would take a lot more work now than it would then, but I'm not going to give up on it. I think probably we could do something, yes.

Mr. CUMMINGS. What about you, Mr. Allen?

Mr. ALLEN. I think it would be a hard task to get back to right where we were before it ended. It would be real hard.

Mr. CUMMINGS. Mr. Schumacher.

Mr. SCHUMACHER. The hardest part would be——

Mr. BURTON. Excuse me, I believe the other officer would like to comment.

Mr. CUMMINGS. I will get back to him. I thought Mr. Schumacher was ready to respond.

Mr. SCHUMACHER. The hardest part would probably be to reestablish the motivation of our initial informants, because when we backed off they were just left out there in the cold, so to speak.

Mr. CUMMINGS. Mr. Chaison.

Mr. CHAISON. Yes, I concur. I think we could probably do something, but it would be difficult to get back to where we were. Because not only do we have politics playing a part, but we have the judicial system we have to look at also as, to me, causing interference.

Mr. CUMMINGS. Last but not least, Mr. Chaison, you in your testimony—I listened to you very carefully when you were talking about the rap songs, and I must admit I think there is a generation gap with regard to me and the rappers, but I do listen to what they write about and sing about or speak about. And I take it that you, when you listened to these, this rap is—this by this particular fella, Prince, the songs that you talked about, the one that you talked about where they gave the lyrics that referred to Schumacher and you all——

Mr. CHAISON. I am referring to an artist on the Rap-A-Lot label, Brad "Scarface" Jordan. I don't know if anyone, any Congressman, Congressladies, have listened to the CD. I would encourage you to listen. It's very clear. It's not a rap song that's difficult to understand.

But when you advocate the hostility and the violence that this individual is talking about, that's a problem. Again, I say that not only do we have problems politically, when we take cases to court and they go through the system and the judge comes—after the jury finds a defendant guilty and then a judge comes back and reverses the jury's decision, I'm still trying to understand that.

I don't know how that type of thing happens, and I have been in court, going to court on court cases for 21 years or better, and you know, there's just something very blatant. It's difficult for me to understand.

Mr. CUMMINGS. As a lawyer, I just have to ask you this, you're not trying to—you're not accusing a judge of misconduct, are you? I'm just curious. Is that what you're saying?

Mr. CHAISON. No. I'm just trying to understand what happened, and then you as an attorney may be able to help me shed some light on to me what happened in Federal cases like that. I don't know.

Mr. CUMMINGS. OK.

Mr. CHAISON. I would definitely not accuse a Federal judge, a State judge, a municipal court judge of any wrongdoing. I'm not an attorney, so I don't understand the process. I understand what I'm supposed to do as an employee of the police department, and I do that and I do it well, and we're similar to the judicial system, and I try and understand what the court is about.

Mr. CUMMINGS. I understand. Let me just ask this one last thing. When the—when you all were taken off the case—Mr. Stephens, when you all were taken off the case, how many officers were left in the task force, do you know?

Mr. STEPHENS. Well, the joint task force dissolved when we left.

Mr. CUMMINGS. OK.

Mr. STEPHENS. We were part of that joint task force, DEA group four remained, but that was it.

Mr. CUMMINGS. So it was over?

Mr. STEPHENS. Yes.

Mr. CUMMINGS. How many cases were still pending to go to court?

Mr. STEPHENS. I'd be guessing, but I'd say three, four, five, around in there.

Mr. CUMMINGS. So you all testified—did you testify in those cases?

Mr. STEPHENS. Yes.

Mr. CUMMINGS. And were you successful?

Mr. STEPHENS. Yes.

Mr. CUMMINGS. Now, DEA, did DEA force remain, is that what you said?

Mr. STEPHENS. They continued being DEA. The task force dissolved. They remained in their offices which is where we had been—

Mr. CUMMINGS. Do you know whether they continued to do any investigations with regard to any of the things that you all were looking at?

Mr. STEPHENS. I don't know of them doing anything. I never saw anything, never heard anything, and saw no sixes.

Mr. CUMMINGS. Would you have knowledge of that? Would that knowledge normally come to you?

Mr. STEPHENS. Yes.

Mr. CUMMINGS. What about you—I'm sorry, Mr. Chaison.

Mr. CHAISON. No, I have no knowledge of any continuing investigations after it was shut down.

Mr. CUMMINGS. Mr. Allen.

Mr. ALLEN. No knowledge of any investigation.

Mr. CUMMINGS. Thank you very much.

Mr. WAXMAN. Thank you, Mr. Cummings. Let me pursue some questions, a few questions of the Houston police officers here today, to make sure I understand the facts and can separate them from speculation. All three of you were assigned to an organized crime drug enforcement task force in the summer and fall of 1999. Sergeant Stephens, isn't that correct?

Mr. STEPHENS. 1998 is when we were assigned.

Mr. WAXMAN. And Officer Allen?

Mr. ALLEN. 1999, yes, sir.

Mr. WAXMAN. And Officer Chaison?

Mr. CHAISON. That's correct, 1998.

Mr. WAXMAN. Let's talk about what that means. My understanding is that this kind of assignment allows different law enforcement organizations, Federal, State and local, to cooperate in major drug investigations and to draw on Federal resources; isn't that correct?

Mr. STEPHENS. Yes, sir.

Mr. WAXMAN. So the task force was not a permanent assignment, was it?

Mr. STEPHENS. Not for us, it was not, no, sir.

Mr. WAXMAN. If you disagree, let me know, but otherwise, whichever one of you answers.

Mr. WAXMAN. You knew that the assignment would end and you would eventually return to your duties with the Houston Police Department; is that correct?

Mr. STEPHENS. Yes.

Mr. WAXMAN. I think you have all testified that in September 1999, you and others working on the task force had a meeting with Special Agent-in-Charge Ernest Howard?

Mr. STEPHENS. That's correct.

Mr. WAXMAN. And he indicated to you at that time that he was pulling you off the investigation; is that right?

Mr. STEPHENS. Yes.

Mr. WAXMAN. My understanding is that you don't recall exactly what he said, but you recall that he seemed frustrated and that he made some reference to political pressure. Is that a correct statement?

Mr. STEPHENS. That's correct.

Mr. WAXMAN. Do any of you have a more detailed recollection of what Mr. Howard said?

Mr. STEPHENS. Just again, about the time stamping, when there were questions as to why it was being shut down, because Agent Schumacher asked him in front of the group and started to get a little more in depth as to what was going on, that's when he looked at his watch and gave the date and time and said it's stopping, and didn't really go into any more detail at all.

Mr. WAXMAN. Sergeant Stephens, you were the senior Houston police officer on the task force. Are you aware of any discussions between Mr. Howard and any of your superiors prior about pulling you and other Houston police officers back to the department?

Mr. STEPHENS. No, sir.

Mr. WAXMAN. Is it possible that Mr. Howard had discussions about task force staffing with senior Houston police officials without your knowledge?

Mr. STEPHENS. Sure.

Mr. WAXMAN. You've testified that in August 1999, Mr. Howard told you that he was, "shutting down the investigation and was doing so for political reasons." September—but there are some documents that I want to bring to your attention. There's a September 27 memo from Special Agent James Nims, notes that he was instructed not to pursue a new lead until the Office of Professional Responsibility investigation had cleared, and there are e-mails were written by Mr. Howard in March 2000 suggesting that the investigation was ongoing as of that date. These documents appear

to be inconsistent with any statement by Mr. Howard that he was shutting down the investigation, doesn't it? And you just know that you were removed from the investigation. Is that correct or do you have any other—

Mr. STEPHENS. No. In September, if you look at the case file, there was no more dope that was purchased, there were no more surveillance sixes. There was nothing proactive done on that investigation following that meeting with Mr. Howard, and you're not going to find anything because it just wasn't done. How there's a contradiction there between March and September, I don't know. I just know what he told us.

Mr. WAXMAN. Mr. Schumacher, I understand you and others in your enforcement group were investigated and cleared of wrongdoing by DEA's Office of Professional Responsibility; is that correct?

Mr. SCHUMACHER. Yes, sir.

Mr. WAXMAN. You're probably aware that your former supervisor, James Nims, wrote a memo on September 27, 1999, I just mentioned it, that made its way into the Dallas Morning News. The memo reportedly said that Mr. Howard had instructed Mr. Nims not to pursue any new leads on the investigation until the Office of Professional Responsibility investigation cleared. Were you taken off the investigation at that time?

Mr. SCHUMACHER. September 27th?

Mr. WAXMAN. Uh-huh.

Mr. SCHUMACHER. The investigation was shut down. There was no need to take me off.

Mr. WAXMAN. Was it your understanding, you and others under Mr. Nims' supervision were taken off the investigation because of the Office of Professional Responsibility investigation?

Mr. SCHUMACHER. That wasn't my understanding.

Mr. WAXMAN. Set aside the question as to whether the Office of Professional Responsibility investigation was warranted or not warranted. Do you think it's unusual for a DEA manager to temporarily reassign an agent a case when that agent's conduct on the case comes under investigation?

Mr. SCHUMACHER. I'm not qualified to answer that, sir. I think and work like a street agent, not like a manager.

Mr. WAXMAN. Would it surprise you to hear from the DEA that its managers often reassign agents under similar circumstances?

Mr. SCHUMACHER. I personally hadn't seen that happen before.

Mr. WAXMAN. On March 15, you were temporarily reassigned from a position as acting supervisor of an enforcement group to a position as the acting supervisor of a support group; is that correct?

Mr. SCHUMACHER. That is correct.

Mr. WAXMAN. There have been reports in the press suggesting that there is some connection between this transfer and a visit by Vice President Gore to Brook Hollow Baptist Church on March 12. Aside from the fact that Vice President Gore visited the church 3 days before the date of your transfer, are you aware of any evidence that Vice President Gore discussed the narcotics investigation during his visit?

Mr. SCHUMACHER. Absolutely not.

Mr. WAXMAN. Do you have any information that Vice President Gore discussed campaign contributions with the pastor of this church or any one of the subjects of the investigation?

Mr. SCHUMACHER. No, I don't.

Mr. WAXMAN. And do you have any information that the pastor of this church or one of the subjects of the investigation made campaign contributions to Vice President Gore or the Democratic National Committee?

Mr. SCHUMACHER. I have some confidential informant information relative to that.

Mr. WAXMAN. And that is information aside from any filing or disclosure by the campaigns?

Mr. SCHUMACHER. I don't know about that.

Mr. WAXMAN. You don't know about that. Do you have any information at all that shows that the Vice President Gore directly or indirectly interfered with this investigation?

Mr. SCHUMACHER. No, sir.

Mr. WAXMAN. So what you have is some confidential information that there might have been contributions to either Vice President Gore or the Democratic Party from whom?

Mr. SCHUMACHER. Prince.

Mr. WAXMAN. I see. And you don't know that there's any connection between that and the events that we're discussing that related to this investigation?

Mr. SCHUMACHER. No, sir.

Mr. WAXMAN. Just for the record, there's no record of any contributions from James Prince or Rap-A-Lot to Vice President Gore or the Democratic National Committee. I just state that for the record. Do any of you have any additional information apart from speculation and rumor showing that politics played a role in your transfer or management decisions in this investigation? And I address that to anybody, all of you on the panel.

Mr. Allen.

Mr. ALLEN. No, I do not.

Mr. CHAISON. No, sir, I do not.

Mr. WAXMAN. Mr. Stephens, sir.

Mr. SCHUMACHER. Other than what I was told in September by Mr. Howard.

Mr. WAXMAN. Mr. Schumacher, let me go back to you about this contribution that you heard about from a confidential source. You are testifying under oath. If what you say is true and there's no filing, it may involve a criminal violation for not having disclosed this contribution. Would you share this information with the committee, your confidential information?

Mr. SCHUMACHER. No, sir.

Mr. WAXMAN. If not the name of the source, the details that were related to you.

Mr. SCHUMACHER. It's a confidential matter, sir.

Mr. WAXMAN. You're testifying before Congress. We're asking you about some matter that might involve a violation of criminal law, and it would be, I think, incumbent upon you to tell us the substance of what report you heard, if not the source. What did you hear?

Mr. SCHUMACHER. Excuse me for a moment, sir, while I confer with counsel here.

Mr. WAXMAN. Yes, Mr. Schumacher.

Mr. SCHUMACHER. OK. It's—it's third-hand information, hearsay information that has not been corroborated, sir, from a confidential informant.

Mr. WAXMAN. So it's not reliable information.

Mr. SCHUMACHER. It has not been corroborated.

Mr. WAXMAN. I want to tell you something that you may not know, because I don't think you know our colleague, Maxine Waters, but I've known her for many, many years, and I do not believe that she would ever improperly interfere with law enforcement or an investigation, but I do know that she has had a very longstanding concern about racial profiling, and we can read from her letter to the Attorney General that she expressed her concern about any potential racial profiling, and I don't think that is in any way inappropriate.

Mr. SCHUMACHER. May I answer you—you raised the issue about racial profiling, sir. Let me explain a little bit to you about this case. This case involved the Houston 5th ward that is inner city, known as local impact case. This case does not involve enforcement activities where uniform cars or unmarked cars are set up on major thoroughfares to interdict people. There is no interdiction going on. OK. We have maps that we can show you just how inner city the 5th ward is. So I've always been a little confused why one of Ms. Waters complaints or allegations had to do with racial profiling, but thank you.

Mr. WAXMAN. Well, the only thing I point out to you is I'm not accusing you or anyone else of racial profiling. All I'm saying is that Representative Maxine Waters has had a very longstanding concern about this issue, and if she raised it as a concern, I think it's perfectly appropriate for her to raise it as a concern. I don't know if she made any accusations or not. Maybe she wanted to raise it as a matter that she thought ought to be looked at, and I think that's quite appropriate, and no one should think anything other than that. I have some time left, and I want to yield to the gentleman from Maryland.

Mr. CUMMINGS. Now, Mr. Schumacher, just out of curiosity, you have talked about Mr. Howard, is that correct? You know him?

Mr. SCHUMACHER. I know Mr. Howard very well.

Mr. CUMMINGS. You understand he's going to be on the next panel, do you understand that?

Mr. SCHUMACHER. I do.

Mr. CUMMINGS. Is he an honorable man? Do you consider him to be an honorable man?

Mr. SCHUMACHER. Absolutely.

Mr. CUMMINGS. Because we're going to be listening to his testimony. I don't have a clue as to what he's going to say, but since there is a question mark that has been left as to what political reasons are and whatever, the various things that you've testified to, we're going to probably have to rely on his testimony, and I was just curious as to your opinion of him. What is your opinion of him, Mr. Stephens?

Mr. STEPHENS. He was our biggest supporter in the beginning. This case was important to him, but he pulled the plug in September. He shut it down.

Mr. CUMMINGS. Do you still consider him—I mean, what is his reputation as far as you're concerned?

Mr. STEPHENS. Like I said to that point and even afterwards, I consider him an honorable man. I don't know why he did what he did. I just know he did it.

Mr. CUMMINGS. Mr. Allen.

Mr. ALLEN. I feel the same way as Mr. Stephens.

Mr. CUMMINGS. Mr. Chaison. I hope I'm pronouncing your name correctly.

Mr. CHAISON. That's fine. I guess I have great admiration for Mr. Howard. I think he's an honorable man. I have nothing bad to say about him.

Mr. CUMMINGS. All right. Thank you. I yield back to the gentleman.

Mr. WAXMAN. Let me just ask one question of the Houston police officers. Why didn't you continue to pursue the case on your own?

Mr. STEPHENS. You guys have got a bigger tax base than we do in Houston, TX, and to buy the kind of narcotics and do the kind of work we need to do in order to infiltrate this organization, it's very difficult with Houston city tax base. We don't have the buy money. We can't pay the informants like the Federal Government can, and I think, in my opinion, that's what OCDETF is all about, to help us out.

Mr. WAXMAN. When you were successful in getting these convictions, we were talking about was it based on the joint task force work or your own?

Mr. STEPHENS. Yes, it was.

Mr. WAXMAN. So you felt if there wasn't this joint task force, you didn't have the resources, even though you had the lawful authority to conduct the investigation on your own?

Mr. STEPHENS. That's correct.

Mr. CUMMINGS. Would the gentleman yield?

Mr. WAXMAN. Yes.

Mr. CUMMINGS. Thank you, Mr. Waxman. How much time do we have? About half a minute. Very well. I yield back.

Mr. BURTON. We will now go to the 5-minute rounds. Would you just explain real quickly what the "buy money" means?

Mr. STEPHENS. Buy money means money that we can use to purchase narcotics where we don't effect an arrest immediately.

Mr. BURTON. Set up an arrest.

Mr. STEPHENS. Correct.

Mr. BURTON. And the amount of money sometimes is substantial and you don't have it in your local tax base the funds available to do that?

Mr. STEPHENS. That's correct.

Mr. BURTON. And that's why the Federal money was important.

Mr. STEPHENS. Yes, sir.

Mr. BURTON. I just want to ask two questions, and then I'll yield to my colleague from California. First of all, I understand, Mr. Schumacher, that the information you had was third hand, but we did have a campaign finance investigation going on. Can you give

a little more detail on what you did hear from your third hand informant—you don't have to give the name—on what kind of funds were allegedly given?

Mr. SCHUMACHER. Excuse me one moment. Yes, sir. It was an amount over 200,000, but as I said earlier, it comes from third hand information and upon—

Mr. BURTON. I understand and that's fine. We just wanted to find out. Is there any way of corroborating that? It'd be hard now?

Mr. SCHUMACHER. Unknown at this time.

Mr. BURTON. OK. One other question and any one of the officers can answer. I understand that you were detailed, Mr. Chaison, to guard Presidents and Vice Presidents when they came to Houston. When Vice President Gore visited the church in question that Mr. Prince had made a \$1 million contribution to, do you know, or do you have any knowledge that he met with Mr. Prince or do any of you have any knowledge that during that meeting he had a chance to talk to Mr. Prince?

Mr. CHAISON. No, I do not.

Mr. BURTON. Anybody else?

Mr. STEPHENS. I do.

Mr. BURTON. Mr. Stephens.

Mr. STEPHENS. One of the criminal intelligence division officers that was there—and I had reason to talk to her recently because of a case she's investigating involving me and a threat on my life—she said that she was present when Mr. Gore visited the church and that James Prince was there. Now, as far as any private meeting between the two, she did not see that. I did ask her if he was there when Mr. Gore was there and she said yes.

Mr. BURTON. Thank you.

Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. I think it's been pretty well gone over what happened on the announcement that we're done that—and I just want to confirm that in one or two yes or noes, did any part of the DEA carry on any of the activities or related activities even though this was being closed down?

Mr. SCHUMACHER. Yes, sir.

Mr. HORN. OK. So there was something that still was going. OK. How about in the case of the city of Houston's operations?

Mr. STEPHENS. The only thing we did was get ready for trials that were upcoming.

Mr. HORN. OK. Are any of those fulfilling themselves and do they have any relationship with what were talking about this morning here?

Mr. STEPHENS. I don't understand, sir.

Mr. HORN. Well, after the so called shutdown, the question is did any little pieces of it, were they salvageable so you could proceed, based on some information you had on Prince and his company?

Mr. STEPHENS. There were still things that we could have done, yes.

Mr. HORN. Well, let me pursue some of them, Mr. Schumacher. You were transferred to a desk job on March 15, 2000?

Mr. SCHUMACHER. That's correct.

Mr. HORN. What do you believe was the reason for the transfer?

Mr. SCHUMACHER. I believe that someone in DEA headquarters called Mr. Howard and gave him a direct order.

Mr. HORN. Is that third, second or firsthand information?

Mr. SCHUMACHER. Well, it is reality. I was transferred out of enforcement and went up to special support group, where I have no really qualification to be assigned.

Mr. HORN. Did you discuss the Rap-A-Lot investigation with Mr. Howard during that period?

Mr. SCHUMACHER. No, sir.

Mr. HORN. What did he say, nothing? Wouldn't reveal who told him to shut it down?

Mr. SCHUMACHER. I did not confront Mr. Howard with those issues.

Mr. HORN. Well, Mr. Schumacher and Mr. Stephens, let me ask you, in your career dealing with this very difficult drug situation, did any political power of either the national level, the State level or the mayor of Houston ever try to get you to shut down an investigation? Did that ever happen, in your experience, where the mayor picked up the phone or the Governor?

Mr. STEPHENS. No, sir.

Mr. HORN. So, as far as Houston is concerned, you stick with it when you have got an investigation going and politicians haven't improved or accessed themselves to the head of it and told them to shut it down, son, or we won't give you a budget next year?

Mr. STEPHENS. That's correct, that has never happened.

Mr. HORN. OK. How about in your Federal experience, was this the first time that kind of political intrusion seemed to happen?

Mr. SCHUMACHER. Yes, sir.

Mr. HORN. So there has been a previous time or is this the only time?

Mr. SCHUMACHER. Would you please repeat the question? I thought you asked me if this is the first time I have ever seen it happen and I said yes.

Mr. HORN. OK. Then that's the answer, obviously, I think that's in the record already.

Mr. BURTON. Mr. Horn, I'll come back to you. You will have 5 minutes after the Democrats.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much. Mr. Schumacher, you said something that was very interesting. When the chairman, I think it was the chairman asked you the question—could the—this alleged contribution of \$200,000 to the Vice President from Prince be corroborated, you said the words, "unknown at this time." What does that mean?

Mr. SCHUMACHER. That means that other than having received the information, we haven't had the time to go forward and try to develop it up to a classified as to its validity and/or to see if it can go any further. We just haven't had the time to do it.

Mr. CUMMINGS. Now, this is the second time in your testimony that you talked about a confidential situation, you realize that? You talked about it a little bit earlier.

Mr. SCHUMACHER. I haven't been counting, but it seems we have been talking about confidential informants quite a bunch.

Mr. CUMMINGS. With regard to the Vice President, I think you said something a little bit earlier about him, but let me ask you, did you do your own—I mean, say when you got this information from the third—I think you said third party hearsay, I think that's what you said, were you doing—did people just come up to you and tell you this stuff or were you going out trying to figure out what happened in the investigation? I mean does this—I mean, how did that come about?

Mr. SCHUMACHER. Over the years, I've developed, as any of these career drug officers have, rapport with many, many people out there, and not all of them are criminals with criminal records, and I receive phone calls from people with tidbits of information, might get as many as five a day, OK. So it's not unusual for folks to call.

Mr. CUMMINGS. And so when—and because the allegations are serious allegations and because you are sworn and because we are addressing people's reputations here, as I said when I first began, I'm just wondering, when you hear these tidbits of information, again, you've got the press writing, you have got the cameras rolling, do you—I mean, can you tell us in your mind whoever this informant was? I mean, have you gotten information from that person before?

Mr. SCHUMACHER. No.

Mr. CUMMINGS. No.

Mr. SCHUMACHER. No.

Mr. CUMMINGS. So this was somebody that you—did you know this person?

Mr. SCHUMACHER. In all due respect, sir, the reason I and other drug agents receive information is because we also have a reputation of whenever possible protecting their identity.

Mr. CUMMINGS. I'm not asking you the person's name.

Mr. SCHUMACHER. For me to keep going further along this line of questioning, I think that's where we are heading.

Mr. CUMMINGS. That's not—but see, we have got a situation here where you have presented to us some information that will probably be in some stories and be on the news this evening, and I'm not asking you for the name of somebody. I'm trying to figure out the reliability of the information and how reliable you thought it to be. That's all I'm asking you, but you said—you just told me something that was very interesting. Although you had just given me this background information about how, you know, people call you and gotten to know them and all that kind of thing, but then you said you had never heard from this person before, is that correct? I'm not asking you who the person was.

Mr. SCHUMACHER. Let me try to explain to you or articulate to you my methodology. I receive information. Let us say you call me and you have never called me before. I'm going to evaluate your information. I'm going to catalog it. I'm going to try my best to corroborate it, to see if it helps us develop reasonable suspicion, and then if we can go further to probable cause for search or arrest warrants. So receiving information is really the first step in a multistep process for me.

Mr. CUMMINGS. But, Officer, let me—I have got to ask you this question if you don't mind. We have a situation here where you said that you received information and that you receive information

from a lot of people, and I am sure that over the years as you receive information based upon who you receive it from and what they say depends—I mean, that has, I guess, something to how you look into it, and all I'm asking is you said to us somebody gave you some information, you cannot tell us, we understand that, but you also said you had never heard from this person before, and the only thing I was asking you was how reliable do you think the information was, and if you can't answer that, that's fine. But I think it's a reasonable question.

Mr. SHAYS [presiding]. Mr. Cummings, if we could claim the floor again. I just want to state for the record that you were asked this question. You said it's a third source. We accept it as the third source information. It hasn't been corroborated, and therefore, I think we can leave it on that basis.

Mr. WAXMAN. Point of order, Mr. Chairman. He was asking a question. You don't need to answer it.

Mr. SHAYS. You tend to ask points of orders a lot. I just want to point out, I let the gentleman go on. It's a red light. I don't want to make a big issue. I'm just affirming to my colleague that this is a third source piece of information. It hasn't been corroborated, and I think we should accept it as that, and I on this side of the aisle would verify it hasn't been a verified source of information.

Mr. CUMMINGS. Would the gentleman yield for 15 seconds?

Mr. SHAYS. Sure.

Mr. CUMMINGS. The only reason I do that is we have seen over and over again in my years on this committee how things, when they get out past here and people begin to be interviewed—I'm talking about Members of our Congress—the next thing you know we have got something that is just—I trust the gentleman, but I don't know whether that's always going to be the case. And I just wanted to make sure we cleared it up to the extent that we could.

Mr. SHAYS. I think the gentleman has made his point and made it well. I think the witness responded to a question under oath and said it was a third source of information. It's my time now. I yield it to Mr. Horn for his 5 minutes—for my 5 minutes.

Mr. HORN. Thank you, Mr. Chairman. I'm going to have to go back a little bit. You got out of the job, Mr. Schumacher, in March 15th and you didn't know the reason for the transfer and you did discuss the—or did you discuss the Rap-A-Lot investigation with Mr. Howard during that time period immediately when he was saying this is going to shut down, and did you have a chance to discuss that operation and your investigation?

Mr. SCHUMACHER. Mr. Horn, are you referring to September 1999 or the March 2000?

Mr. HORN. March 15th. March 15, 2000, when you were transferred.

Mr. SCHUMACHER. No, I did not have a conversation with Mr. Howard that I can recall relative to that.

Mr. HORN. So he didn't have anything to say on that?

Mr. SCHUMACHER. I don't recall talking to him about it.

Mr. HORN. Did he communicate to you or others that he was shutting down the investigation at this point?

Mr. SCHUMACHER. Other than what his comments were in September 1999, we didn't have any more talk about that.

Mr. HORN. Was there any investigative activity going on at the time that was—the shutdown occurred.

Mr. SCHUMACHER. Which shutdown?

Mr. HORN. Well, the first one, and also after March 15th, was there any further things going on—

Mr. SCHUMACHER. In September 1999, we had some pending judicial matters, OK, reactive in nature as opposed to proactive investigative tactics that would generate more arrests, indictments and seizures of drugs and other evidence. You're always going to have, after you make seizures or arrests, you're always going to have administrative/judicial issues to address, and that's what was addressed after September.

Mr. HORN. So did any of the Houston Department try to pick up the threads?

Mr. STEPHENS. No, sir. After September we stopped.

Mr. HORN. So we've got a situation that looked like it was going to be potentially very lucrative, and it's just stopped there?

Mr. STEPHENS. Yes, sir.

Mr. HORN. To what degree could it ever be picked up again if we didn't have somebody politically stopping it? What would be—is there enough information there to open up the investigation if you didn't have political pressure put on you?

Mr. SCHUMACHER. I'd have to look at what's left there and then try to make an educated decision from there, sir.

Mr. HORN. And you have been aware that Mr. Howard is briefing—has briefed the committee staff on this case on July 17, 2000, and did Mr. Howard tell you anything about his July 17, 2000, briefing to this committee?

Mr. SCHUMACHER. No, sir.

Mr. HORN. Let me ask you, Mr. Chaison, you stated to the committee staff during Agent Schumacher's transfer, "you don't take experience like that away from enforcement and put it behind a desk." Could you please elaborate on that statement?

Mr. CHAISON. Yes. When I came into narcotics, Mr. Schumacher—I didn't know him at the time—spoke at my narcotics school or training program, and he told me something that was very profound and stays with me today. He said, Remember, whatever you do out there, your supervisors may want you to do one thing, but remember one thing, nobody can tell you how to dance with the devil out there when you're out there in the middle of it. And that was profound to me, and I found it to be a fact, and so I said with experience, like Jack Schumacher, he and I, we've had our disagreements of things and then cooler heads prevail. I admire him a great deal. I think he has great experience in this line of work, and I'm constantly learning from him when there are things to learn.

Mr. HORN. That's a very moving statement.

Officer Allen, you told committee staff that you believed a good case was killed because of political pressure. In fact, you stated that in your opinion this was the case, "without a doubt," and that you said, "cannot see any other reason." Is that an accurate statement?

Mr. ALLEN. That is correct.

Mr. HORN. Was there anything else you'd like to add to that?

Mr. ALLEN. Yes. Based on when we were brought to this task force together, prior to this there had been investigation going on that we had no knowledge of. Once we got into the investigation, we as a group started doing a lot of good work, OK, and this is before—prior to, I guess, they say they'd been investigating maybe 12 years or 10 years in the past, and nothing really concrete had been done. But once we got involved, we made a dent into the problem that was in the 5th ward, and all of a sudden now it stopped, and my question to everyone, why, who did it, and I haven't gotten an answer yet.

Mr. SHAYS. Mr. Waxman, you have the next 5 minutes.

Mr. WAXMAN. Thank you, Mr. Chairman. Look, Vice President Gore has got his hands full right now. He's got a lot of concerns. The election is over. We are still trying to decide who really won this election. Just so there'd be no further anxiety that somebody is talking about Vice President Gore having done anything with respect to this investigation, let me just state clearly what we know and what we don't know. Anything we have ever heard—the only thing we've ever heard about Vice President Gore was a statement by Mr. Burton, not by anyone else, that—and I want to quote it again.

The statement was that he gives a million dollars to a church, referring to Mr. Prince. The Vice President goes to that church and 2 days later somebody says they're closing the case. Something's wrong. They're blocking us because I think they're afraid that this might be an embarrassment to the Vice President. That's an allegation made by the chairman of this committee a month or two ago.

So what do we know now in this period of time? We know that there's no evidence of any oral or written testimony showing that the Vice President even discussed this case with anybody. There's no evidence of a campaign contribution to the Vice President because none has been on the record, none has been filed from Mr. Prince. The only evidence we have of that is a statement Mr. Schumacher made that he heard from an unsolicited phone call that somebody said that somebody said Vice President Gore got a contribution from Mr. Prince, and that's all we know.

Mr. Schumacher, I also understand from your testimony you never had a chance to corroborate that information; is that correct?

Mr. SCHUMACHER. That's clear. I mean that's correct, I'm sorry.

Mr. WAXMAN. Did you ever report it to the FBI? DEA doesn't do violations of campaign finance laws. If you thought there was a criminal problem or any other problem, did you ever report it to the FBI or Justice Department?

Mr. SCHUMACHER. Mr. Waxman, because it was made against Vice President Al Gore didn't mean anything special to me. I investigate, try to solve crimes, OK, not the names of those folks.

Mr. WAXMAN. It shouldn't make any difference to you whether it's the Vice President or any other citizen, but you got an unsolicited tip from somebody about a campaign contribution. Did you ever pass it on to the people in law enforcement that might look into whether there was something improper if it happened?

Mr. SCHUMACHER. It was passed on.

Mr. WAXMAN. To?

Mr. SCHUMACHER. The Houston homicide division.

Mr. WAXMAN. And you don't know whether they passed it on to the FBI to look into it?

Mr. SCHUMACHER. I have no knowledge of that.

Mr. WAXMAN. It just seems to me that we ought to examine what may be the story today of this hearing, Vice President Gore, based on the allegations that were made a couple of months ago had something to do with the possible shutting down of the investigation on drug charges. I think this is pretty flimsy, and worse than that, there's just no evidence.

I want to yield to Mr. Tierney at this point.

Mr. TIERNEY. I thank you, Mr. Waxman. I have been listening to this entire thing. There's very little to say because I think the point you just made is abundantly clear. As long as we continue on this discussion, questions back and forth just seem to drive that point home, and I think it's pretty much made, no need to continue on. So thank you.

Mr. WAXMAN. The only thing I say, any statement about Representative Maxine Waters is also quite flimsy, because all we know about her is that she's had a longstanding concern about racial profiling. She raised that issue. If someone said they were under political pressure, maybe because it was Maxine Waters' letter, I see no basis for them to make that statement if it was stated. We'll ask later Mr. Howard whether that, in fact, was his statement or whether it was his belief, but I don't know, based on what Representative Waters had expressed and her concern about this case, from which anyone can reach a conclusion, that there's anything improper in raising those points. I'm going to yield back the balance of my time.

Mr. SHAYS. Thank you. It's Mr. Horn's time, but I'd just like a minutes of that time if I could.

Mr. WAXMAN. I yield back the balance of my time.

Mr. SHAYS. It's Mr. Horn's time and Mr. Horn, if I could have a minute.

Mr. HORN. Sure.

Mr. SHAYS. Thank you. I just want to say the basis of this hearing is to understand why an investigation was stopped, and it is clear the investigation was stopped in part because of a complaint, however well intended, by a Member of Congress, and this Member of Congress ended up having the deposition taken by the person you were investigating in her office, and that's a matter of public record. And so the question is, did that have an impact, and Mr. Schumacher, you're telling us, and the ranking member has made it very clear, trying to imply, that maybe you were taken off while you were being put under investigation. The investigation was a complaint by a Member of Congress, and what followed was this investigation ended, and that's the challenge, and none of us on this side of the aisle have brought up the Vice President, and my colleagues on the other side have tended to bring this up again and again.

Frankly, the Vice President isn't the issue. The issue is why did this investigation stop? Why did two men, Mr. Allen, Mr. Chaison and Mr. Stephens, risk their lives every day and get to a point where you had witnesses, you had people arrested who possibly

could have turned evidence for you, and that ended. So it's an outrage and we intend to find out why this happened.

Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. Officer Stephens, do you believe that the Rap-A-Lot organization was finally starting to lose some of its infallibility and ability to evade law enforcement when the plug was pulled on this investigation?

Mr. STEPHENS. Yes, I do.

Mr. HORN. All of the officers, do each of you believe that the decision to reduce the effort going into Rap-A-Lot investigation has a chilling effect on law enforcement efforts?

Mr. ALLEN. Yes, I do, especially after the CD came out that was mentioned earlier. There are a lot of people out in the 5th ward area that listen to these rap songs, and they're specifically saying that this investigation has been stopped and they have control over all officers and the things that officers do.

Mr. HORN. Any other comments by any of the officers? Mr. Stephens, Mr. Schumacher, was morale just taken and going to the bottom after this shutdown situation?

Mr. SCHUMACHER. I have read the lyrics of the song. Sergeant Stephens and myself personally arrested Mr. Jordan, OK. I think that to some folks within my inner circle of family and friends, it caused them some concern, and they to me were deemed in a threatening manner.

Mr. HORN. Was the investigative effort reduced in the Rap-A-Lot matter in late 1999, did that just get—go off in the latter part of 1999?

Mr. SCHUMACHER. Yes, sir.

Mr. HORN. But I think I hear that can be started up if you have someone that isn't always playing politics.

Mr. SCHUMACHER. We'd have to take a hard look at it.

Mr. HORN. And you're convinced and others are convinced, I take it, that it was political pressure that was behind there?

Mr. SCHUMACHER. That's my personal opinion, yes, sir.

Mr. HORN. Did Mr. Howard ever say that to you?

Mr. SCHUMACHER. He used the word "politics," yes, sir.

Mr. HORN. And that had never happened before because—from either the Houston police or the DEA that you know of?

Mr. SCHUMACHER. That I'm aware of, no.

Mr. HORN. The acting chairman recently made a comment on our friends on the other side of the aisle. You should know that chairman Burton has said none of us are to even mention the Vice President in this hearing because we didn't want to have a political issue here, but my—starting with the ranking member who quoted something from the chairman several weeks ago, and then our friends across the aisle keep mentioning it, I find it rather interesting and wonder if they're maybe all secret Bradley delegates or something, but it surprised me. I yield back.

Mr. SHAYS. Thank you.

Mr. Tierney, I believe the time is yours. You pass. Mr. LaTourette, do you have other questions?

Mr. LATOURETTE. I do.

Mr. Chaison, I just have a couple of questions. You indicated that the artist, an artist I guess we're going to put in italics, artist is Brad "Scarface" Jordan; is that correct?

Mr. CHAISON. That is correct.

Mr. LATOURETTE. I don't remember seeing any of his hits at the local music store in Ohio. Is this something that I can buy on Amazon.com? How would I get ahold of this CD to listen to what it is he has to say?

Mr. CHAISON. I would think that any of the local record stores would have this CD. It's very possible that you may be able to go on-line and hear it. I'm sure you can. The particular cut that I'm referring to is Last of a Dying Breed and it is cut No. 3 and Look Into My Eyes. That's the other cut.

Mr. LATOURETTE. And specifically, those two cuts that you reference by Mr. "scarface" Jordan is sort of bragging that they beat the Houston Police Department and the DEA, did they, by applying political pressure and shutting down an investigation; is that the gist of the song?

Mr. CHAISON. That's correct. It talks about the family, Rap-A-Lot family and it refers to itself as a Mafia, no one can stop the Rap-A-Lot Mafia. It is going to live forever and ever, whatever. It's just, again, that we have young kids listening to these lyrics.

Mr. LATOURETTE. Right.

Mr. CHAISON. And the impression that is made in our community, this—Mr. Prince has been looked at as, I guess a role model or icon to young rap groups, rap singers and with statements like these that the rap artists do and they say that they have freedom of speech—

Mr. LATOURETTE. Did you say earlier you had been in the police business for 21 years?

Mr. CHAISON. That's correct.

Mr. LATOURETTE. And your observation as a 21-year police veteran, fighting all sorts of crime, laying your life on the line on a daily basis, is that this artist and the message that he's communicating to Houston's young people is that basically you can beat the system and they have been beating the system, this Rap-A-Lot organization; is that a fair observation?

Mr. CHAISON. That's correct. That's what the statement is.

Mr. LATOURETTE. That's one heck of a message, and that's why not all art is art, I guess. You mentioned earlier that you didn't have the opportunity to be a part of another investigation, but it was your understanding that another investigation of the Rap-A-Lot organization was stopped before this event in September 1999 due to political pressure. Did you make that observation?

Mr. CHAISON. That's correct.

Mr. LATOURETTE. Can you tell us a little bit about that.

Mr. CHAISON. We all came together as a unit and we had several heads there. I don't remember who was—who all was there, but it is stated that there was investigation prior to this one that was stopped politically, and then we were assured that if we were to uncover anything that was relevant or validate any information regarding Rap-A-Lot, that we were assured that it would not be stopped politically, that we would have a full support of the Federal Government.

Mr. LATOURETTE. Was that other investigation an HPD investigation or one that involved Federal DEA do you know?

Mr. CHAISON. That information we got, if I recollect, was compiled by the FBI, and so it was a Federal investigation.

Mr. LATOURETTE. Mr. Schumacher, one more thing. It was your opinion that with Mr. McCarter, you had a big guy in this organization, is that correct?

Mr. CHAISON. That's correct.

Mr. LATOURETTE. Mr. Schumacher, you made the observation when asked about what the second phase was, you were then going to go and receive defendant witnesses. I took that to mean you had arrested somebody, you were going to try to flip them and have them testify against somebody higher up in the food chain. Is that what you were referring to?

Mr. SCHUMACHER. Yes, sir.

Mr. LATOURETTE. When was Mr. McCarter arrested relative to the complaint made by the Member of Congress and the closing down of the investigation in September 1999?

Mr. SCHUMACHER. McCarter was arrested January 7, 1999, and those other events occurred in late August, mid September, late September 99.

Mr. LATOURETTE. Thank you. My time has expired. I will come back later.

Mr. BURTON [presiding]. Mr. Tierney. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman. Mr. Schumacher, I apologize for missing the first part of the hearing. How many years have you been in law enforcement?

Mr. SCHUMACHER. 27.

Mr. OSE. And you have made hundreds of arrests in narcotics?

Mr. SCHUMACHER. Yes, sir.

Mr. OSE. You have got quite a few awards and citations for your success and your bravery and what have you in Houston; am I correct in understanding that? I mean, you have got a remarkable record, if I may say so myself.

Mr. SCHUMACHER. Thank you.

Mr. OSE. The question I have is that I'm trying to understand, we had an individual who was identified as a potential violator of narcotics laws and was made the subject of an investigation starting in 1992, that'd be Mr. Prince?

Mr. SCHUMACHER. He might have been mentioned in reports prior to that.

Mr. OSE. OK. So that investigation has proceeded under the jurisdiction of the DEA, since then in conjunction with the Houston PD?

Mr. SCHUMACHER. I may not be following you but we, myself and HPD, got on them in August 1998. That's when our team was developed. Prior to that, DEA had an open case file on Prince since at least 1992.

Mr. OSE. So the DEA came to the Houston PD and asked for assistance?

Mr. SCHUMACHER. Yes, sir.

Mr. OSE. The DEA that is serving under the current Department of Justice and that's the reason—I'm trying to understand why it

is Ms. Waters wrote a letter to the Attorney General about the DEA's activities in Houston.

The DEA came to you, and DEA works for the Department of Justice, and so presumably the Department of Justice told the DEA to go to the Houston PD and ask for assistance?

Mr. SCHUMACHER. When I was directed by Mr. Howard to work the case, I specifically asked Mr. Howard then for the ability to deputize State and local officers to assist with this case, and he concurred.

Mr. OSE. OK. I apologize for my lack of understanding of that.

Now, the letter that I am looking at from Ms. Waters to Attorney General Reno, you know, I have to say reading it on its facial value, it is somewhat innocuous, but it talks about—makes the allegation of rogue officers.

[The information referred to follows:]



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www.house.gov/waters

Office of
Maxine Waters
Member of Congress • 35th District • California

Date: 8/20/99

Pages to follow: 2

To: Attorney General Janet F. Reno

Fax to: () 574-4507

Telephone: () 514-2002

From: Congresswoman Maxine Waters DC LA

Message: Urgent!!

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EXHIBIT
1

DEA/TX-00068

OFFICE OF THE CLERK
OF THE HOUSE OF REPRESENTATIVES
DEPUTY CLERK
OFFICE OF FINANCIAL
INVESTIGATION
JUDICIARY

FROM: HON. MAXINE WATERS

Congress of the United States
House of Representatives
Washington, DC 20515-0535

8/15/99
F-02/03 F-862
FBI
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10124 S. Eastman
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August 20, 1999

Ms. Janet F. Reno
Attorney General
U.S. Department of Justice
Constitution Avenue & 10th Street, N.W.
Washington, D.C. 20530

Dear Attorney General Reno:

Pursuant to our telephone conversation this morning, I am writing to request your assistance on what I believe to be an urgent matter. Mr. James Prince, owner of Rap-A-Lot records, believes his life to be in danger at the hands of rogue officers from the Drug Enforcement Agency (DEA) in Houston, Texas.

James Prince is a 34 year-old, African-American entrepreneur who has created a very successful business producing and managing rap artists. It is my understanding that Mr. Prince has amassed sizeable assets from his business which is operating out of Houston, Texas. Mr. Prince believes that he is being harassed and intimidated by the DEA officials in his hometown of Houston because of their assumption regarding the legitimacy of his business finances.

Mr. Prince alleges that the DEA has accused him of earning the profits from his business illegally. In addition, he alleges that he has been subjected to racial slurs, the illegal search of his automobile, and that his customers and workers are stopped and questioned without provocation by the DEA. Mr. Prince also has raised concerns about the interference in his right to travel, and he has been stopped numerous times on dark stretches of Texas highways. Simply put, Mr. Prince believes strongly that the Department of Justice must intercede into the questionable practices of the DEA and provide him with the necessary protection to ensure that his life and livelihood are not subjected to ongoing harassment and intimidation.

Attorney General Reno, Mr. Prince has contacted me out of desperation. While in Houston, Texas, I had the opportunity to visit Mr. Prince's buildings and I spoke to his workers.

JF
8/26/99
WJCA

DEA/TX-00069

From: MAXINE WATERS

T-112 F 03/02 P-002

After listening to Mr. Prince's concerns, and that of his customers, I suggested that he document his torments at the hands of the DEA agents and send it to you for your perusal. Please understand that Mr. Prince has asked me to assist him because of my work surrounding the intelligence community, police harassment and brutality, and the reported incidents of "driving while black/brown."

I am often contacted by African Americans who feel helpless when confronted with the incidents as described by Mr. Prince. The harrowing details of Mr. Prince's allegations and my reputation in vigorously pursuing such matters warrants that I assist him to the best of my capabilities. Will you please give this matter your immediate attention? I anxiously await your response.

Sincerely,


Maxine Waters
Member of Congress

DEA/TX-00070

Mr. OSE. In terms of the activities that Houston PD undertook in conjunction with the DEA direction, were those approved by the DEA?

Mr. SCHUMACHER. Yes, sir. So Houston PD's activities were basically as the agent of the DEA, which is actually a branch of the Department of Justice. So I am trying to figure out, how do you get to the definition of a rogue officer if, in fact, you are operating at the direction of the DEA?

Mr. SCHUMACHER. I am a DEA agent, and the HPD officers that worked this case, three of whom are sitting here, were deputized as task force officers. So in response to your question, yes. I mean, Ms. Waters is referring to people who were deputized to be acting as DEA agents.

Mr. OSE. All right. Now, your testimony earlier was that the scope of the investigation was targeted in Houston's fifth ward, so we are not out on the freeways and highways doing random stops and stuff like that. So the reference to having been stopped numerous times on dark stretches of Texas highways is not—are there any dark stretches of Texas highways in the fifth ward of Houston?

Mr. SCHUMACHER. Not that I am aware of, but I personally had not ever known of Mr. Prince being stopped.

Mr. OSE. At all?

Mr. SCHUMACHER. Not to my personal knowledge.

Mr. OSE. OK. I want to go—I want to ask a second question, because I don't quite understand something.

There is a suggestion that Mr. Prince's financial success has been ill gotten. What I am trying to understand is, do we have any financial records for Rap-A-Lot Records?

Mr. SCHUMACHER. Yes, sir, there are some.

Mr. OSE. We do have some. Are they financial statements, tax returns?

Mr. SCHUMACHER. There is, in the original case file, some documents from an investment agency company, I believe it is Smith Barney, that Mr. Prince had a large amount of money invested with that firm.

Mr. OSE. I see my red light has come on. I will come back, Mr. Chairman. Thank you.

Mr. BURTON. Mr. Tierney.

Mr. TIERNEY. Mr. Chairman, I yield my time to Mr. Cummings.

Mr. BURTON. OK.

Mr. CUMMINGS. Thank you very much, Mr. Tierney. Mr. Schumacher, do you know somebody named Lemuel Bond?

Mr. SCHUMACHER. I sure do.

Mr. CUMMINGS. Who is he?

Mr. SCHUMACHER. Lemuel Bond III, Lemuel Amon Bond III, also known as Bucky Bond—before we chat about him, allow me a moment with my attorneys.

[Discussion off the record.]

Mr. OSE. Mr. Chairman, one of our witnesses on this side of the screen has indicated a need to use the facilities while we are sort of taking this brief reprieve.

Mr. BURTON. I think we are going to take a break right after this—the only question is, we are going to have to shut the cameras down so they can get up. Can you shut the cameras down?

Mr. OSE. He indicates he can wait now until maybe Mr. Cummings is finished.

Mr. BURTON. Aren't you glad the whole country knows all of this stuff?

Mr. SHAYS. But they don't know what you look like.

Mr. CUMMINGS. I must admit, I feel like I am under tremendous pressure here.

Mr. Schumacher, do you know him?

Mr. SCHUMACHER. Yes. He is a career criminal with an extensive record and he is currently serving a 27-year sentence in a correctional institute for trafficking.

Mr. CUMMINGS. The reason why I asked you that is you had contact with him, is that correct? Did you testify against him?

Mr. SCHUMACHER. Yes, I have.

Mr. CUMMINGS. OK. And has he worked with you before on cases, any cases like as a witness or informant?

Mr. SCHUMACHER. No, sir.

Mr. CUMMINGS. No? You said no?

Mr. SCHUMACHER. Yes, sir.

Mr. CUMMINGS. Did you—now, the reason why I want to ask you about this, Mr. Ose said he couldn't understand why you might be—somebody might call you a rogue officer; and Ms. Waters has based her inquiries with regard to you, with regard to a letter that was sent to her from Mr. Lemuel Bond where he made some very strong allegations. One of the allegations that he made in that letter, and I won't get into them, but was about you having used your weapon quite a few times.

Can you just tell us about that? I mean in the line of duty.

Mr. SCHUMACHER. Excuse me one moment, please.

Mr. CUMMINGS. Sure.

[Discussion off the record.]

Mr. SCHUMACHER. What was your question, sir?

Mr. CUMMINGS. How many times have you used your weapon in the line of duty? Shot, fired at people.

Mr. SCHUMACHER. Numerous.

Mr. CUMMINGS. How many people have you killed?

Mr. SCHUMACHER. I personally have not kept a record of that, sir.

Mr. CUMMINGS. You don't know how many people you have killed in the line of duty?

Mr. SCHUMACHER. I have seen that number put in the paper.

Mr. CUMMINGS. Officer, you realize you are under oath. You are saying to this panel today that you don't have a clue as to how many people that you have brought their lives to an end by using your weapon?

Mr. SCHUMACHER. I have been involved in probably 12 gunfights as a police officer. Some of those gunfights have been involving numerous officers and numerous criminals. As such, there may have been more than two or three people shooting at the same person, and vice versa, OK? So I can think of several occasions where there were three officers firing at two different suspects. So for me to categorically tell you how many people I personally caused their death, I am basing that on the comments I just told you.

Mr. CUMMINGS. You said you have seen a number in the newspaper. How many was in the number?

Mr. SCHUMACHER. Six.

Mr. CUMMINGS. All right. I don't have anything else.

Mr. BURTON. The gentleman yields back the balance of his time.

Mr. Shays has one or two more questions. Mr. Shays.

Oh, yes. Excuse me. These people need a break. Would you like to take a break and then we will finish with Mr. Shays? Would that be all right?

Mr. WAXMAN. Let me ask Mr. Shays—

Mr. SHAYS. I have 5 minutes of questions is what I have.

Mr. WAXMAN. I have a few questions, to wrap up.

Mr. BURTON. I think we have about 5 or 6 minutes.

Would you shut the cameras off so that we can let these gentlemen take some time out, and we will break here for about 5 minutes, and then we will finish with this panel.

Are all of the cameras off? What is this one here? Is this off? The committee camera is off? Just 1 second. Just make sure it is off. I don't want them to have any security problems. Just 1 second. I hate to cause you pain. OK. We are in recess now for 10 minutes.

[Recess.]

Mr. BURTON. The committee will now come to order. Before I yield to—who is next? Mr. Shays. Before I yield to Mr. Shays, let me just say that we would like to keep the officers who are here until tomorrow because we are going to be questioning the Administrator of the DEA. So I want to tell you, before I forget it, that we would like you to stay through tomorrow and of course expenses and everything will be taken care of. But since you are here under subpoena, we wanted to make that request.

Mr. SHAYS. Mr. Chairman, we would like them to I hope stay and witness the rest of the hearing, and then if we possibly need to call them back—and you are referring to all four of them?

Mr. BURTON. Yes, that is right. And then either today or tomorrow, we may want to ask them some additional questions.

Mr. LATOURETTE. Mr. Chairman, if they are going to stay until tomorrow, could we ask them to be so kind to see if they could get their hands on their timeless classic by Brad Scarface Jordan so that we could submit it for the record tomorrow?

Mr. BURTON. Yes. Even if you could Fed Ex a copy of this Rap-A-Lot tape, we would like to have it for the record, OK?

Mr. Shays.

Mr. SHAYS. Thank you.

Mr. Schumacher, in the deposition that was taken in Maxine Waters' office and included some of her staff and also included I think her husband, but it also included a confidential investigative report. I am interested to know if you are aware that a Houston law firm hired a private investigator to look into your background and lifestyle?

Mr. SCHUMACHER. I was not aware of that.

Mr. SHAYS. Well, that is part of the record that was submitted.

I would like to ask each of you if you have any question you wish we had asked that you would like to answer, or any closing statement, and I will start with you, Mr. Allen.

Mr. ALLEN. Let me say that from the beginning of the investigation, our target was a specific person. It wasn't a person that was Black, White, Hispanic or anything; it was a target, a target that we thought was doing wrong. If someone, whoever it is, comes up saying it was racially profiling, I don't necessarily agree with that.

Again, as I said earlier, I would like to find out why a good investigation has been stopped and for what reason and who did it.

Mr. SHAYS. Thank you, Mr. Allen. I would like to find out the same information, the answer to the same question, from Mr. Chaison.

Mr. CHAISON. Yes. I would like to address the racial profiling. First off, I am Black, and I am just as Black as any Black man. No. 2, I am a police officer. No. 3, I am appalled that a person would look at me and think that I would let an injustice such as racial profiling occur in my presence. Not so. If I—I can state today that if I was to encounter anyone that I work with doing such a thing, I think Bill Stephens knows me well enough that I would interject, I would speak to him concerning this.

So as far as racial profiling, it was not so, and I don't know how you validate that. If you work in a predominantly White neighborhood as a police officer, White police or White people you will be in contact with. If you are in a Black neighborhood, the majority people you are going to come in contact with are Black. We do not have a 100 Black police department or White police department, Hispanic or Asian. We have a melting pot of ethnic groups in our police department, and we work hard. And to say that we racial profile is not so. That may be—I am not as naive to say that there are not bad people in our walks and works of life. I am not that naive to say that.

Mr. SHAYS. But the bottom line is on this case you were involved in, you know there was no racial profiling; is that true?

Mr. CHAISON. That is correct.

Mr. SHAYS. Yes, sir. Anything else?

Mr. CHAISON. Yes. Since you mentioned the CD by Scarface, it was interesting when we were on our way here on the plane and my partner and I were looking at the Jet Magazine, and that album was, that CD was rated No. 16 1 week. A week later, 1 week later it had moved in the charts to No. 7. Right now I don't know where it stands, but that is how well it is received by the paying public out there, and people listen to that, they listen to it.

Mr. SHAYS. Thank you, sir.

Mr. Stephens.

Mr. STEPHENS. Just that when we started the investigation, we had high hopes and full support. We did some good work, and in my limited knowledge and view, a Congresswoman wrote a letter, an investigation was started. We were told for political reasons the investigation was stopped. We ceased all activity except for the judicial part of it, and then our target, the owner of the company, has one of his stars produce a record where they talk about ruining agents' careers and have a short scenario of an informant being murdered, and typically saying in the short scenario that it is a DEA informant. I feel like we have gotten set back about 10 steps from where we started. It was said it was shut down for political reasons, and that is all I can believe.

Mr. SHAYS. Thank you, Mr. Stephens.

Mr. Schumacher, any question we should have asked, any point you would like to make?

Mr. SCHUMACHER. On the issue that I find personal, very personal to me relative to my number of shootings. For the best part of the last 27 years, I have worked in greater Houston, Harris County. Since June 2000 through December 4, 2000, in Houston, Harris County, there have been three Harris County Sheriff deputies shot, two of them killed. The third one is still recovering from a bullet wound sustained to the head. The last officer that was killed was killed just a few days ago, December 4th. These officers leave families, friends, all of which become like the rest of us, victims of crime.

Houston, Harris County, is a growing, booming area and there is a lot of violence there. I spent a lot of time for the best part of the last 10 years teaching a class called Agent Safety and Survival, because I have spent a lot of time researching the gunfights of other law enforcement officers on what happened in the hopes that, just maybe, some of my training or the training we are able to provide can save somebody's life.

As a footnote, as of yesterday, there are 447 inmates on death row in the Texas Department of Correction, 447, and 147 of those inmates were convicted of capital murder in Houston, Harris County, TX. Of that number, 12 of them are on death row for killing police officers in the line of duty. Of that 12, 7 of them were convicted for capital murder for killing police officers in Harris County. Harris County has its share of violence. Thank you.

Mr. SHAYS. Gentlemen, thank you very much.

Mr. BURTON. Mr. Ose, I think, had a comment. I am trying to make sure all of the Members are able to ask the questions they wanted and I will be happy to help your side as well.

Who had a question, Mr. Ose?

Mr. OSE. I do have a question, Mr. Chairman.

Mr. BURTON. Does my colleague from Ohio have questions as well?

Mr. LATOURETTE. Not at the moment.

Mr. BURTON. OK. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Mr. Schumacher, one of the things that I keep just scratching my head about—well, let me back up. To the two officers from Houston, are there any dark, unlit, long stretches of Texas freeways in the fifth ward?

Mr. CHAISON. No.

Mr. ALLEN. No.

Mr. OSE. Both of you said no.

Mr. CHAISON. No. In fact, our inner city freeways are probably the most well-lighted thoroughfares in the city.

Mr. OSE. OK. So we can't find any dark stretches of Texas highway in the fifth ward, and we know of no instances where Mr. Prince had been stopped by law enforcement; is that correct?

Mr. CHAISON. That is correct.

Mr. OSE. That has been the testimony today?

Mr. CHAISON. That is correct.

Mr. OSE. All right. Thank you.

Mr. Schumacher, one of the things I keep scratching my head about and I can't quite understand is that in an investigation of that sort, somehow or another you got to get to the money. You got to figure out, OK, if we are laundering money, where is it going and what have you. I have heard no discussion of financial statements, tax returns, any analysis that might ordinarily follow on the suggestion of someone laundering funds.

Did the DEA ever examine the financial dealings of Mr. Prince or Rap-A-Lot? Did you ask—did the DEA ask the IRS, for instance, to come in and help on this kind of analysis, and if so, what happened?

Mr. SCHUMACHER. Yes, sir, we did several times request the assistance of the IRS CID division. Members of that division from Houston came over for a few days. One of those agents, we had that agent conduct a telephonic interview of a former member of the church that Mr. Prince patronizes, and that person was interviewed by that IRS agent relative to some suspicious financial transactions.

We, the DEA-HPD team, requested that IRS CID agents be assigned to us there, to the endeavor. We had files set up. We wanted to track every financial transaction Prince had done. For example, every time he purchased a vehicle or a residence, what was his methodology, just to see what is there. After a few weeks, the IRS CID people never came back. I asked Mr. Howard—Mr. Howard again was trying to assist us. He told me he had approached a SAC at IRS—

Mr. OSE. The SAC is the Special Agent in Charge?

Mr. SCHUMACHER. Yes, sir; and that the IRS had refused to participate. I believe, based on what I have seen, and I am nowhere near trained to be a financial investigator as such, that Mr. Prince has a large number of money that sometimes he has trouble accounting for. Based on two interviews that Sergeant Stephens and myself conducted of a rap artist who worked for Prince for over 10 years, that rap artist and his lawyer, we interviewed those folks twice, and during those interviews, that particular person told us that Prince typically scams the IRS by just paying out cash money to the artist on a weekly, biweekly, bimonthly basis, and then at the end of the year, gives them a 1099 for a tremendous amount of money that they never received as such. That person also told us that Prince has established paper companies with paper employees and managers, etc., again to perpetuate this tax scam. And I am using the words of this person. All of what I am talking about is articulated in DEA reports.

Mr. OSE. Mr. Chairman, I see my—I have a yellow light. I want to come back to this question, because I want to find out whether or not the IRS initial interest from a time category corresponded, for instance, with, you know, was it summer of 1999, was it winter of 2000. And I am trying to figure out whether or not the IRS got the same pressure, if you will, if that is the right word, that the DEA got. So I see my light is up.

Mr. BURTON. OK. I will be happy to yield my 5 minutes to the gentleman. I would just like to ask one real quick question before I yield to Mr. Ose, and that is, did you ask anybody at the IRS why

they did not followup with an indepth investigation based upon the information that you had been able to acquire?

Mr. SCHUMACHER. I saw that IRS agent that had been assigned to us for a while several times in the courthouse or courtroom, and I would ask him, what is going on? When can you come over? And it was always going to be next week, next week, next week. And, Mr. Chairman, we became very, very exasperated with that, because we felt there was really some viable investigative progress to be made there.

Mr. BURTON. Was he the IRS agent in charge of that area?

Mr. SCHUMACHER. No. No, sir.

Mr. BURTON. He was just one of the employees.

Mr. SCHUMACHER. One of the Special Agents that we understood—

Mr. BURTON. Did you ever inquire to the head of the IRS branch down there?

Mr. SCHUMACHER. I did that through Mr. Howard. I asked Mr. Howard to assist us in that.

Mr. BURTON. OK. Mr. Ose.

One second. What was the month and year that you made that request?

Mr. SCHUMACHER. It may have been not long after, after the January arrest, because—

Mr. BURTON. What year was that January arrest?

Mr. SCHUMACHER. 1999, because when we arrested McCarter and Russell who worked there, because on the night of his arrest, Russell had a \$10,000 personal check from Prince, or at that time Smith to Russell, and Russell had that in his possession.

Mr. BURTON. So shortly after January 1999.

Mr. SCHUMACHER. I believe so.

Mr. BURTON. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman.

Mr. Schumacher, I would like to go back to that question. So in January 1999, you arrested an individual based on the information gleaned from interviewing that person, and you were able to establish that you had unanswered questions as to the financial transactions underpinning Rap-A-Lot.

Now, interrupt me if I get off track here. From there you went to the IRS and asked for assistance. They came over, they did a telephonic interview with somebody, they looked at something, and then at some period of time, their interest waned and they stopped doing it.

How long of a period between the arrest, their initial interest, and when it waned?

Mr. SCHUMACHER. Six weeks maybe.

Mr. OSE. When did their interest arise?

Mr. SCHUMACHER. I can't recall. I would have to look at the date of that DEA report on that telephonic interview.

Mr. OSE. Mr. Chairman, is Mr. Schumacher also going to stay in town under subpoena?

Mr. BURTON. Yes. They are all under subpoena. We have asked all four of them to stay.

Mr. OSE. Perhaps between now and tomorrow you could followup and submit to the committee that information, if you could dig it out between now and then. Would that be agreeable?

Mr. SCHUMACHER. Yes, sir.

Mr. BURTON. The information you are talking about is who at the IRS they were talking to?

Mr. OSE. I am trying to establish the chronological window during which time the IRS exhibited interest and then decided they had no interest.

Mr. BURTON. OK.

Mr. OSE. Now, the other question I want to ask is, I want to examine the corporate structure of Rap-A-Lot Records, because my basic understanding is that you rarely catch the big guy, you always catch their underlings. But the issue for me is that if you see somebody at the top and then you have a whole layer of management, and I don't know if this is the case, but a whole layer of management that has been arrested and convicted and is now incarcerated for illegal activity, it kind of raises a red flag. So I am curious.

Smith was the head of the company, Rap-A-Lot, and then there was a second level, a next level, if you will, of vice presidents or assistants or what have you. Some of those people were like Thomas Randall, Brad Jordan, Dewey Forker, Steve McCarter. Could you give us some sense of who these people were, what they did for the corporation, and their current whereabouts?

Mr. SCHUMACHER. OK. Let's use January 1999 as a reference date. Prince—and he uses the name Smith slash Prince, he changed his name from Smith to Prince about 1998, OK, sometime in 1998. But in any event, Prince would have been the CEO. We would have had Bruce Toval as his accountant or he would have been handling all of the business, book business and things like that.

Mr. OSE. CFO? Chief financial officer?

Mr. SCHUMACHER. Probably.

Mr. OSE. OK.

Mr. SCHUMACHER. Then you would go to Randall, McCarter, Russell, Forker. There was a couple of other people. But those four had various jobs, all of which had offices right there with Prince in his office—in his building, I am sorry.

Mr. OSE. What are the current whereabouts of these people? I mean, are they still with Rap-A-Lot?

Mr. SCHUMACHER. Let's see. Russell is in FCI.

Mr. OSE. Russell is where?

Mr. SCHUMACHER. In an FCI, Federal correctional institute, convicted on a 20-year sentence. McCarter is still in the greater Houston area, waiting to hear on his appeal for his conviction. Toval is still working, to the best of my knowledge, for Prince. Forker is running a record company called Jammin Records in the middle of the fifth ward. Randall is now I believe the—I guess has moved up a notch and is the CEO, or assistant CEO.

Mr. OSE. What about Brad Jordan?

Mr. SCHUMACHER. Brad Jordan is a performer. He was never in the management, to my understanding. He is a performer. Brad Jordan, a.k.a. Scarface, was one of the original members of a rap

group known as the Ghetto Boys that blossomed in the early 1990's. Edward Russell is in prison.

Mr. OSE. OK. How about Mike Harris?

Mr. SCHUMACHER. The Michael Harris I know, he is in TDC, Texas Department of Corrections.

Mr. OSE. So of the—how many vice presidents or assistants do you think Smith, a.k.a. Prince or Prince a.k.a. Smith, or whatever his name is, had; 10 close associates?

Mr. SCHUMACHER. You know, it has been so long since I have looked at the organizational flow chart. I mean he probably had six or seven, and in that Federal trial of McCarter and Russell, Toval came in and quickly said on record that there were only two execs at Rap-A-Lot: himself and Prince.

Mr. OSE. Of these six or seven lieutenants or nonexecutive assistants, it appears that roughly half of them are incarcerated on what kind of charges? What were they arrested for and what were they convicted of?

Mr. SCHUMACHER. Carter and Russell were convicted in Federal court for violations of 841 and 846.

Mr. OSE. Talk to me in—

Mr. SCHUMACHER. OK. Possession and conspiracy, possession of cocaine, conspiracy to possess cocaine. Michael Harris was convicted of possession of cocaine. Let's see, who is left?

Mr. OSE. They were all similar convictions?

Mr. SCHUMACHER. Yes.

Mr. OSE. OK. Mr. Chairman, I see my red light is on.

Mr. BURTON. Yes. Unless there is more questions, we would like to move on to the next panel right now. We may recall some of these witnesses later.

Does anybody else—

Mr. CUMMINGS. I have one statement, very quickly.

Mr. BURTON. Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman. Mr. Schumacher, I just got word from Maxine Waters, Congresswoman Waters, that it is her understanding that Mr. Smith has been audited several times by the IRS in recent times. Were you aware of that?

Mr. SCHUMACHER. I personally do not know of any audit that has been done, particularly since I have been involved, since August 1998, sir.

Mr. CUMMINGS. OK. The other thing I wanted to just say, and I am going to be very brief, Mr. Chairman, but I want to clear up the record on something.

I want you to understand, Mr. Schumacher, I listened to your statement very carefully about police officers, and we up here, all of us, are very concerned about every life of a police officer. We don't want you to get the impression that we are not. We also are concerned, however, about justice; that there is a balance in this thing. I don't know about Houston, but I do know about Baltimore. We have one of the highest murder rates in the country. And I don't know whether the implication is that if you are in an African American community, that racial profiling does not exist. That is a bunch of baloney, if anybody believes that. I see it every day, over and over again. I am the victim of it and have been the victim

of it ever since I can remember, almost. So—and I don't know too many Black men, if they are honest about it, who haven't been the victims of it.

So I just want you to understand that my concern, when I was asking you a little bit earlier about people who you, by firing your gun, had brought their lives to an end, my concern was that I just thought that would be something that you would be aware of. You answered the question quite well, and I just wanted you to be aware that it is not insensitivity with regard to police officers, because I mourn their deaths, I mourn when they are harmed, because there truly is a thin blue line and that thin blue line is very important that we are going to maintain a society that has any kind of order to it.

I just wanted to say that for the record, Mr. Chairman. Thank you.

Mr. BURTON. Thank you, Mr. Cummings. I guess Mr. LaTourette has some questions?

Mr. LATOURETTE. I do. I want to yield to my good friend from California, but I do want to make an observation, though. I was struck, however, when the fellow that wrote the letter complaining about Mr. Schumacher, I understand who is in prison for 27 years on a variety of offenses, he is a career criminal. And if I remembered your testimony correctly, you have been in law enforcement for 27 years, so I don't think that coincidence should be lost on anybody, that your credibility has apparently been impeached to a Member of Congress on the word of somebody who is doing a 27-year stretch, which equals the time that you have given to the country.

I want to yield the rest of my time to Mr. Ose.

Mr. OSE. Mr. Chairman, I have but one more question.

I notice in the letter of November 2nd from Robert Raben to you, the suggestion that the Department of Justice and the DEA Administrator have assigned a joint team from the DEA and FBI to investigate the allegations that were made as it relates to the activities in Houston.

[The information referred to follows:]



Department of Justice
Office of Legislative Affairs

Washington, D.C. 20530

November 2, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

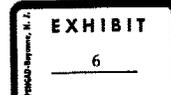
Dear Mr. Chairman:

This is in response to your October 27, 2000, letter to the Attorney General raising concerns about a DEA investigation in Houston, Texas, and seeking interviews with nine DEA personnel concerning that investigation. Other Members of Congress have expressed concerns about the Houston investigation. This also responds to your related November 1, 2000 letter to DEA Administrator Donnie Marshall.

The Department of Justice and the DEA Administrator find the DEA reports regarding the status of the Houston investigation disturbing. Further, we take very seriously any allegations that an investigation has been politicized. For these and other reasons, the Attorney General and the DEA Administrator have asked the Office of the Inspector General to investigate these matters. The Attorney General further has urged that the investigation be as expeditious as consistent with the demands of thoroughness.

At the same time that the Inspector General's investigation is underway, the underlying criminal investigation and any related investigations in Houston will be actively pursued. To ensure confidence in the criminal investigation, I am informed that the Administrator of DEA has reassigned responsibility for the investigation to a new team of experienced special agents which is being assembled immediately. This new agent team will come from other DEA offices and will report to supervisors outside of the Houston DEA office. To further enhance this investigative effort, the Attorney General has requested that the Federal Bureau of Investigation join the DEA team. DEA and the FBI are moving forward to put the joint team in place within one week.

You will appreciate that the Committee's proposed interviews would touch upon active federal criminal investigations, as well as another overlapping prosecution on appeal that is based on the testimony of some of the same DEA agents that the Committee seeks to interview. It simply is not appropriate under these circumstances to make DEA personnel available for the interviews you have requested. Such interviews could unintentionally jeopardize our criminal investigations and the case on appeal that we have discussed with your staff. The integrity of these investigations must be paramount.

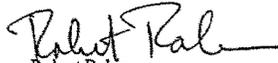


DEA/TX-00012

The Department of Justice appreciates the work of the Committee in raising the misconduct allegations. As you can see from the Department's response, it is as eager as the Committee to get to the bottom of this matter. To that end, the Office of the Inspector General is now in the best position to perform that investigative role, and it has assured us it will do so with dispatch, and report its findings to both the Department and the Committee.

Please do not hesitate to contact me if you have any questions about our concerns.

Sincerely,



Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman

DEA/TX-00013

Mr. OSE. I am curious, Mr. Schumacher, the two Houston police officers, have you been contacted by anybody from the DEA and FBI regarding this investigation that is referenced in the November 2nd letter from Robert Raben to Dan Burton?

Mr. SCHUMACHER. Yes, sir.

Mr. OSE. You have. So the team is actually in the field now?

Mr. SCHUMACHER. Yes, sir. They were in Houston; yes, sir.

Mr. OSE. All right. I look forward to the responses regarding that timeframe as it relates to the IRS interest in this case. So I will make myself available when and where you need me to be.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you. I think everyone has had all of their questions asked and answered. I want to thank you who have testified here this morning, and your counsel, for being so patient with us. And I want to tell you that every one of us, even though we may have asked you some tough questions, really admire and respect all of the police officers who are doing their job in this country and laying their lives on the lines for all of us and our families and our kids, and you in particular who are dealing with this horrible tragedy of drug use and the massive drug sales that are taking place in America and who are having to deal with some of the scum of the Earth in risking your lives. I want you to know that we know you are out there, we know you are risking your lives and we really, really appreciate it very, very much. With that, we will excuse you. We will ask the cameras to be turned off so that the two undercover policemen cannot be revealed. Thank you.

We will ask the next panel to come forward now. The next panel consists of Mr. Howard—are you going to remain in the room? Would you like to remain in the room? Would you like to stay there? I guess you can move into a place where the camera won't pick you up then. If you like to, you can go into our lounge and watch this on television, if you like. That way, if you need to go to the men's room, it is right there.

We will now welcome our second panel of witnesses: Ernest Howard; I think it is Julio Mercado—did I pronounce your name right?

Mr. MERCADO. That is correct.

Mr. BURTON. And Mr. R.C. Gamble.

[Witnesses sworn.]

Mr. BURTON. Do any of you have an opening statement you would like to make?

Mr. MERCADO. Yes, I do, Mr. Chairman.

Mr. BURTON. Mr. Mercado. Would you pull the microphone just a little bit closer and make sure it is on?

STATEMENTS OF JULIO MERCADO, DEPUTY ADMINISTRATOR, DRUG ENFORCEMENT ADMINISTRATION; ERNEST L. HOWARD, SPECIAL AGENT IN CHARGE, HOUSTON FIELD OFFICE, DRUG ENFORCEMENT ADMINISTRATION; AND R.C. GAMBLE, CHIEF INSPECTOR, DRUG ENFORCEMENT ADMINISTRATION

Mr. MERCADO. Mr. Chairman, Mr. Ranking Minority Member and other members of the committee, I am Julio Mercado, Deputy Administrator—

Mr. BURTON. Your voice is pretty strong, so you can move the mic back just a little bit.

Mr. MERCADO. I am Julio Mercado, Deputy Administrator of the Drug Enforcement Administration. I am appearing today at your request, along with Chief Inspector R.C. Gamble to my right, and the Houston Division Agent in Charge, Ernest Howard to my left. I appreciate this opportunity to address your concerns regarding whether any DEA investigation was swayed by political considerations. Indeed, Administrator Marshall has invited the Department, Office of the Inspector General [OIG], to conduct a thorough, independent investigation of this matter. I applaud Administrator Marshall's decision, and fully support DEA's total cooperation in the OIG's investigation, as well as in today's proceeding before the committee.

Given the recent media coverage of this inquiry, it is public knowledge that DEA has taken interim measures to ensure appropriate decisions are rendered with respect to the various aspects of this investigation. These measures include the deployment of independently supervised agents to the Houston Division where they can objectively assess the investigative potential of this case. At the request of Attorney General Janet Reno, this newly assigned team of DEA agents have been supplemented by squads of FBI Special Agents in order to maximize the amount of resources directed toward the investigative effort. The goal of this assessment process is to expand the scope of the case and enhance the likelihood of future criminal prosecution, if appropriate.

That being said, it is my duty to remind the committee that as an employee of the Department of Justice, DEA personnel are precluded from commenting on the progress of any ongoing criminal investigation, on individuals not indicted or arrested, which are targets of past or present investigations. I am aware that the central focus of this inquiry calls into question the very existence of any active investigation on the part of DEA, and I anticipate that many of the questions posed during the course of today's hearing will seek to clarify that issue, or this issue.

Public awareness of this inquiry will make any remaining investigative approaches more difficult to employ. Consequently, I respectfully request that the committee refrain from posing questions that will result in the disclosure of specific investigation methods, activities which have not been revealed in previous judicial proceedings. These perimeters are not intended to impede the factfinding nature of this hearing, but would instead serve two distinctive purposes. First, it will maximize the safety of investigative and undercover personnel that have previously worked or might currently be working on this investigation; and second, they will prevent the hearing from having any adverse effect on pending judicial actions.

With this constraint, I will be happy to attempt to answer your questions, sir.

Mr. BURTON. Do any of the other witnesses wish to make an opening statement?

Mr. GAMBLE. No, sir.

Mr. HOWARD. No, sir.

Mr. BURTON. We will follow the current form of 30 minutes on the majority side and minority side. I will yield to Mr. LaTourette in just a moment, but let me just start off by asking a question or two myself.

First of all, the FBI and DEA agents that came in from New York and elsewhere to assess this case after it had evidently been stopped, are they still down there?

Mr. MERCADO. No, sir. The investigation, the factfinding has been completed and they have reported to Mr. Marshall.

Mr. BURTON. So there is nobody on the scene down there that is conducting the kind of investigation that was taking place by the gentlemen who preceded you here today?

Mr. MERCADO. That is correct, sir.

Mr. BURTON. That is kind of curious, based upon the information that they gave us. They said that there were a great many additional individuals that they thought they might get indictments and convictions for, and they mentioned I think three or four in particular. They didn't name any names, but they mentioned three or four, and they said that when their investigation was terminated, a lot of the people that they were talking to on the streets were kind of left hanging out to dry. They felt like their investigation, which bore fruit and was going to bear more fruit just stopped before they got to the next level, I think they said. And it seems curious to me, curious that the DEA and the FBI who bring people in who are not familiar at all with the situation to review the findings of the previous panel and the people conducting that investigation, and coming back and saying that there is no need to be pursuing this at this time. Otherwise, they would still be on the ground conducting the investigation. I just find that very curious. Can you explain that to me?

Mr. MERCADO. Yes. Administrator Marshall's instructions were to go in and review the whole entire file to see exactly what needed to be done and to come back and report. They just came back this week and reported to Mr. Marshall on their finding of the investigation.

Mr. BURTON. Well, we will talk to Mr. Marshall tomorrow in detail about this, because I think it is important that the American people who have been told today that political influences was brought to bear to stop a very, very important investigation of major drug dealing where 20 people have been convicted, one of murder, many connected with the Rap-A-Lot organization, and they said that there was going to be more people that they thought they could convict, that they had some witnesses that they thought would turn to get the big fish, and all of that was stopped, and nothing is going on right now. So, tomorrow we will pursue this with the Administrator.

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman. I welcome—and Mr. Gamble, I am sorry I can't see you because of the screen, but I know that you are behind there and maybe we can peek at each other when the chance comes.

Mr. Howard, my questions are primarily for you, if you could just tell the committee briefly when you became the Special Agent in Charge of the Houston office.

Mr. BURTON. Mr. LaTourette, we will stop the clock. I want you to be able to see the witnesses. We will remove those screens very quickly so you can talk to the witnesses, so that everybody will see them.

Thank you, guys, I really appreciate that. We will see if you can get some overtime for this.

Mr. LATOURETTE. Nice to see you. When did you become the Special Agent in Charge down in Houston, Mr. Howard?

Mr. HOWARD. In March 1997.

Mr. LATOURETTE. At the time that you assumed that position, was there an operation called Smash Cookies ongoing by the DEA office in Houston?

Mr. HOWARD. I have heard that term in the last 24 hours; yes, sir.

Mr. LATOURETTE. You had not heard it before the last 24 hours?

Mr. HOWARD. No, sir.

Mr. LATOURETTE. Was there an investigation ongoing of the individuals who we have been talking about for the last 3 or 4 hours, Rap-A-Lot, Mr. Smith, that you were aware of upon you assuming those duties?

Mr. HOWARD. There was a local impact investigation going on, sir.

Mr. LATOURETTE. There was testimony from the previous panel—and you were in the committee room for the testimony of the previous panel, were you not?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. And you heard the Houston officers and you also heard Mr. Schumacher talk about the fact that you were highly supportive of their efforts, you offered and indicated that any resource they needed they could have. Was that a fair observation on their part of the level of support that you had of this investigation?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. And there came a point in time when the testimony was that you instructed Mr. Schumacher, or he asked you if he could go out and recruit Houston Police Department personnel to form a joint task force and you authorized that; is that right?

Mr. HOWARD. I authorized Mr. Schumacher to make the PD available to work on an OCDETF case. It was an ad hoc task force, it was not considered a joint task force.

Mr. LATOURETTE. Is it a fair observation that you had pretty good confidence in Mr. Schumacher as an agent of the DEA?

Mr. HOWARD. That is correct.

Mr. LATOURETTE. Had you worked with him before?

Mr. HOWARD. He had worked for me.

Mr. LATOURETTE. He had worked for you before?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. Is it a fair observation that you had a high level of confidence in his competence as a law enforcement officer and trusted him to do whatever task you dispatched him to do?

Mr. HOWARD. That is correct.

Mr. LATOURETTE. I want to turn your attention now to what has been discussed a lot during the course of this hearing. There came a time, I believe in August 1999, when a Member of the U.S. Congress wrote a letter to the Attorney General of the United States relative to the investigation of the Rap-A-Lot organization.

Are you aware of that letter?

Mr. HOWARD. Yes, sir, I am.

Mr. LATOURETTE. That letter is dated August 20, 1999. Can I ask you when it is that you became aware of that letter?

Mr. HOWARD. The same date that DEA received it.

Mr. LATOURETTE. Do you remember when that was?

Mr. HOWARD. I believe that was August 20th also.

Mr. LATOURETTE. Oh, OK. So the letter that was dated August 20th, as wonderful as the U.S. Postal Service is, I imagine it didn't go through the Postal Service, it was faxed or some other method of delivery was achieved?

Mr. HOWARD. I would assume so.

Mr. LATOURETTE. Who brought that letter to your attention?

Mr. HOWARD. I believe initially it was brought to my attention by Felix Jimenez who is our Chief of Office of Professional Responsibility—I mean of Inspection; I am sorry.

Mr. LATOURETTE. Did you have the chance to discuss the contents of the letter and the allegations made in the letter with Administrator Marshall?

Mr. HOWARD. Yes, sir, I did.

Mr. LATOURETTE. Would that have been over the telephone or in person?

Mr. HOWARD. On the telephone.

Mr. LATOURETTE. That would have been when, relative to August 20th?

Mr. HOWARD. I believe it was also the same day.

Mr. LATOURETTE. So all of this happened within 24 hours of this letter apparently being received by the Federal Government; is that right? All on August 20th?

Mr. HOWARD. I would assume so.

Mr. LATOURETTE. Earlier, some of the observations that are contained in this letter were addressed by members of the committee and, in particular, at one point it said, I suggest that he, that Mr. Prince, document his torments at the hands of the DEA agents and send it to you for perusal. Included in here are allegations that there was racial profiling, that people were being stopped on the basis of their race, and without any legitimate law enforcement purposes.

Was that a fair understanding of your reading of the letter as to what the complaints were?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. Were you the direct supervisor of this operation? Did you have direct supervision of Mr. Schumacher?

Mr. HOWARD. No, sir.

Mr. LATOURETTE. Were you aware—well, first of all, when you received the letter—why don't you tell us what your first reaction was as the Special Agent in Charge of the Houston office?

Mr. HOWARD. I was surprised and also appalled at the allegations.

Mr. LATOURETTE. Surprised and appalled?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. What surprised you about the allegations?

Mr. HOWARD. That the allegations occurred in the first place.

Mr. LATOURETTE. Why were you appalled?

Mr. HOWARD. Because I didn't believe them to be true.

Mr. LATOURETTE. You have already told us that you have known Mr. Schumacher for a number of years. Was the fact that you didn't believe them to be true based upon your knowledge of him?

Mr. HOWARD. Not particularly.

Mr. LATOURETTE. Was it based upon your knowledge of the operation?

Mr. HOWARD. Not particularly.

Mr. LATOURETTE. Well, why didn't you believe them to be true? You had a complaint by a citizen to a Member of Congress, and you are appalled. Can you tell us why it is you are appalled? What did you base being appalled on?

Mr. HOWARD. I believed that at that time, the number of agents that were involved in the investigation, I did not believe that they would conduct such activity. I knew racial profiling had not been done, because I had specifically assigned that case to that particular group.

Mr. LATOURETTE. Now, there was an investigation by OPR; is that right?

Mr. HOWARD. Yes, sir; that is correct.

Mr. LATOURETTE. Did the OPR investigation commence on August 20th as well?

Mr. HOWARD. I don't know.

Mr. LATOURETTE. And, to your knowledge, the OPR investigation is concluded; is that right?

Mr. HOWARD. It is concluded now; yes, sir.

Mr. LATOURETTE. To your knowledge, did the OPR investigation discover any truth to the allegations or claims made in the August 20, 1999 letter?

Mr. HOWARD. No, sir.

Mr. LATOURETTE. And so in the jargon of the agency, is it a fair observation that the agents were cleared of the allegations of racial profiling, and any other misconduct that might have been mentioned in that letter?

Mr. HOWARD. Yes, sir; that is correct.

Mr. LATOURETTE. Now, how long have you been with the agency, Mr. Howard?

Mr. HOWARD. Since December 26, 1973.

Mr. LATOURETTE. I assume during the course of that time, this probably isn't the first time that an elected official or public official has contacted an agency that you have been associated with; is that fair?

Mr. HOWARD. That is correct.

Mr. LATOURETTE. It is not unusual that that would occur, right?

Mr. HOWARD. It is not unusual, it is not usual. It has happened before.

Mr. LATOURETTE. The observation has been made—this letter was received, written, and apparently things went into action on August 20, 1999. There was testimony by the Houston police officers who were here with us earlier and also Mr. Schumacher that in September there was a meeting of the task force, not a joint task force, but task force, where you made some observations relative to whether or not the task force was going to continue. Did you hear that testimony?

Mr. HOWARD. Yes, sir, I did.

Mr. LATOURETTE. Do you remember when that meeting was?

Mr. HOWARD. It was within a day or two, if not the same day, that I received a faxed copy of the letter, which would have been August 20th, the latter part of August.

Mr. LATOURETTE. Was that a meeting that you convened, you asked everybody to get together?

Mr. HOWARD. Yes, sir, I did.

Mr. LATOURETTE. And at that time, again, so we don't have to go back over all of the testimony of the Houston police officers and Mr. Schumacher, the observation was made by the previous panel that at that meeting, you announced that the HPD officers were going to return to their duties and not be in this task force anymore.

Did you hear them say that?

Mr. HOWARD. Yes, sir; I heard them say that.

Mr. LATOURETTE. Did you make that observation at that time?

Mr. HOWARD. No, sir; I did not.

Mr. LATOURETTE. Why don't you tell us what you recall then that you made reference to relative to what the HPD officers were going to do in this task force?

Mr. HOWARD. I did not discuss what the HPD officers were going to do in the task force or the OCDETF investigation. What I discussed was at that point in time, that particular day, as I walked out of this meeting, there will be no more proactive investigation involved in the target, the impact target investigation. The reason being is because we had allegations out there, as I indicated to the people in the room, we had a politician that made allegations that I was concerned about; whether the allegations were true or false were at that point irrelevant. I told them that if they went out and did something and they did everything right and something went wrong on the street, they would still be held liable as far as perception. I was not going to allow my agents and the officers to go out and be ridiculed for doing something right just because of perception. I was concerned about the agents and the officers.

Mr. LATOURETTE. And by proactive, their testimony was that the cases that were in the pipeline, those people that had been arrested, crimes had been identified, they had been indicted, those activities were going to continue; is that right?

Mr. HOWARD. That is correct.

Mr. LATOURETTE. By proactive, you meant that additional leads, information that may have been developed by this group of officers, were not going to be pursued, at least at this moment in time.

Mr. HOWARD. Not proactive. I meant that there would be no more undercover operations, there would be no more constant surveillances, there would be no more without approval from an associate SAC or higher.

Mr. LATOURETTE. Other than the letter that was received with allegations that were eventually proven to be false by the OPR investigation, but other than the fact that this letter had been received on August 20th, was there any other reason for you taking that action as the SAC in Houston, TX?

Mr. HOWARD. That is normal protocol whenever we have an allegation of that level saying that there has been misconduct by agents and that there is racial profiling; because racial profiling

was very visible in the media at that time, I was concerned. I was going to take my agents out of that arena until I——

Mr. LATOURETTE. Did you say that is the accepted protocol of the DEA?

Mr. HOWARD. Did I tell them that? No, I didn't tell them that.

Mr. LATOURETTE. No, no. Is that what you are telling me, that is the protocol?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. So if Chairman Burton or Mr. Cummings or Mr. Shays wrote you a letter today indicating that agents under your direction in Houston, TX were engaged in misconduct in an ongoing criminal investigation, you would suspend the proactive portions of that investigation, pending an investigation of those allegations?

Mr. HOWARD. If a private citizen wrote and made the same complaints that was written in that communication saying that there was racial profiling going on, that there was misconduct by the agents of stopping and beating people unnecessarily, those officers involved would not be involved in that investigation, pending the outcome of the OPR investigation.

Mr. LATOURETTE. No matter who the person was? Any private citizen could write to you?

Mr. HOWARD. Yes, sir; that is correct.

Mr. BURTON. Would the gentleman yield for a minute, please? Would you yield?

Mr. LATOURETTE. I would be happy to yield.

Mr. BURTON. There were people that were ready to turn, according to the people in this task force or whatever you call it, and they were ready to move up the food chain to nail some of the bigger fish, so to speak, according to their testimony. And by stopping the investigation, the whole thing just kind of fell apart, and the ability to nail the bigger fish, the drug kingpins down there, was stopped.

I find it curious that because of an allegation of racial profiling, you would stop the investigation and at least not put somebody else on the case while the investigation of the allegation was taking place. Why didn't you put some other agent in charge, and also have the Houston police put other people into this investigation, instead of letting it stop, die, and therefore lose a lot of the leads and possible people who could give you information that would lead to the conviction of the major drug kingpins?

Mr. HOWARD. Mr. Chairman, I was led to believe by Mr. Schumacher that the key to the entire investigation depended on two people. We were in the judicial process with those two people. They had not turned, they had not done anything; we were waiting to see what was going to happen in the judicial process for them to decide if they were going to cooperate with the government. Nothing had been done as far as them turning. I was told repeatedly up until recent weeks that was the key to the entire investigation.

Mr. BURTON. Well, they said—and we will bring them back tomorrow—but they also said that there were other people on the street, there were people who were evidently dope dealers that were giving them information, that were cutoff at the knees and left standing out there because the investigation was terminated.

So you know, it just seems to me that if you have a chance to nail some major drug dealers that have been involved with—and there were 20 convictions, including one more murder, and many of those people working with Rap-A-Lot to stop that investigation, just chop it off at the knees, but nobody else on it because of an accusation of racial profiling makes no sense. Why didn't you put somebody else on the case?

Mr. HOWARD. The investigation was not closed down, Mr. Chairman. The investigation—all proactivity involving the investigation could go on if I had approval, if they had approval from the associate SAC.

Mr. BURTON. OK. Let's put up on the screen right now e-mails from you, Mr. Howard, and then I will go back to Mr. LaTourette. [The information referred to follows:]

Gamble, R. C

From: Howard, Ernest L
 Sent: Wednesday, March 15, 2000 10:20 AM
 To: Gamble, R. C
 Cc: Mercado, Julio F; Joura, Robert J
 Subject: RE: What's Happening?

I discussed this with Julio and he said that it was okay to place Jack where I previously stated. Also not to beat a dead horse to death, but the only reason that the 3 individuals were stopped in the 1st place was because of a threat against our CS in the case and the van they were driving was the subject van and the driver was id'd as being involved with those threats. They were stopped for driving violations and brought to our office because the HPD officers were assigned here and the anticipation was that they were the ones trying to kill or CS. When it was determined that they were not the subjects, they were not processed by DEA. According to the PD officers involved they violated several traffic regulations. The subject chain/necklace was taken (admittedly not processed according to our regulations) because it identified the wearer as being a member of the Fifth Ward Circle gang.

Also what is of concern with me is the fact that Ton Constantine and Greg Williams were both briefed on this case and the potential political pressure associated with it because a major player is a prominent Pastor and the Major Pro Temp. Now we bow down to the political pressure anyway. If I had known this, I would have NEVER brought Jack in this case, nor would I have even pursued it. But it is over now. The Houston Division will terminate all active investigation of Rap-A-Lot, except for those persons who have already been arrested/indicted. If ANY information comes to the attention of agents in the Houston Division regarding RAP-A-LOT or James SMITH, it will be vetted through Hqs. prior to ANY action taken here.

-----Original Message-----

From: Gamble, R. C
 Sent: Wednesday, March 15, 2000 10:03 AM
 To: Howard, Ernest L
 Subject: RE: What's Happening?

SAC...Jack is subject of OPR investigation and I would recommend against placing him in a Acting GS status until the board decides... as such, this position should be supported with 52 actions to document supervisory time be it for pay or not. I will push for an expedited review and decision by the appropriate officials. I plan to speak to Jean on this point. I will share your points of view with A/DA.

-----Original Message-----

From: Howard, Ernest L
 Sent: Tuesday, March 14, 2000 6:21 PM
 To: Mercado, Julio F; Gamble, R. C
 Subject: What's Happening?

I understand that the situation involving "RAP-A-LOT" and James SMITH aka James PRINCE has only gotten worse. To eliminate any further difficulty in this matter, I have decided that the Houston Division will curtail any enforcement action against this subject. Further I am transferring SA Jack Schumacher from Enforcement Group 4 to be the Acting GS of the Special Support Group. That group has no enforcement activity and presently lacks a Supervisor. This is an unfortunate occurrence in that SA Schumacher became involved with this investigation due to my insistence that he become involved approximately a year ago. Prior to that this case had been sitting in HIDTA for about 3 yrs. with a lot of intell, but no action. It was briefed by JDIG and I determined that it should be proven to be a viable case or closed.

The Houston PD joined in the investigation due to their interest with the subject and the corruption of several PD officers. They had an entire squad assigned to my group.

The primary reason that the questioned "van and subjects" were followed and subsequently stopped was due to the fact that there was a threat against one of our CS's (we are still paying for her safety) and the subjects driving the van were identified as possibly being involved with this threat.

At any rate, it's over and we are closing our case on PRINCE.

Thanks for your support.



Mr. BURTON. Let's read what it says, and you can read it. This is your e-mail.

"I understand that the situation involving 'Rap-A-Lot' and James Smith aka James Prince has only gotten worse. To eliminate any further difficulty in this matter, I have decided that the Houston Division will curtail any enforcement action against this subject."

Then it goes on to say, "At any rate, it is over and we are closing our case on Prince."

Then the second e-mail of yours says, "Now we bow down to the political pressure anyway. If I had known this, I would have never brought Jack in this case, nor would I have even pursued it. But it is over now. The Houston Division will terminate all active investigation of Rap-A-Lot, except for those persons who have already been arrested and indicted."

Now, you just said that the case wasn't closed, that you didn't terminate it. What does this mean? What do these e-mails mean?

Mr. HOWARD. Mr. Chairman, I tried to contact Mr. Mercado and Mr. Gamble via telephone earlier that day. I was unable to reach them. They are two of a few people in this agency that I confide in, that I talk to about various things when I am upset. I was venting. I knew that by putting those words in there, they are going to call me immediately upon them reading that. I did not mean I was going to close the case down. They didn't take it as I was closing the case down. They knew better than that. But I knew that by putting those words in that e-mail, they are going to call me back immediately and get me off the ceiling.

Mr. BURTON. OK. So the case is open now? You haven't closed it down? You have agents working in the field on it?

Mr. HOWARD. The target of the investigation is still going on.

Mr. BURTON. To the degree that it was before?

Mr. HOWARD. The degree that it was back a year and a half ago?

Mr. BURTON. Yeah.

Mr. HOWARD. I have never been told until today that there were more leads in the investigation, other than the two individuals going through the judicial process, everything hinged on their cooperation.

Mr. BURTON. All I can tell you is the frustration I sensed from Mr. Schumacher and the other people that were here with the Houston PD, it is very evident. They were very frustrated. They said nice things about you, but the fact of the matter is they could not figure out why in the heck they closed down this investigation when they had a chance to nail big fish down there. And then they make a record knocking these guys.

I'll yield back to Mr. LaTourette. Go ahead if you have a comment.

Mr. HOWARD. Nobody in that city wants this target of investigation any more than I do, believe me. But if there were any leads other than what I know about today about, those two individuals, I have never been told about it before.

As far as the PD goes, they had been requested to go back to their department prior to August because they had been there for over a year. They come there for 90 days.

Mr. BURTON. Excuse me, Mr. Howard. Did you hear the testimony of the previous panel?

Mr. HOWARD. Yes, sir, I did.

Mr. BURTON. You heard them say that there were other leads, you heard them say there were people in the field, drug dealers, you heard them say they thought those people might turn.

Mr. HOWARD. Yes, sir, I heard what they said.

Mr. BURTON. Are you telling me you did not know about that until today?

Mr. HOWARD. No, sir, I did not.

Mr. BURTON. You did not know about that until today?

Mr. HOWARD. No, sir, I did not.

Mr. BURTON. You were their supervisor.

Mr. HOWARD. No, sir, I am three removed.

Mr. BURTON. I don't understand the chain of command. You came in and told them, we're stopping this case in essence for political reasons. You came in and said, we're going to stop this for political reasons. That's what they all said, all of them.

Mr. HOWARD. The proactive part of the investigation.

Mr. BURTON. The proactive, that's the investigation.

Mr. HOWARD. There were arrests and seizures made after August.

Mr. BURTON. I understand, but the point is it was pretty clear that you were talking to them and today you're telling me you just found out about additional information. I don't understand the lack of communication between those folks and you. I mean, if they were under your jurisdiction and you told them to stop the case, I don't understand why that communication wasn't there. It doesn't make any sense to me.

Mr. HOWARD. I don't know why it wasn't there either.

Mr. BURTON. Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Mr. HOWARD, I believe you want to see this investigation successfully concluded, but I think back to where I was and just to go back where this thing started, my understanding is part of this investigation started in 1992 when a car was seized that had a connection with the individuals that we've been talking to that had 76 kilos which are kilograms I guess of cocaine. Is that part of your knowledge in the case?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. What's the street value of 76 kilograms of cocaine?

Mr. HOWARD. Roughly about that time it was about \$13,000 a key.

Mr. LATOURETTE. Times 76. I'm not that good at math, but this is a pretty major moving of cocaine in the Houston area. This isn't a small time seizure, 76 kilos, is it?

Mr. HOWARD. That's correct.

Mr. LATOURETTE. Well, back to the point, are you saying that I'm under investigation by the DEA in Houston, TX, and my mother writes in and says that one of your agents has been performing badly and makes an allegation of some kind of rights violation and there is an OPR investigation begun that you will suspend the investigation into my background until that is concluded or remove the officers?

Mr. HOWARD. No, sir. What I said was I would remove that officer from any proactive part of investigation.

Mr. LATOURETTE. But in this case everybody was told to stop being proactive, not just Mr. Schumacher, everybody.

Mr. HOWARD. The entire group, from being proactive without approval from upstairs. It did not mean that they could not do anything at all.

Mr. LATOURETTE. I understand that. But it's not like you took Schumacher and the seven guys from HPD and said, you guys are off because you have this racial profiling, but we're going to bring in these new eight guys and they're going to pick up on the proactive stuff while you're being under investigation. Nobody was doing anything proactive on the basis of an August 20 letter from a Member of Congress. And you're telling me the fact that she was a Member of Congress isn't a big deal. It could have been any citizen that wrote in and said there's racial profiling or something going on. You would have done the same thing. So not to hang it on our colleague, because apparently the fact that she's a Member of Congress isn't any big deal. Anybody could have written in and made this allegation and you would have pulled these guys off the case, at least on the proactive part. Is that what you're telling the committee?

Mr. HOWARD. This was not the only case that we're working in Houston—

Mr. LATOURETTE. I understand that.

Mr. HOWARD [continuing]. So I didn't have anybody else to assign to that investigation at that time. That's why I said any proactive part of the investigation has to be approved. If they wanted to do something the next day all they had to do was bring it upstairs to the associate SAC.

Mr. LATOURETTE. OK. But I think the Houston guys said they then left wherever they were operating out of and went back to the HPD. They took it as "we're done", and they left.

Mr. HOWARD. They had been asked by their captain to come back to the HPD long prior to the August situation. They had been over there for a year. That's what I was told by the people downstairs.

Mr. LATOURETTE. Let me now go—because, obviously, there are people inside and outside of the Department that brought this matter to the attention of the committee.

Could I ask how much time I have left, Mr. Chairman, to sort of budget my time?

Mr. BURTON. You have 7—almost 8 minutes.

Mr. LATOURETTE. I thank you.

Obviously, this came to the attention of the committee before today's hearing; and did you come up over the course of the summer, maybe about July 17, and have an interview with members of the committee staff?

Mr. HOWARD. Yes, sir, I did.

Mr. LATOURETTE. Do you remember who you met with on that occasion?

Mr. HOWARD. The gentleman—I think Mr. Wilson.

Mr. LATOURETTE. Maybe Mr. Binger.

Mr. HOWARD. And the gentleman to the left of Mr. Waxman.

Mr. LATOURETTE. Was it the two of them?

Mr. HOWARD. No, it was three.

Mr. LATOURETTE. Maybe Mr. Binger, was he there? I don't see him in the room anymore. How about this fellow over my shoulder? Was he there, too?

Mr. HOWARD. Yes.

Mr. LATOURETTE. Their recollection of that meeting was—and the substance of that meeting was the substance of the hearing today, was it not? They were talking about this investigation?

Mr. HOWARD. That's correct.

Mr. LATOURETTE. Did they bring up allegations to you at that time, that in fact this investigation had been concluded, it was over, it was done with?

Mr. HOWARD. That's correct.

Mr. LATOURETTE. At that meeting of July 2000 you indicated to them, absolutely not, this is an ongoing investigation, it's not closed?

Mr. HOWARD. That's correct.

Mr. LATOURETTE. Has there been anything proactive since you shut down the proactive part in September 1999 or has it simply been cleaning up the cases that were in the pipeline?

Mr. HOWARD. There were arrests and seizures in December 1999.

Mr. LATOURETTE. But nothing since then, nothing in the year 2000.

Mr. HOWARD. There were no arrests or seizures, but there has been activity going on.

Mr. LATOURETTE. OK. I want to go back then to the e-mails that the chairman was talking to you about a little earlier and not those specific e-mails. Let me ask you this: After the letter of August 20 was received from the Member of Congress, did your agency have the occasion to brief her on the progress of the investigation?

Mr. HOWARD. I don't know.

Mr. GAMBLE. The answer to that question is yes.

Mr. LATOURETTE. OK. Was that briefing conducted by you, Mr. Gamble, now that I can see you and the partition has been removed?

Mr. GAMBLE. Yes, it was.

Mr. LATOURETTE. Is that as a result of something you felt obligated to do as a followup or was that requested by the Member?

Mr. GAMBLE. No, I was directed by the Administrator.

Mr. LATOURETTE. Administrator?

Mr. GAMBLE. Marshall.

Mr. LATOURETTE. Marshall directed you to do—

Mr. GAMBLE. Give the Congresswoman an update.

Mr. LATOURETTE. When did that occur?

Mr. GAMBLE. February 9, 2000.

Mr. LATOURETTE. Was that the only time that an update was given after the August 20 letter that you're aware of?

Mr. GAMBLE. That was the only update. I received a call from her on September 20.

Mr. LATOURETTE. Of this year?

Mr. GAMBLE. Of this year.

Mr. LATOURETTE. OK. I don't know if the committee can put up page 6 of the e-mails. It's a letter from Ernest Howard dated Thursday, March 16, 2000, at 2:40 p.m.; and underneath it is a message from a fellow by the name of James Nims.
[The information referred to follows:]

HQExchange

From: Howard, Ernest L
Sent: Thursday, March 16, 2000 2:40 PM
To: Nims, James B
Subject: RE: FYI

No the one from Calif. was not there as far as I know, but yes James was there Sunday with the VP at church. He undoubtedly had a picture session as well

-----Original Message-----
From: Nims, James B
Sent: Thursday, March 16, 2000 1:10 PM
To: Howard, Ernest L
Subject: FYI

Hi Mr Howard,

I've just been advised that when VP Al Gore was here in town (Monday?), he spent some time over at the Brookholow Baptist Church . I understand that aside from the Rev. West, Mr Smith was in attendance as well. I wonder if the Congresswoman was there as well??? Have you heard anything about that?? Regards, Jim



Mr. LATOURETTE. Who is James Nims, Mr. Howard?

Mr. HOWARD. He is the group supervisor of group four which was responsible for the investigation.

Mr. LATOURETTE. And this occurs after—when Mr. Waxman and others were asking about the Vice President’s visit down to Houston, TX. My understanding is that the Vice President of the United States went down to the Brookhollow Baptist Church sometime in March of this year for part of running for the President of the United States, I would assume. Were you aware of that visit?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. And it caused this exchange of e-mails. Do you have that in front of you, sir?

Mr. HOWARD. Which one is this?

Mr. LATOURETTE. At the top mine says HQExchange, and the first message is from you to James Nims at 2:40 p.m. on March 16, and the original message was sent at 1:10 from Nims to you.

Mr. HOWARD. Yes, sir, I have it.

Mr. LATOURETTE. All right. And this is an exchange of e-mails relative to the visit by the Vice President to the church, is it not?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. And specifically Mr. Nims in the original message makes the observation that the Vice President was in the town and he was at the church. He asks you a question: “I wonder if the Congresswoman was there as well.” Do you see that question?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. In response—he’s not talking about a Congresswoman from Texas. Because—and you don’t take it to be that, do you?

Mr. HOWARD. No, sir.

Mr. LATOURETTE. And your first sentence is, no, “the one from California was not there as far as I know.” Is that a reference to the Member of Congress who wrote the letter on August 20?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. Why is there correspondence as to whether or not this Member is down at this church with the Vice President of the United States? Was this of great concern to you?

Mr. HOWARD. No, sir. Mr. Nims just wrote me a letter an e-mail advising me that the Vice President had been in town to make sure that I knew about it and he was at this church and that is a church that the subject matter attends, a member of.

Mr. LATOURETTE. I understand that, but it goes on to talk about whether or not the author of the letter of August 20 is there as well, right?

Mr. HOWARD. Yes, sir, it does.

Mr. LATOURETTE. Why is that of interest to anybody in the DEA in March 2000?

Mr. HOWARD. It wasn’t of interest to me. I guess he was being facetious. I have no idea. I just answered his question.

Mr. LATOURETTE. Is it sort of a running joke at the DEA because of the letter?

Mr. HOWARD. No, sir, it was not a joke. We were frustrated about the entire situation.

Mr. LATOURETTE. Why don't you describe for me what's frustrating? Were you frustrated because you felt political pressure either as a result of this communication or from your superiors or from within yourself?

Mr. HOWARD. I was frustrated because I was the one who sought out Mr. Schumacher, who had brought him into this situation in the first place. I told Mr. Schumacher he had anywhere from 90 days to 6 months to ensure—to advise me whether there was a viable investigation or not.

I was briefed originally in the latter part of 1997 at the JD on this investigation. This investigation has been sitting for years without a lot of activity, and I brought that to a sole DEA group which is where it was placed, and I personally assigned Mr. Schumacher to that investigation. I felt frustration because of the allegations, and I felt responsible for putting Mr. Schumacher and the rest of the officers in the situation that they were in.

Mr. LATOURETTE. I have more questions about the e-mails that I will come back to.

Mr. BURTON. If the gentleman would yield real quickly, I have one clarifying question I would like to ask. You said the police that were detailed from the Houston Police Department had already been asked to come back to the Houston Police Department before you closed down the investigation, is that correct?

Mr. HOWARD. That's correct sir.

Mr. BURTON. Now, you're sure about that? They were asked to go back?

Mr. HOWARD. I was told they had been requested to come back on several occasions prior to August.

Mr. BURTON. And that would indicate that would be the extent of their activity and involvement in the case?

Mr. HOWARD. That's correct. I do meet regularly with Chief Bradford. I meet regularly with Chief Jones. They have never to this day said anything about them being pulled back, why they were pulled back or there was further things to be done in this situation. They have never said anything negative about this investigation.

Mr. BURTON. We'll come back to that in a little bit.

Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

I thank the three of you for being here to help us in this hearing.

Mr. Howard, Mr. Schumacher was transferred in March 2000, from an assignment as acting supervisor of an enforcement group to acting supervisor of a support group. Why did you reassign Mr. Schumacher?

Mr. HOWARD. It was brought to my attention by Mr. Gamble that the present position Mr. Schumacher was occupying as the acting group supervisor of group four is not a place he should be since the OPR investigation was still ongoing, that it might be better to assign him someplace else.

The morale of the group was already devastated. I did not want to demoralize Mr. Schumacher any more by moving him from an acting group supervisor position to a non-acting group supervisor position since I had one available. I moved him to another acting group supervisor position in charge of the special support group.

Mr. WAXMAN. Did Vice President Gore's visit to the Brookhollow Baptist Church have any impact whatsoever on your decision to re-assign Mr. Schumacher?

Mr. HOWARD. No, sir, it did not.

Mr. WAXMAN. Did anyone from the White House or the Gore campaign discuss Mr. Schumacher or this investigation with you after his visit to the church?

Mr. HOWARD. No, sir.

Mr. WAXMAN. And I assume no one from the Democratic—

Mr. HOWARD. I never talked to anybody from anybody's party telling me to close this case down, never.

Mr. WAXMAN. Some have suggested that the investigation was slowed or stopped because of political pressure. You've given testimony about that, but I would like to ask you about it again to clarify the record. Mr. Howard, did you ever stop this investigation at any time?

Mr. HOWARD. No, sir, I have not.

Mr. WAXMAN. Did you reduce staffing levels or resources available to the investigation at any time?

Mr. HOWARD. Yes, sir, I did.

Mr. WAXMAN. You did, however, close one or more case files that were a part of this investigation, isn't that correct?

Mr. HOWARD. Case files have been closed, yes, sir.

Mr. WAXMAN. Were those case files closed for political reasons?

Mr. HOWARD. No, sir.

Mr. WAXMAN. If not, why were they closed?

Mr. HOWARD. I believe the original case file was closed in August 1999, but prior to that—it takes about, depending on the evidence involved in the investigation—this investigation started in, I think, 1992. There was a lot of evidence in that investigation. The process doesn't—you just don't go say I'm closing an investigation today and it's closed. There are certain procedures you have to follow such as all the evidence has to be destroyed. All the drug and non-drug evidence has to be destroyed. All the evidence in that investigation has to be completely destroyed prior to closing an investigation. That case started—the closing in the early part of 1999.

Mr. WAXMAN. You mentioned a case file that was closed in August 1999. When were actions first taken to close that file?

Mr. HOWARD. In the winter, late winter, early spring of 1999.

Mr. WAXMAN. Did anyone in your chain of command instruct you or suggest to you that the investigation should be shut down?

Mr. HOWARD. No, sir.

Mr. WAXMAN. Did anyone at the Justice Department instruct you or suggest to you that the investigation should be shut down?

Mr. HOWARD. No one has ever told me to close this investigation.

Mr. WAXMAN. Did any Member of Congress, including Representative Maxine Waters or anyone else, tell you to shut down the investigation?

Mr. HOWARD. No one has ever told me to close this investigation.

Mr. WAXMAN. Did anyone at the White House instruct you or suggest to you that the investigation should be shut down?

Mr. HOWARD. No, sir, not at all.

Mr. WAXMAN. Did anyone associated with the Gore campaign instruct you or suggest to you that the investigation should be shut down?

Mr. HOWARD. No, sir.

Mr. WAXMAN. Was there any political pressure of any kind for you to shut down the investigation?

Mr. HOWARD. Political pressure as far as Washington, no. As far as political pressure involving the situation, the allegations, if you want to call that political pressure, then that caused us to cut the investigation back. I have never shut this investigation down. Today, as far as I'm concerned, this investigation is still ongoing.

Mr. WAXMAN. Thank you very much.

Mr. Gamble, what is the standard for beginning an Office of Professional Responsibility investigation into conduct by a DEA agent?

Mr. GAMBLE. What is the—

Mr. WAXMAN. What's the standard for beginning an investigation of professional—Office of Professional Responsibility into conduct by a DEA agent?

Mr. GAMBLE. All allegations that come to the attention of the Office of Professional Responsibility regarding violation of standard—

Mr. SHAYS [presiding]. Make sure the mic is on.

Mr. GAMBLE. OK. All allegations that come to the attention of the Office of Professional Responsibility concerning violations of standard of conduct for any DEA employee or task force officer is investigated by that office to determine the merits of that allegation.

Mr. WAXMAN. Did allegations made with respect to Mr. Schumacher and other agents in group four meet the standard for commencement of an Office of Professional Responsibility investigation?

Mr. GAMBLE. Yes, it did.

Mr. WAXMAN. Do you think the Office of Professional Responsibility investigation was appropriate in this situation?

Mr. GAMBLE. I think it was appropriate, it was fair, and it was thorough.

Mr. WAXMAN. Did you feel that improper political pressure played any role in the commencement or course of the Office of Professional Responsibility investigation?

Mr. GAMBLE. No, I do not.

Mr. WAXMAN. Did you feel any political pressure to find misconduct by Mr. Schumacher or others in his enforcement group?

Mr. GAMBLE. No, I did not.

Mr. WAXMAN. You made the observation in an e-mail to Mr. Howard that the Office of Professional Responsibility investigation had racial and political implications. What did you mean by that?

Mr. GAMBLE. Do you have that e-mail? What is the date of it?

Mr. WAXMAN. We'll get it to you before you answer the question.

This is an e-mail dated March 14, 2000. Do you have a copy of it there?

Mr. GAMBLE. Yeah. Is the day time 3:45?

Mr. WAXMAN. Yes.

Mr. GAMBLE. Yes, sir.

[The information referred to follows:]

HQExchange

From: Howard, Ernest L
Sent: Tuesday, March 14, 2000 3:45 PM
To: Gamble, R. C
Subject: RE:

CALL ME at 713-693-3001

-----Original Message-----
From: Gamble, R. C
Sent: Tuesday, March 14, 2000 1:52 PM
To: Howard, Ernest L
Subject: RE:

SAC, I need to discuss this matter with you, so Pls let me know if you are in office.. In view of my meeting with Congressman and our guy's apparent failure to adhere to some basis administrative procedures, fact matter was referred to civil rights division and others , while not necessarily critical or essential, but of high profile with some possible political overtones, and as you know, all politics are local and somewhat sensitive here with racial profiling perceptions and etc. call in questions the overall capability to be effective without an onslaught of allegations and unsubstantiated speculations on the part of our Agent. Considerations and comments on best options, notice I need some options with the "s"....In the Bond/

-----Original Message-----
From: Brown, William C.
Sent: Tuesday, March 14, 2000 9:44 AM
To: Howard, Ernest L
Cc: Gamble, R. C
Subject: RE:

Hello down there in Houston. As you may well know by now, we sent the necklace to your office as received by GS Jim Nims about two weeks ago. We did this after R. C. Gamble's meeting with the Congress Woman when he provided her with an update on the investigation. A few days ago our Inspector asked Nims what he had done with the necklace and his reply was that he was going to give it back to Simons. Unknown to us if Jim ever did this.

The case is completed here and will be transmitted to the BOC after our receipt of the interview transcripts from SAs Schumacher and Scott. That should be soon. I'll call you with details of the investigation. As you know, not much of a civil right violation nature ever was shown to have happened. I'll call you today.

-----Original Message-----
From: Howard, Ernest L
Sent: Sunday, March 12, 2000 9:34 AM
To: Brown, William C.
Cc: Gamble, R. C
Subject:

Good morning!

After discussing the matter with R.C. Gamble, it was decided that in the best interest of the DEA, the necklace that OPR has that was taken by agents of the Houston Division in the "Rap-a-Lot" investigation aka, SMITH aka PRINCE case, should be returned to the original owner. There, I request that you return this item directly to me so that I may personally return it. Thanks Bill.



Mr. WAXMAN. It says, From: Gamble, R.C.; Sent: Tuesday, March 14, 2000, 1:52 p.m.; To: Howard, Earnest L. Howard.

It says,

SAC, I need to discuss this matter with you, so please let me know if you are in office. In view of my meeting with Congressman and our guy's apparent failure to adhere to some basis administrative procedures, fact matter was referred to civil rights division and others, while not necessarily critical or essential, but of high profile with some possible political overtones. And as you know, all politics are local and somewhat sensitive here with racial profiling perceptions and etc. Call in questions the overall capability to be effective without an onslaught of allegations and unsubstantiated speculations on the part of our agent. Considerations and comments on best options, notice I need some options with the 'S' in the bond.

And then you've got a response to it. But what did you mean by that?

Mr. GAMBLE. What I was saying in reference to—I had often spoken to Mr. Howard as I would normally do during the course of a week, and I was concerned about his office politics as well as mine. The Department, we were aware of the sensitivities concerning the racial profile issue. There were a series of issues that we were dealing with that he was not aware of which I had to deal with in my capacity as the Chief Inspector. So I was just assuring him that there were things that he needed to take into consideration. He doesn't have all the things that are influencing that I have to deal with and neither do I have all the things that he has to deal with. So the politics are local, both for what he has to deal with as well as what I have to deal with. I think we needed to talk about those issues. And the whole genesis behind this was because it was a safety issue that had come to my attention from my meeting on the 9th with the Congresswoman. All right. And I took it very serious, you know, that concern.

Mr. WAXMAN. Thank you.

Mr. Mercado, did you give or were are you aware of any instructions to Mr. Howard to close this investigation or any case file that was part of the investigation?

Mr. MERCADO. No, sir, at no time did I instruct Mr. Howard to close any of the cases.

Mr. WAXMAN. Are you aware of any improper political interference in this case by the White House?

Mr. MERCADO. No, sir.

Mr. WAXMAN. Or the Gore campaign?

Mr. MERCADO. No, sir.

Mr. WAXMAN. Or any Member of Congress?

Mr. MERCADO. No, sir.

Mr. WAXMAN. Are you aware of any management decisions made in this investigation on account of improper political pressure?

Mr. WAXMAN. No, sir.

Mr. WAXMAN. Mr. Howard, let me ask you this, because I think you testified and I just want to make sure this is the case. You had a complaint from a Member of Congress.

Mr. HOWARD. That's correct.

Mr. WAXMAN. If you had a complaint from any other citizen, would you have treated it the same way?

Mr. HOWARD. If it would have been a similar complaint, I would have done the same thing. I have to worry about my agents who I was very concerned about, the allegation which I did not believe

was true. But I also have to worry about the citizens of Houston, TX. I was also worried about, if the allegations are true, then I don't want agents out there doing what they were alleged to have been doing. So I was wearing two hats.

Mr. WAXMAN. So the allegation was serious enough and you took it seriously and whether those allegations had come from a Member of Congress or another person you would have treated it the same.

Mr. HOWARD. I would have treated it the same. The only difference is because it was a Member of Congress certainly makes it a higher calling. It's like if my mom tells me to do something I'll listen to her, but if my grandmother tells me to do something I'll really listen to her. It's a higher calling.

Mr. WAXMAN. OK. I appreciate that.

I yield back the balance of my time. Thank you all very much for your answers.

Mr. SHAYS. Thank you very much.

Mr. Burton is next, and I guess I'll just take my time.

I would like to just make an observation, Mr. Howard, that I feel amazed by all your responses to the questions. For you to say no political pressure and yet you allowed the subject of an investigation to have a deposition taken in a Member's—Congressman's office.

Mr. HOWARD. No, sir.

Mr. SHAYS. Excuse me. You didn't allow that. The investigation took place in her office. And you responded by taking your men off the case. That's what you did. And I don't believe for a minute that you would do that in other circumstances. I don't believe for a minute that someone who has been involved in potential drug dealing and possible contract murders, that you would allow that person to make a complaint about racial profiling and then take your men off the case. I don't believe it. So I just want to state it for the record. Now, tell me why I should believe it.

Mr. HOWARD. Mr. Shays, it was not just racial profiling. They had been accused of beating people. They had been accused of illegal activity. I had concern for my agents. I had to remove them not only for the sake of the people in Houston, but I was concerned about these agents' careers. That was the first thing that went through my mind.

Mr. SHAYS. Wait a second. If you're concerned, if you think they beat someone, why are you concerned about their careers, wouldn't you want to get them off the force?

Mr. HOWARD. I felt responsible for these agents being involved in case. I don't believe the allegations. But whether I believe them or not is moot right now because there's an OPR investigation that has to prove them one way or the other.

Mr. SHAYS. Who made the charge?

Mr. HOWARD. Who made the allegations?

Mr. SHAYS. Yes.

Mr. HOWARD. A Congresswoman.

Mr. SHAYS. Based on what? That the subject, the person under investigation made that claim? Did she present to you any information that would have suggested from other sources that this was happening?

Mr. HOWARD. I didn't interview her, no, sir. I was only read a letter that she wrote. I knew an OPR investigation was started. I knew my agents were accused of conducting illegal activity.

Mr. SHAYS. Mr. Howard, you are under oath.

Mr. HOWARD. Yes, sir.

Mr. SHAYS. You are under oath. Are you telling me that if someone else makes a complaint that your agents have been involved in some activities like this that you would take them off the case?

Mr. HOWARD. Of that magnitude—

Mr. SHAYS. Of that magnitude. Explain magnitude for me.

Mr. HOWARD. They were alleged to have been involved in racial profiling. They were alleged to have been involved in beating citizens.

Mr. SHAYS. And the allegation were made by the subjects being investigated through a Congressperson.

Mr. HOWARD. Yes, sir.

Mr. SHAYS. So the person who is being looked at, who possibly was involved in drug dealing and possibly contract murders has made an allegation against your individuals, people that worked for you, and you're saying to me that that's enough to take them off the case.

Mr. HOWARD. Yes, sir. Had they have gone out and done something else and everything being perfect, they went out and they were following a subject—

Mr. SHAYS. Was there any basis for you to believe these allegations?

Mr. HOWARD. No, sir.

Mr. SHAYS. Why didn't you just dismiss them out of hand, given that they were being by the person who was being investigated?

Mr. HOWARD. Can I explain?

Mr. SHAYS. Sure.

Mr. HOWARD. Had everything been perfect and they had gone out the following day after I was made aware of these allegations, they were following a suspect around that was involved in this investigation, this individual gets stopped for a traffic violation, he gets out of his car and has a gun, the officers return fire and kill this individual, at that point the media is going to blast DEA and everybody else for misconduct because we were already made aware—

Mr. SHAYS. We have a simple solution. The simple solution is basically to tell the individuals who are under your command that these allegations have been made and to make sure they don't stop this guy in the car. I mean, you had lots of solutions other than taking them off the case.

Now you also said something else that I think is very inaccurate. You tried to imply to us that the police force in Houston wanted these three individuals off the case. And that's simply not true. And I want to know if you are making the statement that they were being asked to be off this case by the Houston police.

Mr. HOWARD. I was told by Jack Schumacher, by Jim Nims, by the ASAC that the police department had requested their officers to return back to their parent unit prior to August.

Mr. SHAYS. To return back to the office but not to drop this case, isn't that correct? Were they ever asked by the Houston police to stop investigating this case?

Mr. HOWARD. I don't know.

Mr. SHAYS. So you're not making that claim. They just were moved.

Mr. HOWARD. That's correct.

Mr. SHAYS. They were moved, but they were still on the case.

Mr. HOWARD. They were not on the case. They were removed.

Mr. SHAYS. Isn't it a fact that you were the one that took them off this case?

Mr. HOWARD. No, sir, that's not true.

Mr. SHAYS. So the meeting and the description that came before us was not accurate. You were here earlier. You did not order them, you did not look at your watch, and you did not take them off the case.

Mr. HOWARD. I did not tell the police department officers that you are off the case. What I said was there would be no more proactive part of this investigation without approval from an associate SAC or higher.

Mr. SHAYS. And that in your judgment is leaving them on the case.

Mr. HOWARD. They had been asked to go back previous to this.

Mr. SHAYS. No, no.

Mr. HOWARD. I did not tell them to leave, no, sir. We still have judicial matters to do in this case. I am led to believe by Jack Schumacher that the key to this investigation all hinges on two people cooperating.

Mr. SHAYS. Mr. Howard, this is painful, but my time has run.

Mr. Cummings, you have the time.

Mr. CUMMINGS. Thank you very much.

Mr. Howard, I have been listening to your testimony. I heard part of it in the other room there, and I have been watching the monitor. And Mr. Shays has asked some questions which I got to tell you when I heard your testimony I have to—I was kind of surprised. You know, you heard all the testimony, did you not, of the witnesses on the panel that came before you?

Mr. HOWARD. Yes, sir, I did.

Mr. CUMMINGS. And would you agree that there is apparently some key—there was some major differences in what you're testifying to and what they testified to?

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. I got the impression that these were some officers who really believe in you, think that you're an honorable man but believe that it wasn't your doing but you were frustrated that the investigation—that they had to be taken off of the case. Would you agree? You heard them. Did you get that impression that they were frustrated? They thought that you were frustrated. You may not have agreed with it completely, but you felt kind of frustrated. That's the impression that I got up here.

Mr. HOWARD. That's correct. I was frustrated.

Mr. CUMMINGS. OK. And your frustration I take it did not come from them having necessarily done anything wrong, that is the officers, but just I guess—and you tell me if I am wrong—but just ba-

sically from the process, that there were concerns about what they—allegations about what they had possibly done—allegations, I emphasize that—and you were just trying to basically protect your people.

Mr. HOWARD. That's exactly correct.

Mr. CUMMINGS. Now, one of the things—I think the thing that kind of got next to me was when I heard the testimony that we had a murder situation here and that there were very serious crimes going on. And the question then becomes, and I think somebody on the other side alluded to this a little earlier, how do you make sure that you don't lose—don't lose the momentum you've got?

I take it people have to kind of—you know, when you get folk in a certain position you want to stay right on it because you made time and time may cause you to lose something. I am trying to figure out, how did you get the impression this it was just depending on two people?

But you heard the testimony of these folks. They're saying somebody said Schumacher said we were about to go into the second phase. You heard everything they said. I guess what would help all of us is for us to understand how that gap occurs. In other words, with the group of officers who are on the case saying we're right on the verge of moving into some big stuff and then we're snatched and you're saying that you thought—that you had been told that there were two people who were apparently up for trial, you were waiting for them, you said waiting for them to turn, is that right?

Mr. HOWARD. That's correct.

Mr. CUMMINGS. I think that would help all of us.

Mr. HOWARD. I was told by Mr. Schumacher and Mr. Nims that our entire investigation into the local impact target hinged on the two lieutenants as identified by them in the organization. Those two lieutenants had been arrested. Everything we were trying to go forward depended upon these individuals cooperating. I have never been told to this date that there were additional leads at that time that they had not followed.

Mr. CUMMINGS. I may have missed this, but is there some type of criteria that is used to determine when you pull someone off the case? In other words, you mention here in answering a question a little bit earlier that there was alleged racial profiling, and you name a number of things. I think you said somebody had alleged been beaten. Is there some kind of criteria that is either written or is basically understood policy as to when you pull people, say, when you do whatever you did in this case, that is, pull people off the case? Is there a policy?

Mr. HOWARD. The seriousness of the allegations.

Mr. CUMMINGS. And—

Mr. HOWARD. Those allegations were significant enough for me to believe that if these officers went out and did something again and everything turned out right as I explained earlier and for some reason something went wrong, the perception in the media, the perception on everybody would be that they—we knew about it ahead of time; we should have stopped it ahead of time. I was worried about my own people.

Mr. CUMMINGS. Just one other question, Mr. Chairman.

Well, I guess this is what is troubling me, and I am sure it is probably troubling other members of the committee, in almost everything we do there has to be some kind of balancing act, and I am sure you had to do some kind of balancing when you came to that conclusion. Where does the balance—how do you strike a balance between what they may allegedly be doing and the fact that people may be being murdered, more drugs coming into a community? You following what I am saying? I know you want to protect your officers. I got that. What about the other side? That's where our frustration comes from.

Mr. HOWARD. As I said, again I was told at that time, and as I have been consistently since that time, that the key to a successful investigation in the local impact target depended on two people. When I said we're not going to do any more proactive activity, that meant until the end of the OPR investigation. If the OPR investigation was terminated in 60 days, whatever they had going on before, whatever they could do without getting approval from upstairs could have been done anyway.

Mr. CUMMINGS. Last question, so the information that you found out today, if you had that information that you heard would you have done the same thing?

Mr. HOWARD. As far as those two individuals—

Mr. CUMMINGS. No, listen to me. Listen to my question. I'm talking about the officers that testified a little bit earlier, all the frustration they voiced. If they had said, look, Howard, look, man, we are about to go into the second phase. We've got—you heard what they said. If they had presented that to you on that day that this determination was made to pull them off, would you have done the same thing?

Mr. HOWARD. It would have been assigned to somebody else.

Mr. CUMMINGS. OK.

Mr. BURTON. [presiding.] Let me say to you Mr. Howard, Mr. Mercado and Mr. Gamble, you're all under subpoena, I believe. Is that correct? We would like for you to be back here tomorrow. The reason—and we've asked the police officers and all of the others on the first panel to be back tomorrow. The reason for that is because there's some inconsistencies in the testimony we're hearing from you, Mr. Howard, and what the policemen have told us. We want to resolve that through further questioning tomorrow, and we want to make absolutely sure we get at the truth. And you will remain under oath, and you know how important that is, that the truth be told.

Mr. HORN. Mr. Chairman, if I might suggest, we need a chart that goes up the hierarchy. Mr. Waxman has mentioned that. Some of us believe when you look at a bureaucracy—

Mr. BURTON. Chain of command.

Mr. HORN. Who decides? Unity of command or chain of command? And get it from the group that was working—obviously, to Mr. Howard and then all those people above him and the same. I would like to hear from the Office of Professional Responsibility on your case load and how you do it.

Mr. BURTON. We'll see if we can't get that information.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman; and I want to thank you for conducting today's hearing to help clear the air about these serious allegations of possible political influence over DEA drug-related criminal investigation in Houston.

We welcome the examination of DEA's performance which some fear may have been influenced by this kind of political pressure and the case being prematurely concluded. This charge is serious. It's worthy of a careful, objective examination by the Congress.

The e-mails we've read from the DEA office in Houston raise serious questions about just what was going on there as well as the Washington headquarters when they came in. E-mail messages cry out for an explanation about any alleged political pressure.

It's hoped that this case which we're examining today isn't different from the long outstanding history of the independence of our outstanding DEA whose men and women all around the globe daily risk their lives for the benefit of all of our children and communities.

My staff and I have known and have worked closely with DEA administrator Donnie Marshall and his predecessor Tom Constantine in the crucial war against illicit drugs. Mr. Marshall is the first career DEA agent ever appointed agency administrator and to our knowledge has always done an outstanding job and one that's important to the rank and file. And that's why we've been looking forward to today's testimony and tomorrow's testimony.

Let me ask Mr. Howard, has the Rap-A-Lot drug case ever been officially closed?

Mr. HOWARD. The target impact investigation—there are multiple cases that are going on a local impact target.

Mr. GILMAN. I'm talking about the Rap-A-Lot investigation.

Mr. HOWARD. There are multiple investigations on that local impact target.

Mr. GILMAN. Have you ever closed that investigation?

Mr. HOWARD. The one that was originally opened in 1992 has been closed, yes.

Mr. GILMAN. You closed it?

Mr. HOWARD. It was closed, yes, sir.

Mr. GILMAN. Yes, I'm am looking at your March 14 e-mail to Mr. Mercado. You said, at any rate it's over and we're closing our case on Prince.

Mr. HOWARD. That isn't the same—the 1992 case was closed in August 1999. That was the original case that I had been briefed on.

Mr. GILMAN. I'm looking at March 14, 2000, e-mail to the headquarters.

Mr. HOWARD. Yes, sir.

Mr. GILMAN. You're saying in that, "at any rate it's over. We're closing our case on Prince." Does that end the Prince investigation?

Mr. HOWARD. No, sir, it does not. I wrote that e-mail because I was venting. Mr. Mercado and Mr. Gamble are two of a few people in this agency that I talk to about my feelings and about things that are going on. I wanted them to call me immediately. I had tried to talk to them earlier. I had been on travel for a couple of weeks before.

Mr. GILMAN. From that e-mail are we to believe that the DEA Special Agent in Charge of Houston is misleading everybody with a March 1999, e-mail about political influencing closing the case?

Mr. HOWARD. I'm not trying to mislead anybody, Mr. Gilman. All I'm telling you is that I tried to call Mr. Mercado. I had tried to call Mr. Gamble. They were not in. I wanted to talk to somebody because I was frustrated about this entire situation. I was totally frustrated.

Mr. GILMAN. And yet you state you're closing out your investigation?

Mr. HOWARD. Yes, sir, I did. And, Mr. Gilman, the reason I put in there is because I want them to call me. If I just put in call me, I know they will call me sometime.

Mr. GILMAN. Did anyone call you? Did you have a subsequent conversation?

Mr. HOWARD. Yes, sir, they got me off the ceiling.

Mr. GILMAN. What occurred after that conversation? Did you reopen the case or did you leave it closed?

Mr. HOWARD. It never was closed. These words are not meant like they're stated in there. These words are me begging out to Mr. Gamble and Mr. Mercado to call me and get me off the ceiling because I'm frustrated.

Mr. GILMAN. What did you say to reopen the case then once you stated it was closed?

Mr. HOWARD. It wasn't closed, Mr. Gilman. The case was not closed.

Mr. GILMAN. But you made a public statement in your e-mail, you made a statement to your headquarters you're closing the case. What did you do to reopen the case?

Mr. HOWARD. The case was not closed, Mr. Gilman. I'm reaching out, venting. I'm asking Mr. Mercado and Mr. Gamble as two people that I trust and that I talk to about many, many things to get me off of the ceiling.

The weekend before Vice President Gore was in town at the church, and I know from the church that I attend who is like other sister church to the church that the Vice President attended that the word in the street and the word in the church is that a target, the local impact target was at the church with the Vice President. To me, that was him slapping me in the face, saying ha-ha. Here I am. You can't touch me.

I was totally frustrated about this entire scenario because I know that this guy, this individual, this local impact target is doing everything possible to keep from getting tied up in the investigation.

Mr. GILMAN. Mr. Howard, if I might interrupt you. On March 15 you sent a further e-mail to Mr. Mercado saying,

All that is of concern with me is the fact that Tom Constantine and Greg Williams were both briefed on this case and the potential political pressure associated with it because the major player is a prominent pastor and a major pro tem. Now we bow down to the political pressure anyway. If I had known this I would have never brought Jack in this case nor would I have ever pursued it. But it's over now. The Houston Division will terminate all active investigation of Rap-A-Lot except for those persons who've already been arrested and indicted. If any information comes to the investigation of agents in the Houston Division regarding Rap-A-Lot or James Smith it will be vetted through headquarters prior to any action taken here.

Now, what does that tell us? What are you telling us?

Mr. HOWARD. Mr. Gilman, I am venting with Mr. Gamble and Mr. Mercado. I am just totally venting. We did not close the investigation into the impact—local impact target.

Mr. GILMAN. Let me interrupt you again, Mr. Howard. Did anyone at DEA headquarters in Washington ask you what the political influence was that you were concerned about?

Mr. HOWARD. No, sir.

Mr. BURTON. The gentleman's time has expired.

Let me just admonish the witness, Mr. Howard. I want you to be very clear. We will send criminal referrals to the Justice Department, the new Justice Department, after January 1 if we find out there's been false testimony given to this committee by anybody. I want you to be very clear about this. And prosecution can take place if we find out that there is not accurate statements being made, and I'm talking about anyone who testifies, and I want you to know that. And we're going to have you come back tomorrow after we have the policemen come back and your associate and ask them questions regarding your testimony today. So I want you to be very clear about that, if you have any corrections you want to make today or tomorrow.

Who is next?

Mr. LaTourette or Mr. Shays, do you have any questions?

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman.

Gentlemen, when the other panel was here we were talking about an artist that is apparently known to some but not to me, a guy named Scarface; and I've been handed a magazine that I don't read on a regular basis called Alpha and Omega. And in that interview Mr. Scarface, I don't know if his name is Mr. Scarface but Scarface anyway, talks about a song that he has written and it's now jumped to No. 7 on some billboard chart that I'm not familiar with. It's "Look Into My Eyes."

It has to do with the testimony which was—Mr. Schumacher's name was mentioned in it, and this investigation is named to it. And the Houston police officers that testified, one of the—a 21-year veteran, was indicating that the shame of this song and the way that this was handled is that it brags about the fact that, basically, if you're under investigation and you get people to intervene on your behalf and you beat it, you not only become somehow invincible but it also talks about knocking off and killing a confidential informant who helped law enforcement participate in that investigation.

The officer who testified from Houston said what an awful message it is to send not only to the young people of Houston but to the young people across the country who may be thinking about what path they should follow. Should they steer clear of drugs as we tell them to do and the money that can be illegally gotten during drug transactions or should we do something more productive with our lives?

Thanks to the technology of the committee, the wonderful staff here has been kind enough to run up to the local music store and purchase this classic for us, and they've cued it up, Look In My Face. With the consent of the chairman, it's 3 minutes and 36 seconds, which should take most of my time, but I'd like to play Look

Into My Eyes for the gentlemen from the DEA here and invite your comments on what message you think this closing down of the investigation and giving the rap artist the opportunity to brag about it sends to the young people of America. Is that all right with you, Mr. Chairman?

Mr. BURTON. That's fine. Without objection.

Mr. SHAYS. The transcriber doesn't have to copy this down, please.

Mr. LATOURETTE. It's got a good beat, but I don't think we can dance to it.

[Tape played.]

Mr. BURTON. I see some of the people from various official agencies laughing at this. Do you really find it that funny? I don't find it funny at all, and that's No. 6 or 7 on the charts? My God.

Mr. LaTourette.

Mr. LATOURETTE. If I could just ask a question about it. Although I didn't catch all the lyrics, I certainly heard Mr. Schumacher's name. There's also the mention of an individual who I understand was a confidential informant for the DEA mentioned in these lyrics. I guess the question I have is the unintended consequence I guess of the activities that took place in Houston as a result of an unsubstantiated complaint lodged with a Member of Congress by the target of an 8-year investigation has apparently emboldened an artist to produce a song that's now No. 7 on the charts that specifically names a DEA officer and encourages the killing of a DEA confidential informant. And I guess I'd be interested from you gentlemen just to your reaction to that set of circumstances.

Mr. MERCADO. Sir, I've been in law enforcement for 28 years, first as a New York City police officer, now at DEA for the last 22 years. This is disgraceful. Now, we never told anyone that the cases were closed. So for him to say that the cases were closed, if you give me the date—can you tell us when was that tape—on the back of the tape it should tell you the date the tape was published.

Mr. BURTON. Would the gentleman yield real quickly?

Mr. LATOURETTE. I will be happy to.

Mr. BURTON. The policeman and the DEA agent said that Mr. Howard came in, looked at his watch and the date and says it stops as of now. Just a minute, Mr. Mercado. He said it stops as of now.

Now, I'm going to bring them back in here tomorrow, and they're going to testify, so don't tell us that the case wasn't closed. They were very clear. Mr. Howard told them, it stops as of now. Now they're going to tell us that again tomorrow. So you're saying that the case wasn't closed. Were those people—did they have their head in a sack? Were they not paying attention? This isn't one person, two persons, three persons. It was three Houston policemen and a DEA agent in charge of investigation, so come on.

Mr. MERCADO. Sir, can I answer you, sir. What I am trying to say is that at no time did DEA come out public and say that the case was closed for these individuals to know that the case is closed.

Mr. BURTON. How would—you know they might have been told by somebody who had inside information.

Mr. LaTourette.

Mr. LATOURETTE. If I could reclaim my time, I really think that that question begs the question, and the observation is that at least this artist who works for the principal subject of the investigation was under the impression that as a result of political pressure or something else that this thing had been deep sixed, Mr. Schumacher was taken off the case, he's now riding a desk someplace. The seven HPD officers are back doing whatever they were doing before this; and whether there was an announcement by DEA or not, they think it's dead, and he thinks it's dead to the point that he feels confident to produce a record that basically not only exposes the DEA officer and makes fun of him, sort of in your face, but threatens to kill a snitch, a confidential informant for the DEA, and when Mr. Stephens, Sergeant Stephens was testifying before, somebody was testifying before, they said what concerned them was when this thing was closed down, at least in their understanding, that CIs were left to twist in the wind and were caused to believe that they had no backup anymore, that their lives were in jeopardy, even though they tried to help either for good reasons or bad reasons.

And this guy, this artist, Mr. Whatever-his-name-is, feels confident making a threat record, threatening the confidential informant's life, and more than that, and why this issue of whether it's closed or not, and the date really doesn't make a spit's worth of difference to me, is the Houston guys said that this has risen to No. 7 on the charts and kids, teenagers, young people in Houston are listening to it. And it's now OK because the stars say it's OK to diss the DEA and threaten the lives of confidential informants. And I want to know what you think about that. You think it's disgusting. How do you feel about it, Mr. Gamble?

Mr. GAMBLE. I agree. I think it's also disgusting. I have a 20-year-old son who listens to rap music, and of course I don't appreciate it. I don't appreciate a lot of the lyrics when you listen to a lot of the rap songs, and one of the things he has often said, it's not the lyrics that they're listening to, it's the music, it's the beat, and that's what they dance to and that may be an explanation as to why the chart is moving the way it is. I heard it had a nice beat. I'm not saying that is the reason. I really don't know but I would agree that the lyrics and the special—the specific reference to our agent and to our sources of information is distasteful, very distasteful.

Mr. LATOURETTE. How about you, Mr. Howard, and the question is, do you see any responsibility here on the part of your agency that created this set of circumstances that has led to what you now call disgusting, distasteful, horrendous, horrible, I mean, any responsibility at all for creating this mess?

Mr. HOWARD. I don't know why that was written. I don't know why they did what they did, but I did find it very, very disturbing. I find it extremely disturbing in that it mentions Jack Schumacher and Chad Scott by name, and they were the case agents on this investigation.

Mr. LATOURETTE. I agree with you and I—well, I don't know, you know, there was a movie, Apollo 13, we have a problem, Houston; I think we have a problem, Houston, and I yield back my time.

Mr. BURTON. Gentleman yields back his time.

Mr. Shays.

Mr. SHAYS. Mr. Howard, would you tell me how taking your people off the case improved your opportunity to get those so-called two lieutenants to talk? In other words, it's known on the street that the very people doing the investigation have been removed and you're saying that somehow hope lies in getting these two lieutenants of the subject person under investigation to turn against their own employer. Tell me the logic of that one.

Mr. HOWARD. I don't know anything about it being on the street that these officers were no longer working on this investigation, but I was led—I was told—

Mr. SHAYS. Excuse me, sir. The person being investigated, Mr. Prince, was aware they were taken off the investigation.

Mr. HOWARD. I don't know that, no, sir, I don't know.

Mr. SHAYS. You under oath are going to testify that you believe that would not be known?

Mr. HOWARD. I don't know if Mr. Prince knew that or not. I have no way of knowing what Mr. Prince knew.

Mr. SHAYS. The rap singer knew.

Mr. HOWARD. Yes, sir, I guess he did.

Mr. SHAYS. I guess he did. I mean there's a point where being honest and candid crosses a line, and you ask us to see that the lights are off when I know the lights are on, and so I react the way I do. You said to Mr. Waxman, there was no political pressure, but we know for a fact there was, and it was Maxine Waters, and we know that she was so powerful that she could get the subject of the investigation to come to her office and get your people, Mr. Gamble, to come to her office, the very person we're investigating, and it's Stephen Delgado, William Dodge and Felix Jimenez. Is he a chief inspector under you, Mr. Gamble?

Mr. GAMBLE. I preceded him in that capacity.

Mr. SHAYS. So is he under you?

Mr. GAMBLE. Oh, no. He moved to become the Special Agent in Charge of the Philadelphia office.

Mr. SHAYS. And you fulfilled his office?

Mr. GAMBLE. Yes, I do.

Mr. SHAYS. And Veronique Pluviose-Fenton, legislative assistant for Congresswoman Waters; Bruce Toble, general manager, Rap-A-Lot Records, very person who puts this music on; Honorable Maxine Waters; Ambassador Sydney Ramsey, who I believe is Ms. Waters' husband; Cheryl Ziegler, lawyers committee for civil rights under law.

Now we start out, this deposition, excuse me, the words are coming from Mr. Delgado, this interview is being conducted in reference to the letter from Maxine Waters, U.S. Congresswoman, 35th District, California, to Janet Reno, Attorney General of the United States, Department of Justice dated August 20, 1999.

On page 39, Chief Inspector Jimenez says, "fine, we will take a look at the situation. I just want to put it on the record that we feel that the information provided by Mr. Prince, it's insufficient at this point for us to, you know, we will take a look at it, but it has not pinpointed any civil rights violation. It's not identifying specific acts of wrongdoing of DEA agents and so on."

Now the date of this was when, Mr. Gamble?

Mr. GAMBLE. I believe it was August.

Mr. SHAYS. 24th, correct, 1999. Would you tell me when this investigation of your agents was ended?

Mr. GAMBLE. May 29, 2000 we concluded it and sent our facts—

Mr. SHAYS. In October?

Mr. GAMBLE. In March, on March 29th.

Mr. SHAYS. It ended?

Mr. GAMBLE. We completed our factfinding, yes, sir.

Mr. SHAYS. And then what happened?

Mr. GAMBLE. And then it goes to a board of review, which is a Board of Professional Conduct.

Mr. SHAYS. So this mindless investigation without substance goes from August 1999 basically to October 19, 2000, and you, Mr. Howard, during this time, have not allowed these agents to basically be involved in this case.

Mr. HOWARD. That's not true, no, sir. I said that they could not conduct any more proactive part of the investigation without approval from the associate SAC or the SAC.

Mr. SHAYS. Right. So that means what to you? It means something to me. What does it mean to you?

Mr. HOWARD. That means if they had any substantial leads, they had to go through the chain of command and get appropriate instructions back.

Mr. SHAYS. How did they get leads if you're not allowing them to investigate?

Mr. HOWARD. They get leads from cooperating witnesses.

Mr. SHAYS. But they have been taken off the case. You know that and I know that. And isn't it true that Mr. Schumacher was actually assigned an administrative job.

Mr. HOWARD. In March he was assigned as the acting group supervisor of the special support group.

Mr. SHAYS. Right, he was taken off the case.

Mr. HOWARD. In March he was still involved in the judicial process.

Mr. SHAYS. No. He's involved in maybe some court cases. He's taken off the case. I know that there are people who do investigative work who are watching now and laughing at you, laughing because they see through it. Now I may not be an investigator, but I at least have enough common sense to know they had been taken off the case, they have told us they have been taken off the case. They have told us that. We have e-mails from you that say it ended because of political reasons. They say it's political reasons. Why should we believe you?

Mr. HOWARD. Because I'm telling the truth. Mr. Schumacher was still—

Mr. SHAYS. Telling the truth when you met them, telling the truth when you wrote the e-mail, or telling the truth now because they don't agree? They don't agree. You can even acknowledge they don't agree.

Mr. HOWARD. That's correct, they do not agree.

Mr. SHAYS. So you lied to them and you lied in your e-mails, but you're telling the truth now?

Mr. HOWARD. I lied to who, sir, I'm sorry?

Mr. SHAYS. Well, you said they don't tell the truth, they're in conflict.

Mr. HOWARD. I didn't say that they lied. I told them during the meeting in August there will be no more proactive investigation going on.

Mr. SHAYS. We read your e-mails. We heard about their comments that they said it was for political reasons. Their statement to us corresponds with your e-mails. There's nothing different to them. They're the same, and now you're telling me that this e-mail is not the truth. Isn't that correct?

Mr. HOWARD. That's correct, Mr. Shays.

Mr. BURTON. Gentleman's time has expired.

Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. Mr. Gamble, what communications did you have, if any, with Congresswoman Waters with regard to this case?

Mr. GAMBLE. Nothing with regard to the Rap-A-Lot case but with regards to the OPR investigation, I did—I did speak to her on that.

Mr. GILMAN. And what communication did you have with her with regard to that?

Mr. GAMBLE. I provided her a status of the investigation since—that was in February.

Mr. GILMAN. And did you have any communication from Ms. Waters with regard to the case.

Mr. GAMBLE. Any?

Mr. GILMAN. Any letter, any communication.

Mr. GAMBLE. No letter, no, sir.

Mr. GILMAN. Was there any inquiry made by Ms. Waters with regard to this case to your office or to the DEA headquarters?

Mr. GAMBLE. Following my meeting with her on the ninth.

Mr. GAMBLE. Yes.

Mr. GILMAN. What was your substance of your meeting on the ninth?

Mr. GAMBLE. To update her on the investigation that was ongoing.

Mr. GILMAN. What did you tell her?

Mr. GAMBLE. I told her that we were still conducting the investigative phase. There were several witnesses that had not yet been interviewed, had yet to be interviewed and until such time we will continue to move forward.

Mr. GILMAN. And what was the necessity of your keeping her up to date on that case?

Mr. GAMBLE. Administrator Marshall had asked that I update her on the status of the OPR matter.

Mr. GILMAN. And is that OPR matter concluded?

Mr. GAMBLE. Yes, sir.

Mr. GILMAN. What did you tell Mr. Howard about Ms. Waters, and what did you suggest that he do?

Mr. GAMBLE. I did have a conversation relative to my meeting with her and some of the comments that she had made during that meeting.

Mr. GILMAN. What comments are you referring to?

Mr. GAMBLE. Well, one was a joking one. Of course, Mr. Jimenez is Hispanic, and when I appeared there and she saw me for the

first time, she just jokingly said, now, they have a brother on the case and she talked about the necklace that had been taken from one of the subjects, I believe it was a Mr. Simon.

Mr. GILMAN. What kind of a necklace?

Mr. GAMBLE. It was a gold medallion that he was wearing at the time.

Mr. GILMAN. Which indicated what?

Mr. GAMBLE. It indicated that it may have some evidentiary value.

Mr. GILMAN. What evidentiary value?

Mr. GAMBLE. It turned up to have none, or it wasn't processed as any.

Mr. GILMAN. Was the necklace indicative that he was a member of a gang?

Mr. GAMBLE. I do not know that.

Mr. GILMAN. Was that ever told to you?

Mr. GAMBLE. No, sir.

Mr. GILMAN. Were you ever informed of that?

Mr. GAMBLE. There was some conversation that it was, the reason it was taken because they thought it may have been some indication.

Mr. GILMAN. Of what?

Mr. GAMBLE. Of some gang association.

Mr. GILMAN. And do you know whether it was or was not—

Mr. GAMBLE. No, I do not.

Mr. GILMAN [continuing]. An indication of any gang association?

Mr. GAMBLE. No.

Mr. GILMAN. Did anyone ever indicate that to you?

Mr. GAMBLE. No, sir.

Mr. GILMAN. What other information did you discuss with her?

Mr. GAMBLE. She wanted to know if it would be feasible to explore, if it had no evidentiary value, would—to show good faith on the part of the government and the service to the public to return that necklace.

Mr. GILMAN. What did you tell her?

Mr. GAMBLE. I told her I didn't know whether it had any evidentiary value, but if it did not, I would explore that.

Mr. GILMAN. Was that necklace ever returned to her?

Mr. GAMBLE. Yes, it was.

Mr. GILMAN. When was that?

Mr. GAMBLE. It was returned on March 8th of this year.

Mr. GILMAN. Who made that decision?

Mr. GAMBLE. I told Mr. Howard that if it had—to us, as far as OPR matter, it had no evidentiary matter. It had been taken inconsistent with administrative procedures for taking and safeguarding personal property and had not been processed accordingly, and consequently, it should be returned.

Mr. GILMAN. You instructed Mr. Howard to return the necklace?

Mr. GAMBLE. Yes, I did.

Mr. GILMAN. Did he do that?

Mr. GAMBLE. It was returned I believe by Mr. Joura.

Mr. GILMAN. To Congresswoman Waters?

Mr. GAMBLE. No, no. It was to—I believe it was to Mr. Simon, the rightful owner.

Mr. GILMAN. Mr. Mercado, is it standard practice to interview an alleged target in a congressperson's office?

Mr. MERCADO. It's hard to say, sir. Normally—

Mr. GILMAN. Not whether it's hard to say. Is that standard practice by the DEA?

Mr. MERCADO. It's not standard practice, sir.

Mr. GILMAN. Has that ever been allowed before?

Mr. MERCADO. Not to my knowledge no, sir.

Mr. GILMAN. Thank you. No further questions.

Mr. WAXMAN. Would the gentleman yield to me on that point?

Mr. GILMAN. I'd be please to yield.

Mr. WAXMAN. Whose idea was it to have the deposition there? Was it DEA's, if you know?

Mr. GAMBLE. I do not know.

Mr. WAXMAN. That is what I understood, that she was asking for—that she wanted to be present and they scheduled it there. It wasn't, as far as I know, at her request.

Mr. GILMAN. What I'm seeking, is that a permissible practice? Mr. Gamble, does your office set forth any standards with regard to that kind of an interview?

Mr. GAMBLE. We have not since I've been the Chief Inspector, and to my knowledge, it has not happened before.

Mr. GILMAN. Thank you.

Mr. BURTON. Mr. Cummings, did you have more questions?

Mr. CUMMINGS. Yeah. Mr. Howard, first of all, I want you to understand that when I listened to the chairman, I'm—sometimes he gives me chills because I know he's very serious about this referring matters for criminal investigations, and so I want to see if I can't just ask you all a few questions. By the way, a lot of them are very frivolous if I might add in my opinion, and also in the Justice Department's opinion, but let me ask you this: Mr. Mercado, what impression did you have? You had the impression that the investigation was ongoing?

Mr. MERCADO. Yes, sir. First time I got involved in the investigation was back in February, beginning of February when I was called into Donnie Marshall's office. Present was Mr. Gamble. At the time, Mr. Marshall directed Mr. Gamble to go meet with Ms. Waters, and at no time discuss any of the current investigation, just advise her on the OPR process. That gave me the impression that the cases were open. That's the first time I got involved in this investigation.

Mr. CUMMINGS. Now, Mr. Gamble, you—it was your impression that it was ongoing also?

Mr. GAMBLE. Yes, sir. I was only—I'm the Chief Inspector, so I was only concerned about the Standard of Conduct violations, and I was not really concerned that much about operationally what was going on, just from the safety and the welfare of the public as well as our agent, our employees.

Mr. CUMMINGS. Now, it seems to me that the officers—clearly they came to a conclusion that there was nothing to be—that their tenure with regard to this investigation was over. Now, if they, Mr. Howard, you said that if they found some other evidence, that you kept the door open for them to take some action; is that right?

Mr. HOWARD. If there was additional leads or other evidence, they had means to bring them forward, yes, sir.

Mr. CUMMINGS. And in the discussion that you all had, that discussion that you all had when they claimed investigation was brought to an end, were there any protests by the officers, do you remember, saying why are you doing this to us, we're really in good shape? And I mean, was there any kind of, you know, expressions of frustration?

Mr. HOWARD. Everybody was frustrated, yes, sir. Everybody was demoralized.

Mr. CUMMINGS. And all of you all were having this discussion? How many of you all were in that meeting, do you know? Was Mr. Schumacher there?

Mr. HOWARD. Yes, sir. Probably 10 or 12 people.

Mr. CUMMINGS. And all you said was what, political reasons?

Mr. HOWARD. What I said was that we had an allegation from a politician that indicated that there was misconduct, inappropriate conduct, racial profiling, beatings and so forth, and that we could not continue any more proactive part of the investigation. I was suspending as of, I looked at my watch, and I gave them a time what was on my watch, as of that time, no more proactive part of the investigation would be done without approval from upstairs.

Mr. CUMMINGS. What was the response to that that you can recall?

Mr. HOWARD. They weren't happy, but they weren't happy with the allegations because they knew they were unfounded, untrue, or they believed they were untrue and unfounded.

Mr. CUMMINGS. You said in answer to somebody's question over on the other side that one of the reasons why you were upset about the allegations is because you were the one who assigned this to Schumacher.

Mr. HOWARD. That's correct.

Mr. CUMMINGS. And were you aware of any past allegations against Mr. Schumacher with regard to racial profiling and things of that nature?

Mr. HOWARD. No, sir.

Mr. CUMMINGS. So you felt—and why did you select him for this assignment?

Mr. HOWARD. He had just finished an assignment in east Texas on an investigation, and I wanted a senior competent investigator involved in this. It had been in the hands of another senior agent for several years and nothing had been done. I wanted to find out if we had an—if we could do anything with an investigation.

Mr. CUMMINGS. Does it bother you that there is such a difference in what they perceived and what you perceived to have been said in that meeting or what their impression was?

Mr. HOWARD. Yes, sir, it bothers me because they perceived that the investigation was closed down forever. What I said was the proactive part of the investigation is closed down pending the outcome of the OPR investigation.

Mr. CUMMINGS. And so just so we're clear, what you wrote in the e-mail, you're saying that's not a lie.

Mr. HOWARD. What I wrote in the e-mail in March?

Mr. CUMMINGS. Yes, sir. Yes, sir.

Mr. HOWARD. The March e-mail is me talking about closing the case down and so forth. Everything in that e-mail was for two purposes. One, I was venting. No. 2 was, I wanted Mr. Mercado and Mr. Gamble to call me back to get me out of my frustration.

Mr. GILMAN. Will the gentleman yield a moment?

Mr. CUMMINGS. Certainly.

Mr. GILMAN. Did they ever call you back?

Mr. HOWARD. Yes, they did.

Mr. GILMAN. And what was said?

Mr. HOWARD. They got me off the ceiling, asked me why I was upset, what's going on, calm down, everything will be OK, let's continue on, we're not closing anything down.

Mr. GILMAN. Did they talk about any political influence at all or did you raise it with them?

Mr. HOWARD. No, sir.

Mr. GILMAN. Thank you for yielding.

Mr. CUMMINGS. Is that your recollection, Mr. Mercado?

Mr. MERCADO. Yes, sir.

Mr. CUMMINGS. Is that yours?

Mr. GAMBLE. Yes, it is.

Mr. CUMMINGS. All right. Thank you very much.

Mr. BURTON. Yes, Mr. Shays.

Mr. SHAYS. Mr. Howard, I think that you and I have a big disagreement, but I would never want to call a witness a liar. And so for that implication, I would apologize, but we have two conflicting statements. You seemed to modify your statement in responding to Mr. Cummings, and I'm going to ask that that be read back tomorrow, and I'm going to get it, but you described your meeting with your investigators saying that the proactive investigation had concluded pending decisions from higher-ups, and the reason why I think I heard you say was because a political problem with the Congressperson. That's what I heard. Am I hearing you correct?

Mr. HOWARD. What happened was I had a meeting with the people in that group. I told them that we had received a letter or complaint from a Congressperson. I think I even named the Congressperson and that there were allegations of a substantial nature against people in the group, and I think I went over a couple of the allegations. I said we will suspend any proactive part of this investigation pending the outcome of the OPR investigation.

Mr. SHAYS. Thank you. So were you monitoring that investigation, eager to get these men back on to a proactive effort?

Mr. HOWARD. Excuse me, am I monitoring?

Mr. SHAYS. Were you monitoring the investigation? You were telling me it had to wait until it was concluded.

Mr. HOWARD. I was talking to Jack Schumacher almost every day I was in the office.

Mr. SHAYS. No. They weren't the people—I'm talking about monitoring the investigation, the OP, the issue—OPR investigation. That's what—the proactive part of your investigation was being suspended.

Mr. HOWARD. Correct.

Mr. SHAYS. Pending the OPR, the conclusion of the OPR case that had been initiated by Ms. Waters.

Mr. HOWARD. That's correct.

Mr. SHAYS. Were you monitoring that case, eager to see it conclude and eager to put your men back on the case in a proactive way?

Mr. HOWARD. Yes, sir, I was advised periodically by OPR as the case progressed.

Mr. SHAYS. And who would you be in contact with?

Mr. HOWARD. Usually Bill Brown.

Mr. HOWARD. Now Mr. Gamble wasn't involved in this part of it?

Mr. HOWARD. Not at that time, not until this year, sir.

Mr. SHAYS. What I'm trying to understand is in August 1999, you had the deposition taken of the very person who's the subject of the investigation in which in that deposition, the investigator says we don't see much here, but Mr. Gamble, I've not seen it concluded until October. What happened from March when the decision was made to October?

Mr. GAMBLE. It goes to the Board of Professional Conduct who review all the facts. I believe it was six volumes, I could be wrong, but I believe it was six volumes that they had to go through that five people that sit there, and this is just one of many cases that come to them, and I guess when it got its turn, they reviewed it and they made their recommendations to the deciding official as to what those actions were, one of which was a clearance and one of which was a reprimand.

Mr. SHAYS. And they were totally cleared.

Mr. GAMBLE. One was a reprimand. That's not totally clear.

Mr. SHAYS. And that was the medallion issue?

Mr. GAMBLE. I believe that was the medallion issue yes, sir.

Mr. SHAYS. So I'd like to have you explain, Mr. Howard, if there was no proactive effort in this case from the time they were taken out until I don't know when, because now they have been cleared, what do you mean the case is open? Define to me a case being open if it's not proactive.

Mr. HOWARD. I had repeatedly been told by the group supervisor and Mr. Schumacher that the whole case—that our target, the local impact target hinged on two individuals cooperating.

Mr. SHAYS. That's a different issue. You know that they had not concluded their investigation. You had taken them off the investigation because of the OPR case?

Mr. HOWARD. That's correct.

Mr. SHAYS. So there was more to be done, you know that, because they weren't allowed to be proactive. That's your testimony?

Mr. HOWARD. No, sir.

Mr. SHAYS. So you think they had concluded their proactive part?

Mr. HOWARD. I had not been told of any other leads in August. I had never been told of any other leads. I was led to believe that this entire investigation hinges on two people.

Mr. SHAYS. Who told you that?

Mr. HOWARD. Mr. Schumacher and Mr. Nims.

Mr. SHAYS. It is your testimony that they said and that's it, and they didn't need to do any more proactive effort? Are you saying to us in addition, that they had gotten all the information they needed from their informants? Are you claiming that they said they had completed the proactive part of their investigation?

Mr. HOWARD. What I'm saying is, it was never brought to my attention about any other leads.

Mr. SHAYS. That's not what I ask, because you make an assumption without being able to back it up, and I don't want you to mislead us and that's where I kind of feel—

Mr. HOWARD. I'm not trying to mislead you, Mr. Shays.

Mr. SHAYS. Well, I feel you are. I feel that you are playing a word game with me here.

Mr. HOWARD. No, sir, I'm not.

Mr. SHAYS. The reason I feel you're playing a word game is you said the case is open, but in response to Mr. Cummings, you said the proactive part of the case had been closed. OK. That's what you said, true?

Mr. HOWARD. Yes, sir, the proactive part of the investigation had to be approved upstairs, that's correct.

Mr. SHAYS. Why did it have to be approved upstairs?

Mr. HOWARD. It's just a further check and balance to ensure that whatever they're trying to do is not going to cause any additional allegations.

Mr. SHAYS. And who's "they," because now it seems to me we're talking politics?

Mr. HOWARD. The public, whoever's out there. If something goes wrong, as I explained before—

Mr. SHAYS. Who's "they?"

Mr. HOWARD. The agents are going to do a reverse operation—

Mr. SHAYS. Who has to give you permission to do the proactive part of the case?

Mr. HOWARD. Give me permission?

Mr. SHAYS. Yes.

Mr. HOWARD. Nobody.

Mr. SHAYS. I thought you said they couldn't get involved because—

Mr. HOWARD. The agents and officers, the street agents have to get approval from an associate SAC or higher.

Mr. SHAYS. Why?

Mr. HOWARD. Because of the original allegations. I did not want them put in a situation to where management would not know what was going on.

Mr. SHAYS. Tell me who is higher. I want to know who they are. What person are you waiting to hear from that would allow this case, which basically, in my judgment, is put on hold—

Mr. HOWARD. I wasn't waiting to hear from anybody. They had to get approval.

Mr. SHAYS. Who's "they?"

Mr. HOWARD. The agents, the street agents, the police officers, Jack Schumacher, that entire group.

Mr. SHAYS. They needed to jump over you to get approval?

Mr. HOWARD. No, sir. No, sir. They report to a group supervisor. The group supervisor reports to an Assistant Special Agent in Charge.

Mr. SHAYS. But you're the one that took them off the case?

Mr. HOWARD. Yes, sir.

Mr. SHAYS. OK. So you're the one who took them off the case, so why wouldn't they go to you to put them on the case?

Mr. HOWARD. I'm not in the office every day Mr. Shays.

Mr. SHAYS. That's irrelevant because you took them off the case.

Mr. HOWARD. I didn't.

Mr. SHAYS. So I mean, the fact you weren't in the office didn't prevent you from taking them off the case. What wouldn't have prevented you from putting them on the case?

Mr. HOWARD. To do an operation—all I am saying is to do an operation, whatever that operation may be, I wanted them to have approval from an associate SAC or from myself.

Mr. SHAYS. Or from yourself. So now they could get it from you?

Mr. HOWARD. Yes, sir.

Mr. SHAYS. OK. That's important because we were getting this word game where you were implying that you weren't really involved—hear me out. You said you weren't in the office, so therefore it sounded like you weren't relevant, but you are relevant. You could have put them back on the case, correct?

Mr. HOWARD. If they had a proactive part of the investigation to do, they could have come to me. They could have come to an associate SAC.

Mr. SHAYS. No, you took them off the case. If you took them off the case how could they be proactive?

Mr. HOWARD. The group still, as I explained to them that day, the proactive part of the investigation is put at a halt unless—pending the outcome of the OPR investigation. Proactive, you come forward to us and ask for permission to do an operation.

Mr. SHAYS. So I'll just conclude. The bottom line is that basically while that investigation was going on, there really was no proactive—while the OPR case was going on and it dragged on a long, long time, there really wasn't any proactive effort, and that fits my definition of a case, kind of being maybe not closed but being put on hold, and it seems to me, and this is my observation, that if you want to turn people against someone, they need to know the case is hot, but since they knew it was on hold, you took away the incentive for those two lieutenants.

Mr. HOWARD. Mr. Shays, there were five arrests made in December of last year and seizures that are part of the umbrella case.

Mr. SHAYS. Did those two lieutenants turn against their employer?

Mr. HOWARD. They're still in the judicial process.

Mr. SHAYS. They didn't, did they?

Mr. HOWARD. I was led to believe that right now they're not found guilty of anything and everything pends—there's no hammer on them.

Mr. SHAYS. Mr. Howard, this has been painful for you but it's been painful for us, too.

Mr. BURTON. The gentleman's time has expired. Do we have more questions?

Mr. LATOURETTE. I guess I have the time now. I think Chairman Gilman has one question. Let me get—and I'll yield to him then I'll yield to Mr. LaTourette, and hopefully we can wrap this up.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Howard, you stated that the proactive part of the investigation was stopped pending the OPR investigation; is that correct?

Mr. HOWARD. Yes, sir, it is.

Mr. GILMAN. So from August 1999 to October of this year, this one letter shut down this case; is that correct?

Mr. HOWARD. Is what correct, sir?

Mr. GILMAN. Well, is it correct that there was no action?

Mr. HOWARD. No, sir, it's not.

Mr. GILMAN. Listen to me. From August 1999 to October 2000 while the OPR investigation was going forward, was there any proactive investigation in this case?

Mr. HOWARD. There were arrests made in December 1999 and seizures. There's also another investigation I believe that was opened up in—

Mr. GILMAN. With regard to this case?

Mr. HOWARD. Yes, sir.

Mr. GILMAN. Go ahead. When else?

Mr. HOWARD. There was another investigation with a source that's being developed I think 2 months ago.

Mr. GILMAN. Is that still in the process of being developed?

Mr. HOWARD. Yes, sir, it's an active investigation.

Mr. GILMAN. In this case?

Mr. HOWARD. Yes, sir. There are multiple cases. It's not just one case.

Mr. GILMAN. Well, coming out of these allegations, it involved the whole Prince organization?

Mr. HOWARD. Yes, sir.

Mr. GILMAN. So there has been some ongoing activity?

Mr. HOWARD. Yes, sir.

Mr. GILMAN. Despite the OPR investigation?

Mr. HOWARD. That activity was approved by the associate SAC for December, I would assume, because it happened in December of last year. The case that just was initiated in the last couple of months, yes, sir, we knew about that case also.

Mr. GILMAN. Were you involved in these further investigations?

Mr. HOWARD. I was made aware of it yes, sir.

Mr. GILMAN. Were you involved in them, directly involved, not just made aware?

Mr. HOWARD. Did I say go down and say open this case, no, sir, I don't do that on cases.

Mr. GILMAN. Well, how were you made aware of the cases that were ongoing? Is that in the Houston area?

Mr. HOWARD. Yes, sir, it's all in Houston.

Mr. GILMAN. And how were you made aware of those ongoing investigations then?

Mr. HOWARD. I go down to the group—to the enforcement base on a regular basis when I'm in town and I talk to people. I'm also briefed by my associate SAC and the ASAC.

Mr. GILMAN. And did anyone say to you well, how come we're doing this despite the fact you closed down this investigation?

Mr. HOWARD. No, sir.

Mr. GILMAN. There was no—

Mr. HOWARD. The case was not closed.

Mr. GILMAN. Never any objection?

Mr. HOWARD. Mr. Gilman, in my opinion, the case has not been closed. What I say is closed is not what the committee understands

as being closed. When I say not closed, the committee doesn't understand that terminology.

Mr. GILMAN. Well, we don't—I for one do not fully understand when you say the case is closed, and yet in your mind it's still active. I have trouble understanding that, Mr. Howard.

Mr. BURTON. Let me reclaim my time.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. BURTON. Let me just say, we'll try to get all this ironed out tomorrow. We would like for this panel to be back here at 11, as well as the other panel. We'll start at 11.

Mr. LaTourette, you have the balance of my time.

Mr. LATOURETTE. Would it be all right with the chairman if I claimed 5 minutes in my own right since I don't know how much time you have left? Would that be a big problem?

Mr. BURTON. I have 2 minutes, but if you'd like, I yield back the balance of my time and yield to you so we can expedite this. So I yield back the balance of my time.

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman. I appreciate the courtesy. Mr. Howard, just a couple of housecleaning matters if I may. The meeting that has been the subject of extensive testimony, the September meeting, when you called the task force together to give them instructions and basically, according to you, the instructions were that stop the proactive part, you guys are going to go do something else while this complaint gets ironed out. Do you specifically recall telling the Houston police officers and the DEA agents that were present at that meeting, but that doesn't mean if you have an active lead, you shouldn't come to the SAC or ASAC to get permission to pursue it?

Mr. HOWARD. No, sir. The GS was unsure of what—I don't think he participated in the entire meeting. He came to my office at a later time and asked for a clarification, and I clarified that with him.

Mr. LATOURETTE. The GS is who?

Mr. HOWARD. Jim Nims.

Mr. LATOURETTE. I want to, in the 5 minutes that I have, talk a little bit about the Vice President's visit on March 12th, and ask you again a question about the e-mails and whether or not—maybe you can explain, you can't see me over the court reporter's head, so I'll lean this way—what happened. When the complaint is registered from the Member of Congress, you take the guys off the case, and I would hope that the agency would at least go back and look at the policy that, I mean, if you have a great agent, and I think you said Mr. Schumacher was a really good agent, and you selected and handpicked him for this assignment, that somebody could write in and make your complaint against him, and you pull the best guy off the team while you iron out what proves to be a worthless allegation, but be that as it may, he's pulled off the team, but he's still part of this enforcement group four, is he not, in September?

Mr. HOWARD. In September, yes, sir, he was still a part of group four.

Mr. LATOURETTE. Then we go on, and the investigation goes on and they are looking into whether or not Mr. Schumacher is en-

gaged in racial profiling, and the other guys from Houston have done such a thing, and eventually we find out that they haven't, but then there comes a time in March, and if we fast forward to March 12th, the Vice President of the United States is visiting the church without walls. I think you indicated that you got intelligence that Mr. Prince was there and you thought that was in your face, that here's this drug dealer showing up, or who you believe is a drug dealer, showing up with the second most powerful guy in the country, and you say, boy, that's in your face.

And then there's a flurry of—ceiling flurry of e-mails. You describe yourself as being on the wall or in the ceiling. There's a flurry of e-mails in the days following the Vice President's visit between you and Mr. Gamble where you're on the ceiling, you want him to call you, you say the thing's closed; it's really not closed, it's just to sort of juice a telephone call which later takes place. But even though Mr. Schumacher has been part of enforcement group four, since that complaint was lodged by Congresswoman Waters on March 15th, he's shipped out, he's taken out of enforcement group four and he's put behind a desk someplace in a position that he says he doesn't have any experience in or doesn't have the qualifications to handle.

What happened from September when you make the decision that he needs to be pulled from the case because of this worthless complaint to March when now he not only needs to be pulled off, but now he needs to be reassigned? What happened?

Mr. HOWARD. In January, Mr. Schumacher was made the acting group supervisor of that enforcement group because I had vacancy at the ASAC level and I moved Mr. Nims up as the acting ASAC. It was brought to my attention by Mr. Gamble in February that perhaps Mr. Schumacher should not be the acting group supervisor of that group while the OPR investigation was ongoing. I thought that was reasonable, and I said rather than to even further demoralize Mr. Schumacher since everybody knew he was an acting GS at that time, to put him in the acting GS position that I had vacant, which was special support group.

As far as qualifications go, it's an 18-11 position. Whether it be an enforcement group or whether it be a special support group supervisor, he was still in an 18-11 position.

Mr. LATOURETTE. In that flurry of e-mails back and forth following the Vice President's visit, and then if you had been asked about this while I was out of the room, I apologize, but I understand that the investigation concerning this fellow has gotten worse. Have you been asked about that sentence during the course of this hearing?

Mr. HOWARD. No, sir, I have not.

Mr. LATOURETTE. What got worse?

Mr. HOWARD. Just the idea, the whole thing was getting frustrating with the target of the investigation with the Vice President at the church that weekend, that the investigation, the OPR investigation was dragging out. It was just the totality of the entire situation. Nothing in particular.

Mr. LATOURETTE. And in that e-mail, you also talk about this bow-down to political pressure. What political pressure were you referring to?

Mr. HOWARD. Political pressure of the whole circumstances involved in the whole mess, everything. It wasn't any one particular thing. Just the local political pressure from the media, from what was going on worldwide with racial profiling, with me bringing Jack in the case. I felt responsible.

Mr. LATOURETTE. And going back to the reprimand that was issued for the fellow that improperly handled the medallion case, I understand that was the one substantive finding of this OPR investigation that started on August 20th. This van was originally stopped because your agency had information that the driver of the van had issued a threat and was going to kill a confidential informant of the DEA; is that right?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. And we're having a problem with that? I mean, did you have any difficulty with protecting your confidential informants or stopping individuals who were going to kill your confidential informants?

Mr. HOWARD. I don't have any problem with that, no, sir.

Mr. LATOURETTE. Mr. Gamble, you got a phone call basically from a Member of Congress saying I thought I straightened this out in September, but now you guys are taking the medallion off a guy's neck, why don't you give it back? Did that happen? How did you become aware of this medallion thing?

Mr. GAMBLE. From reviewing the OPR investigation at the stage that it was before I went to brief the Congressperson.

Mr. LATOURETTE. I don't have anything further. Thank you so much.

Mr. SHAYS [presiding]. Going to Mr. Cummings and come back to you.

Mr. GILMAN. I just wanted a clarification of that last question, if I could.

Mr. SHAYS. Go ahead.

Mr. GILMAN. Just on that necklace there had been an allegation that these people were in the process of affecting a confidant of the DEA, of wiping him out; is that correct? Was there a threat to the informant by this group?

Mr. GAMBLE. That I do not have any personal knowledge of.

Mr. GILMAN. Well, who did you check with before you released the necklace? Did you check with any of the prosecutors or any of the legal staff?

Mr. GAMBLE. No.

Mr. GILMAN. Or did you just do it at Ms. Waters' request?

Mr. GAMBLE. No, I didn't do it at her request. One of the things when the item was taken from the individual, there are certain administrative requirements that we have to follow. One is that we safeguard personal property. We put it in evidence, chain of custody. These rules were violated. These procedures were violated.

Mr. GILMAN. Was that necklace taken in the course of an investigation of a possible hit?

Mr. GAMBLE. Now that I don't know.

Mr. GILMAN. Did you look into that to find out if that was the case?

Mr. GAMBLE. No, because I was looking into the conduct of the agent relative to the taking of that necklace.

Mr. GILMAN. What about the substance of the investigation? Did you review whether there was any substantive allegations with regard to the taking of that necklace?

Mr. GAMBLE. No, I did not.

Mr. GILMAN. No further questions.

Thank you, Mr. Chairman.

Mr. BURTON. Thank you.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much. Mr. Howard, I was looking over a document that the majority, I guess—I know it's in the record and it's dated September 27, 1999, and it's a memorandum and it looks like it's to Donnie Marshall, and I guess it's from Mr. Nims. Are you familiar with that document at all?

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. Well, I will tell you, I have been asking you a lot of questions, but I think I finally found some additional corroboration for what you have been saying. First of all, certainly there's a corroboration of the two witnesses who are sitting beside you. Now, who is Mr. Nims?

Mr. HOWARD. He's the group supervisor of group four, the group that had the responsibilities for this investigation.

Mr. CUMMINGS. Who pays him? I mean does he work for Houston—

Mr. HOWARD. He's a DEA supervisor.

Mr. CUMMINGS. DEA supervisor?

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. So he was in charge with regard to this investigation?

Mr. HOWARD. He was a supervisor that everybody in that group reported to, including Mr. Schumacher and the police officers.

Mr. CUMMINGS. And so he would have—so you would be in close contact with him; is that right?

Mr. HOWARD. Occasionally, yes, sir.

Mr. CUMMINGS. In other words, he was in charge of Schumacher's group?

Mr. HOWARD. That's correct.

Mr. CUMMINGS. And you were over him or was there somebody between you and Mr. Nims?

Mr. HOWARD. Two people between me and Mr. Nims.

Mr. CUMMINGS. OK. Now, it's interesting that in this memo, and it's a very interesting piece and it's also—it says here—and now this is from Mr. Nims. It's dated September 27, 1999. It says, I have recently been instructed by Houston field division Special Agent in Charge Ernest Howard not to pursue any new leads regarding, and it's blacked out, et al., and I guess that's somebody's name, until the OPR investigation is cleared. And it clearly says until the OPR investigation is cleared. However, we are clear to talk to any witnesses and participate in any judicial proceedings. So he seems to be saying what you said.

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. That you did not want them to pursue any new leads. Then it says the word "until." So it sounds like there's something that is still ongoing, but you're kind of suspending it for a

moment until you can—until the investigation, OPR investigation is cleared, and that's what you've been saying?

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. Did you tell anybody else other than these two gentlemen—I know that they were sort of your sounding boards—other than Mr. Nims, I'm probably not giving him his right title, is it officer, sergeant, major?

Mr. HOWARD. Group supervisor.

Mr. CUMMINGS. Group Supervisor Nims. Anybody else you told that to?

Mr. HOWARD. The ASAC at the time was Keith Bodine, he was aware of it. Bob Jurab was aware of it. I'm sure I discussed it with Felix Jimenez when he was a chief inspector.

Mr. CUMMINGS. Why was this memo written, do you know?

Mr. HOWARD. Out of frustration by Mr. Nims on the allegations. He wanted to make sure that everybody up the chain of command knew that nothing had been done.

Mr. CUMMINGS. And the way it's written, it seems as if he was having an issue with you stopping the investigation. I guess—he seems to be very straightforward here. I think he would have said it, with you personally.

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. All right. That's all. I yield back.

Mr. SHAYS. Thank you very much.

Mr. CUMMINGS. I think it's part of the record, but I think—

Mr. SHAYS. If not, we will make sure it's part of the record without objection.

Mr. LaTourette, are you done or should we go to Mr. Ose.

Mr. Ose. We're going to go to both you and then we're going to go to counsel. Without objection, we're going to do counsel.

Mr. WILSON. Mr. Howard, I just wanted to followup on the memorandum that Representative Cummings was just reading from. First, I wanted to fully understand what you had said earlier. Congressman Shays asked you a question about whether you knew of any other leads in August 1999 when you had the meeting with the Houston Police Department officials and the DEA agents and you said, "I had not been told of any other leads in August;" is that correct?

Mr. HOWARD. Yes, sir.

Mr. WILSON. OK. And Congressman Shays, when he further mentioned the name Schumacher and Nims, and you agreed that they had not told you of any other leads, correct?

Mr. HOWARD. That's correct.

Mr. WILSON. Now in the section that Congressman Cummings just read, the very next sentence is of some interest because maybe we can go through it slowly. It says I have recently been instructed by HFD SAC Ernest Howard not to pursue any new leads regarding, there's a name that's redacted, Rap-A-Lot et al., until the OPR investigation is cleared. However, we are clear to talk to any witnesses and participate in any judicial proceedings. And the next sentence is the most important one, perhaps because it says this is unfortunate because there are still many investigative leads and enforcement operations to carry out. Now, there's a direct conflict between—you're telling us that you didn't know of any leads and

the fact that you just told Congressman Cummings that you'd seen this memorandum. So if you can try and reconcile—

Mr. HOWARD. I saw this memo and I asked about the leads. The only leads that were left out are the two individuals that we discussed before as I've been told repeatedly. They're not leads. The whole investigation hinges on those two guys.

Mr. WILSON. So we have heard testimony today from the Houston Police Department personnel and the agents that they thought there were other avenues to investigate, but from your perspective—did you talk to them, did you ask them—

Mr. HOWARD. The police officers?

Mr. WILSON. Yeah.

Mr. HOWARD. No, sir, I did not talk to the police officers.

Mr. WILSON. And what was Mr. Nims talking about when he wrote this sentence in the memorandum?

Mr. HOWARD. I don't know.

Mr. WILSON. Because he's talking about how it's unfortunate.

Mr. HOWARD. He never brought it to my attention that there were any other leads other than the judicial process and those people cooperating.

Mr. LATOURETTE. Would counsel yield to me for just a second?

Mr. WILSON. Yes.

Mr. LATOURETTE. On further reading, and Mr. Howard, this memo causes me some concern, too, and I'm glad Mr. Cummings put it into the record, because I think it gives us a hand, because the next sentences, I think, spell out exactly what the leads are. They say that there's a possibility that we could obtain grand jury, not grand jury, subpoenas to obtain financial records. They were informed by a reliable source that Mr. Smith either participated or directed a physical beating of one of their main—it happens to be our friend "Scarface," the fellow that wrote that stirring tune that we listened to before.

Another defendant also gave a statement that Mr. Smith directed him to receive a beating because of disrespect. There are a number of witnesses who have provided valuable information and intelligence, and it's my belief that he can and will be a viable candidate for a rico charge, which is, of course, an organized crime charge.

So I think we not only have Mr. Nims, and maybe he's frustrated as you were, you testified, indicated that he's instructed by you not to pursue any new leads except to take care of the judicial proceedings. He says it's unfortunate. But then he goes on to say what the leads are, and the conclusion, I guess, because this is written to the director who, I guess—the administrator who we're going to see tomorrow, he's asking Administrator Marshall, please look at this case because it appears to him that this guy is using his manipulative tactics to influence our decisions, and he's obviously using his influential power to further insulate himself and continue his illegal operations.

So maybe you and I read this differently and—but it seems to me that he not only says you gave him some instructions to just finish up the court stuff, he thinks that's a mistake, and here's why it's a mistake, because here's all these great leads where this guy is having people beat up. Do you not read that that way, sir?

Mr. HOWARD. Again, I asked Mr. Nims about these leads. These leads were uncorroborated. Everything in the investigation from what I was being told and had been told repeatedly is it hinged on two individuals.

Mr. LATOURETTE. And it hinged on them rolling and turning State's evidence and otherwise nothing to do?

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. That answers my questions and I thank counsel for yielding.

Mr. SHAYS. Counsel has the floor.

Mr. WILSON. Just following Congressman LaTourette's question, you just stated then that these leads were uncorroborated, the ones that Congressman LaTourette was just talking about.

Mr. HOWARD. I would assume that they are, counsel.

Mr. WILSON. But by cutting off people from proactive investigation, they could not ever be corroborated; is that not correct?

Mr. HOWARD. No, sir, that's not true.

Mr. WILSON. How could they be corroborated if you'd taken off the seven Houston police officer employees, the two DEA agents and prevented any proactive investigation, because it would be the proactive investigation that would lead to the corroboration?

Mr. HOWARD. They are not the only agents in that office. There have consistently been attempts to get informants, to get witnesses to work on this local impact target consistently over the last 10 years. It is not just one, a one-time shot. In my experience, 28 years of experience, a conspiracy is not sought today and not available tomorrow. Conspiracy investigations take a long time to make and to prove. The investigation, the proactive part of the investigation was put on suspense pending the OPR investigation. If there was a conspiracy investigation to be made, it still could be made at the end of the OPR investigation.

Mr. WILSON. Well, I think perhaps people can followup on that later. I have two short questions. One is, the e-mails that we read earlier and that were put up on the screen were a product you have said of your venting.

Mr. HOWARD. Yes, sir.

Mr. WILSON. We've never fully understood what you were venting over. The whole September 1999 meeting was in response to a congressional letter, but we have fast-forwarded about half a year to March 2000. Why were you venting in March 2000 with such force?

Mr. HOWARD. Because at that time, I realized that I had put Mr. Schumacher in even more danger, as far as his career goes, by leaving him in the acting GS position for that enforcement.

Mr. WILSON. What was the triggering event that led to your venting though? What was—

Mr. HOWARD. You mean in that position in January or in March?

Mr. WILSON. Why did it happen in March? I mean suddenly—

Mr. HOWARD. In March, Mr. Gamble had brought to my attention that I should not have had Mr. Schumacher in the acting GS position for group four because there was an OPR investigation going on naming Mr. Schumacher, and particularly allegations against the group. Rather than demoralize Mr. Schumacher anymore, I re-

moved him from that position and put him in an acting GS position. I was frustrated about the entire situation.

Mr. WILSON. If I could interrupt for a moment, the OPR investigation had been ongoing for many months at that point; is that correct?

Mr. HOWARD. That's correct.

Mr. WILSON. Why would you not have vented in that way when the OPR—I mean, we're just trying to get at what was the triggering event in March 2000 that caused you to write these two very severe e-mails.

Mr. HOWARD. Mr. Counsel, I cannot tell you any one particular thing that caused me or that triggered anything. Here I had been—we had had—I had been out of the office for a couple of weeks on vacation and on business. I come back into the office that week. That's the same week that the impact target, local impact target had been with the Vice President. He's slapping that in my face. The OPR investigation is still ongoing. I'm tired of that situation. I'm tired of being handcuffed because of the OPR investigation. I want to get on with whatever we're going to get on with.

The two guys that I'm being told that we're dependent to further the investigation, a lot has not progressed to push them to cooperate with us. I'm just tired of the entire situation, and I just—one of those days to where you just had had enough, but I'm reaching out for my colleagues and they weren't available and I'm just crying out, please come and just calm me down, tell me we are going to get through this, it's—you know, get me off the roof.

Mr. WILSON. But there was no specific trigger?

Mr. HOWARD. No, sir, not just one thing, no, sir, just totality of everything.

Mr. WILSON. We can followup on that tomorrow. Just very last question. In August 1999, there were a number of Houston Police Department personnel, there were two DEA agents that were prevented from going forward with proactive investigation. Had they been productive employees up until that time?

Mr. HOWARD. Had the agents been productive?

Mr. WILSON. Had they been achieving?

Mr. HOWARD. Yes, sir, they had been achieving. Can I go back to your question once?

Mr. WILSON. If they were achieving in August 1999, notwithstanding the OPR allegation, why not simply replace them? Because if they were producing work product for you and suddenly you didn't have people producing work product, you would have a problem. So why not simply replace them?

Mr. HOWARD. I had been told from January when we first approved the reverse operation on the two individuals in January 1999, I had been told from about that time that the key to everything, to any furtherance of this investigation to the local impact target, these individuals were the key to that. That's why we approved the reverse operation. That was in January. I had been told repeatedly, regardless of anything else that went on, that they're the key. The reason we continued on some other venues is because there was some allegations of corruption on the police department. We were trying also to investigate that part of it. But as far as August came, I knew of no—

Mr. WILSON. It just sounds like you're saying that as of August, you don't think they are really performing a function. Is that a correct characterization?

Mr. HOWARD. They were doing their job, sir.

Mr. WILSON. Right, and if they were doing their jobs, that implies they were doing something.

Mr. HOWARD. That's correct.

Mr. WILSON. And that something, according to them, was a valuable thing to do?

Mr. HOWARD. That's correct.

Mr. WILSON. And after they were removed, there was nobody doing whatever that thing was.

Mr. HOWARD. As far as what was supposed to be done, they were still doing what they should be doing from what I was told. I was told repeatedly, the key for us to getting to the local impact target was getting to—

Mr. SHAYS. Mr. Howard, could I interrupt a second here?

Mr. HOWARD. Yes, sir.

Mr. SHAYS. This is where I think we're getting disingenuous. You did take them off the case. It was no longer proactive and they were producing. So please don't dig a deeper hole.

I mean, that is the fact. And you said it earlier; isn't that true?

Mr. HOWARD. Mr. Shays, I am not trying to dig a hole; I am just telling you how I felt at the time and why I did what I did.

Mr. SHAYS [presiding]. I know, but your testimony is conflicting even in this hearing, and it is getting a little frustrating. These men had been moved from—they had changed their location, but they were actively pursuing a case, and you were frustrated when you met with them because you were taking them off an active case, and you were suspending the case. It is still open, but it is suspended. That is the fact; isn't that true?

Mr. HOWARD. The case was suspended pending the outcome of the OPR investigation.

Mr. SHAYS. Right. And it is suspended, and that is the fact; that is true, and that is what your testimony is. And you still may have had hopes that in spite of the suspension, that two people might talk, but it was a suspended case. That is true, isn't it?

Mr. HOWARD. The way that you are viewing it, yes, sir, I guess so.

Mr. SHAYS. And the way you told it.

Mr. Ose.

Mr. OSE. Thank you, Mr. Acting Chairman. I am trying to figure out, who is it that has jurisdiction amongst the three of you over internal investigations?

Mr. GAMBLE. I do.

Mr. OSE. Such as the one involving Rap-A-Lot or Mr. Prince or Mr. Smith, or whatever his name is, how many such investigations generate allegations of misconduct?

Mr. GAMBLE. I can only tell you that in the first quarter of this year, we have 121 allegations that have come in concerning agent conduct, or violations of conduct.

Mr. OSE. So you have full-time work.

Mr. GAMBLE. It is gainful employment, yes, sir.

Mr. OSE. How long does it typically take to resolve the allegations?

Mr. GAMBLE. Depending on the witnesses, the availability of the witnesses—and that was one of the problems in this case, getting in touch with them and getting the appropriate interviews scheduled and conducted, and then compiling all of the data, so it was quite involved.

Mr. OSE. Well, as I recall the deposition here, I mean we had a letter from a Member of Congress dated such-and-such, and 4 days later we had a deposition being taken of the person making the allegation, so I am not so sure that someone is unavailable.

In terms of the investigation, the 121 that you have pending, for instance, do such investigations typically merit the attention of a Member of Congress?

Mr. GAMBLE. From time to time we get congressional inquiries by letter concerning ongoing matters. It all depends on the constituencies and what they choose to write about. So it does from time to time.

Mr. OSE. Besides this one, have you ever taken a deposition in the office of a Member of Congress regarding—

Mr. GAMBLE. No, I have not.

Mr. OSE. So this is a singular event, so to speak?

Mr. GAMBLE. To my knowledge, it is.

Mr. OSE. OK. Were there followup calls from any congressional offices regarding the status of your investigation?

Mr. GAMBLE. There was a meeting that I had with the Congressperson in February.

Mr. OSE. February of?

Mr. GAMBLE. February 9 of this year.

Mr. OSE. 2000.

Mr. GAMBLE. Yes, sir.

Mr. OSE. OK. So we have the letter in August, we have the deposition in August, we have the investigation that commences afterward. You had an actual meeting in February 2000.

Mr. GAMBLE. Yes, I did.

Mr. OSE. Did you have phone calls?

Mr. GAMBLE. I had a phone call on September 20th of this year.

Mr. OSE. OK. Anything else?

Mr. GAMBLE. That was my only contact with the office.

Mr. OSE. So you have a singular event from your career history in terms of the deposition, and then you have an ongoing interest in the resolution of the case, which is not atypical for a Member of Congress to maintain an interest in casework for people who live in their district, but it occurs to me that Mr. Prince doesn't live—
Mr. Prince lives in Houston.

Mr. GAMBLE. I believe that is correct.

Mr. OSE. Is that correct?

Mr. GAMBLE. I believe that is, yes.

Mr. OSE. If I might, if I might ask Mr. Howard, we had some interesting testimony earlier, in terms of the suggestion or the thought that Rap-A-Lot might be laundering funds from illegal activity. It seemed pretty basic to me that you would investigate the financial underpinnings of Rap-A-Lot and the like, asking assistance, I think the phrase was from IRS CID. And yet the testimony

we had earlier this morning was that interest was at best nominal and shortly thereafter terminated. Can you give me some sense of why IRS didn't followup on that interest?

Mr. HOWARD. I was told by the IRS SAC that they had looked into the investigation, that the local impact target they looked into several times, and there were no IRS violations there.

Mr. OSE. OK. Maybe we can followup with a written inquiry to the committee on that.

I want to go back to Mr. Gamble for a moment.

You have 121 pending cases.

Mr. GAMBLE. No. That was just in the first quarter of this year that came in. I was asked to bring tomorrow what my total case-load is, and I can get that and give you some more definitive numbers.

Mr. OSE. So this would have been from January through—

Mr. GAMBLE. Through March 31st of this year.

Mr. OSE. So of those 121 allegations, did any of them result in an investigation being halted?

Mr. GAMBLE. Not to my knowledge.

Mr. OSE. Did any of them result in the agent involved in the allegation being taken off a case?

Mr. GAMBLE. Yes.

Mr. OSE. How many?

Mr. GAMBLE. I will have to get that information for you, sir.

Mr. OSE. Well, roughly, 10 percent, 100 percent?

Mr. GAMBLE. I can't give you an accurate number.

Mr. OSE. OK. You can get back to us on that?

Mr. GAMBLE. I will have that information for you tomorrow.

Mr. OSE. Thank you, Mr. Chairman.

Mr. SHAYS. Thank you. We are in the process of recessing this hearing until 11 tomorrow, but the request that was made about you having that tomorrow, that will be our expectation. And I know it has been a long day for everyone. I thank you for being here, and we will see you all tomorrow. Thank you. We are recessing until 11 o'clock tomorrow.

[Whereupon, at 4:07 p.m., the committee was adjourned.]

[Additional information submitted for the hearing record follows:]

Memorandum



Subject Temporary Reassignment of Personnel	Date March 15, 2000
------------------------------------------------	------------------------

To: All Personnel
Houston Divisional Office

From: Robert J. Joura, Associate
Special Agent in Charge
Houston Field Division

The following temporary reassignments of personnel are effective immediately:

	<u>FROM</u>	<u>TO</u>
Jack Schumacher	A/GS Group 4	A/GS SSG
R. Keith Brown	SA Group 4	A/GS Group 4

Until further notice the Background Coordinator, SA Pam Schumacher, will report directly to Acting ASAC 1.

cc: SAC
A/SAC 2
Sharon Finch



Memorandum



Subject ██████████ aka ██████████ and related OPR Investigation	Date September 27, 1999
-----------------------------------------------------------------------	----------------------------

~~From: Dennis B. Marshall
Acting Administrator
DEAFHS
Washington, D.C.~~

~~To: Ernest L. Howard
Special Agent in Charge
Houston Field Division~~

~~Associate Special Agent in Charge
Houston Field Division~~

~~Assistant Special Agent in Charge
Houston Field Division~~

~~Group Supervisor
Houston Field Office~~

The purpose of this memorandum is to comment on the active OPR investigation currently targeting Enforcement Group 4 of the Houston Field Office regarding allegations made by ██████████, aka ██████████

Upon my arrival in August 1998, as the Group Supervisor for Enforcement Group 4, Houston Field Office, I was advised that the group had been mandated by Houston Field Division (HFD) management to actively pursue and target the alleged drug related activities of ██████████ and his ██████████ enterprise. S/A Jack H. Schumacher, who had been in the Galveston RO, was reassigned to Enforcement Group 4 to be the case agent on this investigation. There had already existed an open OCDETF investigation (M3-92-Z012) on ██████████ of which he was the file title. Shortly after this, a request was made, and granted, to have Houston Police Department (HPD) Narcotics Squad 13 assigned to Group 4 to assist in this investigation. Sgt. ██████████ is the Supervisor of Squad 13. He and approximately seven investigators of his squad were deputized under the OCDETF agreement and then were integrated into Group 4 to pursue this investigation.

Since that time, Group 4 has spun off four (4) additional OCDETF cases with ties and direct connections

EXHIBIT
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to [REDACTED]. Thus far in the investigation, there have been twenty-one (21) arrests (some of these being current/prior employees/associates of [REDACTED]), a large quantity of "crack" cocaine seized (including the largest seizure of crack cocaine in the Houston area), and a number of assets seized.

It is my understanding that the allegations made by [REDACTED] center on civil rights violations and conduct unbecoming agent(s). I would like to go on record as saying that I have been present on virtually all enforcement operations conducted by my group and the behavior and demeanor of the agents, as well as the TFOs, do not substantiate the allegations. Under the enforcement leadership and direction of S/A Schumacher and Sgt. Stephens, all arrest situations have gone smoothly and without incident. I have never observed, nor would I tolerate, any unnecessary force or racial remarks from personnel under my supervision.

In regard to the OPR investigation, it is very disturbing for a number of reasons. Aside from the allegations, to the best of my knowledge, being completely false, it appears that [REDACTED] has a pattern of manipulating influential people when investigators get "too close" to him. It has been brought to my attention that several years ago HPD had an investigation targeting him and he contacted dozens of supporters, who staged a protest in the downtown area of Houston in support of him. Shortly after this, [REDACTED] had several articles printed in the 'Houston Chronicle' in which he claims that he was being harassed and set up by law enforcement, and that there was a conspiracy by DEA against him (see copies of these articles which are attached to this memorandum). It is also unclear to me why [REDACTED] went to Congresswoman Maxine Waters, who does not represent [REDACTED] district or even the State of Texas.

I also question the witnesses that OPR has interviewed. One of the witnesses, S/A [REDACTED] of Group 4, has been on administrative leave since June 4, 1999. The basis of his administrative leave is an OPR investigation of which he is the target. It is alleged that S/A [REDACTED] stole a number of items on different occasions from defendants. These allegations were initially discovered by S/A Schumacher and Sgt. Stephens, who brought their suspicions to me. It is interesting to note that one of the OPR investigators currently assigned to the [REDACTED] investigation is the principal OPR investigator in S/A [REDACTED] case and thus is aware of S/A [REDACTED] questionable integrity. S/A [REDACTED] is most likely aware that S/A Schumacher was the impetus for his OPR investigation and anything he subsequently says about S/A Schumacher should be suspect. Another point of contention for him is that I recently denied his request for promotion to the GS-1811-12 level because of his lack of productivity.

Perhaps my greatest concern is what the current OPR investigation has on the morale not only of the personnel in Group 4 but for all the HFD enforcement groups, especially for the younger, newer agents. I know that OPR has interviewed two new agents in my group who arrived for duty on August 2, 1999 and August 30, 1999. Neither were involved in the [REDACTED] investigation. It will remain to be seen how this investigation will affect their approach to drug law enforcement, including their future productivity.

I have recently been instructed by HFD SAC Ernest Howard not to pursue any new leads regarding [REDACTED] et al, until the OPR investigation is cleared; however, we are cleared to talk to any witnesses and participate in any judicial proceedings. This is unfortunate because there are still many investigative leads and enforcement operations to carry out. There is also a possibility that we could obtain Grand Jury subpoenas to obtain financial records pertaining to Smith and his businesses. Last week we were informed by a reliable confidential source that [REDACTED] either participated in, or directed, a physical beating on one of [REDACTED] main recording artists, Brad Jordan, aka "Scarface" because he

allegedly was going to perform for another recording label). Mr. Jordan is also a defendant in one of Group 4's pending cases. Another defendant, [REDACTED], a former [REDACTED] employee, also gave a [REDACTED] statement that [REDACTED] directed him to receive a beating because of "disrespect". There are a number of other witnesses who have provided valuable information and intelligence on [REDACTED] and it is my belief that he can and will be a viable candidate for a RICO charge.

In conclusion, I would respectfully request that you look at all the facts, realities, and truth of this OPR investigation and allow us to continue in our pursuit of justice against [REDACTED] aka [REDACTED] without allowing his manipulative tactics to influence our decisions in our course of action. [REDACTED] is obviously using his influential power to further insulate himself and continue his illegal operations. He would not be doing this if he did not feel threatened because of our successes.

If we are serious about "winning the war on drugs", history has taught us that drawbacks or hesitations after a victorious battle only gives the enemy time to regroup thereby causing the loss of hard fought, costly gains.

Attachments: Houston Chronicle articles dated 1/13/93, 1/19/93 and 5/30/93

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Subj: Fw: Calif. Democrat Maxine Waters Impact on Crime in Texas is an Outrage:
Date: 3/28/00 1:23:57 AM Central Standard Time
From: [REDACTED] (hunting99)
To: [REDACTED] (BILLY BARNETT)

----- Original Message -----

From: hunting99
To: SEN. KAY HUTCHINSON
Cc: SEN. PHIL GRAMM
Sent: Tuesday, March 28, 2000 1:25 AM
Subject: Calif. Democrat Maxine Waters Impact on Crime in Texas is an Outrage:

TO: The Honorable Kay Hutchinson and Phil Gramm

FROM: MSG. RETIRED US ARMY James F. Bradshaw
HC #02, BOX #47
Marble Falls, TX #78654-9501

Phone: (830) 825-3482

SUBJECT: SUSPECTED DRUG DEALERS ABLE TO MANIPULATE NOT ONLY
WHO WON'T WORK ON THEIR CASE, BUT ALSO WHO WON'T
BE WORKING IN ENFORCEMENT OPERATIONS AGAINST ANY
CRIMINALS AT THE FEDERAL LEVEL.

"POLITICALLY PROFILING SPECIAL AGENT JACK H. SCHUMACHER DEA"

First let me start by saying no I don't know all the facts or details, thats what I'm requesting as a tax payer that your office look in too, but this is my understanding of the situation. Based on the few details my personal friend Special Agent Jack Schumacher would share with me, here's how criminals can avoid justice, make a mockery of our political system, and deal deadly blows to effective law enforcement personnel getting them pulled from enforcement.

It would appear that clever criminal suspects under investigation, can gather back ground information of assigned investigating officers. If that information reveals a political weakness, in this case its "I'm afraid he will murder me, he has a history of shooting criminals" A suspect under investigation in Texas, can call on The Honorable Maxine Waters in Calif., whom will take action that will result in the DEA's leadership to not only remove him from the case, but enforcement as well.

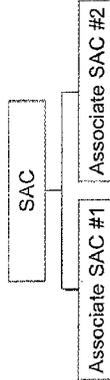
The label used to penalize Special Agent Schumacher from what I'm told was that of "AGGRESSIVE DRUG AGENT". Personally it sounds like a someone that earns their pay, but in today's world of spin it has a long list of unsubstantiated allegations. It would appear that the home office in D.C. doesn't see any gain by standing up for one of their troops in the trench, but even worse they want to help destroy his career.

If they had only removed him from that particular case that might have been one thing, but to label him as a villain removing him from enforcement, while he's a hero in the eyes of many Texas Law Men is troubling to understand.

Special Agent Schumacher is the President of the Texas Narcotics Officers Association, has won awards from the prestigious 100 CLUB, and has taught many specialized classes at Quantico in Agent survival. He has a Masters degree in Criminal Justice From Sam Houston State University. I've known him and his family for many years, and he's been like a brother to me. I was an Airborne Ranger in the Army for twelve years, I feel I've gained a good sense for quality people from that experience. I say he's the kind you don't have enough of today.

If he's a bad cop I'll eat my hat! When I was in the hospital after having a heart attack, this supposed "AGGRESSIVE DRUG AGENT" took time of the whole time I was in the hospital to help me anyway he could. He did work on my mom's ranch and assisted me in a pretty good recovery. He could have stayed after criminals, but he took time to help a friend and his family.

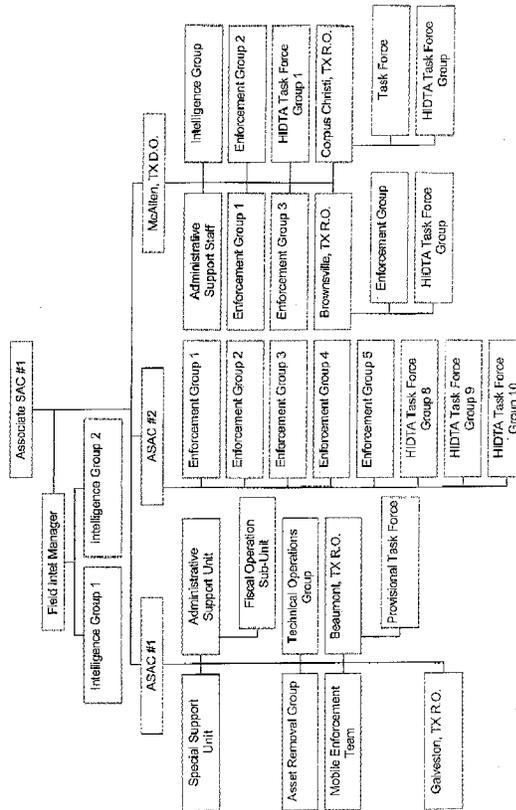
HOUSTON DIVISION OFFICE
December 2000
(Page 1 of 3)



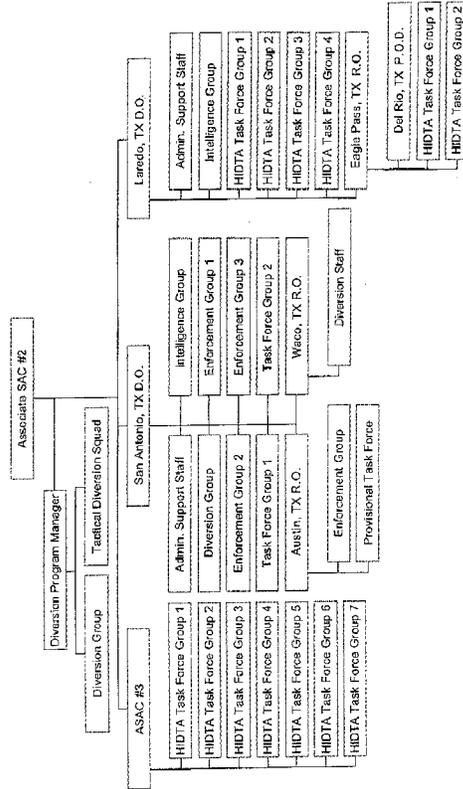
HOUSTON DIVISION OFFICE

December 2000

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(Page 3 of 3)



I have recently been instructed by HFD SAC Ernest Howard not to pursue any new leads regarding James Smith. Rap-A-Lot, et al, until the OPR investigation is cleared; however, we are cleared to talk to any witnesses and participate in any judicial proceedings. This is unfortunate because there are still many investigative leads and enforcement operations to carry out.

**Memorandum from Group Supervisor Nims to
DEA Administrator Donnie Marshal sent
through Ernest Howard, Robert Joura &
Keith Baudoin September 27, 1999**

E-MAILS FROM ERNEST HOWARD

I understand that the situation involving "RAP-A-LOT" and James SMITH aka James PRINCE has only gotten worse. To eliminate any further difficulty in this matter, I have decided that the Houston Division will curtail any enforcement action against this subject.

At any rate, it's over and we are closing our case on PRINCE.

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Ernest L. Howard to Julio F. Mercado & R.C. Gamble
6:21 pm Tuesday, March 14, 2000

Now we bow down to the political pressure anyway. If I had known this, I would have NEVER brought Jack in this case, nor would I have even pursued it. But it is over now. The Houston Division will terminate all active investigation of Rap-A-Lot, except for those persons who have already been arrested/indicted.

Ernest L. Howard to R.C. Gamble, Julio F. Mercado &
Robert J. Joura 10:20am Wednesday, March 15, 2000

**U. S. Department of Justice**

Office of the Inspector General

March 9, 2001

The Honorable Dan Burton
Chairman
Committee on Government Reform
U. S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Office of the Inspector General (OIG) has completed its investigation into allegations that Drug Enforcement Administration (DEA) officials improperly closed a criminal investigation as a result of political pressure. The OIG also investigated whether a DEA official made false statements to the House Committee on Government Reform (Committee) during its investigation of the allegations.

The allegations arose out of an investigation conducted by the DEA Houston Field Division and the Houston, Texas, Police Department into alleged drug dealing by James Smith (aka James Prince), the Chief Executive Officer of Rap-A-Lot Records, based in Houston, Texas. In August 1999, Congresswoman Maxine Waters wrote to Attorney General Janet Reno complaining about the DEA's investigation of Prince and alleging that DEA agents were harassing Prince. Shortly thereafter, the DEA's Office of Professional Responsibility (DEA OPR) opened an investigation into Prince's allegations that DEA agents assaulted an individual and stole a necklace during an arrest of several of Prince's associates. In the summer of 2000, the Committee opened an investigation to determine the status of the DEA's investigation of Prince. The Special Agent in Charge of the Houston Field Division, Ernest Howard, told Committee staff in July 2000 that the DEA's investigation into Prince's activities had not been closed and was ongoing. The Committee later received copies of internal DEA e-mails written by Howard that stated that Howard had closed the investigation in March 2000 and had transferred the case agent to a non-enforcement position. In a November 1, 2000, letter to DEA Administrator Donnie Marshall, you expressed concerns that "the DEA curtailed a major investigation because of political pressure" and that the Committee "may have been misled by Mr. Howard." Attorney General Reno and DEA Administrator Marshall requested that the OIG investigate these allegations.

To resolve the allegations, the OIG interviewed officials in DEA Headquarters; agents and supervisors in the DEA Houston Field Division; supervisors and officers in the Houston, Texas, Police Department; Department of Justice officials; and Committee staff members. We found that in September 1999 Howard had told DEA agents and Houston Police Department

The Honorable Dan Burton

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officers working on the Rap-A-Lot Records investigation that they could no longer conduct “proactive” investigative activities, that is, surveillance, undercover buys, or executing search warrants. Although some investigative work continued, we found that Howard’s instructions effectively ended aggressive pursuit of Prince. However, we did not substantiate the allegation that the DEA’s criminal investigation of Prince and Rap-A-Lot Records was closed because of political pressure. The evidence showed that Howard made the decision to curtail the investigation unilaterally without consulting DEA Headquarters’ officials or his own senior staff. We concluded that Howard curtailed the investigation of Prince in order to limit the DEA agents’ street activity while the DEA OPR investigation was pending. Although we did not find that Howard acted because of political pressure, we criticized his decision to curtail the investigation. We determined that Howard overreacted to the DEA OPR investigation of his agents, that he did not properly analyze the situation, and that he did not fully consider the consequences of his decision before acting.

We also investigated whether the case agent was reassigned in order to close the Rap-A-Lot Records investigation. The evidence showed that the decision was not made for the purpose of curtailing the Rap-A-Lot Records investigation. We found that DEA Headquarters made the decision to reassign the case agent. The evidence suggested that a meeting between the DEA Chief Inspector and Congresswoman Waters might have influenced some DEA officials to reassign the case agent. However, we were unable to resolve that question because other evidence suggested that DEA officials had reasons for reassigning the case agent that were unrelated to Congresswoman Waters.

We referred the question of whether Howard’s July 17, 2000, statements to the Committee staff constituted criminal false statements to the Department of Justice Public Integrity Section. The Public Integrity Section declined prosecution of Howard for making false statements. However, we found that Howard’s statements were incomplete and misleading because he failed to explain to the Committee that he had curtailed the investigation. We concluded that Howard misled the Committee into believing that the investigation was being actively pursued, when it was not.

We also reviewed an allegation that Vice President Albert Gore may have influenced the DEA to close the Rap-A-Lot Records investigation. In March 2000, shortly before the DEA case agent was reassigned, Vice President Gore visited a Houston, Texas, church of which Prince was a member. However, we found no evidence that Vice President Gore influenced the DEA to reassign the case agent or take any other action with respect to the Rap-A-Lot Records investigation.

The Honorable Dan Burton
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Enclosed is a copy of our report. The DEA informs us that the report contains law enforcement sensitive information. A similar letter and a copy of the report has been sent to the Ranking Minority Member. Please contact me or Suzanne Drouet, the Acting Director of the OIG's Special Investigations and Review Unit, at (202) 514-3435 if you have any questions about this matter or would like us to provide a briefing to you.

Sincerely,


Glenn A. Fine
Inspector General

Enclosure

Office of the Inspector General
U.S. Department of Justice



REPORT OF INVESTIGATION

SPECIAL INVESTIGATIONS AND REVIEW UNIT

MARCH 9, 2001

THIS REPORT CONTAINS LAW ENFORCEMENT
SENSITIVE INFORMATION

REPORT OF INVESTIGATION

I. BACKGROUND

A. Allegations

On November 1, 2000, the Office of the Inspector General (OIG) received allegations that Drug Enforcement Administration (DEA) officials improperly closed a criminal investigation due to political pressure. The OIG was also informed that a DEA official may have made false statements to the House Committee on Government Reform. Attorney General Janet Reno and Administrator of the DEA Donnie Marshall requested that the Inspector General investigate the matter.

The allegations arose out of a DEA investigation of James Smith, aka James Prince. Prince is the Chief Executive Officer of Rap-A-Lot Records, based in Houston, Texas. The DEA Houston Field Division had conducted a multi-year investigation of Prince, various Prince associates, and Rap-A-Lot Records' employees. In August 1999, Congresswoman Maxine Waters from California wrote to Attorney General Reno on behalf of Prince alleging that the DEA was harassing Prince. The letter was forwarded to the DEA, which arranged an interview of Prince to learn more about the allegations. Following the interview of Prince, the DEA Office of Professional Responsibility (OPR) opened an investigation, in September 1999, into Prince's claim that a DEA agent had physically abused a Rap-A-Lot Records associate during an arrest and had stolen a gold medallion from another individual. In 2000, the House Committee on Government Reform (Committee) received information that caused it to inquire about the Rap-A-Lot investigation. In July 2000, Committee staff met with DEA officials to determine the status of the Houston Field Division's investigation of Prince and Rap-A-Lot Records. During this meeting, Ernest Howard, the Houston Field Division Special Agent in Charge (SAC), told Committee staff that the investigation was open and that leads were being pursued. In October 2000, after receiving information from a confidential source that DEA e-mails contradicted Howard's statements to the Committee staff, the Committee requested and received copies of e-mail communication between Howard and DEA headquarters officials that had been sent seven months earlier, in March 2000. In the March e-mails, Howard wrote that he intended to close the investigation of Prince at that time and that he was reassigning the case agent.

In a letter dated October 27, 2000, Committee Chairman Dan Burton wrote Attorney General Reno that the Committee was interested in “determining whether the Justice Department curtailed a criminal investigation as a result of political pressure,” and he noted that there was a “variance between Mr. Howard’s oral briefing to the Committee, and his written communications to colleagues....” In a November 1, 2000, letter to DEA Administrator Marshall, Chairman Burton reiterated his concerns that “the DEA curtailed a major investigation because of political pressure” and that the Committee “may have been misled by Mr. Howard.”

The Committee held a hearing on the Rap-A-Lot investigation on December 6 and 7, 2000, during which the Committee questioned DEA officials and others regarding the allegations. During this hearing, some Committee members implied that they believed Howard was testifying falsely during the hearing.

Press reports and the November 1, 2000, Committee letter to the DEA also made reference to the possibility that the closing of the DEA investigation may have been related to the March 2000 campaign visit of Vice President Al Gore to a Houston, Texas, church of which Prince was a member.

B. OIG Investigation

In investigating this matter, the OIG interviewed 33 individuals. The interviews included DEA Headquarters officials; agents and supervisors in the DEA Houston Field Division, including Howard¹; Houston, Texas, police officers; Committee staff; and Department of Justice officials. We attended the Committee hearing on December 6 and 7, 2000, and reviewed a transcript of the hearing. We also requested and received from the DEA documents relating to this matter.

All DEA officials made themselves available for interviews and some were interviewed on multiple occasions. All of the interviews were conducted voluntarily. In addition, DEA officials timely responded to our requests for documents.

¹ Howard was given Miranda warnings prior to his OIG interview. He waived his Fifth Amendment rights and spoke to us voluntarily.

C. The DEA Investigation of James Prince

The DEA opened a case file on Prince in 1992.² The original case agent was Special Agent Michael Statlander. The case file, while voluminous, consisted primarily of raw intelligence. This early investigation did not produce any arrests or prosecutable cases.

In 1998 Howard assigned the investigation of Rap-A-Lot Records and Prince to DEA Houston Field Division Group 4 and assigned DEA Special Agent Jack Schumacher to be the case agent. By all accounts, Howard believed that the Prince case should be a priority of the office, and he wanted to determine if a viable case could be made. Howard told the OIG that he assigned Schumacher because he believed that Schumacher was an outstanding agent who would produce results. Schumacher, who was a former Houston police officer, enlisted the assistance of Houston Police Department (HPD) Narcotics Division Squad 13, led by Sergeant William Stephens. Until the fall of 1999, the HPD officers worked out of the DEA Group 4 offices.

We were told by Schumacher and others that Howard provided the necessary resources to the team and was highly supportive of their efforts. Between late 1998 and mid-1999, the DEA/HPD investigation resulted in the arrests of 20 individuals. Of particular note were the January 1999 arrests of two of Prince's primary associates, Stevon McCarter and Edward Russell. McCarter and Russell were convicted of narcotics violations following a trial in the summer of 1999. McCarter was subsequently granted a new trial by the trial court, a decision that is currently on appeal.

II. CHRONOLOGY OF EVENTS

A. August 1999: Congresswoman Maxine Waters' Letter to Attorney General Reno

Attorney General Reno told the OIG that she received a telephone call from Congresswoman Waters and spoke to her about a DEA investigation. Attorney General Reno's telephone logs show that she spoke with

² Case file M3-92-Z012 was entitled James Smith. Eventually, the DEA opened numerous case files relating to Rap-A-Lot Records and Prince associates with different case file numbers and subject names.

Congresswoman Waters on August 19, 1999. Congresswoman Waters told Attorney General Reno that the DEA was “picking on” a successful businessman in Houston, Texas. Attorney General Reno said that Congresswoman Waters was upset during the telephone call, and she asked Attorney General Reno to meet with Prince. Attorney General Reno said that she told Congresswoman Waters that having the Attorney General involved was not the way to conduct an investigation. She told Congresswoman Waters that the normal practice was to have the involved agency conduct an investigation of the allegations according to its usual procedures.³

Attorney General Reno said that she called DEA Administrator Marshall to inform him of the allegations made by Congresswoman Waters. Attorney General Reno’s telephone logs show a call to Marshall on August 19, 1999. She asked Marshall how DEA would normally handle such allegations. Marshall told her that allegations of misconduct were usually referred to DEA OPR. Attorney General Reno said that she told Marshall that the DEA should follow its customary procedures but that the DEA should not let the allegations “drop through the cracks.”

Marshall told the OIG that he received a telephone call from Attorney General Reno to advise him that she had talked to Congresswoman Waters and that the DEA should expect a letter from Waters. Marshall was unsure of the date of the telephone call, but he believed it was shortly before August 20, 1999, the date of Congresswoman Waters’ letter. Marshall recalled that Attorney General Reno told him that Congresswoman Waters was concerned that the DEA was harassing a black businessman in Houston, that the businessman believed he might be harmed by a DEA agent, and that the DEA agent had a record of killing individuals.⁴ Marshall understood from the conversation that the DEA would need to respond to Congresswoman Waters’ forthcoming letter. Marshall told the OIG that Attorney General Reno did not direct him to open an OPR investigation or say that she expected one.

³ Congresswoman Waters did not consent to an OIG interview nor did her legislative assistant.

⁴ According to a DEA OPR report, Schumacher has been involved in nine shootings during his law enforcement career, with four resulting in deaths. Eight shootings and three deaths occurred while Schumacher was a Houston police officer, and one shooting and death occurred after Schumacher became a DEA agent. The report stated that all of the shootings were determined to have been justified.

Even before receiving the letter, Marshall contacted SAC Howard to advise him of the allegations and to obtain background information about the case. Marshall said he recalled that Howard told him the harassment allegations were incorrect and that Prince was the subject of a viable, albeit difficult, investigation.

At Marshall's request, the Houston Field Division prepared a document entitled "Historical Overview," which set forth the history of the investigation of Prince. Howard e-mailed the document to Marshall on August 19, 1999. The 3-page document ended as follows:

The Houston Field Division remains convinced that James Smith/Prince is a viable target for a criminal prosecution. The recent arrests of McCarter, Russell, Bradley, Ballard, and Harris have reportedly unnerved Smith/Prince, who has decided to go on the offensive by publicly cloaking himself in righteous indignation and making spurious charges against the investigators. The DEA agents and Houston Police Dept. officers pursuing the Rap a Lot case have utilized proven, traditional investigative techniques and have in no way harassed Smith. This investigation is continuing.

Congresswoman Waters wrote Attorney General Reno a letter dated August 20, 1999. She wrote that she had been contacted by Prince and that he believed he was being "harassed and intimidated" by DEA officials, that he had been subjected to racial slurs and an illegal search, that his employees and customers were being improperly stopped and questioned, and that Prince had been stopped "numerous times on dark stretches of Texas highways." Congresswoman Waters wrote that Prince had requested her assistance because of her work in the areas of police harassment and brutality. She requested that the Attorney General "give this matter your immediate attention" and stated that she would be awaiting a response. (See Exhibit A.)

On August 20, 1999, Marshall faxed to Howard four questions requesting additional information, particularly more details about a confidential source that was briefly mentioned in the Historical Overview. Marshall said that he believed he received verbal responses to the questions from Howard, either directly or indirectly. Case Agent Schumacher told the OIG that he was very concerned about Marshall's inquiry because he thought it was inappropriate for the Administrator to be asking for specific information about a confidential source. Others, however, thought differently. Associate SAC Robert Joura

told us that he was not concerned about the inquiry.⁵ Similarly, Howard said that Marshall's questions did not concern him. Howard's confidence in Marshall led him to conclude that Marshall would not ask for something he did not need.

Also on August 20, 1999, Marshall sent a copy of the Historical Overview, as well as an additional copy of the Historical Overview with his handwritten notes in the margins, to Attorney General Reno. In his cover memorandum, Marshall wrote:

We would not normally brief a member of congress on an ongoing investigation, except to perhaps acknowledge in the most general terms that an investigation exists.... I understand the *sensitivity of the inquiry*, but really question the propriety of the inquiry....[Emphasis added.] My initial reaction is that we should consider telling the member we cannot give a brief on this matter as it is an ongoing criminal investigation of a substantial and credible nature, and further, that we have reviewed the facts personally and are satisfied that it is a legitimate investigation, and not motivated by a desire to harass Mr. Prince....

Marshall said that the phrase "sensitivity of the inquiry" referred to the fact that the inquiry had come from a member of congress, that it concerned an active investigation, and that it may have also referred to the fact that an allegation of racial profiling was involved.

Marshall told the OIG that he had a follow-up conversation with Attorney General Reno after sending her the Historical Overview. He offered to give her a briefing and told her the DEA would continue to gather facts. He said she gave him no instructions. Marshall recalled that the Attorney General said that they should proceed with the case because the DEA believed that it was a legitimate investigation. Marshall said that the Attorney General told him that she was not sure that the DEA should even acknowledge to Congresswoman Waters that an investigation existed.

⁵ The Associate SAC is the number two person in the Houston Field Division. Joura described himself as a close friend of Schumacher's, and he characterized Schumacher as "hot under the collar" about Marshall's questions.

Attorney General Reno's telephone logs show that she spoke with Congresswoman Waters and also Marshall on August 20 and 23, 1999. Attorney General Reno told the OIG that she had no specific recollection of these calls and could not distinguish the conversation on these dates from the conversation on August 19.

B. DEA OPR Interview of James Prince

Issue: Was the DEA's decision to interview Prince in Congresswoman Waters' office in the presence of numerous third parties improper?

When Marshall received Congresswoman Waters' letter, he gave it to Felix Jimenez, the DEA Chief Inspector.⁶ Jimenez contacted Congresswoman Waters to arrange an interview of Prince. According to Jimenez, Congresswoman Waters told him that Prince feared for his life and that under no circumstances would he meet with the DEA unless she was present. Through several telephone calls, the interview was arranged for a conference room in Congresswoman Waters' office.

On August 24, 1999, Jimenez, OPR Associate Deputy Inspector William Dodge, and OPR Senior Inspector Stephen Delgado met with Prince at the Washington, D.C., offices of Congresswoman Waters. Jimenez interviewed Prince regarding the allegations referred to in Congresswoman Waters' letter. Also present for the interview were Congresswoman Waters, former Ambassador Sidney Williams (Congresswoman Waters' husband), Veronique Pluiose-Fenton (Congresswoman Waters' legislative assistant), Rap-A-Lot Records' General Manager Bruce Toval, and Cheryl Ziegler from the Lawyer's Committee for Civil Rights Under Law. Jimenez told the OIG that when he arrived for the interview, Fenton, Williams, Toval, and Ziegler were with Prince and Waters. He was told that they were all "representing" Prince and that they would all be present for the interview. Jimenez said that although he was surprised by their presence, his primary goal was to speak with Prince. In addition, Jimenez said that he was not yet conducting an investigation and that he viewed the meeting as a situation where a citizen was making a complaint. Therefore, he chose not to try to exclude the additional individuals from the

⁶ The Chief Inspector oversees the DEA's Office of Inspections, Office of Professional Responsibility, and Office of Security Programs. Each of these offices is headed by a Deputy Chief Inspector.

interview. The interview was recorded and subsequently transcribed by a court reporter.

The transcript of the interview shows that Prince reported an occasion when he was stopped by a Texas Department of Public Safety officer. Prince said that at the scene, DEA Special Agent Chad Scott spoke to the officer, who subsequently issued Prince a warning ticket. Prince also complained that Rap-A-Lot Records' employees and customers were being stopped and searched by HPD officers when they left the record company offices. Prince stated that he felt intimidated by Schumacher, who Prince believed was a killer. Jimenez told Congresswoman Waters that Prince had not provided information regarding specific incidents of wrongdoing by DEA agents. Nonetheless, Jimenez also indicated that the allegations would be investigated. At the conclusion of the interview, Prince told the DEA investigators that he was afraid for his life and afraid that he might be pulled over into a dark place by law enforcement officers and shot.

During the August 24, 1999, OPR interview, Jimenez was given a copy of a report prepared by a private investigator hired by Prince. The report detailed more specific allegations than those provided by Prince during the OPR interview. In particular, the private investigator's report alleged that several Prince associates were physically and verbally abused during a January 27, 1999, arrest by DEA agents and HPD officers. One of the arrestees also alleged that an expensive necklace, specifically a gold medallion, had been taken from him and never returned.

Jimenez briefed Marshall about the allegations and that DEA OPR intended to open an investigation of them. Marshall said that he did not instruct Jimenez to open an OPR investigation but that he concurred with Jimenez's decision to do so because the allegations were serious. Marshall recalled that Jimenez believed that Prince did not have much in the way of personal knowledge of DEA misconduct but the report from a private investigator had more specifics.

During the December 2000 Congressional hearing, some members of Congress questioned DEA officials about conducting the interview in Congresswoman Waters' office and indicated that they believed the interview seemed particularly unusual. Both R.C. Gamble, who succeeded Jimenez as

DEA Chief Inspector,⁷ and Jimenez acknowledged to the OIG that the circumstances of the interview were unusual, and they could not recall any other similar instances of interviewing a complainant in a member of Congress' office.

However, according to Jimenez, he had several phone calls with Congresswoman Waters, and he believed, based on what she told him, that Prince would not agree to the interview unless it was in her office. Marshall also told the OIG that he had told Jimenez to find some way to interview Prince to get more details about his allegations to determine whether an OPR investigation should be conducted. He said that after conversations back and forth between Jimenez and Congresswoman Waters trying to arrange the interview, Jimenez reported to Marshall that Prince claimed that he was afraid he might be harmed by DEA personnel. Jimenez said the only way to interview Prince was with his lawyer in Congresswoman Waters' office. Marshall said Jimenez was not seeking approval from Marshall but that Marshall had the opportunity to object, which he did not do. Marshall told the OIG that, although the terms dictated by Prince were not the most desirous, Jimenez believed it was the only way to get the information from Prince and that the DEA needed to determine if further investigation was warranted. Marshall said the alternative was to not interview Prince and that was not acceptable given the seriousness of the allegations.

We asked William Brown, Deputy Chief Inspector and the head of DEA OPR, about the circumstances of the Prince interview. Brown said that although it was unusual to interview someone in a congressional office, it was not unusual to interview someone outside the confines of a DEA office. He said that OPR will interview witnesses in homes, hotels, bars, and various other locations requested by witnesses. Brown said that it would have been hard to defend the decision if they had decided not to do the interview under the circumstances requested by Prince. Brown told the OIG that no OPR standards were violated by conducting the interview in this manner.

Conclusion: Although the circumstances of the Prince interview were not ideal, we believe it was within Jimenez's managerial discretion to proceed with the interview, even under unorthodox conditions, rather than to reject the

⁷ Gamble became the Chief Inspector in January 2000.

interview. According to Jimenez, he believed, based on what he was told by Congresswoman Waters, that he would not get the information from Prince unless he agreed to conduct the interview in her office with others present.

We would note that, in general, investigators should be extremely cautious about conducting interviews of witnesses in congressional offices because it can raise the appearance that the investigation is being affected by political influence. Indeed, in this case, the circumstances of the interview added, to some degree, to the belief among the DEA line agents that political pressure was driving the OPR investigation and DEA headquarters' involvement in the case.⁸

C. September 1999: The Initial DEA OPR Investigation

Issue: Did the DEA properly initiate an OPR investigation of Prince's complaint?

On August 27, 1999, DEA OPR opened an investigation based on Prince's complaint and the allegations set forth in the private investigator's report. DEA officials told us that they found nothing unusual about the decision to open an investigation of the allegations and that a case would have been opened even if Prince had written to the DEA himself rather than going through Congresswoman Waters. Deputy Chief Inspector Brown told the OIG that given the allegations of physical abuse and theft of property, there was no question that an investigation would be opened. He noted that the allegations were specific and named specific subjects. Senior Inspector John Bryfonski, who conducted the OPR investigation, stated that an OPR case would "absolutely" have been opened if Prince had written to the DEA with the same allegations. Joura and Howard also said that opening an OPR investigation was routine under these circumstances. On the other hand, Schumacher said that he thought it was "unbelievable" that OPR had opened an investigation. Houston Field Division Assistant SAC Ronald Pierro, who had participated in the OPR investigation of Prince's allegations, said that he thought it was strange that OPR opened a "full-blown" investigation so quickly.

⁸ At least one DEA agent believed incorrectly that Jimenez had flown to California to interview Prince in Congresswoman Waters' Los Angeles office. This may have also contributed to the investigators' belief that DEA headquarters was unusually attentive to Prince's allegations.

OPR's written procedures state that a full investigation will be initiated upon receiving an allegation that meets the following criteria:

1. An identified source, who reports apparently accurate information, alleges or complains that:
2. An identified DEA employee or another individual
3. Has committed a violation that falls within the investigative responsibility and jurisdiction of [the Office of Professional Responsibility].

In those instances where one of the above criteria is not met, a preliminary investigation will be conducted to determine if the facts will substantiate the missing or doubtful element.

Although the exact time period is not entirely clear, according to Associate SAC Joura, the Houston Field Division and Howard in particular initially seemed to accept the OPR investigation as routine. Joura stated that there had been other OPR investigations of Schumacher and therefore this was nothing out of the ordinary. In addition, the allegations were not surprising because the Prince investigators had received information from a source that if they got "close" to Prince, he would go on the "offensive" to get the case derailed. Joura said that he learned from Howard that, when the OPR investigation was opened, Jimenez told Howard essentially that there should be no problem with the Prince allegations.⁹

On September 1, 1999, Houston Field Division Group Supervisor James Nims wrote a memorandum to Robert Surovec, Chief, Domestic Operations West (DEA Headquarters), specifically denying the allegations in Congresswoman Waters' letter to the Attorney General. Nims said that he believed he had been requested to do so by Normadene Murphy, Staff Coordinator, Domestic Operations West.

⁹ If true, we believe such a comment would be inappropriate as it could indicate that OPR had prejudged the merits of the allegations. However, Jimenez said that he was almost certain that he did not speak to Howard about the OPR investigation. Jimenez said that he wanted to make sure that OPR's conclusions were its own, and he did not want information from anyone who was not involved.

In September 1999, OPR investigators traveled to Houston, Texas, to conduct interviews. During the week of September 8, 1999, they interviewed DEA agents and supervisors and HPD officers. They returned the week of September 20 and interviewed additional agents, as well as conducted follow-up interviews. The investigators corroborated some of the allegations, finding that a medallion had been taken from one of the Rap-A-Lot suspects during the January 27, 1999, arrest and placed in DEA Special Agent Chad Scott's desk. The medallion had not been entered into evidence, and other DEA arrest procedures had not been followed. In addition, on September 21, 1999, a DEA agent told the OPR investigators that he observed Schumacher kick and step on one of the Rap-A-Lot suspects at the time of the January 27, 1999, arrest.¹⁰ A photograph taken the night the Rap-A-Lot suspects were detained showed an abrasion on the chin of one of the suspects. However, all other DEA agents and Houston police officers who were present at the scene of the suspects' arrests (and who agreed to be interviewed by OPR) stated that they did not observe any improper conduct by Schumacher or anyone else.

Conclusion: Implicit in the claims that we investigated was the allegation that the OPR investigation was opened as a result of political pressure. We concluded that OPR appropriately opened an investigation into Prince's allegations of DEA misconduct. We were told, and OPR's written procedures confirmed, that allegations involving physical abuse and theft of property would normally have been investigated by OPR regardless of whether they were brought to the attention of the agency by a member of Congress or directly by a complainant.

D. August 30, 1999: The Administrative Closing of DEA File M3-92-Z012

Issue: Did the closure of DEA file M3-92-Z012 impede the investigation of Prince?

On August 30, 1999, DEA case file number M3-92-Z012 was administratively closed. File 92-Z012 was entitled "James Smith," and it was the original file under which Agent Statlander collected his intelligence about

¹⁰ This agent was the subject of an OPR investigation himself. In June 1999, the agent had been reported to OPR by Nims for stealing the property of defendants based on information reported by Schumacher and HPD Sergeant Stephens.

Prince and Rap-A-Lot Records. We investigated this closing because it appeared to show that the Rap-A-Lot Records investigation was closed as early as August 1999.

The DEA-6¹¹ that was prepared to close the file does not provide a reason for the closing. Pursuant to DEA policy, the DEA-6 notes that all evidence has been disposed of and all paperwork completed. The DEA-6 lists Special Agent Jeff Himes as the agent preparing the closing report and James Nims, Group Supervisor, as the approving official.

We were told by one DEA agent who worked on the investigation that the file was closed because it was so voluminous it had become unwieldy and new information would get lost. Schumacher told the OIG that he and HPD Sergeant Stephens had decided to separate the new cases that were being developed from the old 92-Z012 file. Schumacher said that the actual closing was a management decision probably made by Nims. Nims agreed that he was involved in a decision to “umbrella” cases, that is, to open new case files with new DEA numbers under the original Organized Crime Drug Enforcement Task Force (OCDETF) case file number. He initially said it was his decision to “umbrella” the cases, but later said that it might have been Schumacher’s idea or a group decision. Nims believed the decision to separate the cases was made in the fall of 1998. Nims said the reason for separating the cases was to “wall off” the file from discovery.¹² Nims said that the decision to close the 92-Z012 file was his decision but that he could not recall the reason for it. The OIG questioned Nims further about his reason for closing the file, and we asked specifically whether concerns about discovery or about Prince’s allegations influenced the decision to close the case file. Nims said that he did not think the closing, as opposed to separating the files, had anything to do with discovery because, as Nims correctly noted, a defense attorney could obtain relevant information contained in a closed file. Nims told the OIG that

¹¹ A DEA-6 is the form used by the DEA to record events and investigative work.

¹² More than one DEA official mentioned protecting the information in the file from discovery as the reason the cases were separated or as the reason for closing the 92-Z012 file. However, separating or closing a case file would not protect the information contained in it from discovery, pursuant to Federal Rule of Criminal Procedure 16, Brady, or Ciglio, since the obligation to disclose information in discovery does not depend on which file contains the information or whether the file has been closed.

if he “had to guess,” he would not think that the closing had anything to do with Congresswoman Waters’ letter.

Subsequently, we interviewed Special Agent Himes, who prepared the DEA-6 closing the 92-Z012 case file. In August 1999, Himes was newly graduated from the DEA training academy and was only temporarily at the Houston Field Division. Himes had little memory of what he did on the 92-Z012 case file. However, he did recall that one day there was some activity going on with the agents on the Rap-A-Lot investigation and that the next day Nims told Himes to close the case file. Himes said that Nims told him that something was coming down from Washington and Himes was needed to help close the case. Himes further explained that Nims said that a “congressional inquiry” had been made and a case closing needed to be done.

We then questioned Nims about Himes’ statement. Nims told the OIG that although he could not recall specifically, he could have made the statement attributed to him by Himes. He acknowledged that he might have decided to close the case file at that time because it was going to get a lot of scrutiny. He stated, however, that the decision to close the file had been made many months before but they had not yet done the paperwork.

Schumacher told the OIG that he did not protest the decision to close the case file and that no “alarm bells” went off. He added that the closing of that case file did not hinder their ongoing investigation and that was not what shut the investigation down.

Howard told the OIG that he was not aware the 92-Z012 case file had been closed until approximately October 2000 when he reviewed the case files. According to Nims, he did not discuss closing the 92-Z012 case with Howard.

Conclusion: We concluded that the decision to close the 92-Z012 case file was made for administrative reasons that were unrelated to the OPR investigation or to Congresswoman Waters’ letter to the Attorney General. The timing of the closing, however, probably was related to the fact that DEA headquarters had raised questions about the case.

In any event, the evidence is clear that closing the file did not hinder the DEA’s investigation and had no impact on the ability of the agents and HPD officers to pursue the investigation of Prince and Rap-A-Lot Records.

E. September 1999: Howard Curtailed the Investigation of Prince

Issues: Did Howard place restrictions on the investigation of Prince? If so, was Howard motivated by political pressure? What was the effect of those restrictions on the investigation?

1. Explanations of DEA Agents and HPD Officers

DEA Agents Schumacher, Scott, and Michael Bostick, HPD Sergeant Stephens, and HPD officers Larry Allen, Ralph Chaison, and Pedro Lopez told the OIG that sometime in September or the fall of 1999, Howard came to the Group 4 offices and spoke to them about the Prince investigation. All agreed that Howard told them he was closing the active part of the investigation, although they could continue with the ongoing court cases. The DEA agents and the HPD officers stated that they understood Howard to mean that they could complete the judicial cases that were already indicted and proceeding to trial but that they could not do any more proactive investigation. They described proactive investigation as conducting surveillance, making undercover buys, and executing search warrants. Several distinctly recalled Howard saying, "As of [this time] and [date]" the investigation is closed.

Schumacher recalled that Howard came to the Group 4 offices and said words to the effect of "we're shutting it down, headquarters is giving us too much trouble, and I don't want anyone getting hurt." Schumacher distinctly remembered Howard saying, "As of 10:21 today, we're not going to do any more work." Howard told them they could do the judicial cases but no surveillance and no other active enforcement activity. Schumacher said that Howard also might have said something like "headquarters' politics" but that Howard did not go into detail. Schumacher said that he did not recall Howard saying anything about Congresswoman Waters. Schumacher told the OIG that "it was real clear" that Howard was not happy about the situation.

DEA Agent Scott said that Howard told them they could not do anything other than prepare for the trials and clean up loose ends. Scott also remembered that Howard dated and timed his announcement. Scott said he recalled some reference to "political involvement" or "headquarters." Scott said that he understood that DEA headquarters decided to close the case, but he did not know if his understanding was based on what Howard said at the meeting. Scott stated that it was obvious to him that Howard did not like taking the action. Scott said that he never heard a reason for the closing.

DEA Agent Bostick told the OIG that Howard said that as of “[this time] and [date]” they would no longer be doing anything proactive. Howard said that if they were to catch Prince and he wound up hurt, the agents would be seen as in the wrong. Bostick remembered that Schumacher objected and asked what kind of example this was setting for the younger agents. Bostick recalled Howard responding that they could be 100 percent right but be seen as being wrong. Howard told them they could continue with the judicial cases. Bostick did not recall Howard discussing political pressure, headquarters, or Congresswoman Waters. Bostick also told the OIG that it was his impression that the case was not being halted completely but that it was being suspended, although Bostick said that he did not recall Howard saying it that way. Bostick’s impression was that the decision would be revisited at a later date.

HPD Sergeant Stephens said that he recalled Howard coming into the Group 4 offices and saying, “We’re shutting down Rap-A-Lot.” Stephens remembered Howard talking about pressure, although Stephens was not certain whether Howard talked about Congresswoman Waters or DEA headquarters. After someone asked a question, Howard “time-stamped” it, that is, he looked at his watch and said, “as of [this time] and [date], we are stopping.” Howard went on to say that they could continue with the judicial cases, but the proactive operations were done. According to Stephens, Howard did not indicate that it was a temporary suspension that could be resumed after the OPR investigation was done. Stephens said that Howard gave the impression that it was something he did not want to do, but nobody in the group questioned him about his reasoning.

HPD Officer Allen told the OIG that Howard told them to cease and desist investigating Rap-A-Lot. Howard said that he was “putting you on notice – proactive is to stop” and that only follow-up would be permitted. Allen said that Howard did not give any reason for his action. Allen did not recall any mention of political pressure.

HPD Officer Lopez remembered Howard saying something to the effect of “Rap-A-Lot enforcement action is going to cease.” Lopez did not recall Howard discussing political pressure, headquarters, or Congresswoman Waters. Lopez said that someone asked why but that Howard did not give any reason, he just said the investigation was stopped. Lopez also recalled that Nims said he was going to find out why, but Nims never provided them with any more information. Afterwards, the group talked about political pressure

being involved and, according to Lopez, everyone assumed that Congresswoman Waters had gone to Attorney General Reno to get the case stopped.

HPD Officer Chaison recalled that Howard said that the investigation was over and that the investigation was to cease and desist. According to Chaison, Howard said something about political pressure and then said that “as of [this time] and [date] you are no longer to work Rap-A-Lot.” Howard again mentioned political pressure and told them to close out the cases. He told the group that they could do follow-up but no proactive investigation. Chaison said that Howard did not link his decision to the OPR investigation and did not indicate that the suspension would only last for the duration of the OPR investigation.

Schumacher, Stephens, Chaison, and Allen testified at the congressional hearing on December 6, 2000. At the hearing, Chaison and Allen testified that Howard told them he had closed the investigation because of “political pressure”; Stephens testified that Howard said he was closing it because of “political reasons”; and Schumacher testified that Howard mentioned “headquarters, politics, or politics at headquarters.”

DEA Agents Schumacher and Scott, and HPD Officers Stephens, Chaison, Allen, and Lopez described being “shocked,” “flabbergasted,” “disgusted,” “pissed off,” and “upset” that the proactive investigation of Prince had been stopped. As Schumacher put it, “It was like somebody had kicked us in the stomach.”

2. Explanation of Howard

Howard said that after he assigned Schumacher to the investigation in 1998, he received regular, although not formal, briefings about the progress of the Rap-A-Lot investigation. Howard said that he would get updates on the case from whomever he saw – Schumacher, Scott, or Nims. From these updates, Howard understood that progress was being made. Howard told the OIG that through August 1999, he believed the investigation was worth the resources the DEA was pouring into it.

Howard said that close in time to the date of Congresswoman Waters’ letter, he received a phone call from then Chief Inspector Jimenez. Jimenez briefed Howard on the nature of Congresswoman Waters’ allegations, whom they were against, and who the complainant was. Howard had difficulty dating

the phone call, but he believed that it was within 24 hours of when Jimenez received Congresswoman Waters' letter. Howard said that he was surprised by the allegations because he knew there was no racial profiling involved in the case. He said that he also wondered why Congresswoman Waters was involved since she was from California. Howard understood that OPR was going to open an investigation into the allegations against the DEA agents.

Howard told the OIG that shortly after Jimenez first advised him that OPR was going to open an investigation, he went to the Group 4 offices and spoke to the agents and HPD officers who were present.¹³ Howard said he first told them about the allegations from Congresswoman Waters. He said that as far as he knew that was the first the investigators had heard of the allegations. Howard then told them that all proactive investigation had to be cleared "by the front office."¹⁴ Howard said this meant that either he or Associate SAC Joura could have authorized an enforcement operation. By proactive investigation, Howard said, he meant conducting surveillance, undercover operations, and executing search warrants. Howard said that he told the group that "right actions" could nonetheless be perceived as being wrong no matter what they had done. Howard believed he told the group and later Nims that the restrictions were only in place while the OPR investigation was ongoing. Howard said that the investigators could continue to get sources from the judicial cases that were continuing by interviewing defendants who were in jail.

¹³ The OIG asked Howard about the date that he spoke to the investigators. He repeatedly stated that he believed it happened in August, as soon as he learned about the allegations and the OPR investigation. In a second OIG interview, Howard stated that he believed he made the announcement after he had spoken to Marshall about the Historical Overview but before the OPR investigators had come to Houston. We were unable to determine the specific date Howard gave his instructions to the Rap-A-Lot investigators, but we believe it likely occurred in the latter part of September. Schumacher, Stephens, and Nims said that the announcement occurred a few days to one week before Nims' September 27, 1999, memorandum to Marshall (we discuss Nims' memorandum later in this report and we attach it at Exhibit B). Other HPD officers also believed that it occurred sometime in September. Nims wrote in his September 27 memorandum that he had *recently* been given instructions by Howard. In addition, the OPR investigation was at its most intense during September, which we believe contributed to Howard's decision to curtail the investigation, as discussed later in this report.

¹⁴ During the December 7, 2000, Congressional hearing, Schumacher, Stephens, Chaison, and Allen specifically denied hearing Howard say that leads could be pursued if they were approved by the Associate SAC.

During the December 6 and 7, 2000, Congressional hearing, Howard similarly stated that he had believed he told the investigators that there would be no more proactive investigation without approval from the Associate SAC or higher. He also stated, however, that he was not sure “word for word” what he said to the investigators. Howard said it was probable that he gave Nims more information when he spoke with him later and may have used the word “proactive” only in the Nims meeting. Howard described his meeting with the investigators as very short, around 2 minutes, and his meeting with Nims as lasting 15-20 minutes.

The OIG questioned Howard as to his reasons for placing these restrictions on the investigation. Howard said that he was worried about the agents’ careers. In particular, he was concerned that something might happen during the investigation and the DEA agents would be perceived as being in the wrong no matter what. Howard also stated, however, that he did not put any credence in Prince’s allegations. He told the OIG that the racial profiling allegations were “as bogus an allegation as could be made.” He also said that he did not believe the civil rights allegations because both DEA agents and HPD officers were supposedly present when the incident happened. According to Howard, Congresswoman Waters’ involvement in the matter did not influence him. He acknowledged that congressional involvement “escalates” a situation, but he “would do the same thing” regardless.

Howard told the OIG that after his announcement he did not remain in the Group 4 offices long enough to gauge the agents’ reactions. He heard later that the agents were not happy with his decision. Later in the interview, Howard said that the investigators, including Nims, were disappointed. The OIG asked Howard why the investigators were disappointed or would even feel limited if in actuality all they had to do to continue with enforcement operations was to go through one higher level on the supervisory chain. Howard responded that it was a matter of perception, that they had to go through extra steps.

Howard told the OIG that Nims later came to him to get further clarification of his instructions. Howard said he told Nims that the group could not be proactive without approval. He said that they could develop sources if they were related to the judicial cases but could not develop sources proactively. Explaining his statements to the OIG, Howard said this meant that they could talk to people who were already in jail. Howard said Nims tried to

talk to him about his decision but that Nims also “knew how far to push and how far not to push.”

The OIG questioned Howard whether there were other cases that he had “shut down” because of an ongoing OPR investigation. Howard emphatically responded that he had not “shut down” the Rap-A-Lot investigation. He stated that he “couldn’t have been any more clear in my mind” that the agents could be proactive if they sought approval from the “front office.” Howard defined the front office as either himself or Joura. The OIG then rephrased the question to ask if there were other cases that Howard had limited or restricted in the same manner. Howard responded that end-of-the-year budget problems sometimes resulted in cases being restricted. He acknowledged, however, that there were no other cases where limitations had been placed on the investigation because of an open OPR investigation.

Howard stated that he did not think it was unusual that OPR opened an investigation. He said he asked Jimenez when he was going to send investigators to Houston, and Jimenez told him it depended upon their availability. Jimenez told him that he would keep Howard updated as much as possible, which Howard said was also standard practice. Howard also said that he did not think it was unusual that Jimenez attended the Prince interview or that the interview had occurred in Congresswoman Waters’ office. According to Howard, Jimenez had also told him at some point that there was “no meat and potatoes” to Prince’s allegations or, in other words, Prince could not come up with any details. The OIG asked Howard why, if the OPR investigation was not unusual, his first reaction was to limit what had been a high priority case. Howard responded that given the allegations that a white agent was targeting a black entrepreneur and that beatings had occurred, a “bell went off.” Howard said that he felt he had to be cautious, that if something went “haywire,” the perception was already “out there.” He said that if he had ignored the allegations and something did happen, then “it would be me talking to the Attorney General answering questions about why I let them go back out” after receiving the allegations. Howard said he has the responsibility for protecting the safety of the community and his agents.

Howard was asked why he did not remove Schumacher and Scott from the investigation at that time since the allegations were against them, rather

than limit the entire investigation. He said that he believed the allegations were against the entire investigative team.¹⁵ In a second interview, Howard stated that he did not remove Schumacher because Schumacher was the case agent and no one else could testify for him in the judicial proceedings.

Howard said that he did not discuss his decision to place restrictions on the case with Joura or other members of his senior staff. He said that he did not care at that point what they thought; he was only concerned with the agents and what could happen to them. Howard stated that he also did not discuss his decision with Schumacher, even though Schumacher was the case agent. Howard told the OIG that as an "SES," he did not need to discuss his decision with a "GS-13."¹⁶ Howard also said that even though he told Nims and the group that enforcement operations could continue if either Joura or himself approved them, he did not discuss this requirement with Joura. The OIG asked Howard how Joura was supposed to know of this requirement or how he was to evaluate an enforcement operation if one did come to him if Howard had not discussed the issue with him. Howard responded that Joura would know if the operation plan was appropriate because he is on the same level as a SAC for enforcement operations management.

Howard said that he did not believe the investigators ever submitted for approval any operations plan to do additional work after his announcement. He said that he was not concerned about the lack of enforcement activity because he believed that the only way to "get Prince" was through "flipping" one of the individuals who had already been arrested. Howard was asked whether he tried to find out if there was any enforcement action that needed to be performed. Howard said that he often asked Schumacher, both before and after his announcement, "How are things going? What's going on?" and that Schumacher told him they were still trying to flip Prince's lieutenants. Howard

¹⁵ The physical abuse allegations eventually centered on Schumacher and the missing medallion allegations eventually centered on Scott. However, the initial allegations that the Rap-A-Lot suspects were improperly seized, were physically and verbally abused, and had expensive jewelry taken were against the team that was involved in the stop, which included numerous DEA agents and HPD officers.

¹⁶ Howard was referring to his and Schumacher's federal grade levels. Howard is a member of the Senior Executive Service (SES), and Schumacher was a Grade 13.

interpreted Schumacher's comments as meaning that there was nothing else to be done on the case and that there were no new leads.

We asked Howard about his contacts with Marshall during this period. Howard said that Marshall told him about the allegations and asked what Howard knew of the incident. Marshall wanted the background of the investigation in writing. Howard said that the Houston Field Division put together the "Historical Background" and faxed it to Marshall. Marshall sent back a copy of the Historical Background with his handwritten comments on it.

Howard told the OIG that he thought he "probably" told Marshall that he had told the agents they could not be proactive. According to Howard, since Marshall did not say anything back to Howard, Howard assumed that Marshall did not have a problem with his decision. Howard also said that he had several conversations with Marshall during which Howard expressed his frustration with the case and talked about closing it. Howard said that Marshall told him specifically not to close the case. Howard said that he told Marshall he was not closing the case but that they were being very careful. Howard again told the OIG that he believed that at some point he told Marshall that he had put some limitation on the case. Howard also said, however, that he had spoken to many officials at headquarters – Marshall, Chief Inspector R.C. Gamble, Deputy Administrator Julio Mercado, and Jimenez – and he could not remember exactly what he said and to whom.¹⁷ When the OIG continued to question Howard on what he had told Marshall, Howard said that he did not think that he told Marshall about his decision to place limitations on the case in his first call with Marshall. Howard went on to say that he thought over the course of the next few days he had probably told Marshall that they would not be running around "kicking in doors" and causing any trouble before "this thing" was cleared up.

¹⁷In a part of the interview dealing with discussions with Mercado, Howard said that he was "confident" that he had discussed with headquarters officials the restrictions that he had put on the case (*i.e.*, no proactive investigation without approval), but he again stated that he was not sure whom he had said it to or when. Later in the interview, Howard said that Mercado did not ask any questions about whether the group was being proactive so Howard said he assumed that Mercado knew they were not proactive. Howard said that he did not receive any questions from headquarters about what was going on in the Prince investigation. He said that headquarters was only concerned with whether the allegations made by Prince were true. None of the DEA headquarters personnel whom we spoke to recalled Howard telling them that he had placed restrictions on the operation of the Prince investigation.

While Marshall had told the OIG that he and Howard discussed reassigning Schumacher, Howard said that he did not recall having such a discussion. At the same time, Howard said that he probably did discuss with Marshall his feeling of responsibility for bringing Schumacher on to the case and that he felt he needed to get Schumacher away from it to protect his career.

3. Explanations of DEA Supervisors

Group Supervisor Nims told the OIG that he was not present when Howard made the statement to the investigators but that he heard about it from the investigators shortly thereafter.¹⁸ He said he was told that Howard had looked at his watch and said “as of [this date and time] there would be no more active investigation. Nims told the OIG that the investigators were stunned. Later in the day that Howard made his announcement, Nims talked to Howard to get a clarification. He was told by Howard that the group could work on the cases that were proceeding to trial but that any enforcement action had to be cleared through the chain of command. Nims said he did not ask Howard why the case had been curtailed. Nims also said that while Schumacher was upset, others were ready to move on to other cases. As Nims described it, there was more “elation than sorrow.” When asked about the effect of Howard’s restrictions, Nims said that there was not much of an effect. He said that the group was not doing much enforcement operations activity at that time anyway. In response to an OIG question, Nims said that he was not aware of Howard closing or restricting other cases. Nims said that he interpreted Howard’s instructions as “suspending” the case.

On December 6, 2000, Nims wrote to the Committee that he wanted to “clarify some issues which were raised today during testimony in regards to your committees’ inquiry into the James A. Smith, AKA Rap-A-Lot matter.” Nims wrote that because he had not heard Howard’s remarks to the investigators, he asked Howard for clarification. Nims stated in the letter that “... Mr. Howard informed me that he had suspended the case and advised me that until the OPR investigation targeting Group 4 was concluded, there was to be no enforcement action taken unless it was cleared through the chain of command.” Nims told the OIG that he recalled telling at least Schumacher that

¹⁸ Some of the individuals present when Howard made his statement to the group believed that Nims was present.

they could get approval for enforcement operations. However, according to Nims, none of the investigators ever brought him a proposal to do any enforcement operation. He also said that he did not ask the investigators if there were any enforcement operations that should be done.

Joura said that he heard about Howard's decision through the "rumor mill" shortly after Howard spoke to the Group 4/HPD investigators. Joura told the OIG that Howard had not told him of his decision or consulted with him about it before Howard spoke to the investigators. At some point, Howard told Joura that he had gone down to the Group 4 offices, had a meeting, and "shut it down." Joura said that Howard told him that they needed to back off, that Congresswoman Waters was calling headquarters about the status of the case, and that Howard did not want to expose Schumacher to any more criticism. Joura said his understanding was that the task force could not do anything more on the investigation until Howard gave them notice that it could proceed.

Joura noted that Howard had been a big supporter of the case and that it seemed uncharacteristic for Howard to suddenly reverse himself. Joura said he recalled that some of the task force members speculated that either Marshall or DEA headquarters had wanted it shut down. Joura acknowledged that he did not know if Howard had been told by headquarters to close the case. However, according to Joura, Howard did tell him that he had spoken to headquarters several times about the OPR investigation, and Howard had become increasingly frustrated about the matter.

Joura said that the agents and HPD officers who spoke to him, including Nims, were concerned about the closing and that they were demoralized. He said that the agents felt that there had finally been some movement in the case before Howard curtailed it. Joura told the OIG that he believed it was a classic overreaction by the DEA to a congressional inquiry. Joura could not recall any other case that had been stopped while an OPR investigation was proceeding. However, Joura also opined to the OIG that he personally did not think that backing off the case was a bad idea. Joura said his impression was that the case was not closed permanently; rather, that there were other things to work on until the OPR case was finished. Joura described Houston as a "target-rich" environment, meaning that there were numerous other cases to work on. Joura noted that the evidence still would have existed even if the case was resumed months later. Joura said that he continued to think that the Rap-A-Lot Records investigation would be reopened until, many months later, Howard told Joura

that headquarters wanted Schumacher out of Group 4 and enforcement operations.¹⁹

Marshall told the OIG that he had numerous conversations with Howard during the fall 1999 time period. Marshall said that initially they talked about Jimenez's interview of Prince and the private investigator's report, the importance of the allegations, and the seriousness of the allegations. Marshall stated that Howard's frustration began to build over the course of these several phone calls. During one of the conversations, Howard said something to the effect of "I can't believe all the hassle" and "I don't need these kind of headaches." Howard told Marshall that he ought to close the case. Marshall said that he told Howard not to close it, that allegations against agents were a routine matter, and that the OPR investigation should just run its course.

Marshall also told the OIG that they discussed removing Schumacher from the case because some of the allegations appeared to be corroborated and because of Schumacher's history of shooting incidents. Marshall could not recall who brought up the issue. Marshall said that they discussed reassigning Schumacher for his own protection. Both he and Howard were concerned because Prince claimed to be afraid of being shot by law enforcement officers, Schumacher had an extensive record of on-the-job shootings, and some of Prince's allegations regarding physical abuse and missing property had been corroborated. Given these factors, Marshall said, they did not believe that it was wise to leave Schumacher doing aggressive street work. According to Marshall, he told Howard that it was Howard's decision as to what to do with Schumacher. Howard told Marshall that he was going to reassign the case to another agent. In a second OIG interview, Marshall said that he understood that Schumacher would continue with the judicial aspects of the case and follow-up investigation but would not be on the street. Marshall said it was his understanding that Schumacher had been reassigned in the fall of 1999. Marshall told the OIG that it was his clear understanding that the restrictions Howard had imposed only applied to Schumacher, not the entire group, and that it would last only until the most serious allegations were resolved.

Marshall stated that Howard never told him that he had placed restrictions on the conduct of the investigation. Given the discussions he had with

¹⁹ We discuss Schumacher's reassignment later in this report.

Howard, Marshall believed that Howard should have told him about the restrictions he had imposed. Marshall said that he was clear with Howard that he “intended to have an active investigation, and I was led to believe that it was.” Marshall also stated that he believed Howard’s decision to curtail the investigation was unwarranted. Marshall said, “You don’t curtail a criminal investigation because of allegations like this. It runs counter to everything we do.”

4. September 27, 1999: Nims’ Memorandum to Marshall

Nims wrote a memorandum to Marshall, dated September 27, 1999, in which he stated:

I have recently been instructed by HFD SAC Ernest Howard not to pursue any new leads regarding James Smith, Rap-A-Lot et al, until the OPR investigation is cleared; however, we are cleared to talk to any witnesses and participate in any judicial proceedings. This is unfortunate because there are still many investigative leads and enforcement operations to carry out

* * *

In conclusion, I would respectfully request that you look at all the facts, realities, and truth of this OPR investigation and allow us to continue in our pursuit of justice against James A. Smith, aka “Prince”, without allowing his manipulative tactics to influence our decisions in our course of action

The memorandum was sent up through the chain of command and was reviewed by Joura and then Howard. Nims said that he was told by someone, possibly Joura, that Howard was not forwarding the memorandum to DEA headquarters. Nims said that Howard did not give him an explanation and that he did not ask Howard to explain why he did not forward the memorandum. Nims said his impression was that the memorandum was too “controversial” in that it set out Nims’ feelings about the OPR investigation.

Howard said that he received Nims’ memorandum through the chain of command. He did not send it to Marshall because he did not believe that it needed to go out of the office. Howard said that there was no need to send it on because everything in the memorandum was already known by Marshall. Howard initially acknowledged to the OIG that he had not seen anything

factually inaccurate in the memorandum. However, when we pointed him to the paragraph in Nims' memorandum referring to Howard's instructions (see first paragraph set forth on the previous page), Howard said that it was "not a true statement." When asked to explain, he said that Nims' words were accurate enough that he did not have to correct them. Howard reiterated that in his opinion, Marshall knew enough about the subject that the memorandum did not have to be sent. Howard said that he had not seen anything in Nims' memorandum that he thought that Marshall needed to know.

Because some DEA headquarters officials raised to the OIG the propriety of Howard not forwarding this memorandum,²⁰ we questioned Howard on the issue of whether supervisors have a responsibility to forward communication from subordinates to the head of the agency. Howard said that it was up to the officials in the chain of command to determine whether to send memoranda forward. He said it was likely that on other occasions Joura had stopped memoranda from coming to him. Marshall, on the other hand, told the OIG that Nims' memorandum "absolutely" should have been sent to him. Marshall said that Howard could have added his own memorandum if he disagreed with Nims' statements.

5. Effect of Howard's Announcement on the Investigation

We asked Schumacher, Scott, and the HPD officers if there was work to be done on the Rap-A-Lot investigation at the time that Howard made the announcement to stop all proactive investigation. They said they believed that there was work to be done and leads to follow at the time Howard curtailed the case. DEA Agent Scott told the OIG that the team felt like they had just started to get momentum in the case. HPD Officer Allen described the case as "really hot and heavy" before Howard's announcement. Some of the agents and HPD officers mentioned specific leads that they believed could have been pursued.

Yet, Howard emphatically asserted that his restrictions had little effect on the investigation. He stated that the HPD officers had left the investigation before his announcement because they had been under continual pressure from HPD supervisors to return to the HPD. He also said that at the time of his

²⁰ Although headquarters personnel did not receive a copy in the fall of 1999, they did much later. The Dallas Morning News quoted from Nims' memorandum in an October 2, 2000, article. Teresi obtained a copy following the news account.

announcement he had been repeatedly told by Schumacher that they were waiting to see if Prince's two lieutenants would "flip," so Howard believed that the restrictions did not interfere with an active investigation.

We found some corroboration for Howard's claim that the investigation was stalled prior to his announcement to the investigators. For example, Nims told the OIG that it was his recollection that there were not many leads to follow at the time that Howard made his announcement to the investigators. Burt Isaacs, the Assistant United States Attorney who supervised the Rap-A-Lot prosecutions, said that from his perspective, the Rap-A-Lot investigation began to slow after McCarter had been granted a new trial on July 29, 1999. Isaacs told the OIG that Schumacher and Stephens told him that informants were not coming forward because they were waiting to see what happened with McCarter.

In addition, we reviewed a report prepared by Allan Keaney, the Associate SAC of the DEA New York Division office. In November 2000, after the allegations leading to the OIG investigation were raised, Keaney was assigned by Marshall to review the Rap-A-Lot investigation with a new team of DEA and FBI agents to determine the viability of an investigation of Prince and Rap-A-Lot Records. Keaney wrote in the report:

During interviews of DEA personnel and the Houston P.D. supervisor it was determined that by September, 1999 the pro-active Smith case was void of any new leads and investigators were involved in judicial proceedings related to the four 1999 cases All interviewees related that it was not viable to attempt a pro-active case at this time against James Smith for current drug trafficking.

* * *

A review of these investigations provided no substantial information linking Smith to current drug trafficking either directly, or as an organizer or financier. Additionally, no actionable investigative leads were developed that were not followed up on.

Keaney said that this information was based on interviews with Schumacher, Stephens, Nims, and Joura. Keaney said that when he asked them what they would do if they got the "go ahead," no one could tell Keaney's team

what they would do next. We asked Keaney, based upon his review of the case file and his interviews, where the investigation would be today absent the OPR investigation and Howard's announcement. Keaney said that he believed the investigators would still be "out there scratching around, looking for weak links." He added that they probably would not have gotten information from defendants because they were scared of Prince. Keaney said it was an "honest, gallant" effort by the officers and agents, but he believed the case was exhausted and stalled following the trials of McCarter and Russell and before Howard's announcement.

Both Howard and Marshall stated at the Committee hearing that the Prince investigation was a "local impact" case and in the larger scheme of DEA cases, not a particularly significant one. Some of the Committee members questioned this characterization. Accordingly, we asked Keaney for his view of the significance of the Prince investigation. He stated that it was a "local impact" investigation, meaning that it did not have international or multi-jurisdictional implications. He said that during his review, he was told by the Assistant United States Attorney involved in the prosecutions that the case was not taken to the grand jury because it was viewed as a local impact crack distribution operation. Keaney said he believed that even in 1998 and 1999 the case was not among the highest priorities for the Houston office. He concluded by saying that in his opinion, Rap-A-Lot was not a major case because it had no multi-jurisdictional implications and because the DEA had no evidence that the target, Prince, was directing a major trafficking operation.

Stephens, the HPD supervisor on the investigation, provided to the OIG work records for his squad for its Rap-A-Lot activity:

<i>Date</i>	<i>Regular Hours</i>	<i>Overtime Hours</i>	<i>Total Hours Worked</i>
6/01/99 thru 6/30/99	1100	118	1218
7/01/99 thru 7/31/99	1200	154.5	1354.5
8/01/99 thru 8/31/99	1022	89	1111
9/01/99 thru 9/30/99	500	0	500
10/01/99 thru 10/31/99	0	0	0

The records show that there was some Rap-A-Lot investigative activity going on in September 1999 before Howard's announcement. However, the records also show that even before Howard's announcement and since the end of July 1999, the HPD had experienced a decline in the number of hours, particularly overtime hours, that they were putting into the investigation.²¹

We reviewed four Rap-A-Lot related case files. We found that 78 reports had been added to these four files since September 1999. While over half of the reports were clearly related to the status of judicial matters, we did observe that some of the reports reflected additional investigative work.

However, we also found evidence that contradicted some of Howard's claims regarding the effect of his announcement on the investigation. For example, Howard claimed that he did not order the HPD investigators to leave the investigation; rather, according to Howard, they left because they had been pressured by HPD supervisors to return.²² HPD Sergeant Stephens told the OIG that his captain wanted the HPD squad to move their offices back to HPD, essentially so that they would be checking in at HPD in the morning. Stephens said, however, that there was no pressure from his supervisors to discontinue the HPD work on Rap-A-Lot. HPD Captain Randy Ellen told the OIG that when he became captain in October 1998, he gave Stephens four months to show results on the investigation. Ellen said that the investigators began to have success right away, and so he decided to let them continue working with the DEA until the case ended. He said that he never pulled them back once the investigators began showing results.

With respect to Nims' contention that there were no leads to follow, we asked him why, if that were true, he had written in his September 1999 memorandum to Marshall complaining about Howard's instructions, "This is unfortunate because there are still many investigative leads and enforcement

²¹ Although the low September numbers may be in part a reflection of the effect of Howard's announcement, we do not believe the announcement was the sole reason for the reduction. Howard's announcement likely came close to the end of September. Therefore, it is unlikely that, but for Howard placing the restrictions on the investigators, they would have put in an additional 500 hours in little more than a week.

²² Nims also wrote in his December 6, 2000, letter to the Committee that the DEA agents and the HPD officers were still working together at the time of Howard's announcement but that "it was mainly regarding judicial proceedings and I know that Sgt Stephens had been under pressure for sometime for him and his squad to return to HPD Headquarters as his Captain wanted them back there."

operations to carry out.” Nims said he did not know why he wrote that because he could not recall any particular leads or operations that needed to be carried out. Nims also said that he wrote the memorandum mainly to show support for his group.²³

Conclusion: It is undisputed that the Rap-A-Lot investigation was “open” in that the case files had not been closed. Furthermore, some reports showing investigative activity were being added to the case files even after September 1999. However, the evidence shows that from the time of Howard’s announcement in the fall of 1999, the investigators significantly decreased their activity on the investigation and the HPD officers ceased working on the case completely. The evidence shows that the HPD officers stopped working on the investigation as a result of Howard’s instructions, not because they were under pressure from HPD supervisors. While Howard’s repeated assertion that he did not order the HPD officers to leave is literally true, this ignores the fact that his instruction to cease all proactive work would naturally lead to the departure of the HPD investigators from the investigation.

The investigators have strongly asserted that their inactivity was due to Howard’s decision to prohibit them from conducting proactive investigation. They assert that there were leads that could have been and would have been followed but for Howard’s instructions. Furthermore, a contemporaneous document – Nims’ September 27, 1999, memorandum – also takes the position that there were outstanding leads. On the other hand, the evidence is clear that the judge’s ruling in July 1999 to grant McCarter a new trial had a definite negative impact on the investigation. Furthermore, the investigators were unable to identify any outstanding leads when questioned by the new investigative team.

The evidence was insufficient to allow us to make a definitive conclusion about the exact effect of Howard’s announcement on the investigation. We believe it is not fair to conclude that Howard’s announcement was the sole

²³ We were not entirely convinced by Nims’ explanation. Several individuals told us that Nims seemed concerned and upset by Howard’s announcement. In addition, Nims said that other than the September 27, 1999, memorandum, he has not written to the head of the DEA on any other occasion. We doubt that Nims would have written to Marshall simply to show his group that he was supporting them, and we also doubt that he would have written about additional leads unless he had something in mind.

cause of the inactivity of the investigators. Furthermore, the investigation was still far from reaching Prince at the time of Howard's announcement. Nonetheless, we do not know what would have happened had the investigators continued to look for leads rather than going on to other cases. We believe that whether the investigation was closed, as the agents perceived, or temporarily limited, as Howard labeled it, Howard's actions effectively ended an aggressive pursuit of the subjects of the investigation.

6. OIG Conclusions Regarding Howard's Instructions to the Prince Investigators

One of the key questions we sought to answer was whether Howard was ordered by DEA headquarters personnel to close or curtail the investigation. Some DEA personnel and HPD officers opined that Howard seemed quite unhappy when he was giving the investigators the instruction to curtail the investigation, that he had previously been a strong supporter of their efforts, and that his sudden reversal was an indication that Howard was not acting on his own. There is no doubt that the circumstances under which the case was curtailed were unusual. Nonetheless, we believe Howard acted on his own and that the decision was his. First, there is no direct evidence that headquarters was involved in the decision or even knew that Howard had made the decision until, at the earliest, July 10, 2000, the date of an e-mail sent to headquarters personnel.²⁴ Second, Howard said that he curtailed the case to protect the agents, and in September 1999 the OPR investigation was at its most intense. OPR investigators were interviewing Houston Field Division employees and were finding some corroboration for the allegations made by Prince, including corroboration from a DEA agent. Third, while some individuals expressed doubt that Howard would change from being a strong supporter of the case to curtailing it unless he was ordered to, we believe Howard's actions were consistent with his management style. Based on our interviews with Howard and those below and above Howard in the chain of command, we found Howard to be a supervisor capable of making, and likely to make, decisions quickly and without consulting other managers.

²⁴ This e-mail was sent to Toni Teresi, Chief of DEA's Office of Congressional Affairs, and others at headquarters. The e-mail stated that Howard had told the agents to shut down the case because "it is not worth it." We discuss this e-mail later in the report.

We do not believe that either Congresswoman Waters or DEA headquarters improperly put pressure on Howard to close or curtail the DEA investigation of Prince.²⁵ Rather, we believe that Howard became extremely frustrated with the OPR investigation, that he felt responsible for putting Schumacher's career in jeopardy, and that he decided it was more prudent to curtail the investigation than to leave Schumacher in a position where he would continue to be scrutinized. Several individuals told us that Howard had tried repeatedly to get Schumacher promoted and that Howard spoke of feeling responsible for "ruining" Schumacher's career. We believe Howard's concern for and desire to protect Schumacher was a key motivating factor behind his decision to curtail the investigation in September 1999. Marshall's discussion with Howard in September 1999 about removing Schumacher from the investigation may well have triggered Howard's decision. Howard may have felt that he would rather curtail the entire investigation than single out Schumacher by removing him alone from the investigation. That is not to say that Congresswoman Waters' involvement in the matter played no role in Howard's thinking. We do not know whether Howard would have reacted in the same fashion if Prince had simply complained directly to the DEA rather than Congresswoman Waters writing to the Attorney General. We believe that Howard thought that the agents' actions would be intensely scrutinized by Congresswoman Waters, headquarters, and the Attorney General. Howard likely concluded that he could protect the agents, particularly Schumacher, by ending their street work and that there was little cost to doing so because, in Howard's view, the investigation was stalled anyway. Therefore, we concluded that Howard's decision was an overreaction to a Congressional inquiry and the OPR investigation.

We interviewed Howard at length about his reasons for restricting the investigation. While we believe Howard was genuinely concerned about and sought to protect his agents, we nonetheless believe that his decision to curtail the investigation was inappropriate. Howard acted impetuously, without

²⁵ Although two of the HPD officers testified at the congressional hearing that Howard spoke of "political pressure" when he made his announcement to the group, it is not at all clear what Howard said to the group by way of explanation for his actions. Only Chaison told the OIG that Howard talked about "political pressure." The other agents and officers varied as to whether Howard mentioned either individually or in combination "headquarters," "Waters," "politics," "OPR," or "pressure." Indeed, some of the witnesses said that they did not recall any mention of Congresswoman Waters, headquarters, or politics.

giving any thought to the consequences of his decision. He acted unilaterally without consulting others before taking the unusual step of curtailing an ongoing investigation. Furthermore, he made no effort to determine what effect such an order might have on the investigation. While Howard told the OIG that he believed the investigation was stalled, he said that he based that knowledge on the responses he got when he would ask Schumacher or others, "how's it going" or "what is happening" when he happened to be in the hallway or in the Group 4 offices. We do not believe that these informal conversations were a sufficient basis upon which to decide that the investigation was essentially over and that therefore curtailing enforcement operations would have little effect. Furthermore, Howard should have been more cognizant of the appearance problem that would naturally be generated by curtailing an investigation after a suspect had made allegations to a member of Congress. Curtailing an investigation under these circumstances would likely give rise to the question of whether politics played a role in the decision. This problem was compounded by the manner in which Howard announced his decision: suddenly and with very little explanation. The other consequence, also not considered by Howard, was the potential for generating false complaints against agents once suspects learned that making a complaint might curtail the investigation against them.

Our conclusion that Howard's decision to curtail the investigation was inappropriate is based upon our conclusion that the investigators believed that they were not permitted to engage in any further proactive enforcement operations. However, Howard has insisted to us that he told Nims that the agents could do proactive operations if they received approval from an Associate SAC or himself. If Howard had given these instructions to the investigators, our conclusion might be different. We believe that it would have been within appropriate managerial discretion to require an additional level of supervision regarding enforcement operations when there is an active criminal investigation and an OPR investigation going on at the same time. Because of the conflicting evidence on this point, we are unable to reach a conclusion regarding what Howard told Nims. Nims wrote the Committee that Howard told him that "there was to be no enforcement action taken unless it was cleared through the chain of command." However, we note that Nims' September 27, 1999, memorandum to Marshall makes no mention of that detail even though it mentions other conditions, such as that the restriction was only

for the duration of the OPR investigation and that the agents could talk to witnesses and continue with the judicial proceedings.

However, even if Howard did tell Nims that enforcement operations could go forward with supervisory approval, Nims failed to pass along that information to the Rap-A-Lot investigators. Nims told the OIG that he passed on Howard's information to the group, at least to Schumacher. Schumacher denied being told that he could continue with enforcement operations if he received approval from the SAC or the Associate SAC. We believe it more likely that Schumacher did not know of the condition. If he had, Schumacher would likely have told HPD Sergeant Stephens, who also said that he was unaware that enforcement operations could go forward if approved. Schumacher also would likely have sought approval for some type of enforcement operation from Joura, who was a close friend. If Howard did intend to only place a more rigorous level of supervisory review on the case, we believe that, given the confusing circumstances under which Howard issued his instructions, that he and Nims should have taken steps to ensure that the investigators truly understood the instructions and the limited nature of the restriction. Yet, neither Nims nor Howard made any real effort to find out whether there were any enforcement operations that the group should be doing and for which approval should be sought.

We also believe that Howard did not handle Nims' September 27, 1999, memorandum appropriately. At a minimum, Howard should have discussed the memorandum with Nims. If Nims wanted the memorandum sent forward, Howard should have done so, adding his own explanatory memorandum if necessary. If Howard had sent the memorandum forward, the issue of Howard's restrictions could have been immediately resolved.

F. DEA Provides Congresswoman Waters with a Written Response and a Status Report

By letter dated December 23, 1999, the Assistant Attorney General for the Office of Legislative Affairs informed Congresswoman Waters that the DEA had referred her allegations to its OPR and that she would be notified of OPR's findings. The letter also stated that because of confidentiality issues, the Department of Justice could neither confirm nor deny the existence of an investigation into Prince's affairs.

Marshall told the OIG that when he met with Attorney General Reno on January 13, 2000, for a regular DEA meeting, the Attorney General asked him if he had given Congresswoman Waters a status report on the Houston matter. Marshall said that he told her that he would check to see if it was appropriate at that time to provide such a report. Marshall added that he had the impression that the Attorney General wanted Congresswoman Waters to have a follow-up report, so he checked with Chief Inspector R.C. Gamble.²⁶ Gamble told him that the OPR investigation was substantially finished. Marshall said he told Gamble to contact Congresswoman Waters and tell her where they were in the process but not to provide any details of the investigation.

Gamble said that his first involvement with the case was in the Administrator's office when Marshall told him to brief Congresswoman Waters. Marshall told him to brief Congresswoman Waters on how the process worked but not to provide any details. Prior to the briefing, Gamble received briefing notes from OPR staff, which he provided to the OIG. He told the OIG that he went alone to Congresswoman Waters' office for the meeting, which occurred on February 9, 2000. Gamble said that he did not discuss the details of OPR's investigation. He told her that the OPR investigation was ongoing and that after the fact-finding was concluded the case would be sent to a DEA review panel for administrative review. He said that Congresswoman Waters had two primary concerns. She was interested in the return of the gold medallion that had been taken from one of the Rap-A-Lot suspects. She told Gamble that it would show "good faith" on the part of the government to return the necklace to its owner. Gamble said that he told her that if the medallion had no evidentiary value it could be returned. She also expressed concern about Schumacher. According to Gamble, Congresswoman Waters told him that Schumacher was a "killer" and that people in the Houston community were afraid of him. She wanted to know what the agency was going to do with him. Gamble said he told Congresswoman Waters that the investigation had to run its course and that it would be up to the review board to determine what

²⁶ The Attorney General told the OIG that she did not recall asking Marshall to update Congresswoman Waters at that time. However, she said that this type of matter could well have made it onto her "get back list." Attorney General Reno also said that, although she had no particular recollection of events, she would likely have handled the situation by telling Marshall to have someone sit down with Congresswoman Waters and explain to her that the matter was under consideration and would be handled appropriately.

happened to Schumacher. Gamble said that Congresswoman Waters did not ask him to do anything.

After the meeting, Gamble asked Deputy Chief Inspector Brown, the head of OPR, if the necklace had any evidentiary value and, if not, to coordinate with Howard to return the necklace. Brown told him that it had no evidentiary value, which Gamble assumed meant that it had no evidentiary value to either the Prince investigation or the OPR investigation. Brown told the OIG that his response referred only to the OPR investigation, although he said he believed the OPR investigation had established that the necklace had no value to the investigation of Prince.

G. Reassignment of Schumacher

Issue: Was Schumacher transferred to impede the investigation of Prince?

On March 15, 2000, Joura sent a memorandum to all Houston Field Division personnel announcing that Schumacher had been reassigned from Acting Group Supervisor of Group 4 to Acting Group Supervisor of the Special Support Group.²⁷ The Special Support Group is a non-law enforcement position that handles training and firearms and coordinates OCDETF and informant tasks. We detail below the events leading up to Schumacher's reassignment.

1. March 9-10, 2000: Houston Field Division Management Conference

On March 9 and 10, 2000, the DEA Houston Field Division held a management conference in McAllen, Texas. According to several of the participants, the OPR investigation and Schumacher were discussed when several Houston Field Division and DEA headquarters officials gathered informally while waiting for dinner. Howard, Gamble, Joura, and Houston Field Division Assistant SAC Ronald Pierro were present. Deputy Administrator Mercado may also have been present. The participants differed on most of the details of this conversation – the timing of the gathering, the persons present, and the subject matter of the discussion.

²⁷ Schumacher had been promoted in January 2000 following Nims' promotion to Acting Assistant SAC. Even after September 1999, Schumacher continued to perform some limited tasks relating to Rap-A-Lot.

Before transferring to the Houston Field Division, Pierro had been an OPR inspector and had worked on the OPR investigation of the Prince allegations. Pierro said that he was sitting at a table with Howard, Gamble, Mercado, and Joura when the topic of the OPR allegations came up. Pierro recalled that Mercado had the impression that there had been racial profiling in the case. Pierro said that he spoke up and explained the facts of the investigation to Mercado. Pierro recalled Mercado saying, "Let's get together on this on Monday."

Joura told the OIG that there may have been two conversations about the OPR investigations, one at lunch and one while people were waiting for dinner. He said he had difficulty separating one conversation from the other. He recalled Howard and Gamble being present and that Pierro was present at the dinner conversation. In an initial OIG interview, he identified Mercado as being present, but in his second interview, Joura said he was unsure as to whether Mercado was present. A conversation about the Rap-A-Lot Records investigation was already ongoing when he joined the group. Joura recalled that Gamble, and possibly Mercado, believed that Schumacher had been harassing the Rap-A-Lot associates and possibly had been involved in a physical assault. Joura said that Pierro told them some of the details of the OPR investigation. For example, Pierro said that while a DEA agent had allegedly witnessed a physical assault by Schumacher, the agent had been discredited and other officers on the scene had not supported the allegation of the assault. Joura also said that Howard was vehemently defending Schumacher and was talking about promoting Schumacher.

Howard also remembered the discussion at the management conference. He told the OIG that he had a discussion with Gamble and Mercado about moving Schumacher. In a second interview, Howard said that he recalled a general discussion about the OPR allegations, but he did not recall discussing moving Schumacher. He also said he was unsure if Mercado was present.

Gamble initially told the OIG that he had not received any information about the Prince matter during the management conference. In a second interview, Gamble told the OIG that Pierro spoke about the OPR investigation. He said that Schumacher's and Scott's names were probably mentioned. Gamble said it was possible that they discussed Schumacher at the conference. In a third interview, Gamble said he did not know how the conversation got started but that Pierro told the group that he did not see much merit to the

allegations. He said that he did not “weigh-in” with a conclusion because he did not know the facts of the investigation well. Gamble said that he might have discussed moving Schumacher out of enforcement at the management conference.

Although Mercado recalled the management conference, he said that he did not recall being part of any discussion about the OPR investigation of Schumacher during the management conference. He said that he joined the group late after the others had been talking for some time.²⁸ Some individuals specifically described Mercado as being part of the conversation, but others said that they either did not recall Mercado being part of the discussion or were unsure.

2. March 2000 E-Mails

In March 2000, Howard sent several e-mails to DEA headquarters personnel discussing the Rap-A-Lot investigation. In the most significant of the e-mails, Howard stated that he was reassigning Schumacher and that he was closing the Rap-A-Lot investigation. These e-mails gave rise to the allegations that Howard misled the Committee in July 2000 when he said that the Rap-A-Lot investigation remained open. We summarize the relevant e-mails as well as various witnesses’ explanations about them. (We include the e-mails at Exhibit C.)

a. March 1, 2000, E-mail

Associate SAC Joura e-mailed Howard to let him know that DEA OPR had possession of the gold medallion.

Howard told the OIG that Gamble told him to give the medallion back to the defendant. Howard instructed Joura to make the arrangements to do so. In this e-mail, Joura informed Howard that DEA OPR, not the Houston Field Division, had the medallion.

²⁸ Almost everyone involved in this gathering described themselves as arriving “late” or after the conversation had already started.

b. *March 12, 2000, E-mail*

Howard e-mailed Deputy Chief Inspector Brown that "After discussing the matter with R.C. Gamble, it was decided that in the best interests of the DEA" the medallion should be returned to its owner. Howard requested that the medallion be returned to him so that he could personally return it.

Howard said that this e-mail was also the result of his conversation with Gamble regarding the medallion.

c. *March 14, 2000, (9:44 am) E-mail*

Brown wrote Howard (with a cc to Gamble) that the medallion had previously been sent to Nims. "We did this after R.C. Gamble's meeting with Congress Woman when he provided her with an update on the investigation." Brown also noted that OPR was waiting on the transcripts of the interviews with Schumacher and Scott before sending the investigation to the Board of Professional Conduct²⁹ but that "As you know, not much of a civil right violation nature ever was shown to have happened."

Howard said that he was aware that Gamble had met with Congresswoman Waters before receiving the e-mail. He believed he also knew the status of the investigation before Brown's comment in the e-mail.

d. *March 14, 2000, (1:52 p.m.) E-mail*

Gamble wrote Howard that he needed to discuss the matter with him. Gamble wrote:

²⁹ After the completion of an OPR investigation, the OPR report is sent to the Board of Professional Conduct, which actually makes the determination of whether an agent has violated DEA standards and whether discipline should be imposed. A deciding official then reviews the Board's decision before the investigation is considered complete. OPR's report on its investigation into Prince's allegations was sent to the Board of Professional Conduct on March 29, 2000. The Board made its decision on October 2, 2000. The deciding official upheld the Board's decision on October 19, 2000. Schumacher was cleared. Scott was given a Letter of Reprimand based on his failure to follow proper DEA procedures regarding the handling of seized property. Some witnesses and some Committee members questioned the length of time DEA took to resolve the allegations. We did not specifically investigate this issue. However, we note that in a previous OIG study, the DEA reported that for cases investigated by OPR from 1995-1997, the investigative phase took more than 180 days to complete in 45 percent of the cases. In explaining the length of time that the Board of Professional Conduct took to review the OPR report, Marshall testified before the Committee on December 7, 2000, that during this time period the Board was understaffed and had numerous other high-priority cases to decide.

In view of my meeting with Congressman [sic] and our guy's apparent failure to adhere to some basis [sic] administrative procedures, fact matter was referred to civil rights division and others, while not necessarily critical or essential, but of high profile with some possible political overtones, and as you know, all politics are local and somewhat sensitive here with racial profiling perceptions and etc. call in questions [sic] the overall capability to be effective without an onslaught of allegations and unsubstantiated speculations on the part of our Agent. Considerations and comments on best options, notice I need some options with the "s" ...In the Bond/

Gamble told the OIG that in this e-mail he was asking Howard how he was going to handle his "liability," meaning Schumacher. The "possible political overtones" referred to in the message concerned the racial profiling issue that was high-profile at the time. Gamble said that the phrase "I need some options with the 's'" referred to Schumacher. Gamble said that he and Howard are fraternity brothers and "In the Bond" is a fraternity expression. Gamble said that he did not recall what prompted this e-mail.

Howard said he understood Gamble to be referring to the racial profiling allegations when he wrote "possible political overtones." Howard said that "our Agent" referred to Schumacher. According to Howard, the issue of what to do about Schumacher was on his mind although he said he did not recall if he had decided to move Schumacher at this point. Howard acknowledged that the e-mails could have been the result of the discussions at the management conference.

e. March 14, 2000, (3:45 p.m.) E-mail

Howard e-mailed Gamble, "CALL ME at"

Howard also called Gamble and left a message at 3:54 p.m.

f. March 14, 2000, (6:21 p.m.) E-mail

Howard e-mailed Mercado and Gamble:

I understand that the situation involving "RAP-A-LOT" and James SMITH aka James PRINCE has only gotten worse. To eliminate any further difficulty in this matter, I have decided that the

Houston Division will curtail any enforcement action against this subject. Further I am transferring SA Jack Schumacher from Enforcement Group 4 to be the Acting GS of the Special Support Group. That group has no enforcement activity and presently lacks a Supervisor. This is an unfortunate occurrence [sic] in that SA Schumacher became involved with this investigation due to my insistence that he become involved approximately a year ago. Prior to that this case had been sitting in HIDTA for about 3 yrs. with a lot of intell, but no action...

* * *

At any rate, it's over and we are closing our case on PRINCE.

Howard told the OIG that his comment that the situation had “gotten worse” referred to the fact that he had tried to call Mercado and Gamble earlier in the day. He said that he wanted to find out what was happening with the OPR investigation because it had been ongoing for some time. Howard said that nothing seemed to be getting better. Howard said that his comment was the result of “everything that is going on” and the result of what Gamble had written in the previous e-mail. When pressed to articulate what had gotten worse, Howard responded that there was still a lot of talk “out there” about the OPR investigation. He reiterated that he was referring to the “totality of the whole thing,” and he felt that he had caused everything that had happened. Howard said that he had no conversations with Gamble or Mercado in between his 3:45 p.m. e-mail and the 6:21 e-mail. Later in the OIG interview, Howard said that the series of e-mails was set off by the issue surrounding the return of the necklace. He said that he viewed it as an attempt to appease Prince.

Howard was asked about his statement, “To eliminate any further difficulty in this matter, I have decided that the Houston Division will curtail any enforcement action against this subject.” Howard said that he wrote this because he wanted Gamble and Mercado to call him. Howard said that he knew when Mercado and Gamble read the e-mail that they would call him immediately. Howard reiterated several times during this portion of the interview that the comment about curtailing the investigation was his way of getting Mercado and Gamble to call him immediately. Howard said that Mercado and Gamble were close friends to whom he would “vent.” Howard said he was very frustrated and that he was begging for their help when he wrote that statement. Howard said that he was calling them to get him “off the

roof.” He said the statement was written to get a reaction from Gamble, so that Gamble would call him. Howard added that Gamble was one of the few people who could calm him down. Howard insisted that, despite what he wrote, he had not closed the investigation nor had he even curtailed the enforcement action against Prince.

Howard said that Gamble and Mercado probably called him shortly after they received the e-mail and calmed him down. Howard stated he was unsure but they probably said something to the effect of “you’re not really going to close the case are you?” Howard said he responded no, that he just wanted them to call him. Howard said they discussed reassigning Schumacher but that he had already made the decision to do so.

Gamble told the OIG that he and Mercado talked to Howard at some point during this series of e-mails. Mercado told Howard that he could not close the case. Gamble could not recall if they discussed Schumacher during this phone call. At one point during our initial interview with Gamble, he said that he had a phone call with Howard before the e-mails during which Howard spoke about closing the case. Gamble said he told Howard that the issue was Schumacher, not closing the case. Later in the interview, Gamble said that he did not recall Howard talking about closing the case.³⁰

Mercado, like Gamble and Howard, had difficulty recalling his involvement in the matter during the period surrounding the e-mails. In his initial interview with the OIG, Mercado recalled receiving Howard’s March 14 e-mail. He said he called Gamble to join him in a phone call to Howard. Regarding Howard’s statement about closing the investigation, Mercado said he asked Howard, “Are you nuts?” Mercado said he had known Howard for 20 years and that he knew Howard was “venting.” Mercado told Howard not to close the case but that Schumacher had to be reassigned. During this interview, Mercado told the OIG that Marshall had made the decision to remove Schumacher but did not instruct Mercado to tell Howard.

In a second interview, Mercado said that he made the decision to remove Schumacher. Mercado was unclear about when he made the decision or when

³⁰ We spoke with Gamble on four occasions on three different days. On numerous occasions during these interviews, Gamble would revise or retract statements that he had previously made, and we had difficulty determining what Gamble was saying occurred.

he told Howard. Mercado said that he had been under the impression that Schumacher was not working on the Prince investigation. At some point, possibly around the time of the March e-mails, Mercado heard that Schumacher was still working on the Prince investigation, and he became concerned. Mercado said he told Howard that if Schumacher were to get involved in a shooting, the DEA would have no way to defend itself. Mercado told the OIG that he believed Schumacher needed to be reassigned because of his shooting history. He said Howard responded angrily, arguing that Mercado was punishing Schumacher.

During this second OIG interview, Mercado found an entry in his calendar reflecting that Mercado and Gamble had met at 11:00 on March 14, 2000, to discuss Schumacher.³¹ Mercado could not recall what they discussed or who initiated the meeting. Gamble also did not recall what he and Mercado discussed at the meeting.

g. March 15, 2000, (10:03 a.m.) E-mail

Gamble responded and advised against placing Schumacher in a supervisory position until after the Board of Professional Conduct decided the matter.

h. March 15, 2000, (10:20 a.m.) E-mail

Howard e-mailed Gamble (with cc's to Mercado and Joura) stating, "I discussed this with [Mercado] and he said that it was okay to place [Schumacher] where I previously stated." Howard then provided a short, exculpatory explanation of the events that led to the allegations against Schumacher. In the second paragraph of the e-mail, Howard wrote:

³¹ Mercado initially told the OIG that Marshall was present for this meeting, that they received a briefing from Gamble on the OPR investigation, and that Marshall was concerned that the investigation was taking too long. After the conclusion of the interview, Mercado informed us that he had checked Marshall's calendar and found there was no March 14 entry for a meeting with Mercado and Gamble. Gamble's calendar reflected a meeting but only with Mercado. Marshall told the OIG that he believed Schumacher had been off the Prince investigation since the fall of 1999 and that he did not recall meeting with Gamble or discussing Schumacher after Gamble briefed him in February about his meeting with Congresswoman Waters. A note from a briefing that Marshall provided the Attorney General on February 23, 2000, shows that Marshall told the Attorney General that Schumacher was no longer working the Prince investigation. Marshall said that he did not check with anyone before making this statement but relied on his understanding from his fall 1999 discussions with Howard.

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Also what is of concern with me is the fact that Ton [sic] Constantine and Greg Williams³² were both briefed on this case and the potential political pressure associated with it because a major player is a prominent Paster [sic] and the Major Pro Temp. [sic] Now we bow down to the political pressure anyway. If I had known this, I would have NEVER brought Jack in this case, nor would I have even pursued it. But it is over now. The Houston Division will terminate all active investigation of Rap-A-Lot, except for those persons who have already been arrested/indicted. If ANY information comes to the attention of agents in the Houston Division regarding RAP-A-LOT or James SMITH, it will be vetted through Hqs. prior to ANY action taken here.

Howard told the OIG that “Now we bow down to the political pressure anyway” referred to the fact that the allegations had caused them to slow down the investigation. Howard said, again, that he was frustrated about the allegations against Schumacher in particular because he had brought Schumacher into the case. Howard emphasized to the OIG that he made the decision to reassign Schumacher and that he felt that he did not have any choice. He told the OIG that if he had not made the decision, then DEA, the Department, and the federal government might be liable if “something happened.” Howard also said that “political pressure” referred to “everything,” the “whole atmosphere” that was occurring at the time. He also said that political pressure referred to Prince, who “played the game to the max.”

The OIG asked Howard why he again raised the issue of closing the case. Howard responded that he was still frustrated and that he was “sick of the whole process.” He said he did not know why he wrote about closing the case when he had been repeatedly told by headquarters not to close the case. Howard said, “I just wrote it. They are friends of mine. I just say things to them.” Howard told the OIG that he did not know why he copied Joura on the e-mail but that he did not discuss the e-mail with Joura. Howard told the OIG that neither Gamble nor Mercado asked him to explain his e-mails at the time.

³² Tom Constantine was the DEA Administrator prior to Marshall, from March 1994 to July 1999. Greg Williams was DEA’s Chief of Operations.

Howard told us that he would never close an investigation because someone in Congress told him to. "I would retire first," he said.

Gamble said that he did not follow-up with Howard after this e-mail even though Howard was again writing about closing the case. He said that he did not ask Howard about his comment because the status of the Prince investigation was an operational matter, which was not Gamble's responsibility.

Mercado said that he may have called Howard after this e-mail but he could not recall any details of the conversation. Mercado said that he probably did not report these e-mails to Marshall because personnel issues were Mercado's responsibility, and he believed that he handled the problem.

i. March 16, 2000, E-mail

Group Supervisor Nims e-mailed Howard that Vice President Al Gore was in Houston a few days earlier and that he had spent time at the Brookhollow Baptist Church. Nims wrote that Prince might have been in attendance at the church at the time of Gore's visit. Nims asked whether Howard had heard anything about the visit and whether "the Congresswoman" was there as well. Howard responded a short time later confirming that Vice President Gore had visited the church, that Prince was at the church at the same time as the Vice President, and that Prince "undoubtedly had a picture session as well."

Howard said there was talk in the office about Gore being at the church with Prince. However, Howard said that he did not know of any connection between Gore's visit and anything that happened to the Prince investigation.

Conclusion: Analyzing the March 14 and 15 e-mails, we believe Howard's phrase "the situation ... has only gotten worse" referred to Howard's realization that he either had been or was about to be ordered to move Schumacher. We do not credit Howard's contention that he wrote that "the Houston Division will curtail any enforcement action" because he wanted Mercado and Gamble to call him. Rather, we perceived it as Howard's way of expressing his anger at headquarters' demand that he reassign Schumacher -- in essence, a petulant response to an order that he did not like. We also believe that the phrase, "Now we bow down to the political pressure anyway," reflected Howard's belief that headquarters was moving Schumacher because of Congresswoman Waters' concerns and that Howard arrived at this

conclusion as a result of conversations with Gamble. We discuss these conversations in the following section of the report.

3. DEA Officials' Explanations of Why Schumacher Was Reassigned

Schumacher told the OIG that Joura's March 15, 2000, memorandum was the first he learned of his reassignment. He said that no one explained to him the reason for the reassignment from Acting Group 4 Supervisor to Acting Group Supervisor of the Special Support Group. Schumacher told the OIG that he had received a telephone call from someone he refused to identify to the OIG. The caller left a message that headquarters had found out Schumacher was still working on the investigation and that they wanted Schumacher off the case and out of Houston.

Joura told the OIG that even though he has now seen all the e-mails, the only one he saw in March was the March 15 (12:20 p.m.) e-mail on which he was copied by Howard. Joura said that Howard's frustration level was very high during this time period. Howard told Joura that headquarters wanted Schumacher out of enforcement while the Board of Professional Conduct was making its decision. Joura said that he thought Howard copied him on the March 15 e-mail to show him that it was not his decision to move Schumacher. Joura said that on one occasion he and Howard had a brief conversation about moving Schumacher. Howard said that he wanted to move Schumacher for his own protection. Howard told Joura that he was trying to get Schumacher promoted and that he did not want any more complaints against Schumacher.³³ Joura was asked by the OIG why Schumacher was moved in March 2000 when the OPR investigation was finished and it was clear that the allegations against Schumacher would not be sustained. Joura agreed that the timing did not make sense, but he said that he did not ask any questions about it even though he was the one who told Schumacher that he was being reassigned. Joura told the OIG that Schumacher's reassignment in March effectively closed the case. Joura described the case as "running in the background" even after Howard had

³³ Joura was initially unsure of the time period for this conversation, whether it occurred in September 1999 or March 2000. He later said that he had no discussions with Howard in September about removing Schumacher from the case.

curtailed it in September. But, according to Joura, Schumacher was the “sparkplug” of the investigation who galvanized the rest of the team. Joura said that Howard knew that reassigning Schumacher would kill the case.

Nims said that one evening after he had become the Acting Assistant SAC, he was in Joura’s office when he was told that Howard wanted to meet with them. Howard told them that he had received a call from headquarters and that Schumacher was to be pulled out of enforcement and moved to be the Acting Group Supervisor of another group. Joura said that he would tell Schumacher. Howard asked Nims who he wanted to be the Group Supervisor of Group 4 to replace Schumacher. According to Nims, there was no discussion of the reason for moving Schumacher. Nims said that he assumed it had something to do with the Rap-A-Lot investigation. Nims said that Schumacher never asked him for an explanation.

Gamble said that he told Howard about his February 9, 2000, conversation with Congresswoman Waters. Gamble had difficulty determining the date of his conversation with Howard. He said that Howard is a close friend, and he spoke with Howard regularly, at least once a week, about both work and personal issues. He said that he told Howard that Congresswoman Waters was concerned about Schumacher and his reputation as a “killer.” According to Gamble, he then discussed with Howard the ramifications of leaving Schumacher in an enforcement position.

Gamble told the OIG that he was concerned that if something happened, in particular if Schumacher shot someone, that the DEA would be liable. He said that he told Howard, “You don’t want this to blow up in your face.” Gamble told the OIG that in light of a “rash of shootings” that had happened at the time and Congresswoman Waters’ concerns that Schumacher was a “killer,” he felt a responsibility to “weigh-in” to protect the DEA and Schumacher as long as the OPR investigation was continuing. He said further that he would have been “remiss in my duties” if he had not told Howard to find a way to deal with the issue. During the December 6, 2000, Congressional hearing, Gamble also spoke about the connection between his meeting with Congresswoman Waters and his own concern about Schumacher. Gamble told the Committee members, “And the whole genesis behind this was because it was a safety issue that had come to my attention from my meeting on the ninth with the congresswoman, all right.”

Gamble said that he did not instruct or order Howard to reassign Schumacher; rather he was only discussing his concerns with Howard. Gamble said he could not recall Howard's reaction to his suggestion. He said that Howard probably listened to his concerns, that Howard may have been frustrated by their discussion, and that Howard may have argued the point. Gamble said that Howard often disagrees but then comes back later and agrees.

In response to OIG questioning, Gamble said that before making the suggestion about reassigning Schumacher, he had not obtained additional information from OPR about the merits of the allegations made against Schumacher; he had not inquired with the Houston Field Division about the status of the Prince investigation; and he had not inquired about Schumacher's role in the Prince investigation. He said that he did not know whether Schumacher was still working on the Prince investigation. Gamble told the OIG that moving an agent was routine and should not have caused an impact on an investigation.³⁴

Howard told the OIG that at this time his frustration was building, and he believed that the "whole thing" was getting out of hand. He told the OIG that he was trying to get Schumacher promoted, that the investigation of Prince was at an impasse, and that he had to move Schumacher because he was still the main target of the OPR inquiry. Howard stated that that it was his own idea to move Schumacher. Howard was asked whether Gamble had instructed him to reassign Schumacher. Howard said, "Not in those words," but that they had discussed the issue. During the Congressional hearing on December 6, 2000, Howard stated that Gamble "brought to my attention that I should not have Mr. Schumacher in the acting GS position for Group Four because of the OPR investigation going on naming Mr. Schumacher...." The OIG asked Howard whether Gamble wanted Schumacher reassigned and Howard responded, "not any more than I did." Howard said that he and Gamble discussed what could

³⁴ Gamble and Mercado both recall speaking with Marshall at some point in February or March 2000, and they said that Marshall was under the impression that Schumacher had been removed from the Prince investigation much earlier. Gamble told us that by the time of the management conference in March 2000, he probably had a working understanding that Schumacher was still assigned to the Prince investigation. We think it highly possible that Gamble had an opportunity to correct the Administrator's misunderstanding but failed to do so. However, because none of the participants could provide us with dates for their meetings or discussions about Schumacher, we were unable to definitively resolve this question.

happen in the future if something went wrong while Schumacher was on the street. Gamble mentioned Schumacher's history of shootings. Howard said he decided that it was not worth the agent's career, and he felt that he had to insulate Schumacher from the problems. Howard said that he did not talk to Marshall in March about moving Schumacher.

The OIG noted to Howard that Schumacher had not been moved from the case in September 1999 when the OPR inquiry was beginning. The OIG asked Howard why Schumacher was moved in March 2000 after the OPR investigation had failed to substantiate the allegations against Schumacher. Howard reiterated that in March he was concerned about Schumacher and the fact that there was still an open OPR investigation. Howard said he felt that he had to get Schumacher off the street. Howard said he was very frustrated and felt that he had ruined Schumacher's career. In a second interview, the OIG noted to Howard that his expressed concerns about Schumacher seemed to apply in September as well as March, yet Schumacher was not removed from enforcement in September and indeed Howard made Schumacher an Acting Group Supervisor of Group 4 in January 2000. Howard said that he did not know why he did not remove Schumacher in September and that he probably should have.

Mercado said he was concerned about the DEA's liability should Schumacher become involved in another shooting incident while the OPR investigation was still pending. He said that he did not inquire as to Schumacher's role in the Prince investigation or the status of the investigation at the time that he told Howard to remove Schumacher. Mercado, like Gamble, said that moving an agent would not necessarily have an effect on an investigation.

Attorney General Reno's telephone logs show that she spoke to Congresswoman Waters on March 21, 2000, received calls from Congresswoman Waters on March 24, 27, and 28, 2000, and spoke to Marshall on March 27, 2000. The logs do not set forth the subject matter of the calls. Attorney General Reno said that she had no recollection of the subject matter of the telephone calls.

4. OIG Conclusions Regarding Reassignment of Schumacher in March 2000

We investigated the question of whether Schumacher was transferred in order to close the Prince investigation. We were told by some individuals that Schumacher was the key to the investigation and that transferring Schumacher was tantamount to shutting it down.

We believe that reassigning Schumacher in September 1999, in light of the allegations against him, would have been within a manager's discretion and not unreasonable. Schumacher was the primary subject of civil rights allegations, some of the allegations had been corroborated, and he had a history of shooting incidents that could be a cause of concern to a manager. Yet, Schumacher was not reassigned in September. The reassignment did not occur until March, when the fact-gathering phase of the OPR investigation was over and it was clear that the physical abuse allegations would not be sustained.

The evidence shows that the decision to reassign Schumacher was made by DEA headquarters. Significantly, two witnesses described Howard as stating in March 2000 that he had been instructed by headquarters to reassign Schumacher. Gamble acknowledged having discussions with Howard regarding this issue, although he insisted that he was only making suggestions to Howard. Mercado told the OIG that he had instructed Howard to reassign Schumacher.

We had some difficulty piecing together the sequence of events that led to Schumacher's reassignment. The three primary participants – Howard, Gamble, and Mercado – were unable to provide us with a clear explanation of their interaction. The evidence shows that Gamble met with Congresswoman Waters on February 9, 2000, when she told Gamble that she was concerned about Schumacher and the necklace that remained in DEA's possession. Gamble immediately took steps to return the necklace to its owner. He also told Howard about Congresswoman Waters' concerns about Schumacher and told Howard that Schumacher needed to be removed from enforcement operations. According to Assistant SAC Pierro, Schumacher was discussed at the March 9-10, 2000, management conference, and Mercado said he wanted to meet on the issue the following week. On Tuesday, March 14, 2000, Mercado and Gamble met at 11:00 a.m. to discuss Schumacher and by 1:52 p.m. Gamble e-mailed Howard asking for options for handling Schumacher.

We believe Howard's March 2000 e-mails were generated by conversations between Gamble and Howard about moving Schumacher. Mercado likely became involved after his meeting with Gamble on March 14, when presumably he agreed with Gamble's concerns about leaving Schumacher in enforcement operations.

We could not resolve the degree to which DEA officials may have been influenced by Congresswoman Waters' expression of concern about Schumacher's status. As Gamble described his reasoning to us, there seemed to be a direct correlation between Congresswoman Waters' concerns about Schumacher and Gamble's belief that Schumacher should be transferred out of enforcement altogether. Gamble told us that in light of Congresswoman Waters' statements about Schumacher, he felt a responsibility to "weigh-in" to protect the agency. Gamble's explanation and the timing of events, that is, discussions about Schumacher's reassignment coming after Gamble's meeting with Congresswoman Waters, suggest that her statements played a role in the decision to reassign Schumacher. We do not believe that Congresswoman Waters' concerns about Schumacher provided a sufficient basis to justify his removal from an enforcement position. Furthermore, Gamble made no inquiries to determine the effect of his suggestion on the Prince investigation or, for that matter, any other investigation that Schumacher was working on.

However, Mercado told us that he was the one who made the decision to reassign Schumacher and that his decision was based on his concern that the agency would be unable to defend its actions if Schumacher should get into a shooting incident while the OPR allegations were unresolved.³⁵ While the discussions about Schumacher's status occurred after Gamble's meeting with Congresswoman Waters, it is also true that neither Gamble nor Mercado had an opportunity to assess Schumacher's status until February or March 2000. Mercado said that he acted once he found out that Schumacher was still assigned to the Prince investigation. Accordingly, the evidence was insufficient to enable us to determine the extent to which Congresswoman

³⁵ Deputy Chief Inspector Brown's March 14, 2000, e-mail to Howard that "not much of a civil right violation nature ever was shown to have happened" indicates that OPR was of the opinion that the physical abuse allegations against Schumacher had not been sustained. However, Mercado is correct that the allegations would not be officially considered resolved until the Board of Professional Conduct made its decision. Indeed, the OPR report is only a fact-finding document; it does not make recommendations.

Waters' concerns about Schumacher influenced DEA managers' decision to reassign him.

The evidence was sufficient, however, to permit us to conclude that DEA managers did not reassign Schumacher in order to close the Rap-A-Lot investigation. Mercado was credible when he asserted that he made his decision because he believed the DEA had tremendous liability if Schumacher was involved in a violent incident before the OPR investigation had been completely resolved. In addition, neither Gamble nor Mercado seemed to pay any particular attention to the investigation of Prince and the effect that removing Schumacher might have on that investigation. While not commendable from a case management perspective, Mercado's and Gamble's lack of attention to the Prince investigation is some evidence that managers were not trying to close the investigation by reassigning Schumacher.

Although Howard wrote in his March 14 and 15, 2000, e-mails that he was terminating the investigation, he did not take any action at that point involving the investigation other than reassigning Schumacher. Given Howard's termination of proactive enforcement in September 1999, reassigning Schumacher in March 2000 probably had little real effect on the investigation. And, indeed, reports continued to be placed in various case files even after March 2000, indicating that some work was being done on the investigation. We note, however, that the timing of Schumacher's reassignment – after Congresswoman Waters expressed her concerns to Gamble about Schumacher – left the clear and unfortunate impression that the DEA was responding to her in removing him, especially since it had not taken action earlier.

H. Inquiry by the House Committee on Government Reform

By letter dated June 29, 2000, Congressman Burton wrote to Marshall that “the Committee on Government Reform is conducting an oversight investigation into federal law enforcement efforts to combat drug trafficking in the Houston, Texas area.” Chairman Burton requested a briefing on the current status of the cases involving Edward Russell, Stevon McCarter, Cedrick Rodgers, William Ballard, Erick Bradley, and “associated individuals.” DEA Congressional Affairs Chief Teresi contacted James Wilson, Chief Counsel to the Committee, to obtain more information about the request. She told the OIG that Wilson was vague about the purpose of the meeting or what information he was seeking.

She sent out a request to have the DEA Operations Division obtain more information in preparation for the meeting with Wilson and other Committee staff.

Howard told the OIG that Teresi told him that Chairman Burton believed the cases were closed and wanted more information about them. Howard said when he received a fax of Burton's letter that he realized that it was the Rap-a-Lot investigation and that it related essentially to one investigation, not several different cases. Later, someone in headquarters asked Howard for a synopsis of what was going on in the investigation and a chronology.

According to Howard, Teresi asked him if the Rap-A-Lot investigation was closed. Howard told her the investigation was not closed, but he did not tell her that the case was not proactive. Howard said there was no need to make that distinction because Howard believed that the only thing the investigators were still trying to do was "flip" one of the indicted defendants. During this part of his OIG interview, Howard was again asked what headquarters knew about the limitations he had put on the case. Howard said that he had told headquarters that they were trying to develop sources and informants, that the investigators were not "rocking and rolling in the streets," and they were not "kicking down doors on the street." Howard also said that he assumed that OPR knew that there was no proactive investigation going on while OPR was conducting its investigation. Howard also noted that headquarters had copies of all of the Houston Field Office files and therefore if there was nothing being placed in the files regarding surveillance or undercover work, then headquarters would have known that they were not conducting enforcement operations.

Normadene Murphy, DEA Operations Division Staff Coordinator, was assigned by headquarters to obtain background information on the cases identified in the Committee's letter prior to the meeting with Committee staff. On July 10, 2000, Murphy e-mailed Teresi and officials in DEA's Domestic Operations Division with information on the cases. She also wrote:

SAC Howard told the case agents to 'shut down the case, because it is not worth it', based on a telephone conversation with either the Dep. Admin. or the Admin. Joura believes it was the Dep. A, because the Dep. Admin was briefed on the case while in Houston for the HFD management conference in May. All of this was verbal. There is no written account of this conversation.

Joura denied telling Murphy that the Administrator or Deputy Administrator told Howard to shut down the case. He pointed out that other parts of her e-mail were inaccurate, thereby supporting his contention that she had erred in reporting this part of their conversation. Murphy acknowledged to us that some parts of her e-mail were an amalgamation of what several individuals had told her. However, she told us that she believed she accurately transmitted what Joura had told her.

Teresi told the OIG that she did not focus on that part of the e-mail and did not pass on the information to anyone, including Marshall.

In anticipation of the Committee meeting, Houston personnel prepared briefing materials for Howard and Assistant SAC Pierro. Howard asked Pierro to accompany him to the Committee meeting because Pierro had worked on the OPR investigation prior to becoming the Assistant SAC. Nims said that he did not meet with Howard to discuss the Rap-A-Lot investigation. Rather, the briefing materials were prepared and given to Pierro. The materials consisted of a 2-page synopsis of the major highlights of the investigation from its inception up to March 2000, a few reports from the case file, and possibly criminal history reports. Howard also told the OIG that he did not meet with the investigators prior to meeting with the Committee staff. Howard said that he did not need a briefing from them because he believed that he knew what was going on in the case.

I. July 17, 2000: DEA Officials Meet with Staff of the House Committee on Government Reform

Issue: Did Howard make false or misleading statements to the Committee staff?

The meeting between the DEA officials and the Committee staff was scheduled for July 17, 2000, in Washington, D.C. A pre-meeting was held among Howard, Marshall, Teresi, Brown, and Pierro at DEA headquarters. Marshall said that he told them they could discuss the OPR process and the completed judicial cases but not to go into detail with respect to the part of the Prince investigation that was ongoing. Howard did not mention that he had placed restrictions on the investigation during this meeting.

Howard, Teresi, Brown, and Pierro then went to the Committee offices for the meeting with the Committee staff. Attending the meeting were Majority Staff Chief Counsel James Wilson, Senior Counsel Marc Chretien,

Staff Director Kevin Binger and Minority Staff Senior Oversight Counsel Michael Yeager. Wilson told the OIG that the purpose of the meeting was to learn the status of the cases identified in the June 2000 letter to the DEA. Wilson took detailed notes during the meeting, which he reviewed with the OIG. Wilson said that based on his notes and his memory, Howard did most of the talking. Howard initially provided the Committee staff with a detailed history of the Rap-A-Lot investigation. As the meeting progressed, Howard provided information about the current status of the investigation. Wilson wrote in his notes:

Removed [Schumacher] in July/Aug of 99
 Howard concerned about [Schumacher]
 Howard determined that we would remove [Schumacher]
 Only person removed
 DEA case is continuing
 Following up on leads
 Agents never told to stop
 He said they needed to be careful not to further the allegations
 [Schumacher] reassigned last fall
 Chad Scott still working this investigation
 He was frustrated. Judge decisions. OPR allegations.
 Frustration that case agents had. Morale had dropped.
 I didn't want anything happening to my people

Wilson told the OIG that Howard emphasized that the case was still ongoing. Wilson said that he recalled that Howard spoke about being frustrated and venting. Wilson said that based on Howard's presentation, which at the time he considered to be credible, Wilson assumed that the information the Committee had received about the case being closed was wrong and that there was no reason to pursue the matter further.

Chretien's and Binger's notes are similar. Chretien wrote that Howard told them that Schumacher had been removed in July or August. His notes reflect that Howard said:

I was concerned about [Schumacher's] career
removed [Schumacher] only from case in Sept
Removed from case July-Aug
never instructed case agents to stop
We need to be careful
Says its continuing against Prince
He told [Marshall] that he felt bad
[Marshall] said 'do not close the case down'
[Howard] was thinking of closing the case down because of Judge's
decision

Binger wrote:

Scott still working on case
No other agents taken off the case when [Schumacher] was
Never instructed case agents to stop investigations

Wilson, Chretien, and Binger told the OIG that, based on Howard's representations, they believed that the investigation of Prince was continuing, that Schumacher had been removed from the investigation at the time the OPR investigation started, that he was removed because Howard was concerned about his career, and that other agents remained assigned to the investigation. Wilson said that they did not go into detail about exactly what investigative steps were being taken currently.

Yeager, of the minority staff, also reviewed his notes with us. According to the notes, Howard stated that Schumacher had been reassigned in July or August of 1999 and that he was removed because the allegations made Schumacher "not of value" to the investigation. However, Yeager also wrote that Schumacher was still involved, referring to Schumacher providing testimony in some cases out of the Eastern District of Texas. Yeager wrote:

Didn't take any other agents off the case
Never told case agent to stop [investigating] case
Told have to be careful

Marshall said do not close case down

SAC was thinking about closing

Status of dismissals

Frustration

Moral down

Concerned about false allegations

Concerned because brought people into case

Yeager said that he did not believe that the Committee staff made clear to Howard the purpose of the meeting or their specific concerns about the investigation.

Howard told the OIG that he was truthful with the Committee staff, and he denied misleading the staff. He said that the investigation was not closed and, in his opinion, they were still investigating Prince. Howard said he did not go into any detail about the restrictions he had put on the case. He said that the Committee staff only wanted to know if he had closed the case and if he had been told to close the case. Howard said he told them he had not.

Conclusion: We referred to the Department of Justice Public Integrity Section the question of whether Howard's statements to the Committee constituted criminal false statements. By letter dated March 9, 2001, the Public Integrity Section stated that "the initiation of criminal proceedings is not warranted" and it declined prosecution.

Many of the questionable statements made by Howard, as reflected by the Committee notes, appear to be literally true, at least under Howard's version of events. For example, Schumacher was the only investigator removed, and the cases that were proceeding judicially were continuing. Furthermore, reports reflecting that some work was being done on the cases were entered into the case files after September 1999 and even after March 2000.

However, we are troubled by Howard's statements to the Committee staff because we believe the statements were misleading and incomplete. Howard failed to tell the staff that he had placed restrictions on the investigation. Furthermore, his statement that he "never told the agents to stop," while literally true, was misleading. Howard left the wrong impression that other than reassigning Schumacher, the investigation was continuing as aggressively

as it always had been. He also either told or gave the Committee the impression that Schumacher was reassigned in 1999 when, in fact, Schumacher was not reassigned until March 2000.

Part of the problem may have stemmed from the fact that Howard did not properly prepare for the meeting. He did not receive a briefing from the agents, he did not inquire as to the current activity in the case, and the briefing materials did not provide sufficient information to answer the question of what was currently happening in the Rap-A-Lot investigation. It is also true that Howard views his actions in a light different than the Committee majority staff or the Rap-A-Lot investigators. Howard believes that the restrictions that he placed on the investigation were insignificant because they only amounted to increasing the supervisory level of review and that the Rap-A-Lot investigation was stalled in any case. In other words, according to Howard's view, he had not changed the activity level of the investigation and therefore there was nothing to explain to the Committee staff.

Nonetheless, we believe Howard would have better served the DEA and himself if he had explained clearly to the Committee staff his instructions to the investigators and why he had issued the instructions. Howard has continued to maintain that he acted properly under the circumstances. Much of the suspicion and accusations that later erupted would likely have been eliminated if Howard had been more forthcoming with the Committee about the sequence of events.

In addition, Howard should have clearly informed Marshall that he had placed restrictions on the Prince investigation. Howard had two clear opportunities to do so – during the fall 1999 conversations between Howard and Marshall and during the July 17, 2000, meeting held with Howard, Marshall, and others just prior to the meeting with the Committee staff. Given Marshall's statement to Howard that Howard was not to close the investigation, Howard should have notified Marshall that, even if not technically closing the investigation, Howard had curtailed it. Although Howard said that he had informed someone in headquarters, he was unsure who he told or when, and he may have phrased it as the agents "were not kicking down doors." He also indicated that his belief that headquarters was aware of the restrictions was based on certain assumptions, such as that OPR knew about the restrictions because of its investigation or that headquarters personnel could figure out that the investigators were not conducting proactive enforcement based on the

reports that the Houston Field Division sent to headquarters. We do not believe that these assumptions or vague references would constitute appropriate notice.

J. October 2000: Press Reports of the Allegations

On October 2, 2000, the Dallas Morning News reported that a member of Congress had intervened in a DEA investigation. Lee Hancock, the Dallas Morning News Reporter, wrote as her lead sentence, "A federal drug investigation of a Houston rap recording label and its associates was frozen after a prominent California congresswoman intervened on behalf of the label's founder with top Clinton administration officials, case investigators say." Hancock quoted from Nims' internal September 27, 1999, memoranda, noted that Schumacher had been transferred to a desk job, and quoted HPD Sergeant Stephens as saying that Howard had told the investigators in September 1999 to stop work on the investigation. The article also quoted Howard as saying, "The investigation has not been stopped. I'm the agent in charge of the whole division. I'm the guy who would know." Howard also said, "Washington had nothing to do with Jack Schumacher getting transferred." According to the article, Marshall told Hancock, "Nobody ever put any political pressure on me to close down this investigation, nor did I put any pressure on Mr. Howard." He denied making the decision to transfer Schumacher. Hancock wrote that Marshall said Howard had moved Schumacher to avoid the possibility of a confrontation with Prince or his associates and the possibility of false allegations being made against Schumacher. The article also discussed Vice President Gore's visit to the Houston church of which Prince was a member.

The Dallas Morning News continued reporting on the story over the course of the next several days and other newspapers also reported on it.

K. December 6 and 7, 2000: Congressional Hearing

On October 19, 2000, Chairman Burton wrote to Marshall requesting, in lieu of a subpoena, the production of "all correspondence from and to Ernest L. Howard ... relating to the investigation of Rap-A-Lot Records and James A. Prince ... including ... written documents, facsimiles, e-mail" Teresi released Howard's March e-mail (discussed previously in this report) to the Committee on October 25, 2000.

On December 6, 2000, the Committee held a hearing into the allegations. Testifying before the Committee on the first panel were Schumacher and HPD officers Stephens, Chaison, and Allen. On the second panel were Howard, Mercado, and Gamble. Because the Committee believed that there were contradictions between Howard's testimony and the testimony of Schumacher and the HPD officers, the Committee required everyone to return for further questioning on December 7. In addition, Marshall testified on December 7.

The testimony of these individuals was generally consistent with what they had told the OIG. Howard's view of events continued to differ from Schumacher's and the HPD officers. Howard insisted to the committee members, as he had to the OIG, that in September 1999 he only added an additional level of supervision to the investigators' ability to conduct enforcement operations. Howard also took issue with the investigators' contention that there were many leads that could have been followed. He said that he had been told by Schumacher that they were waiting to see if the indicted defendants "flipped."

L. Allegations of Involvement of Vice President Gore

On March 14, 2000, Vice President Gore visited the Brookhollow Baptist Church – the Church Without Walls in Houston, Texas, as part of a campaign stop. Prince was a member of this church and had allegedly contributed substantial sums to the church. In an e-mail dated March 16, 2000, Nims questioned Howard about what he knew of the Vice President's visit to the church. Howard responded that "... James was there Sunday with the VP at church. He undoubtedly had a picture session as well." In a November 1, 2000, letter to Marshall, Chairman Burton referred to the possible connection between the timing of the Vice President's visit to Prince's church and Howard's March 14 e-mail that the Houston Division would curtail its investigation of Prince. News articles also questioned whether Gore's visit was connected to Schumacher's transfer or the closing of the investigation.

We questioned all of the significant witnesses regarding any evidence they had that Vice President Gore was involved in curtailing the Prince investigation. No one could provide any evidence of a connection between Gore and the Prince investigation.

Schumacher told the OIG and also testified at the congressional hearing that he had received information from a source that Prince may have made

illegal contributions to Gore. Schumacher refused to provide any information about his source other than stating that the information was unverified.

We also reviewed Federal Election Commission records. We did not find any contributions to Vice President Gore from any James Prince or James Smith residing in Texas. We found no political action committee with the word "rap" in its name.

Conclusion: We found no evidence to support the allegation that Vice President Gore was involved in any action relating to the DEA investigation of Prince.

III. CONCLUSIONS

We did not substantiate the allegation that the DEA's criminal investigation into the activities of Prince and Rap-A-Lot Records was closed because of political pressure. The evidence showed that Congresswoman Waters raised allegations that DEA agents were acting improperly during the course of an investigation. The circumstances of OPR's interview of Prince in Congresswoman Waters' office, while unusual, were not improper. We also found that the DEA acted properly when it opened an OPR investigation into the allegations raised by Congresswoman Waters.

The evidence showed that the investigation of Prince and Rap-A-Lot Records was not formally closed, in that the case files remained open and reports continued to be filed after September 1999 and even after March 2000. We concluded, however, that Howard curtailed the investigation of Prince and Rap-A-Lot Records in September 1999 by prohibiting the investigators from conducting any further proactive enforcement operations. The evidence showed that he made the decision unilaterally without consulting DEA headquarters personnel or his own senior staff. We found no evidence inconsistent with Howard's explanation that he decided to curtail the investigation because he was concerned about the agents' careers in light of the OPR investigation and that he believed the best course of action was to limit their street activity until the conclusion of the OPR investigation. We concluded that Howard acted because he believed Congress, DEA headquarters, and the Attorney General would scrutinize the agents' actions. We concluded that Howard overreacted and did not properly analyze the situation or fully consider the consequences of his decision before acting. While Howard acted as a result of the OPR investigation and while the OPR

investigation was the result of allegations raised by Congresswoman Waters, we do not believe that this amounts to “political pressure.”

Howard has claimed that he only intended to impose an additional level of supervisory review on the investigators. Because the evidence conflicted on this point, we were unable to resolve what Howard told Nims about supervisory approval of enforcement operations. We concluded that if Howard did tell Nims, then Nims failed to pass the information along to the investigators. We fault both Howard and Nims for failing to ensure that the investigators understood the limited nature of the restrictions that had been imposed and for failing to ensure that the investigation was being actively pursued, if indeed it had only been partially restricted. We also found that Howard inappropriately failed to clearly inform headquarters, particularly Marshall, that he had placed restrictions on the investigation.

We were unable to conclusively evaluate the effect of Howard’s actions on the investigation. Some evidence showed that the investigation was stalled at the time of Howard’s announcement to the investigators because of a judicial ruling that granted a new trial to one of the convicted defendants. Other evidence, including testimony by some of the investigators and a contemporaneous document, indicates that there were leads that could have been pursued. Although some work continued to be performed on the investigation, the investigators’ activity level did diminish in the fall of 1999. We concluded that while Howard’s announcement was not the sole cause of the drop in activity on the Prince investigation, it ended the investigators’ aggressive pursuit of new leads.

We had difficulty piecing together the sequence of events that led to Schumacher’s reassignment in March 2000 from Group 4 to the Special Support Group. We believe that at least one of the participants in the decision, Gamble, was influenced by Congresswoman Waters’ concerns about Schumacher. However, DEA managers did have a rational basis for reassigning Schumacher apart from Congresswoman Waters’ concerns. Although we could not resolve the degree to which Congresswoman Waters’ inquiries influenced the decision, we concluded that DEA officials did not reassign Schumacher for the purpose of curtailing the Prince investigation.

We concluded that Howard did not make knowing false statements to the Committee staff at the July 17, 2000, meeting when he stated that the investigation was open, that leads were being followed, and that Schumacher

was the only agent removed from the investigation. Nonetheless, his statements are troubling because they were incomplete and misleading. Howard failed to explain fully to the Committee staff that he had prohibited the agents from engaging in proactive operations while the OPR investigation was continuing, and he gave the impression that the investigation continued to be aggressively pursued. In some part, Howard's misstatements may have been caused by his failure to adequately familiarize himself with the status of the investigation before making representations to the Committee staff. Howard placed undue reliance on his beliefs and assumptions about the Rap-A-Lot investigation when he spoke to the staff. Nonetheless, the effect was that he misled the Committee staff into believing that the investigation was being actively pursued, when it was not. Howard would have better served himself and the DEA if had fully explained the entire sequence of events surrounding his handling of the Rap-A-Lot investigation.

We found no evidence of a connection between Vice President Gore and Howard's decision to curtail the proactive investigation of Prince. Likewise, we found no evidence that Vice President Gore influenced the DEA to reassign Schumacher.

FROM: MAXINE WATERS
 MAXINE WATERS
 DEPUTY WHIP
 AND FINANCIAL
 SERVICES
 JUDICIARY

FROM: MAXINE WATERS

T-612

P. 02/03 2-264

Congress of the United States
 House of Representatives
 Washington, DC 20515-0535

PLEASE RETURN TO
 2100 BUREAU BUILDING, OFFICE BUILDING
 WASHINGTON, DC 20515-6436
 (202) 225-2701
 FAX (202) 225-7974
 DIVISION OF
 10700 S. BRANTLEY
 SUITE 1
 LOS ANGELES, CA 90002
 (310) 797-4906
 FAX (310) 797-9508

August 20, 1999

Ms. Janet F. Reno
 Attorney General
 U.S. Department of Justice
 Constitution Avenue & 10th Street, N.W.
 Washington, D.C. 20530

Dear Attorney General Reno:

Pursuant to our telephone conversation this morning, I am writing to request your assistance on what I believe to be an urgent matter. Mr. James Prince, owner of Rap-A-Lot Records, believes his life to be in danger at the hands of rogue officers from the Drug Enforcement Agency (DEA) in Houston, Texas.

James Prince is a 34 year-old, African-American entrepreneur who has created a very successful business producing and managing rap artists. It is my understanding that Mr. Prince has amassed sizeable assets from his business which is operating out of Houston, Texas. Mr. Prince believes that he is being harassed and intimidated by the DEA officials in his hometown of Houston because of their assumption regarding the legitimacy of his business finances.

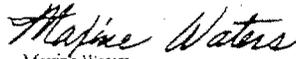
Mr. Prince alleges that the DEA has accused him of earning the profits from his business illegally. In addition, he alleges that he has been subjected to racial slurs, the illegal search of his automobile, and that his customers and workers are stopped and questioned without provocation by the DEA. Mr. Prince also has raised concerns about the interference in his right to travel, and he has been stopped numerous times on dark stretches of Texas highways. Simply put, Mr. Prince believes strongly that the Department of Justice must intercede into the questionable practices of the DEA and provide him with the necessary protection to ensure that his life and livelihood are not subjected to ongoing harassment and intimidation.

Attorney General Reno, Mr. Prince has contacted me out of desperation. While in Houston, Texas, I had the opportunity to visit Mr. Prince's buildings and I spoke to his workers.

After listening to Mr. Prince's concerns, and that of his customers, I suggested that he document his torments at the hands of the DEA agents and send it to you for your perusal. Please understand that Mr. Prince has asked me to assist him because of my work surrounding the intelligence community, police harassment and brutality, and the reported incidents of "driving while black/brown."

I am often contacted by African Americans who feel helpless when confronted with the incidents as described by Mr. Prince. The harrowing details of Mr. Prince's allegations and my reputation in vigorously pursuing such matters warrants that I assist him to the best of my capabilities. Will you please give this matter your immediate attention? I anxiously await your response.

Sincerely,


Maxine Waters
Member of Congress

Memorandum



Subject Mr. James A. Smith, aka "Prince" and related OPR Investigation	Date September 27, 1999
---------------------------------------------------------------------------	----------------------------

To Donnie R. Marshall Acting Administrator DEA HQS Washington, D.C.	From James B. Nims Group 4 Supervisor Houston Field Office
---------------------------------------------------------------------------------	---------------------------------------------------------------------

Thru: Ernest L. Howard
 Special Agent in Charge
 Houston Field Division

Robert J. Joura
 Associate Special Agent in Charge
 Houston Field Division

Keith R. Baudoin
 Assistant Special Agent in Charge
 Houston Field Division

The purpose of this memorandum is to comment on the active OPR investigation currently targeting Enforcement Group 4 of the Houston Field Office regarding allegations made by Mr. James A. Smith, aka James Prince.

Upon my arrival in August 1998, as the Group Supervisor for Enforcement Group 4, Houston Field Office, I was advised that the group had been mandated by Houston Field Division (HFD) management to actively pursue and target the alleged drug related activities of Mr. Smith and his Rap-A-Lot enterprise. S/A Jack H. Schumacher, who had been in the Galveston RO, was reassigned to Enforcement Group 4 to be the case agent on this investigation. There had already existed an open OCDETF investigation (M3-92-2012) on Mr. Smith of which he was the file title. Shortly after this, a request was made, and granted, to have Houston Police Department (HPD) Narcotics Squad 13 assigned to Group 4 to assist in this investigation. Sgt. William Stephens is the Supervisor of Squad 13. He and approximately seven investigators of his squad were deputized under the OCDETF agreement and then were integrated into Group 4 to pursue this investigation.

Since that time, Group 4 has spun off four (4) additional OCDETF cases with ties and direct connections

to "Rap-A-Lot". Thus far in the investigation, there have been twenty-one (21) arrests (some of these being current/prior employees/associates of Smith), a large quantity of "crack" cocaine seized (including the largest seizure of crack cocaine in the Houston area), and a number of assets seized.

It is my understanding that the allegations made by Mr. Smith center on civil rights violations and conduct unbecoming agent(s). I would like to go on record as saying that I have been present on virtually all enforcement operations conducted by my group and the behavior and demeanor of the agents, as well as the TFOs, do not substantiate the allegations. Under the enforcement leadership and direction of S/A Schumacher and Sgt. Stephens, all arrest situations have gone smoothly and without incident. I have never observed, nor would I tolerate, any unnecessary force or racial remarks from personnel under my supervision.

In regard to the OPR investigation, it is very disturbing for a number of reasons. Aside from the allegations, to the best of my knowledge, being completely false, it appears that Mr. Smith has a pattern of manipulating influential people when investigators get "too close" to him. It has been brought to my attention that several years ago HPD had an investigation targeting him and he contacted dozens of supporters, who staged a protest in the downtown area of Houston in support of him. Shortly after this, Mr. Smith had several articles printed in the 'Houston Chronicle' in which he claims that he was being harassed and set up by law enforcement, and that there was a conspiracy by DEA against him (see copies of these articles which are attached to this memorandum). It is also unclear to me why Mr. Smith went to Congresswoman Maxine Waters, who does not represent Mr. Smith's district or even the State of Texas.

I also question the witnesses that OPR has interviewed. One of the witnesses, REDACTED of Group 4, has been on administrative leave since June 4, 1999. The basis of his administrative leave is an OPR investigation of which he is the target. It is alleged that ; stole a number of items on different occasions from defendants. These allegations were initially discovered by S/A Schumacher and Sgt. Stephens, who brought their suspicions to me. It is interesting to note that one of the OPR investigators currently assigned to the "Rap-A-Lot" investigation is the principal OPR investigator in S/A case and thus is aware of questionable integrity. S ; is most likely aware that S/A Schumacher was the impetus for his OPR investigation and anything he subsequently says about S/A Schumacher should be suspect. Another point of contention for him is that I recently denied his request for promotion to the GS-1811-12 level because of his lack of productivity.

Perhaps my greatest concern is what the current OPR investigation has on the morale not only of the personnel in Group 4 but for all the HFD enforcement groups, especially for the younger, newer agents. I know that OPR has interviewed two new agents in my group who arrived for duty on August 2, 1999 and August 30, 1999. Neither were involved in the Rap-A-Lot investigation. It will remain to be seen how this investigation will affect their approach to drug law enforcement, including their future productivity.

I have recently been instructed by HFD SAC Ernest Howard not to pursue any new leads regarding James Smith, Rap-A-Lot, et al, until the OPR investigation is cleared; however, we are cleared to talk to any witnesses and participate in any judicial proceedings. This is unfortunate because there are still many investigative leads and enforcement operations to carry out. There is also a possibility that we could obtain Grand Jury subpoenas to obtain financial records pertaining to Smith and his businesses. Last week we were informed by a reliable confidential source that Mr. Smith either participated in, or directed, a physical beating on one of Rap-A-Lot's main recording artists, Brad Jordan, aka "Scarface" because he

allegedly was going to perform for another recording label. Mr. Jordan is also a defendant in one of Group 4's pending cases. _____ REDACTED _____, also gave a post arrest statement that Mr. Smith directed him to receive a beating because of "disrespect". There are a number of other witnesses who have provided valuable information and intelligence on Mr. Smith and it is my belief that he can and will be a viable candidate for a RICO charge.

In conclusion, I would respectfully request that you look at all the facts, realities, and truth of this OPR investigation and allow us to continue in our pursuit of justice against Mr. James A. Smith, aka "Prince", without allowing his manipulative tactics to influence our decisions in our course of action. Mr. Smith is obviously using his influential power to further insulate himself and continue his illegal operations. He would not be doing this if he did not feel threatened because of our successes.

If we are serious about "winning the war on drugs", history has taught us that drawbacks or hesitations after a victorious battle only gives the enemy time to regroup thereby causing the loss of hard fought, costly gains.

Attachments: Houston Chronicle articles dated 1/13/93, 1/19/93 and 5/30/93

COMPLETED

COMPLETED

-----Original Message-----

From: Jura, Robert J
Sent: Wednesday, March 01, 2000 6:47 PM
To: Howard, Ernest L
Subject: Misc. Items

1. In response to your inquiry about the "5th Ward Circle" medallion seized by Gp. 4 during the Rap-a-Lot investigation, it is in the possession of OPR. It was taken from a subject named Christopher SIMON. SA Chad Scott contact Simon and his attorney, Walter Pink, on a number of occasions advising them that they could pick the medallion up at our office; but no one ever came.

REDACTED

From: Howard, Ernest L
 Sent: Tuesday, March 14, 2000 4:45 PM
 To: Gamble, R. C
 Subject: RE:

CALL ME at REDACTED

-----Original Message-----
 From: Gamble, R. C
 Sent: Tuesday, March 14, 2000 1:52 PM
 To: Howard, Ernest L
 Subject: RE:

SAC, I need to discuss this matter with you, so Pls let me know if you are in office. In view of my meeting with Congressman and our guy's apparent failure to adhere to some basic administrative procedures, fact matter was referred to civil rights division and others, while not necessarily critical or essential, but of high profile with some possible political overtones, and as you know, all politics are local and somewhat sensitive here with racial profiling perceptions and etc. call in questions the overall capability to be effective without an onslaught of allegations and unsubstantiated speculations on the part of our Agent. Considerations and comments on best options, notice I need some options with the "s"....In the Bond/

-----Original Message-----
 From: Brown, William C.
 Sent: Tuesday, March 14, 2000 9:44 AM
 To: Howard, Ernest L
 Cc: Gamble, R. C
 Subject: RE:

Hello down there in Houston. As you may well know by now, we sent the necklace to your office as received by GS Jim Nims about two weeks ago. We did this after R.C. Gamble's meeting with the Congress Woman when he provided her with an update on the investigation. A few days ago our Inspector asked Nims what he had done with the necklace and his reply was that he was going to give it back to Simons. Unknown to us if Jim ever did this.

The case is completed here and will be transmitted to the BOC after our receipt of the interview transcripts from SAs Schumacher and Scott. That should be soon. I'll call you with details of the investigation. As you know, not much of a civil right violation nature ever was shown to have happened. I'll call you today.

-----Original Message-----
 From: Howard, Ernest L
 Sent: Sunday, March 12, 2000 9:34 AM
 To: Brown, William C.
 Cc: Gamble, R. C
 Subject:

Good morning!

After discussing the matter with R.C. Gamble, it was decided that in the best interest of the DEA, the necklace that OPR has that was taken by agents of the Houston Division in the "Rap-a-Lot" investigation aka, SMITH aka PRINCE case, should be returned to the original owner. There, I request that you return this item directly to me so that I may personally return it. Thanks Bill.

From: Howard, Ernest L
 Sent: Wednesday, March 15, 2000 9:20 AM
 To: Gambie, R. C
 Cc: Mercado, Julio F; Joura, Robert J
 Subject: RE: What's Happening?

I discussed this with Julio and he said that it was okay to place Jack where I previously stated. Also not to beat a dead horse to death, but the only reason that the 3 individuals were stopped in the 1st place was because of a threat against our CS in the case and the van they were driving was the subject van and the driver was id'd as being involved with those threats. They were stopped for driving violations and brought to our office because the HPD officers were assigned here and the anticipation was that they were the ones trying to kill or CS. When it was determined that they were not the subjects, they were not processed by DEA. According to the PD officers involved the violated several traffic regulations. The subject chain/necklace was taken (admittedly not processed according to our regulations) because it identified the wearer as being a member of the Fifth Ward Circle gang.

Also what is of concern with me is the fact that Ton Constantine and Greg Williams were both briefed on this case and the potential political pressure associated with it because a major player is a prominent Pastor and the Major Pro Temp. Now we bow down to the political pressure anyway. If I had known this, I would have NEVER brought Jack in this case, nor would I have even pursued it. But it is over now. The Houston Division will terminate all active investigation of Rap-A-Lot, except for those persons who have already been arrested/indicted. If ANY information comes to the attention of agents in the Houston Division regarding RAP-A-LOT or James SMITH, it will be vetted through Hqs. prior to ANY action taken here.

-----Original Message-----
 From: Gambie, R. C
 Sent: Wednesday, March 15, 2000 10:03 AM
 To: Howard, Ernest L
 Subject: RE: What's Happening?

SAC...Jack is subject of OPR investigation and I would recommend against placing him in a Acting GS status until the board decides...as such, this position should be supported with 52 actions to document supervisory time be it for pay or not. I will push for an expedited review and decision by the appropriate officials. I plan to speak to Jean on this point. I will share your points of view with A/DA.

-----Original Message-----
 From: Howard, Ernest L
 Sent: Tuesday, March 14, 2000 6:21 PM
 To: Mercado, Julio F; Gambie, R. C
 Subject: What's Happening?

I understand that the situation involving "RAP-A-LOT" and James SMITH aka James PRINCE has only gotten worse. To eliminate any further difficulty in this matter, I have decided that the Houston Division will curtail any enforcement action against this subject. Further I am transferring SA Jack Schumacher from Enforcement Group 4 to be the Acting GS of the Special Support Group. That group has no enforcement activity and presently lacks a Supervisor. This is an unfortunate occurrence in that SA Schumacher became involved with this investigation due to my insistence that he become involved approximately a year ago. Prior to that this case had been sitting in HIDTA for about 3 yrs. with a lot of intell, but no action. It was briefed by JDIG and I determined that it should be proven to be a viable case or closed.

The Houston PD joined in the investigation due to their interest with the subject and the corruption of several PD officers. They had an entire squad assigned to my group.

The primary reason that the questioned "van and subjects" were followed and subsequently stopped was due to the fact that there was a threat against one of our CS's (we are still paying for her safety) and the subjects driving the van were identified as possibly being involved with this threat.

At any rate, it's over and we are closing our case on PRINCE.

Thanks for your support.

From: Howard, Ernest L
Sent: Thursday, March 16, 2000 2:40 PM
To: Nims, James B
Subject: RE: FYI

No the one from Calif. was not there as far as I know, but yes James was there Sunday with the VP at church. He undoubtedly had a picture session as well.

-----Original Message-----

From: Nims, James B
Sent: Thursday, March 16, 2000 1:10 PM
To: Howard, Ernest L
Subject: FYI

Hi Mr Howard,

I've just been advised that when VP Al Gore was here in town (Monday?), he spent some time over at the Brookholow Baptist Church. I understand that aside from the Rev. West, Mr Smith was in attendance as well. I wonder if the Congresswoman was there as well??? Have you heard anything about that?? Regards, Jim

UNITED STATES OF AMERICA
DRUG ENFORCEMENT ADMINISTRATION
OFFICE OF PROFESSIONAL RESPONSIBILITY

----- X
: In the Matter of: :
: JAMES PRINCE :
: :
----- X

Washington, D.C.
Tuesday, August 24, 1999

The statement of JAMES PRINCE, called for examination by the staff of the Office of Professional Responsibility in the above-entitled matter, pursuant to notice, at the Rayburn Office, Room 2456, Washington, D.C., convened at 3:10 p.m.

APPEARANCES:

- STEPHEN DELGADO, Senior Inspector
- WILLIAM DODGE, Associate Deputy Inspector
- FELIX JIMINEZ, Chief Inspector

ALSO PRESENT:

- VERONIQUE PLUVIOSE-FENTON, Legislative Assistant for Congresswoman Waters
- BRUCE TOVAL, General Manager, Rap-A-Lot Records
- HON. MAXINE WATERS, U.S. Congresswoman, 35th District of California
- AMBASSADOR SIDNEY WILLIAMS
- CHERYL ZIEGLER, Lawyers' Committee for Civil Rights Under Law

P R O C E E D I N G S

1
2 SENIOR INSPECTOR DELGADO: Let the record
3 reflect that today is Tuesday, and the date is
4 August 24th, 1999. The time is approximately 3:10 p.m.
5 I am Senior Inspector Stephen C. Delgado.

6 Also present at this interview is Chief
7 Inspector Felix Jiminez, Associate Chief Deputy
8 Inspector William Dodge, a Mr. James Prince, a Mr. Bruce
9 Toval who is the general manager for Rap-A-Lot Records,
10 Cheryl L. Ziegler, an attorney of the Lawyers' Committee
11 for Civil Rights Under Law, Veronique Pluiose-Fenton,
12 legislative assistant for the Congresswoman, U.S.
13 Congresswoman Maxine Waters of the 35th District of
14 California, Ambassador Sidney Williams.

15 We are conducting this interview at the Rayburn
16 Office at 2344, Washington, D.C.

17 MS. PLUIOSE-FENTON: Correction. It's room
18 2456.

19 SENIOR INSPECTOR DELGADO: Room 2456.

20 These proceedings are being documented by
21 Cheryl Gerber, Certified Court Reporter of the Miller
22 Reporting Company.

23 A full transcript of these proceedings will be
24 made. Your statement will be taken under oath.
25 Mr. Prince this is directed towards you. A full

3
1 transcript of these proceedings will be made. Your
2 statement will be taken here under oath, and the
3 transcript of these proceedings will constitute your
4 formal Drug Enforcement Administration statement.

5 This interview is being conducted in reference
6 to the letter from Maxine Waters, United States
7 Congresswoman of the 35th District of California to
8 Janet Reno, Attorney General of the United States,
9 Department of Justice dated August 20th, 1999.

10 The letter concerns allegations of harassment,
11 intimidation, racial slurs and the illegal search of a
12 Mr. James Prince's vehicle by agents of the Drug
13 Enforcement Administration (DEA).

14 I will now swear you in. Please raise your
15 right hand.

16 Whereupon,

17 JAMES PRINCE

18 was called for examination by representatives from the
19 Office of Professional Responsibility and, after having
20 been duly sworn by Senior Inspector Delgado, was
21 examined and testified as follows:

22 SENIOR INSPECTOR DELGADO: Please state your
23 full name.

24 MR. PRINCE: James Andre Prince.

25 SENIOR INSPECTOR DELGADO: What is your

1 occupation?

2 MR. PRINCE: CEO of Rap-a-Lot Records.

3 SENIOR INSPECTOR DELGADO: You are
4 self-employed?

5 MR. PRINCE: Yes.

6 SENIOR INSPECTOR DELGADO: What's your current
7 phone number of your residence?

8 MR. PRINCE: [REDACTED]

9 SENIOR INSPECTOR DELGADO: And of your
10 business, place of business?

11 MR. PRINCE: [REDACTED]

12 SENIOR INSPECTOR DELGADO: We'll now go into
13 the questions, Mr. Prince.

14 In the letter, it states that you believe you
15 are being harassed and intimidated by agents of the DEA.
16 Would you please explain this in detail.

17 MR. PRINCE: Well, on a number of occasions
18 going back to 1993--something that's not documented in
19 what you all have read--I was stopped on a street by the
20 name of Richmond one night going to a party by an HPD
21 officer and also stopped me and kept me on the road for
22 approximately an hour and a half to two hours.

23 And basically, I had had a gun charge prior to
24 that, so I had beat a gun charge, and they also
25 recognized me from my license plates on the back of the

1 car I was driving, which was Rap-A-Lot. And basically,
2 he stopped me, came to the window, pulled his gun on me
3 and put me in handcuffs and put me in the backseat and
4 asked me how did I beat the case. And I told him I
5 really didn't want to talk about that right now. I was
6 trying to go to a party.

7 So at that time, he pulled up information on
8 the screen and found out I had a warrant in some part of
9 Texas, a speed warrant. And I basically asked the
10 officer if he could take me to the closest stop and go
11 or take me downtown and let me pay for the warrant, and
12 he wouldn't.

13 So at that time, I noticed the officer had got
14 on the telephone. He called another unit, and he got on
15 the telephone and basically was holding a conversation
16 on the telephone for a long time. And at that point, I
17 was sitting in the backseat for a while, and I asked the
18 officer why don't you all take me to jail; let me pay
19 for the ticket or do something.

20 So they pulled me off the main street, which
21 was Richmond and pulled me on a side street, and I
22 noticed the officer kept talking back and forth on the
23 telephone.

24 Then eventually another unit pulled up, and
25 they transported me from one car to another car, and it

1 was two younger officers in that car that was familiar
2 with my record company, and I started holding
3 conversations with them and asked them why am I out here
4 so long. And basically, the officers told me that he
5 was talking to someone in the DEA or something waiting
6 for an answer to do something.

7 So at that time, I'm like man, I just have a
8 ticket; why don't you all take me to jail. They
9 basically said I don't know; I wish he'd hurry up.

10 So as time went on, I watched the officer. He
11 was talking to--he left that officer and went to the car
12 that I was sitting in and say look what we have here.
13 He went in the backseat to check his backseat and said
14 look what we have here, which was a drug that they said
15 at the time was Ecstasy.

16 So I said to the other two officers because I
17 saw it first and I said man, I know they're not trying
18 to put that drug on me. I said I didn't have any drugs.
19 They said no, they wouldn't do that; I mean you are over
20 here.

21 So I thought I was going to the unit to pay for
22 the ticket, one station, and as I made it to a station
23 off of "Deriashford," they got a call telling them to
24 bring me to the downtown office. And as I made it to
25 the downtown office, they basically booked me under

1 possession, and I found that real strange. I don't
2 smoke drugs. I don't do any type of drugs.

3 So I made bond, and I went and took a drug test
4 immediately after I got out, and my lawyer also referred
5 me to take a lie detector test. I took a lie detector
6 test. And also, people in the community done some type
7 of rally in front of the police station I think a week
8 or two after that, a no justice/no peace type of rally
9 or something. You know, they had signs.

10 And eventually, they dropped the case from
11 Ecstasy to Mandrix, and then it dropped from Mandrix to
12 Valium, and then eventually they dismissed the case
13 totally. That was one occasion that's not on the
14 paperwork you all have read.

15 Another occasion is I think like two or three
16 months ago I was leaving my office about 2:00 something
17 or 3:00 a.m. in the morning, and I observed an officer
18 pull behind me after I made a right going to Lafedo. As
19 I entered the freeway, I observed the officer still
20 following me.

21 SENIOR INSPECTOR DELGADO: A marked patrol
22 unit?

23 MR. PRINCE: A DPS.

24 SENIOR INSPECTOR DELGADO: Oh, a DPS.

25 MR. PRINCE: Department of Public Safety.

1 And at that time as I got further down the
2 freeway, he put his lights on me. So I pulled over to
3 the side of the freeway, and he told me to exit the
4 freeway and pull over to a McDonald's to the right.

5 So as I exited the freeway and got to a
6 McDonald's, I saw two cars. The McDonald's was dark. I
7 saw two cars, a Cherokee green jeep and a Cutlass over
8 at the McDonald's. So I was a little leery about
9 pulling in the dark because as you read it in the
10 paperwork some of my friends that was in the Rap-A-Lot
11 van had pulled in the dark and got jumped on and
12 different stuff like that.

13 So I got to the red light, and he said pull
14 over; I told you to pull over at the McDonald's. And I
15 pointed across. I said I'm going to pull over here at
16 the Shell.

17 So I crossed the light, and I pulled over in
18 the Shell Service Station that was lit up, and the
19 officer--he told me I told you to pull over; why you
20 didn't. I said sir, I didn't want you to think I was
21 trying to harm you, and I didn't want to think you was
22 trying to harm me so I thought it would be best that I
23 pull over in the light.

24 And at that time, he asked for my license. So
25 as I was getting ready to show him my license, he said

1 where are your guns? I say how you know I have guns?
2 He say well, I see your license. I say this is my
3 driving license. I said I have a gun license; I was
4 getting ready to give you my gun license, but how did
5 you know I have a gun? He said well, I see it under the
6 front seat under the floor mat in the car.

7 And he went and was looking through the car,
8 and he seemed to be looking past the guns and searching
9 the car. So I said sir, why are you searching my car; I
10 told you where the guns were. And he say are you drunk?
11 I say no, sir, I don't drink. He said well, why are you
12 getting upset? I said I'm not getting upset, but I feel
13 like you are violating my rights; why are you searching
14 my car when I told you where my gun was. Oh, well, I
15 was looking for the guns. I say okay, and I watched his
16 eye movement at the time. He was looking over at the
17 McDonald's over there where I saw the two cars.

18 So eventually, one of the cars pull out and
19 came straight over there where he and I was, which was a
20 DEA Agent Chad Scott, and Chad didn't say anything to
21 me. He went and said something to the officer.

22 Then I observed the green Cherokee making
23 circles around the Shell Service Station. And at that
24 time, Chad said what he had to say and got back in the
25 car, and he left, but the green Cherokee was constantly

1 making circles.

2 So the officer then asked me how much money I
3 had in my pocket. I asked him why was he concerned
4 about my money; you need to borrow some money? He told
5 me to hold on, and he went back to his car and wrote me
6 a warning ticket and came back and basically told me
7 this is the warrant. He called my old name, James
8 Smith.

9 I said well, how do you know my name is James
10 Smith? He said well, you look like--he started
11 stuttering; well, you look like James. I said okay. I
12 said well, I understand what time it is. At that point,
13 I really knew that they had me stopped or something. So
14 he eventually let me go, and that was the end of that
15 story.

16 SENIOR INSPECTOR DELGADO: Did he write you a
17 citation you said?

18 MR. PRINCE: A warning.

19 SENIOR INSPECTOR DELGADO: A warning.

20 MR. PRINCE: Yes, sir.

21 SENIOR INSPECTOR DELGADO: But he wrote a
22 warning to you.

23 MR. PRINCE: Yes, sir.

24 SENIOR INSPECTOR DELGADO: So something is
25 documented on that.

1 MR. PRINCE: Yes, sir.

2 SENIOR INSPECTOR DELGADO: And when was this?
3 Two to three months ago?

4 MR. PRINCE: I would think about three months
5 ago.

6 SENIOR INSPECTOR DELGADO: So we're saying May,
7 June?

8 MR. PRINCE: I think I still have the citation,
9 so to be accurate, I would have to look on it.

10 SENIOR INSPECTOR DELGADO: But two or three
11 months ago.

12 MR. PRINCE: I think so.

13 SENIOR INSPECTOR DELGADO: And it was DPS.

14 DEPUTY INSPECTOR DODGE: Did you have any
15 conversations with Chad Scott at all during that time?

16 MR. PRINCE: No, sir.

17 DEPUTY INSPECTOR DODGE: Did you overhear any
18 statements he may have made?

19 MR. PRINCE: No. They did that in private.

20 DEPUTY INSPECTOR DODGE: What vehicle was he
21 driving?

22 MR. PRINCE: A Cutlass.

23 DEPUTY INSPECTOR DODGE: What color, please?

24 MR. PRINCE: Kind of burgundy looking, an older
25 Cutlass.

1 DEPUTY INSPECTOR DODGE: Was he by himself?

2 MR. PRINCE: Yes, sir. And he was dressed in
3 not army fatigue but some type of--it wasn't a police
4 uniform. It was--I don't know, some kind of suit.

5 DEPUTY INSPECTOR DODGE: Approximately what
6 time of the evening was this?

7 MR. PRINCE: This was in the morning, a.m.,
8 like between 2:00 and 3:00.

9 DEPUTY INSPECTOR DODGE: Was he displaying any
10 weapons?

11 MR. PRINCE: No, sir.

12 CHIEF INSPECTOR JIMINEZ: They never found any
13 weapons?

14 MR. PRINCE: Found any weapons in my car? Yes,
15 I had two weapons.

16 CHIEF INSPECTOR JIMINEZ: And you had the
17 permits for the weapons?

18 MR. PRINCE: Yes.

19 DEPUTY INSPECTOR DODGE: Did they seize the
20 weapons or leave them there?

21 MR. PRINCE: Yeah, they left them there.

22 SENIOR INSPECTOR DELGADO: When they were
23 searching you, were you outside the car?

24 MR. PRINCE: Uh-huh.

25 SENIOR INSPECTOR DELGADO: They put you

1 outside. There was only one officer?

2 MR. PRINCE: One officer, right.

3 DEPUTY INSPECTOR DODGE: Were you handcuffed at
4 that time?

5 MR. PRINCE: No, sir.

6 DEPUTY INSPECTOR DODGE: Were you searched or
7 anything as far as being placed on the ground or against
8 the vehicle?

9 MR. PRINCE: No, sir.

10 DEPUTY INSPECTOR DODGE: Did anyone lay any
11 hands on you?

12 MR. PRINCE: No.

13 DEPUTY INSPECTOR DODGE: Do you know who may
14 have been driving the green jeep Cherokee?

15 MR. PRINCE: No.

16 DEPUTY INSPECTOR DODGE: Do you have a
17 description or a physical description of the driver?

18 MR. PRINCE: I think the windows was kind of
19 tinted so--so I just recall seeing both of the vehicles
20 over there together.

21 SENIOR INSPECTOR DELGADO: You say the first
22 incident happened back in '93 when this happened, and
23 then this incident happened just a few months ago. Do
24 we have something in between?

25 MR. PRINCE: Well, prior to that, they was

1 stopping and harassing a lot of people that was leaving

2 Rap-a-Lot, the company and--

3 CHIEF INSPECTOR JIMINEZ: Who is they?

4 MR. PRINCE: I don't really know. Officers,
5 sheriffs. I know one of them was a sheriff.

6 Well, what was happening was the sheriff--they
7 was having a sheriff just stop them, and then agents
8 would come up after the sheriff would stop people and
9 searching their vehicles and made threats to some of the
10 people about they're going to send me to hell. Others
11 they asked them if they could purchase drugs there at
12 the building.

13 SENIOR INSPECTOR DELGADO: This was out of the
14 incident that happened with--

15 CHIEF INSPECTOR JIMINEZ: They're coming out of
16 the disco.

17 SENIOR INSPECTOR DELGADO: Out of the disco
18 with [REDACTED] and [REDACTED]; is that it?

19 MR. PRINCE: No.

20 SENIOR INSPECTOR DELGADO: Are these different?

21 MR. PRINCE: It's different.

22 SENIOR INSPECTOR DELGADO: Okay. Let's expound
23 more on those right now that you are talking about.

24 MR. PRINCE: Okay,

25 SENIOR INSPECTOR DELGADO: What employees?

1 MR. PRINCE: This was--actually, one of them
2 was an attorney that left the building. Another--I
3 don't think any of them was--well, one of them was an
4 employee. She is no longer with us.

5 SENIOR INSPECTOR DELGADO: Okay. I'm sorry. I
6 misunderstood. They weren't harassing your employees
7 going back and forth out of your business? Didn't you
8 say that?

9 MR. PRINCE: Basically, yeah, everybody that
10 would leave there.

11 SENIOR INSPECTOR DELGADO: Okay, everybody that
12 would leave. People that would go there to do projects
13 and everything I guess.

14 MR. PRINCE: Well, I guess they was picking who
15 they wanted to harass.

16 CHIEF INSPECTOR JIMINEZ: Can you identify
17 names for us, who those people are?

18 MR. PRINCE: ██████████, that's the attorney.

19 SENIOR INSPECTOR DELGADO: ██████████

20 MR. PRINCE: ██████████

21 SENIOR INSPECTOR DELGADO: ██████████

22 MR. PRINCE: ██████████ I think.

23 SENIOR INSPECTOR DELGADO: He's an attorney you
24 say?

25 MR. PRINCE: Yes.

1 SENIOR INSPECTOR DELGADO: What happened to
2 him?
3 MR. PRINCE: What happened to [REDACTED]? Do you
4 remember?
5 MR. TOVAL: Stopped him and searched him and
6 stopped the search once he brought out his bar card and
7 showed he was an attorney.
8 SENIOR INSPECTOR DELGADO: And this is what he
9 told you?
10 MR. PRINCE: Yes.
11 SENIOR INSPECTOR DELGADO: Did he say who
12 stopped him?
13 MR. PRINCE: Who did he say stopped him?
14 MR. TOVAL: I believe DPS.
15 DEPUTY INSPECTOR DODGE: How long ago was that?
16 MR. PRINCE: It had to be sometime November or
17 December of '98.
18 SENIOR INSPECTOR DELGADO: What are the hours
19 there at the business?
20 MR. PRINCE: It varies because, you know, in
21 the entertainment business artists like to work late at
22 night in the studios and different things like that. So
23 it varies. We kind of operate 24/7.
24 SENIOR INSPECTOR DELGADO: Okay. Now do you
25 have a lot of cars? Do you drive one car? What I'm

1 trying to say is do you have a personalized plate that
2 has your name that if somebody sees it they'll say there
3 he is, or do you drive other people's cars? Give us an
4 insight on that.

5 MR. PRINCE: Well, I own a lot of cars, yeah.
6 But at that particular time back in '93, I probably had
7 two or three cars, and that was a dealer license plate I
8 had on that car that read Rap-A-Lot I think. That's how
9 that particular officer knew who I was. Because like I
10 said, I had got a pistol charge, and it was the same
11 officer.

12 DEPUTY INSPECTOR DODGE: Let me just step back
13 to the '93 incident. You said it's not documented in
14 any of these memos that you gave us here.

15 When you stated you were stopped in '93, you
16 said that it appeared that one of the officers may have
17 been in contact with someone from DEA?

18 MR. PRINCE: Well, that's what the other two
19 officers said.

20 DEPUTY INSPECTOR DODGE: Did they give you any
21 clue or insight as to who it was?

22 MR. PRINCE: No. I heard discussions. He said
23 something about DEA or somebody was in the trial where I
24 had a prehearing or something on the pistol charge, and
25 they was there again, and evidently they spoke with him,

1 the officer again, and maybe gave him a contact.

2 DEPUTY INSPECTOR DODGE: Do you know who that
3 was then?

4 MR. PRINCE: No.

5 DEPUTY INSPECTOR DODGE: Why would they be
6 interested with you in 1993? What's the connection
7 there?

8 MR. PRINCE: I have no idea.

9 DEPUTY INSPECTOR DODGE: Did you ever see a DEA
10 agent in 1993 at this particular stop at all?

11 MR. PRINCE: I really wouldn't have known if I
12 had.

13 DEPUTY INSPECTOR DODGE: Anybody identify
14 themselves?

15 MR. PRINCE: I don't know any of them.

16 DEPUTY INSPECTOR DODGE: And you said you took
17 the polygraph based on that.

18 MR. PRINCE: Yes.

19 DEPUTY INSPECTOR DODGE: Do you recall the
20 questions that you were asked?

21 MR. PRINCE: Not really. I passed it. That's
22 all I remember.

23 SENIOR INSPECTOR DELGADO: Going into a little
24 bit more detail on this harassment, intimidated by
25 agents of the DEA, do you know what agents? You've

1 mentioned a Chad Scott on this last stop that he came,
2 but he didn't talk to you, did he?
3 MR. PRINCE: No.
4 SENIOR INSPECTOR DELGADO: Okay.
5 MR. PRINCE: Jack Schumacher is the other. I
6 think he's the more aggressive one.
7 DEPUTY INSPECTOR DODGE: Have you met him
8 before?
9 MR. PRINCE: Yes, sir.
10 DEPUTY INSPECTOR DODGE: How many times did you
11 recall meeting him?
12 MR. PRINCE: I've seen him about four times in
13 court.
14 CHIEF INSPECTOR JIMINEZ: In court?
15 MR. PRINCE: Yes, sir.
16 SENIOR INSPECTOR DELGADO: You haven't had any
17 one-to-one with him?
18 MR. PRINCE: No.
19 SENIOR INSPECTOR DELGADO: Just observed him in
20 court then.
21 MR. PRINCE: Yes and speaking to me.
22 DEPUTY INSPECTOR DODGE: He spoke to you in
23 court?
24 MR. PRINCE: Yes.
25 DEPUTY INSPECTOR DODGE: Was that while he was

1 on the stand?

2 MR. PRINCE: No, like on the elevator leaving
3 out.

4 DEPUTY INSPECTOR DODGE: Do you recall the
5 conversation?

6 MR. PRINCE: No.

7 DEPUTY INSPECTOR DODGE: Did he threaten you?

8 MR. PRINCE: No.

9 DEPUTY INSPECTOR DODGE: Did he call you any
10 racial names or racial slurs?

11 MR. PRINCE: No, no.

12 DEPUTY INSPECTOR DODGE: Did he touch you in
13 any way?

14 MR. PRINCE: No.

15 SENIOR INSPECTOR DELGADO: Who else was in the
16 elevator? Your attorney?

17 MR. PRINCE: I think so.

18 SENIOR INSPECTOR DELGADO: Who is...

19 MR. PRINCE: Not my attorney but one of the
20 other guys' attorneys, and I think my pastor was with me
21 also.

22 SENIOR INSPECTOR DELGADO: Your pastor was
23 there?

24 MR. PRINCE: Yes, sir.

25 SENIOR INSPECTOR DELGADO: What's his name,

1 sir?

2 MR. PRINCE: [REDACTED]

3 CHIEF INSPECTOR JIMINEZ: [REDACTED]

4 MR. PRINCE: [REDACTED]

5 DEPUTY INSPECTOR DODGE: What was the trial on
6 just so we can kind of pinpoint this time frame?

7 MR. PRINCE: The trial was on--the guys' names
8 Edward Russell and Steven McCarter. One of the guys
9 worked for Rap-A-Lot. The other guy do contract work
10 for Rap-A-Lot.

11 SENIOR INSPECTOR DELGADO: Who did? Russell?

12 MR. PRINCE: Yes.

13 SENIOR INSPECTOR DELGADO: And who is Steven
14 McCarter?

15 MR. PRINCE: Steven McCarter, he was an
16 employee of Rap-A-Lot.

17 DEPUTY INSPECTOR DODGE: What year or what time
18 frame was the trial?

19 MR. PRINCE: This was a couple of months ago I
20 think.

21 DEPUTY INSPECTOR DODGE: In Houston?

22 MR. PRINCE: Yes.

23 DEPUTY INSPECTOR DODGE: Was it city court?

24 MR. PRINCE: No, federal court.

25 SENIOR INSPECTOR DELGADO: What was the case

1 about, sir?

2 MR. PRINCE: The case was about a sting that
3 Schumacher and I think Chad had set up regarding
4 Russell, and McCarter was also a part of it.

5 CHIEF INSPECTOR JIMINEZ: You said that you
6 think it was a sting. Can you describe the sting? I
7 mean what--

8 MR. PRINCE: Describe the sting?

9 CHIEF INSPECTOR JIMINEZ: Yeah. I mean what
10 are you talking about? I mean what is this case all
11 about?

12 MR. PRINCE: You want to know what the case is
13 about?

14 CHIEF INSPECTOR JIMINEZ: Yeah, so we can have
15 a picture as to what to look at.

16 MR. PRINCE: I can give you some insight on my
17 knowledge.

18 CHIEF INSPECTOR JIMINEZ: Okay.

19 MR. PRINCE: It may not be all there.

20 But anyway, it was a set up where the
21 government had a female informant who set up a deal in a
22 hotel and left a key on a tire for Russell, the one that
23 was communicating with the female, to go to a room and
24 get money out of the room, and they got caught up in
25 that sting.

1 They went to get the money, and when they went
2 to receive the money--two other guys actually went in to
3 get the money. And after going in to get the money,
4 they had put drugs in the cooler also. So I guess all
5 of them got conspiracy cases.

6 CHIEF INSPECTOR JIMINEZ: And this case is a
7 federal case?

8 MR. PRINCE: Yes.

9 SENIOR INSPECTOR DELGADO: Is it still--when
10 was this? Two months ago? So it's over with.

11 MR. PRINCE: Two to three months ago.

12 SENIOR INSPECTOR DELGADO: What happened on
13 that?

14 MR. PRINCE: Well, Russell and McCarter was
15 found guilty, and McCarter's case was overturned. He's
16 getting a new trial, and the two other guys, that case
17 was acquitted.

18 CHIEF INSPECTOR JIMINEZ: And Russell got
19 convicted?

20 MR. PRINCE: Yes.

21 CHIEF INSPECTOR JIMINEZ: He's serving time
22 right now?

23 MR. PRINCE: I don't think he has gotten his
24 time, but all of them are still in jail.

25 SENIOR INSPECTOR DELGADO: So it's at this

1 trial that you had a conversation with Schumacher in the
2 elevator?

3 MR. PRINCE: At that trial we spoke, yes, sir.

4 SENIOR INSPECTOR DELGADO: So you don't recall
5 what was--did he acknowledge your presence and say
6 hello?

7 MR. PRINCE: Well, the first time, they said
8 something was up on leaving out of the courtroom. I was
9 holding the door open for an elderly lady to walk out,
10 and he basically was telling me to go ahead. And I told
11 him you can go ahead; I'm holding the door open for the
12 elderly lady. And he waited also in, and after the lady
13 went through, he went through and basically said gee,
14 you are being very nice today or something like that,
15 and that was it.

16 CHIEF INSPECTOR JIMINEZ: That offended you,
17 that statement?

18 MR. PRINCE: No.

19 SENIOR INSPECTOR DELGADO: Mr. Prince, tell me
20 what he's doing to intimidate you. Maybe we didn't ask
21 the question right or something.

22 MR. PRINCE: Oh, okay. Well, I was intimidated
23 that night, just to know. I'm aware of this guy being a
24 killer first of all.

25 SENIOR INSPECTOR DELGADO: Of who?

1 MR. PRINCE: Of a lot of people.

2 SENIOR INSPECTOR DELGADO: No. Who is the
3 killer?

4 MR. PRINCE: Schumacher.

5 SENIOR INSPECTOR DELGADO: You are aware that
6 Schumacher is a killer.

7 MR. PRINCE: Have killed a lot of people.

8 DEPUTY INSPECTOR DODGE: Which night are you
9 intimidated on?

10 MR. PRINCE: Well, I was intimidated, scared.
11 I just have no idea why they wanted me to pull in the
12 dark.

13 CHIEF INSPECTOR JIMINEZ: But he never pulled
14 you in the dark, Schumacher.

15 MR. PRINCE: I was instructed to go in the
16 dark.

17 CHIEF INSPECTOR JIMINEZ: By whom?

18 MR. PRINCE: By the DPS.

19 CHIEF INSPECTOR JIMINEZ: But where is
20 Schumacher--

21 MR. PRINCE: Well, Schumacher has been the
22 captain of this ship from day one, and I observed that
23 by hearing everything in court. So I wouldn't exclude
24 Schumacher on anything where Chad is involved because
25 they together.

1 SENIOR INSPECTOR DELGADO: So Chad and
2 Schumacher are partners.
3 MR. PRINCE: Yes.
4 DEPUTY INSPECTOR DODGE: What makes you say
5 he's master of the ship or whatever term that you just
6 used?
7 MR. PRINCE: I heard him say it in testimony in
8 trial.
9 DEPUTY INSPECTOR DODGE: Can you recall as
10 close as you can?
11 MR. PRINCE: I heard the lawyer just about ask
12 him was this his baby, and he agreed. In other words, I
13 heard him agree that he is the one that was over
14 everything, you know, and initiated everything.
15 DEPUTY INSPECTOR DODGE: Are we speaking
16 specifically of the trial that you had attended?
17 MR. PRINCE: Yes.
18 SENIOR INSPECTOR DELGADO: But he initiated
19 this case, and this case was on Russell and McCarty or
20 McCarter--
21 MR. PRINCE: Yes.
22 SENIOR INSPECTOR DELGADO: --and the other two
23 individuals.
24 MR. PRINCE: Uh-huh.
25 SENIOR INSPECTOR DELGADO: Where do you play in

1 this? Why--

2 MR. PRINCE: Well, from my understanding from
3 everybody I encounter, I am the target. They're
4 actually attacking Russell and a combination of other
5 people that has been affiliated with me and basically
6 pressuring them and offering them all type of deals to
7 lie on me. So I am the target.

8 And also, I must say when I entered the court
9 and one of the attorneys told me that they actually
10 didn't want me in the courtroom because they say the
11 investigation or something was about me, and the judge
12 didn't ask me to leave.

13 SENIOR INSPECTOR DELGADO: Why were you in
14 court?

15 MR. PRINCE: I was in court to--actually, I
16 wanted to know what was happening and what had happened.
17 These are guys that worked for me, and I really wanted
18 to know what in the hell was they doing. So I was there
19 to hear what had happened.

20 DEPUTY INSPECTOR DODGE: I understand what you
21 are saying about your coworkers and associates being
22 stopped and questioned. But has any DEA employee ever
23 threatened you verbally? Let's start with that.

24 MR. PRINCE: Not directly.

25 CHIEF INSPECTOR JIMINEZ: How indirectly?

1 Describe that for me.

2 MR. PRINCE: Well, with one of the--no, with
3 about four guys, the three that was arrested with the
4 van when they pull them over the same way and jumped on
5 them and different things in the van. They told
6 something about if something happened concerning
7 somebody we all going to fall one by one, an eye or an
8 eye, something of that extent.

9 And also, on another occasion, a guy that left
10 the building said that they said we're going to send
11 James to hell.

12 DEPUTY INSPECTOR [REDACTED]: What guy was that?

13 MR. PRINCE: His name is [REDACTED]. I don't know
14 his last name.

15 DEPUTY INSPECTOR [REDACTED]: [REDACTED]

16 MR. PRINCE: [REDACTED]

17 DEPUTY INSPECTOR [REDACTED]: How would you spell
18 it? [REDACTED]

19 MR. PRINCE: [REDACTED]

20 SENIOR INSPECTOR [REDACTED]: And they told
21 this?

22 MR. PRINCE: Yes.

23 DEPUTY INSPECTOR [REDACTED]: Is he an employee of
24 your company?

25 MR. PRINCE: No.

1 DEPUTY INSPECTOR DODGE: Is he a customer?

2 MR. PRINCE: No. He's mainly someone who
3 drives one of the rappers around, one of his friends.

4 CHIEF INSPECTOR JIMINEZ: Mr. Prince, we have
5 heard you give descriptions of a number of incidents,
6 and in most of them or a lot of them, you mention DPS,
7 Houston Police Department.

8 Can you be more specific in this case about DEA
9 people threatening you or accosting you and harassing
10 you or doing something to you more specific? Can you be
11 more specific?

12 MR. PRINCE: Well, I call myself being as
13 specific as I can.

14 Now DEA--the reason I mentioned HPD and all of
15 these people is because this is who they use to pull
16 people over. Once that happened, they do what they have
17 to do. Now me directly, that's the only encounter I
18 had.

19 CHIEF INSPECTOR JIMINEZ: Right.

20 MR. PRINCE: Now everything else that has
21 happened indirectly but it happened.

22 CHIEF INSPECTOR JIMINEZ: Okay. Can you
23 describe to us how you know that DEA indirectly is doing
24 this to you if you know.

25 MR. PRINCE: Okay. I can describe this

1 happening from conversations with other people that they
2 have--such as on the list right there that has
3 encounters with them, they tell me what's being said,
4 from attorneys, also from a lot of people that's in
5 jail.

6 CHIEF INSPECTOR JIMINEZ: But can we call this
7 that that's an assumption on your part, that these are
8 not facts? I mean I would like to hear facts, facts.
9 Let's talk about facts.

10 MR. PRINCE: Well, you tell me what would be a
11 fact to you.

12 CHIEF INSPECTOR JIMINEZ: Well, I mean if you
13 tell me that you've been stopped by the police and that
14 this stop is caused by DEA and you know in fact that DEA
15 was the one who ordered you to be stopped. You don't
16 know that.

17 I mean that's what I'm trying to get to the
18 bottom of this, you know, where--what DEA has done wrong
19 so we can investigate. You have allegations, concerns
20 about DEA going after you and harassing you and
21 violating your rights and all of this, and that's a very
22 serious allegation that we take seriously. And, you
23 know, we don't allow it. We don't tolerate that type of
24 behavior.

25 So I wanted to get to the bottom of this. I

1 mean who is doing this? Who is behind all of this? And
2 in fact, if your rights are being violated, then this is
3 something that we have the responsibility to investigate
4 to put this to rest and at the same time go after the
5 people who are doing this.

6 MR. PRINCE: Well, my biggest concern is I
7 don't want to be dead before that happens. So I mean if
8 you could tell me why Chad Scott and whoever else would
9 be over there waiting for me in the dark, then maybe I
10 could feel better about just being comfortable to drive
11 in the streets and feel like no harm would come my way.

12 I mean if they wasn't a part of it, why would
13 they be there? If they wasn't a part of it, why would
14 he ride over there to my car? Is that a coincidence?

15 DEPUTY INSPECTOR DODGE: Well, other than the
16 initial stop, though, at the McDonald's and you chose to
17 stop at the Shell, what other incident did either the
18 officers or Chad Scott do that made you feel that your
19 life was in danger?

20 MR. PRINCE: Just things I heard through
21 people, just threats that came back to me that evidently
22 they wanted to come back to me through other people.

23 DEPUTY INSPECTOR DODGE: But could they have
24 had the opportunity to do something with you at the
25 Shell Station if that was in fact their intention to

1 harm you? Could they have asked you to move to another
2 location or transported you in one of the vehicles to
3 another location?

4 MR. PRINCE: Well, I mean of course they don't
5 want to do it that sloppy if they plan on doing
6 something, but who knows what they could do.

7 DEPUTY INSPECTOR DODGE: Is there any officer,
8 DPS or Houston PD or any other officer that you've
9 spoken to and had a direct conversation with that said
10 you were being stopped or harassed by specifically DEA
11 agents or employees?

12 MR. PRINCE: Well, not directly with me, but in
13 the case of the other guys, one of the officers admitted
14 that the DEA agent told him to pull them over, and this
15 was before this happened to me.

16 DEPUTY INSPECTOR DODGE: Could that have been
17 drug related? Was that person carrying or transporting
18 drugs?

19 MR. PRINCE: No, no. These guys was working at
20 the club and basically was just stopped for no reason.

21 DEPUTY INSPECTOR DODGE: Who was the officer?

22 MR. PRINCE: I don't know.

23 DEPUTY INSPECTOR DODGE: Who was the person
24 that told you the officers said that?

25 MR. PRINCE: [REDACTED] and also--

1 CHIEF INSPECTOR JIMINEZ: [REDACTED]

2 MR. PRINCE: I think this is documented when
3 they went to court, and the ticket was dismissed that
4 this officer said this on record that the DEA told him
5 to pull him over.

6 DEPUTY INSPECTOR DODGE: And what's [REDACTED] last
7 name?

8 MS. PLUVIOSE-FENTON: If I could just
9 interrupt.

10 I think Mr. Prince is exhibiting some
11 inhibition in terms of volunteering as much information
12 as he'd like to or as he's feeling comfortable because
13 of his concern of retaliation and future harassment.
14 And if these things are a matter of public record, then
15 I'm assuming perhaps you may use your resources to then
16 try to pull up the information. I think he's giving you
17 a first name, and I think that might help you.

18 SENIOR INSPECTOR DELGADO: What's difficult
19 about that situation, though, is we have to know all the
20 facts. Because if we don't ask him the source for
21 information, we don't know all the facts.

22 MS. PLUVIOSE-FENTON: I understand that.

23 SENIOR INSPECTOR DELGADO: And it could
24 jeopardize him if he fears this--

25 MS. PLUVIOSE-FENTON: If I may--

1 MR. PRINCE: Well, it's in the report.

2 MS. PLUVIOSE-FENTON: What Mr. Prince sent to
3 us particularly--yeah, that some of these names are
4 listed here. He does not want to be on record as
5 repeating these and not only placing himself in further
6 jeopardy but also some of the people he may also know,
7 whether they're colleagues or not.

8 The other thing that he seems to be indicating,
9 which may not be clearly articulated right now, is that
10 he does not--is not directly saying Schumacher is the
11 person who is there at every time.

12 However, it's his impression, if I'm correctly
13 stating this, that Schumacher DEA is perhaps working
14 with--and it's not unusual to work with the local police
15 department, the local law enforcements and whatnot, to
16 do whatever it is that they do in the trade. And in the
17 process of that, he's concerned about a renegade of
18 sorts, that is acting out independent of what department
19 policies would be.

20 Would that be a fair characterization?

21 MR. PRINCE: Uh-huh.

22 CONGRESSWOMAN WATERS: If I may--not to
23 interfere with your investigation.

24 If these incidents started back in 1993, it may
25 be helpful to go year by year from '93 and see if there

1 are incidents and times when the office building has
2 been visited or under surveillance. That may be helpful
3 to build the investigation from the first incident up
4 through the last one.

5 SENIOR INSPECTOR DELGADO: It's your forum,
6 sir. It's your forum.

7 MR. PRINCE: Uh-huh.

8 DEPUTY INSPECTOR DODGE: You want to take us
9 from the beginning?

10 MR. PRINCE: I guess I can go back to 1990/91.
11 This is not DEA I don't think. It's IRS so I don't know
12 if that would mean anything to you all.

13 CHIEF INSPECTOR JIMINEZ: If you want that we
14 get a complete picture--you know, when we initiate this
15 investigation, we want to talk to everybody.

16 MR. PRINCE: Yeah.

17 CONGRESSWOMAN WATERS: I don't think that I was
18 referencing IRS necessarily. What appears to have
19 happened here is that Mr. Prince sees this information
20 as information you already have, and he is talking about
21 for the most part information that does not appear in
22 this attempt to document.

23 So he has not proposed on the record
24 information that would be born out of what he's had on
25 the record. So if--I'm just trying to suggest this so

1 that we can expedite.

2 Have you read this?

3 CHIEF INSPECTOR JIMINEZ: Yes.

4 CONGRESSWOMAN WATERS: Have you read this?

5 DEPUTY INSPECTOR DODGE: Yes, ma'am.

6 CONGRESSWOMAN WATERS: Is there anything in
7 this that you need further explanation of?

8 DEPUTY INSPECTOR DODGE: No. I mean actually
9 the purpose of this interview is to get as much
10 firsthand and direct knowledge that Mr. Prince has. The
11 other witnesses' names in these may be in fact
12 interviewed specifically regarding their own involvement
13 and knowledge of what's going on, and that's how we'll
14 proceed one by one.

15 So that's why we're trying to bypass some of
16 the secondary information. If we can just identify who
17 told him or whatever, and that will lead to another
18 offshoot as far as a separate interview or a follow-up
19 part of the investigation.

20 But specifically today, it's important to hear
21 exactly what he has seen firsthand through his own
22 knowledge, through sight, smell, hearing, the whole five
23 senses. That's really what our goal is today and then
24 to take this information and follow it up on those
25 specific leads.

1 So that's why we're specifically pinpointing
2 questions regarding his specific knowledge of the
3 events.

4 MS. PLUVIOSE-FENTON: One incident he's given
5 you his firsthand assessment of his fear is concern
6 during the pullover stop.

7 DEPUTY INSPECTOR DODGE: Right.

8 MS. PLUVIOSE-FENTON: The other things he seems
9 to be articulating over and over is that there are
10 things that are said to him via third parties
11 apparently, and I think that's where there may be a need
12 for further discussion and questions that may be asked.

13 Then Mr. Prince will probably be talking with
14 his lawyer to then discuss exactly the extent of the
15 fullness of how much he wants to divulge in other words.

16 CHIEF INSPECTOR JIMINEZ: That's fine. But you
17 have to understand for us to conduct the full
18 investigation we need to get all the background, and,
19 you know, we have only pieces. It will be extremely
20 difficult for us to go and interview somebody else with
21 only pieces of this information.

22 I mean if he has a complaint, he needs to come
23 forward and give us entirely what is the complaint so we
24 have a big picture, a good picture, and we go after it.
25 But pieces are not going to make it.

1 CONGRESSWOMAN WATERS: And I understand what
2 you are saying, that it would be extremely helpful and
3 instructive if Mr. Prince would take each incident, the
4 time, place, date, the identification of the person,
5 persons, et cetera; however, most people just don't do
6 that very well.

7 I think what I'm hearing is, if I may, is that
8 Mr. Prince based on information over a long period of
9 time, including the documentation of DEA files and
10 arrests that appear to be on record and identified here,
11 believes that he is the target of an investigation that
12 has been ongoing by the DEA, which Mr. Schumacher is in
13 charge of or has led for quite some time; and that a
14 combination of incidents, hearsay and information has
15 come to him which leads him to believe that he is not
16 only a target, has been, will continue to be and
17 increasingly fears that his life is in danger based on
18 the latest incident where he was asked to pull over in a
19 dark place.

20 Now it could be that Mr. Prince's conclusion is
21 wrong; however, I think that it is courageous on his
22 part if he believes this to come to you and share this
23 with you so that you can take a look at it in any
24 fashion that you deem makes good sense.

25 If in fact you don't think there's enough

1 information here to investigate, that's one thing. But
2 if you feel that in addition to what has been documented
3 and the oral presentation of Mr. Prince is enough to
4 take a look at, we would appreciate it.

5 CHIEF INSPECTOR JIMINEZ: Fine. We will take a
6 look at the situation. I just want to put it on the
7 record that we feel that the information provided by
8 Mr. Prince, it's insufficient at this point for us
9 to--you know, we will take a look at it, but it has not
10 pinpointed any civil rights violation. It's not
11 identifying specific acts of wrongdoing of DEA agents
12 and so on.

13 I just want it to be clear on this record that
14 I would like to really get to the bottom of this with
15 more specifics in order to get to the bottom of this.
16 But right now, it's very generic information.

17 CONGRESSWOMAN WATERS: It is. It is very
18 general, and I appreciate the difficulty that that
19 presents.

20 My real concern is that the investigator who
21 has reduced to paper some of the information that he has
22 come in contact with is making some serious allegations
23 and raising some serious questions here.

24 And if in fact the investigator in his
25 description of his encounter since he's been involved

1 with this investigation of what appears to be contact to
2 the club that his son belongs to in an attempt to meet
3 with his son and a suspicious break in of his son's
4 residence all since he started the investigation and the
5 other information that is compiled which leads him to a
6 conclusion that there may be some serious problems--if
7 that in any way enhances your ability to see this
8 through the eyes of Mr. Prince who also has suspicions
9 and fears, I would appreciate it if you would take that
10 into conversation.

11 CHIEF INSPECTOR JIMINEZ: Right. Well, we will
12 take a look, and we will interview the investigator.

13 CONGRESSWOMAN WATERS: Okay.

14 CHIEF INSPECTOR JIMINEZ: But with all honesty,
15 I thought that I was going to hear a more formal
16 complaint of facts, you know, this is what happened this
17 date, I was here, DEA agents did this, A, B, C, D, so,
18 you know, we will have more facts.

19 Right now the information that I'm hearing is
20 very general. We will investigate, but unfortunately,
21 it's not as specific as I thought. You know, when you
22 initially told me civil rights violation, suspending
23 agent so-and-so from employment and all of that, I mean
24 you've been sitting here, and we haven't heard any
25 wrongdoings of these agents.

1 CONGRESSWOMAN WATERS: Well, let me just say
2 that you are absolutely correct in not being able to
3 point to the specificity that would make it easier for
4 you to follow this case up.

5 As a public policy person, when I see that
6 accusations of a DEA agent taking a piece of jewelery,
7 slapping somebody in the face with it, not returning it
8 and tearing up a van, those kinds of things, and it's
9 part of the reputation, suspicions and other kinds of
10 things, it appears problematic. And so when all of this
11 is brought to my attention, I sincerely believe that
12 there's enough there.

13 Again, I don't think we can discount the fact
14 that the music business and rap artists are--they're in
15 a business that DEA agents and others are concerned
16 about. They're concerned about it because it appears
17 again as is stated in here that there are lyrics that
18 are used in songs that are antipolice, that many rap
19 artists have had encounters with the law or sometimes
20 have done time, they associate with people who have done
21 time, and the same thing is true of drugs.

22 That Mr. Prince may be a target of DEA
23 investigations because of the business that he's in and
24 some of the people who are associated with the business
25 that he gives jobs to, it appears that in the years that

1 he's been under investigation and that his records have
2 been subpoenaed or looked at that nobody has found this
3 to be true.

4 But he's a young, black man who has done very
5 well, is very successful, and I know enough about what
6 happens in the real world to know that there are a lot
7 of people who would not believe that you could do that
8 well, you could be that successful if you are a young,
9 black, come from poverty and you have made a lot of
10 money.

11 So I may come from a different perspective
12 which causes me to be concerned. I just happen to be a
13 black woman who has a district where I have young, black
14 males who come from poverty, some of them striving to be
15 successful who think rap is a way by which to do it.

16 So I hear and see a lot of this all the time,
17 and I don't discount the fact that a young, black male
18 could be targeted simply because nobody believes that
19 they could successfully earn a lot of money and not be
20 involved in dope or drugs. So I come with a sensitivity
21 that bothers you to look at this because of what I know
22 and what I understand about what happens.

23 So I think that what I would ask of you is that
24 despite the fact that you don't have date, time and
25 place, that you don't have what would be a solid lead or

1 leads with the kind of specificity that you would like
2 for the investigation, that you take into consideration
3 everything Mr. Prince has said today, the information
4 from the investigator and the background and make a
5 determination about whether there's anything of this
6 that you want to look at, and that's it.

7 CHIEF INSPECTOR JIMINEZ: Absolutely. We will
8 take a look at it.

9 MS. ZIEGLER: One of the things I was going to
10 say earlier it appears to me that a lot of the
11 information that you would like Mr. Prince to give you
12 that he can't give you is because you have that
13 information. You have--the DEA, the government has the
14 information on--

15 CHIEF INSPECTOR JIMINEZ: No.

16 MS. ZIEGLER: Well, let me finish. I let you
17 finish so let me finish.

18 The government has the information on warrants.
19 The government has the information on who is the target
20 of an investigation. The government has information
21 that a citizen is not going to have.

22 He's not going to know when and--you are going
23 to tell me--he's not going to know when he is targeted
24 for an investigation until there is some overt act, and
25 so there is no way he is going to know that. So some of

1 the information that you are asking him to give he can't
2 possibly know.

3 CHIEF INSPECTOR JIMINEZ: No.

4 MS. ZIEGLER: And it would--

5 CHIEF INSPECTOR JIMINEZ: I'm sorry. I'm
6 sorry. Finish.

7 But I mean I think that you are totally--we're
8 not looking at this investigation that way. We were
9 invited here--

10 CONGRESSWOMAN WATERS: That's right.

11 CHIEF INSPECTOR JIMINEZ: --to talk to
12 Mr. Prince because he was going to file a complaint, a
13 civil rights violation against DEA agents.

14 CONGRESSWOMAN WATERS: That's right.

15 CHIEF INSPECTOR JIMINEZ: Okay. That's the
16 reason why we're here.

17 CONGRESSWOMAN WATERS: That's right.

18 CHIEF INSPECTOR JIMINEZ: I haven't heard
19 anything about he raising a civil rights violation
20 against a specific DEA agent. And when he mentioned he
21 suspects, he thinks that these agents is behind all of
22 this, I mean I wanted to hear specifics about what
23 happened to him.

24 Forget about the search warrants. You know, we
25 got access to that. We can look into that. I'm not

1 asking him when the search warrant was served. I can
2 get that information. I can get the information when
3 the people were stopped if they were stopped by DEA. I
4 can get all that information. I'm not asking him to
5 give me that information.

6 I'm asking him when DEA agents violated his
7 rights, who, give me the circumstances that happened
8 that you think or you believe that DEA agents did this.

9 MR. PRINCE: You know what we--

10 CHIEF INSPECTOR JIMINEZ: Have you heard that?
11 No.

12 MR. PRINCE: What I see that's happening here
13 is you're kind of focussing on me directly versus
14 Rap-A-Lot the company. I think a lot of this is
15 happening to the company directly. Versus just
16 focussing directly on me, it seems like a lot of these
17 things are taking place to a lot of employees or
18 different people affiliated with the company.

19 CONGRESSWOMAN WATERS: How many times have you
20 seen the DEA at or around your place?

21 MR. PRINCE: I never see them around that
22 I--personally I haven't. I've never seen them around my
23 place. I've only heard but it's not like I'm at my
24 place 24/7. I only heard from different people upon
25 leaving the place and being out there at work, you know,

1 such as don't drive this van anymore or threats to
2 destroy the company. This is what I see taking place,
3 trying to run people off from the company to destroy the
4 company. That's basically it.

5 CHIEF INSPECTOR JIMINEZ: I understand. I
6 understand.

7 CONGRESSWOMAN WATERS: Would you say that there
8 have been four or five people who were stopped coming
9 out of your place and asked about their cars, their
10 possessions by DEA agents? Have there been any real
11 reports of that?

12 MR. PRINCE: I can't necessarily say they were
13 stopped and asked about their cars. They were stopped,
14 searched--stopped illegally.

15 CONGRESSWOMAN WATERS: Near your place, at your
16 place?

17 MR. PRINCE: Yeah. Always they didn't make a
18 turn or this didn't happen, so they make up reasons to
19 stop them. They search them and make threats, question
20 them and different things like that.

21 CHIEF INSPECTOR JIMINEZ: You know, he never
22 said by DEA. I mean, you know, the police, HPD.

23 MR. PRINCE: DEA have the police to do it for
24 them. I mean DEA don't do it. They come up after they
25 pull over to the side, and the police take the backseat.

1 CONGRESSWOMAN WATERS: Have the DEA pulled up
2 on more than one occasion?

3 MR. PRINCE: Oh, yeah.

4 CONGRESSWOMAN WATERS: Are they pulling up at
5 most of the stops that the others are making and asking
6 more questions or searching? How?

7 MR. PRINCE: This was back then. Lately
8 nothing like that has been happening. And I even
9 understand to a certain extent why it was happening back
10 then if those guys was off into what they was off into.

11 DEPUTY INSPECTOR DODGE: When you say back
12 then, what time frame are you talking about?

13 MR. PRINCE: Back then around November or
14 December.

15 CHIEF INSPECTOR JIMINEZ: Of '98?

16 MR. PRINCE: Right.

17 DEPUTY INSPECTOR DODGE: When you said those
18 guys were into, who are we speaking about?

19 MR. PRINCE: Well, if they was in the process
20 of setting up Russell at that time and something was
21 going on then, but that don't give them the right to
22 stop people illegally and do what they was doing.

23 CHIEF INSPECTOR JIMINEZ: When you're talking
24 about setting up Russell, you are telling me that
25 Russell was forced to go to that hotel and do what he

1 did?

2 CONGRESSWOMAN WATERS: Well, let's not get into
3 that.

4 CHIEF INSPECTOR JIMINEZ: Okay.

5 CONGRESSWOMAN WATERS: All right. It's getting
6 down to something else here. Let's see if there's
7 anything else that Mr. Prince would like to share before
8 we end this.

9 CHIEF INSPECTOR JIMINEZ: Absolutely.

10 MR. PRINCE: No. I basically covered
11 everything.

12 SENIOR INSPECTOR DELGADO: You don't have
13 anything more to add then?

14 MR. PRINCE: No.

15 SENIOR INSPECTOR DELGADO: We'll conclude this.
16 Thank you for your cooperation--

17 CONGRESSWOMAN WATERS: Before you conclude, let
18 me just--I need to get it so that I can understand it,
19 Mr. Delgado if you don't mind.

20 Mr. Prince, you said to me that you fear for
21 your life. Do you still fear for your life?

22 MR. PRINCE: Yes.

23 CONGRESSWOMAN WATERS: Do you have reason to
24 believe that you may be pulled over in a dark place and
25 perhaps shot, be shot or killed or something?

1 MR. PRINCE: Yeah, I have reason to believe it.
2 CONGRESSWOMAN WATERS: And the reason that you
3 believe that is because the combination of information
4 that over a period of time that leads you to believe
5 that particularly with this last stop that it's going to
6 happen again.
7 MR. PRINCE: Yes.
8 CONGRESSWOMAN WATERS: Is that correct?
9 MR. PRINCE: Yes.
10 CONGRESSWOMAN WATERS: All right. I just
11 wanted to get that on the record. Thank you.
12 MR. PRINCE: Do you want to say something?
13 CHIEF INSPECTOR JIMINEZ: No. That's fine.
14 SENIOR INSPECTOR DELGADO: Mr. Dodge, anything?
15 DEPUTY INSPECTOR DODGE: Just based on the
16 documents that were provided to us earlier, are there
17 any individuals who you feel would not be available to
18 be interviewed or willing to cooperate in this
19 investigation?
20 MR. PRINCE: I don't think so. I think
21 everybody will be available.
22 DEPUTY INSPECTOR DODGE: That's all I have.
23 SENIOR INSPECTOR DELGADO: The time is now--
24 MS. PLUVIOSE-FENTON: Can I just ask in the
25 process of interviewing the individuals, I assume that

1 you may also want to look at some individuals that are
2 also mentioned in the document perhaps not personally
3 but at least consider looking into whether or not there
4 have been other complaints, citizens' complaints and
5 otherwise that may have been filed against those
6 individuals and whatnot so that we can get a broad
7 picture of this.

8 CHIEF INSPECTOR JIMINEZ: That will be part of
9 the process.

10 MS. PLUVIOSE-FENTON: Thank you.

11 SENIOR INSPECTOR DELGADO: The time is now
12 4:15, and this concludes the interview today.

13 (Whereupon, at 4:15 p.m., the interview was
14 concluded.)
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C E R T I F I C A T E

I, **CHERYL KAY GERBER**, the Official Court Reporter for Miller Reporting Company, Inc., hereby certify that I recorded the foregoing proceedings; that the proceedings have been reduced to typewriting by me, or under my direction and that the foregoing transcript is a correct and accurate record of the proceedings to the best of my knowledge, ability and belief.

Cheryl Kay Gerber

CHERYL KAY GERBER

Houston, Texas 77280

August 20, 1999.

CONFIDENTIAL

Attorney at Law

Houston, Texas 77002

Re: Rap-A-Lot Records
James A. Prince
File No. [redacted]

REPORT OF INVESTIGATION

Assignment

Our assignment was received on June 21, 1999, and we appreciate our having been so favored. Our assignment was to assist your law firm in gathering evidence to prove that Mr. James A. Prince and Rap-A-Lot Records is, and has been, the long term victim of harassment by local and federal law enforcement.

Mr. James A. Prince

This investigator, in our early conferences, met with Mr. James A. Prince, the CEO of Rap-A-Lot Records. Mr. Prince advised us that since the beginning of his career in music, it is of his opinion, that he has been the target of law enforcement harassment. Mr. Prince believes that law enforcement has come to the conclusion that his financial success, as well as his record label, is that of drug trafficking.

This investigator, after our initial interviews, started reviewing the records at the Harris County Courthouse, and found that as Mr. Prince had stated, that as early as November 1984, Mr. Prince has been stopped, detained, and even arrested on the pretense of a drug related offense. We found there were a total of five documented arrests by law enforcement on all drug related charges, but that none of these had any evidence to prove the alleged charge and all were dismissed. We have below cited each of these charges and have enclosed as attachments, the charge, as well as the dismissal on each of these cases.

Fax [redacted]

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Case Number	File Date	Offense	Disposition
9304350	01-20-93	Drug Offense	Dismissed - 03-22-93
0653801	01-10-93	Other Drug	Dismissed - 02-01-93
9137886	09-19-91	Other Misd..	Dismissed - 03-22-93
0434655	10-09-85	Theft	NOB - 10-23-85
0413750	11-06-84	Other Drug	Dismissed - 06-13-85

Drug Enforcement Agency - DEA

This investigator found that in reviewing Mr. Prince's arrest history in investigations, it appeared that DEA was the agency most actively investigating Mr. Prince. We found; however, the IRS, as well as the Houston Police Department, coordinated efforts with DEA in efforts to prove up, unsuccessfully, that Mr. Prince was involved in drug trafficking. We found that the lead agent in most of these investigations was a Mr. Jack H. Schumacher, who is currently employed with the Houston office of DEA. This investigator found that Mr. Schumacher was formerly with the Houston Police Department, where he worked as a Detective, before leaving and becoming an agent of the Drug Enforcement Agency. This investigator found that Mr. Schumacher, in his law enforcement career, has been responsible for the shooting death of at least eight individuals that he was investigating.

This investigator had an opportunity to talk with people who have worked in the past with Mr. Schumacher, and they shared on a very confidential basis, that in most cases, Mr. Schumacher has created the situation that resulted in the use of deadly force. In our discussion, it was made very clear that these people, most who had known Mr. Schumacher for almost twenty years, did not want to step forward and place themselves in what they consider imperil with him or any other law enforcement agency.

We were advised that Mr. Schumacher is a very successful investigator, as well as a master of the sting-type operation. We were told that in Mr. Schumacher's sting operations, he always leaves an open end to the end of his investigation, which always results in somewhat of a confrontational type point, that from time to time results in the use of deadly force, where Mr. Schumacher has in the past been able to execute the use of deadly force, resulting in the loss of life of his target subject.

This investigator, on my own, went ahead under the open records request, and requested Mr. Schumacher's Internal Affairs file with the Houston Police Department, as well as his state file with TCLE in Austin, Texas. This investigator was hoping to get more details about each of Mr. Schumacher's shootings, to better know the subject's personality. To this

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investigator's surprise; however, this investigator's father-in-law received a telephone call from Mr. Jack Schumacher, who introduced himself and stated that he would like to play golf with this investigator's son. Mr. Schumacher wished to use the grandfather as a conduit, so that the two subjects could get together for a meeting at the golf course.

This investigator was somewhat concerned about Mr. Schumacher's tactics and contacted several men who have worked for years with Mr. Schumacher as detectives in law enforcement. My original hope was to allow my son to meet with Mr. Schumacher and see exactly what his subjects and topics were going to be in this supposed golf game. I, however, was advised by men, who claimed to be friends of Mr. Schumacher, that it would be very dangerous and risky, to say the least, and it would be placing my son in peril to allow him to go unaccompanied to meet Mr. Schumacher anywhere.

This investigator felt that this was very alarming, and even more so, when my son was contacted by the golf course where he is a member, and informed that an individual claiming to be law enforcement, had asked information regarding his membership to the golf course. The employee, however, could not identify, nor provide us any additional information, as to whom this person was that inquired about this investigator's son's membership at the country club.

This investigator then continued doing additional research into Mr. Schumacher's past, to include his life-style. On the following day after this investigator researched into Mr. Schumacher, quite coincidentally, someone broke into my son's residence and defecated in the living room, as well as stole some personal property that belonged to him and his new wife, which included all of her new panties. This, needless to say, was a very strange burglary, which in the opinion of this investigator, did not fit the norm burglary that you would see in the Houston area.

Interview of [REDACTED]

This investigator interviewed [REDACTED], who we understand was Mr. Jack Schumacher's [REDACTED] while he was employed with the Houston Police Department. Our interview with [REDACTED] was very brief, but he was very open and candid about Mr. Schumacher. [REDACTED] who is now retired, stated that he did not get along with Mr. Schumacher, nor did he ever trust him as a detective. [REDACTED] stated that he felt very uncomfortable about Mr. Schumacher and believed that he was untrustworthy and that any incidents that he was involved with, where Mr. Schumacher used deadly force, was questionable, to say the least. [REDACTED] felt, but was unable to ever prove, that Mr. Schumacher's use of deadly force was purposeful and was not a spontaneous reaction to a

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situation, but something planned in advance. ██████████ stated that he caught Mr. Schumacher on numerous occasions, lying about the facts, and he never wanted him in his division and wanted him transferred because of his character.

██████████ went on to say that he had heard that other people who had been targets of Mr. Schumacher's investigations had been mysteriously found dead, without any suspect who was responsible. ██████████ believes that if one would look at Mr. Schumacher closely, they may very well find a suspect in him.

██████████ stated that he believes Mr. Schumacher not to be honest and that he would never turn his back in a situation on this subject.

Interview of ██████████

This investigator contacted Mr. ██████████, who is currently a broker with ██████████, located at ██████████, Houston, Texas. Mr. ██████████ telephone number is ██████████. Mr. ██████████ is a ██████████ graduate and has been very direct with this investigator, that he is honest and would not lie to protect any of his clients, and that currently he is extremely disappointed and disgusted with his government, who he in the past, because of his military affiliations, felt very strongly about. Mr. ██████████ stated that prior to working with ██████████, he had worked with ██████████ and handled Mr. James Prince and Rap-A-Lot Records' account. ██████████ stated that he is an honest person and that he would not jeopardize himself, or his company, to lie for anyone. ██████████ stated, however, that federal agents lied in the past, in 1993, to gain access to the ██████████ offices in an attempt to subpoena and seize records of Mr. James Prince and Rap-A-Lot Records. Mr. ██████████ stated that as long as he has been affiliated with Mr. Prince, as well as Rap-A-Lot Records, he has never done anything illegal, nor was he asked to do anything illegal by Mr. Prince or anyone else affiliated with his company. Mr. ██████████ stated that all the funds that he has ever had any dealings with for Mr. Prince or Rap-A-Lot Records were truly, honestly, earned and were not the product of any illegal activities. However, Mr. ██████████ felt that the government agents with DEA and IRS were untrustworthy and were not honest in their entry into the ██████████ facility. They made serious threats to Mr. ██████████, who has always been a loyal, honest American.

Mr. ██████████ stated that as long as he has been affiliated with Mr. James Prince and Rap-A-Lot Records, there has been nothing but a professional, honest relationship, and that anyone who had any accounting skills would be able to research the trail of funds and know that they were honestly earned and not illegally obtained.

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██████████ is currently employed with ██████████, and his agreement with them will not allow him to discuss the 1998 raid on their offices to seize records of Mr. Prince and Rap-A-Lot Records. ██████████ stated that he has made it very clear to ██████████ at the federal prosecutor's office, that they should just contact Mr. Prince and Rap-A-Lot Records direct and he felt certain that they would just open the records and allow them to review those records to vindicate Mr. Prince and Rap-A-Lot Records from being involved in any illegal activities. ██████████ however, stated that he did not want to conduct his investigation in that way and would rather do it without any cooperation from Mr. Prince or his employees.

██████████ ended our short, brief interview with the fact that anyone with any sense, who truly wanted to get to the bottom of this, would be able to contact Mr. Prince and the Rap-A-Lot Records management, to audit their books in their entirety and would truly come to the conclusion that the funds generated by this business were honestly earned and were not the product of illegal activity.

Rap-A-Lot Records

This investigator has had the opportunity to observe briefly the activities of the staff of Rap-A-Lot Records. Mr. Prince, based on where he grew up in the Fifth Ward of Houston, has chosen to employ people from this area. This area is predominately black and low income, which results in a high rate of crime. Mr. Prince has chosen to give many of these people a second chance to get out of the poverty, unemployment, and crime of their neighborhood. This results in the hiring of a lot of people that in the past have been arrested by law enforcement at some point in their lives. Mr. Prince has given most of these people an opportunity to earn an honest income and work with a black owned business.

This investigator has observed numerous employees at this location, and through my former affiliations with law enforcement, I am usually able to quickly recognize individuals that are high on narcotics. I have never, in all my visits to Rap-A-Lot Records, and in my personal observation, seen anyone on their premises that had any appearance whatsoever of being high on narcotics. It appears to be the hope of Mr. Prince to give these people a chance to better themselves. I have had an opportunity to talk with other people in the Fifth Ward of Houston and all seem to sing Mr. Prince's praises, that he is trying to help his fellow blacks better themselves from the crime and poverty where they grew up.

This investigator in the past has had the opportunity to work with ██████████ ██████████, who are all successful in the music business, from country to rock. This investigator knows that there is a tremendous amount of money generated legally in the

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music profession, based on my prior affiliations with [REDACTED]. However, it has not produced in the white music professionals the attention that has drawn law enforcement to professionals in the black music area. It appears that the lyrics and type of music that most rap artists sing is rather anti-law enforcement and very irate and volatile to those men in uniform. It appears that the nature of the black rap artist singers have drawn the wrath of most all law enforcement; however, it has not been the same type of music sung by [REDACTED] or other professional white musicians, so they have not drawn the wrath and investigative efforts of law enforcement at all levels as blacks have.

It seems that law enforcement has been investigating Rap-A-Lot and James Prince for well over ten years and has participated in numerous sting operations in efforts to get Mr. Prince unsuccessfully. It would seem, however, that if Mr. Prince were white and would sing country western songs, he could be possibly removed as a target of DEA, IRS, and other law enforcement agencies.

Open Records Request

This investigator has submitted an open records request to DEA, to provide us an accounting of all money spent in the course of ten to fifteen years on Mr. Prince and his record label, such as Rap-A-Lot. This investigator does not want to quote, "jeopardize any criminal investigation", in this open records request, but merely determine the cost of federal law enforcement investigations over this period of time when Mr. Prince and his associates and his company, Rap-A-Lot Records, were the target of federal investigations. We believe if law enforcement is honest, that we will be shocked to know the dollar amount spent to investigate Mr. James Prince and Rap-A-Lot Records.

Interview of [REDACTED]

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This investigator interviewed [REDACTED] who formerly owned an auto dealership, located at [REDACTED], Houston, Texas. [REDACTED] shared with us that on April 20, 1993, at approximately 1:00 p.m. in the afternoon, his dealership was raided by the DEA, ATF, Treasury, and IRS. [REDACTED] stated that he was not present at the time, but he arrived within thirty minutes of the onslaught of the raid. [REDACTED] stated that almost all the officers were carrying machine guns and were physically hitting the employees with machine guns and making them lay on the ground as they searched the facility. [REDACTED], when he arrived, asked to see a search warrant or some sort of document of authorization, and the agents refused. [REDACTED] stated that he himself, was hit in the head and in the chest, which caused him such severe pain and discomfort that he will personally never forget. [REDACTED] stated that

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he had a heart condition and he felt that this was severely aggravated by this raid and abuse that he, as well as other employees and customers of this car dealership suffered. [REDACTED] is of Colombian decent, but has never had any problems with law enforcement before this event. [REDACTED] has never had any reasons to his knowledge of ever being targeted for any such raid. [REDACTED] understands that this raid was based on the fact that supposedly his dealership was a store front for drug trafficking and money laundering for drug operations in Houston.

[REDACTED] however, is friends with and had affiliations in the past with Mr. James Prince, as well as Rap-A-Lot records, and they had done business. [REDACTED], himself, was never interrogated specifically about Mr. Prince or Rap-A-Lot Records or the fact that they did business together.

[REDACTED], however, was also employed at this lot at the same time and was also present when this raid occurred. [REDACTED] stated that he was interrogated and threatened and they knew that this operation was a store front drug operation and laundering business for drug traffic. [REDACTED] was questioned about his affiliation with Mr. James Prince and Rap-A-Lot Records, but after an intensive search and abuse to all the employees of this dealership, the end result was that there were no criminal charges filed against anyone, nor where there any drugs found or any paraphernalia, or anything that would lead anyone to believe that this was a drug operation or laundering of drug operation or a store front for anything stolen. This raid, like several others in this area, were totally proven to be unsuccessful and no one has ever been arrested or charged for any criminal wrong doing whatsoever.

Interview with [REDACTED]

This investigator, along with investigator, [REDACTED], interviewed [REDACTED] regarding an incident that occurred on January 27, 1999, at approximately 3:00 a.m., in Houston, Texas. [REDACTED] along with [REDACTED], and a fellow employee named [REDACTED] were doing a promotional trip to a club known as Jamaica Jamaica in Houston, Texas. The three were in a company van that is promoted on the outside as Rap-A-Lot Records. These type of promotions are common to promote new releases, as well as the record label Rap-A-Lot. The three men, after leaving the club Jamaica Jamaica, pulled out and were immediately followed from this location by a marked Houston Police Department patrol car. This vehicle followed the three and finally turned on their lights, indicating that they should pull over. The van attempted to pull over at one point of the road side exit, and they were directed by a PA system in the patrol unit to continue. They were directed to exit the next exit off the roadway, to an area that was extremely dark.

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According to [REDACTED], when they were pulled over, a second vehicle appeared with two plain clothes men, that were identified as DEA agents, Mr. Jack Schumacher and his partner, a subject by the name of Chad. The three men were then physically abused, knocked around, and threatened. They were advised that they knew that they were slaves and employees of James Prince and they were known to be in a gang. The Rap-A-Lot van was searched thoroughly, as well as the men. After being physically abused and knocked around, the three men were then loaded into a police car and transported to a DEA facility, where they were strip-searched, to include all their private areas, to see if they were in possession of any illegal narcotics. The three men were found not to have anything illegal in their possession, but were continued to be harassed throughout the night. They were interrogated regarding their relationship with Mr. James Prince and Rap-A-Lot Records, and told that they were aware that this was a front for drug dealing and gang activity.

[REDACTED] was wearing a gold chain necklace that he had paid approximately \$1,200 for. This necklace was removed from his neck and was worn by DEA agent, Chad, who ridiculed [REDACTED] for wearing such a piece of jewelry. [REDACTED] stated that he was hit in the stomach by DEA agent, Mr. Jack Schumacher, and knocked around, and that DEA agent, Chad, used his gold necklace to hit him up side the face with several times. The two young men that were with [REDACTED] were eventually released with no charges filed and [REDACTED] was eventually charged with "failure to signal when changing lanes", and was given a ticket. [REDACTED] went to court and this case was thrown out by the Judge when it became very clear that this was not a legal stop nor ticket. [REDACTED] has never received his gold necklace back and the last he ever saw of it, DEA agent, Chad, was wearing it in his presence and never returned it. [REDACTED] has proved that he purchased this necklace and paid approximately \$1,200, for it, and it was 18 karat gold.

All the officers that participated in this traffic stop interrogation and abuse were all white officers and all the Rap-A-Lot employees were black.

Criminal Files and Search Warrants

Records of the Clerk of the U. S. District Court, Southern District, Criminal Division, relative to search warrants issued for 6010 Southwest Freeway, and 8900 Bellaire Blvd., were requested. There are no public records of such warrants having been issued. There were no records filed on James Andrea Prince or Smith. If search warrants were issued, they are not a part of the public records in that no formal charges have been filed. Personnel at the Clerk's office acknowledged that records in reference to active investigations were sealed and not a part of their records. To obtain search warrant records, it is necessary to have the

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dates such warrants were issued, the name of the issuing magistrate, and the addresses searched.

Interview of [REDACTED]

[REDACTED], owner and manager of [REDACTED], stated that he remembered the search conducted by a variety of police officers at his place of business on a Saturday in November, 1997. [REDACTED] stated further that all records relative to this search were in the hands of his attorney, [REDACTED], and that he would authorize [REDACTED] to cooperate in providing records relative to this investigation.

Interview of Auto Dealer, [REDACTED]

An auto dealer at [REDACTED] was interviewed in relation to the search conducted at [REDACTED]. This party stated that police officers set up a surveillance van under the freeway and that he believed they video taped the search activities. He stated that he would cooperate in this investigation and give a formal written statement if necessary. He further stated that [REDACTED] and his personnel were honest, hard-working car dealers and of good character.

Interview of [REDACTED]

[REDACTED], owner-manager of [REDACTED], was interviewed at his place of business, [REDACTED], on 08-20-99. He made these statements.

Police officers arrived at he dealership about 10:00 a.m. on a Monday morning in November, 1997. Police personnel from the IRS, ATF, Texas Rangers, DEA, FBI, and DPS, along with drug-sniffing dogs, participated in a search of his premises that lasted until 5:00 p.m..

He and his employees were kept in handcuffs and forced to sit outside in front of the business place for three to four hours, enduring a great deal of discomfort from being handcuffed and from the heat. They were not allowed to take their coats off and were not provided with restroom facilities, food, or water.

A customer, who arrived during the search, was investigated and interrogated, his vehicle was searched by the officers and drug dogs. He was threatened with severe penalties for drug dealing and money laundering a part of being interrogated.

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He and each of his employees were questioned. Officers advised him that they were going to shut him down for drug dealing.

His brother, who operates a [REDACTED] business next door to the dealership, was requested to come to the dealership, was handcuffed and interrogated.

Officers damaged file cabinets, desks, and other storage facilities in the course of the search.

[REDACTED] stated that a friend had called him a short time before the raid and advised him that it was reported on a radio news program that a raid was being conducted at his place of business. This call was received before the police arrived.

News media personnel were driving behind the police when they arrived and video taped the search.

[REDACTED] stated that after the search, he was served a search warrant and that the police took countless records from the dealership.

No arrests were made at the time of the search, no indictments have been handed down, no charges have been filed, and no subsequent arrests have been made.

Interview of [REDACTED]

The legal secretary for [REDACTED], attorney for [REDACTED] and [REDACTED], advised that [REDACTED] was in trial and would not be available until September 23, 1999. An appointment was scheduled for that date at 1:00 p.m., to review data relative to the search of [REDACTED] in November, 1997.

Remarks

At this time we are continuing our investigation into this matter, but there are numerous loose ends that have yet to be pursued, since local law enforcement have not been cooperative in providing us all the information that we have requested through open records request. We unfortunately have had a short time span in which to prepare this report and get it to you. There are numerous bits of information that have to be continued investigated. We hope that in the near future, we will be able to give a more detailed report with more additional enclosures that will support our investigation. It appears that based on everything that we have seen, that DEA has continued to target and harass Mr. James Prince and Rap-

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a-Lot Records, without any proof of any criminal activity, other than their allegations, which they have continued to be unable to document and prove.

If you have any questions regarding this report and it's enclosed invoice, please do not hesitate in calling.

Respectfully Submitted,

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THE DRUG ENFORCEMENT ADMINISTRATION: WERE CRIMINAL INVESTIGATIONS SWAYED BY POLITICAL CONSIDERATIONS?

THURSDAY, DECEMBER 7, 2000

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 11:20 a.m., in room 2154, Rayburn House Office Building, Hon. Dan Burton (chairman of the committee) presiding.

Present: Representatives Burton, Gilman, Shays, Horn, LaTourette, Ose, Waxman, Norton, Cummings, and Kucinich.

Also present: Representative Jackson-Lee.

Staff present: Kevin Binger, staff director; James C. Wilson, chief counsel; David A. Kass, deputy counsel and parliamentarian; Sean Spicer, director of communications; M. Scott Billingsley and Andre Hollis, counsels; Thomas Bowman and Kristi Remington, senior counsels; Pablo Carrillo, investigative counsel; S. Elizabeth Clay and Nicole Petrosino, professional staff members; Marc Chretien, senior investigative counsel; Gil Macklin, professional staff member/investigator; Robert A. Briggs, chief clerk; Robin Butler, office manager; Michael Canty and Toni Lightle, legislative assistants; Josie Duckett, deputy communications director; Leneal Scott, computer systems manager; John Sare, deputy chief clerk; Corinne Zaccagnini, systems administrator; Phil Schiliro, minority staff director; Kristin Amerling, minority deputy chief counsel; Michael Yeager, minority senior oversight counsel; Ellen Rayner, minority chief clerk; and Jean Gosa and Earley Green, minority assistant clerks.

Mr. BURTON. OK. Is everybody in? Good morning. A quorum being present, the Committee on Government Reform will come to order. And you're welcome to turn your cameras back on now if you would like. We're continuing our hearing from yesterday on the DEA Rap-A-Lot investigation. First we'll be recalling our two panels from yesterday, and then we'll hear testimony from DEA Administrator Donnie Marshall.

Yesterday—I'm not going to make an opening statement. My colleague Mr. Waxman can if he likes. I'd like to get to the questioning as quickly as possible. But yesterday we heard answers from the Houston PD and Mr. Schumacher, who was in charge of the investigation, as well as Mr. Stephens and the other gentlemen from the Houston PD. And then we heard from Mr. Howard. And there were—appeared to be some inconsistencies. And so today what we

want to do is get all that cleared up as much as possible, and that's the purpose of bringing the two panels back and then of course we'll get into Mr. Marshall and ask him questions about his role in this whole thing.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman. I am pleased we're going to have the two panels back again to see if we can reconcile apparent inconsistencies. But I just want to point out that sometimes people have different understandings of what might have been said in a conversation. It's not unusual. And I know Mr. LaTourette, as an experienced lawyer, knows that people can be very sincere and feel they're telling the truth but they have different recollections of the same conversation.

A good example of that from our committee is when we had the Bruce Babbitt hearing and we had Bruce Babbitt talking about a conversation he had with a man by the name of Eckstein and they had different versions of the conversation. Now because people have different versions of the conversation doesn't mean one is lying and the other is telling the truth. And I mention that situation because when this committee looked at the issue the majority of the committee felt that Mr. Babbitt was not being truthful, and that ended up becoming the basis for an independent counsel's review of the whole thing, which went on and on and on, spent a lot of taxpayers' dollars. And the end result was that the independent counsel decided that there was no offense, that nobody had done anything wrong. The issue that was before the independent counsel was exclusively whether Mr. Babbitt had committed perjury.

I say this because it's really troubling to us on the minority side if witnesses say something and if Members don't like what they say because it's not consistent with what they think might have happened, to think that maybe they're telling us a lie and in fact committing perjury, because that's such a serious matter. I don't think it ought to be frivolously ever—anybody ever ought to be accused of that. I know this committee—sometimes members of the committee think that maybe someone is committing perjury, but I just want to point out that inconsistencies don't mean that.

We want to work together, Mr. Chairman, my colleagues, and I'm not addressing this to C-SPAN because this is not a C-SPAN audience. I am really addressing this to my Republican colleagues. We on the minority side do want to work together in this new Congress and it's already in my mind starting in, because the election is over, in a nonconfrontational way as best we can to minimize what partisanship that we've seen. I would—I think we have legitimate questions to explore. But I'm trying to portray to you so you will understand that sometimes we on this side of the aisle get really infuriated if we think that people are being accused of lying because what they have to say doesn't fit in with some preconceived notion of what the truth may be.

So having said that, Mr. Chairman, I think you've done the right thing in bringing these two panels together back. Let's question them again, see if we can—sometimes inconsistencies can be reconciled and if they can, they can, and if they can't, they can't. But let's dig a little bit more. And if there are different versions it's doesn't mean one is telling the truth and the other is not telling

the truth. Sometimes it may just be different versions as people understand it.

So I am looking forward to the testimony, and I want to thank you for letting me express myself.

Mr. BURTON. Just for the record though, the independent counsel did conclude that Mr. Babbitt misled the committee. He decided not to prosecute but they did conclude that he was not truthful when he testified. And of course that's one of the concerns we have. Because you and I, all of us, want to make sure we get the facts so that we can make decisions that are accurate and direct. If necessary, and I think I said that to Mr. Howard and others yesterday, if necessary, if we find that there has been deliberate misrepresentations to the committee, then we have no alternative but to pursue that.

Mr. WAXMAN. Could you let me say, I disagree with your conclusion as to what the independent counsel said about Mr. Babbitt because that's neither here nor there. But if someone has a version of what they think happened, it doesn't mean they're lying if that version doesn't fit in with a theory that you may think really happened or I may think really happened. Every time someone says a different statement doesn't mean they're lying and it certainly doesn't mean it's perjury, because that's a very serious criminal matter. Thank you.

Mr. BURTON. Thank you, Mr. Waxman.

Mr. LaTourette.

Mr. LATOURETTE. If I can just briefly, Mr. Chairman, I want to agree with Mr. Waxman. We used to have an expression in my practice, if five people could see the same car collision and come up with five different versions of how that collision occurred, that doesn't mean that any one of them was not relating their perceptions appropriately. I do want to make the comment, yesterday I think Mr. Horn mentioned in our hearing yesterday in terms of getting along and trying to lower some of the rhetoric of the last or the waning days of this Congress. We had a meeting on our side where we specifically indicated we weren't going to mention the Vice President's appearance down in Houston and we weren't going to mention the Member of Congress who sent the letter. It wasn't until those comments became apparent in questioning by the minority that went into the record. And I think beyond truth telling or anything else, yesterday's hearing is personally disturbing to me because the unintended consequence—I don't care who's telling the truth or not or is relating a different remembrance, the unintended consequence of a complaint, an unfounded and unjustified complaint in the end of racial profiling by a group of officers who testified—they're back here today with over 150 years of experience in law enforcement, unblemished service—was the pulling of those officers from an investigation that started in 1992 with the seizure of about \$1 million of cocaine off the streets of Houston and investigation that's had 20 indictments and arrests and convictions, the beating of confidential informants, murders and drug trafficking to the young people of Houston.

So I'm not really interested in, you know, somebody wants to give their version of the truth. I'm very concerned, however, that we find ourselves in this position with this set of facts. I thank you.

Mr. BURTON. Any other comments? Mr. Cummings.

Mr. CUMMINGS. Mr. Chairman, first I wasn't going to have an opening statement, but the more I've heard from Mr. Waxman, Mr. LaTourette, I must say this: That I agree with Mr. Waxman, Mr. Chairman. One of the reasons, I had a lot of things I had to do yesterday, but I stayed here for this entire hearing and I wanted to make sure that I was back here today. Because one of the things that I've discovered is that a lot of times I feel the witnesses that come before this committee—I don't know whether they are unaware of it before they get here, but I get the distinct feeling that some of them are placed in a position of serious jeopardy of being referred for some type of criminal investigation. And as a lawyer I know what that means. I understand the significance of it. I understand what it means to have to hire an attorney. Even if you—I know what it's like too because I have represented so many people who have their reputations tarnished. And that's why I try to be very careful and reiterate to our witnesses to be careful in what they say.

I think that I agree with Mr. LaTourette that we are hopefully here for the truth and trying to get to some matters, because this is the Government Reform Committee. And sometimes, to be frank, with us over the 4½ years that I've been on this committee I really don't know how much reforming we've done, but I do believe that it is important that we get testimony and that testimony be truthful.

But going back to Mr. Waxman, as we went through the hearing yesterday I could see where the differences could arise in how one person may have interpreted things and another may have interpreted them differently. And I understand now that we are going to—I think this is probably good, Mr. Chairman, that we are having the witnesses back. Because I don't want one single person to be unfairly and unjustifiably tarnished when they are doing the public's work, trying to protect the public, and then to come here and to have to undergo scrutiny that could lead to investigations and whatever. You know, if something is warranted, that's one thing, but if it's not, that's a whole another thing.

So I am looking forward to this new term when hopefully the rhetoric will be toned down, that we will get to the business of government reform and making this government the very best it can be. And I yield to Mr. Waxman.

Mr. WAXMAN. Thank you for yielding. I want to address this to Mr. LaTourette because I think we're now talking to each other for the future. One of the things that we were told on this side of the aisle is that this committee would investigate the Clinton administration, the Democratic Party, and the campaign finance issue, but if it ever came to a Member of Congress we wouldn't be going into hearings on a Member of Congress. If I had thought any of our colleagues had done anything wrong, we would send it to the Ethics Committee.

Now, this hearing had to involve the accusation by Vice President Gore because that was already in the press. It also had to involve the fact that our colleague Maxine Waters had registered a concern about racial profiling. And she has strong feelings about it. And she raised the concern and it was enough of a concern to have

it investigated, and then it turned out after that investigation that it was found that there was no racial profiling involved. But if the issue of in hearing is whether she acted improperly in asking for that investigation, well, that's a very strange notion to me. And it also is selectively deciding we'll investigate some Members of Congress but not others. From our point of view we see a Democrat being singled out when the Republican we had raised over and over again the last year we thought had been involved in some of these things was not even a subject for our consideration.

I don't say that really for debate. I say that really to express the way we're looking at things from their side of the aisle.

Mr. LATOURETTE. Could I ask Mr. Cummings to yield to me on that point? I didn't take yesterday's hearing to be an investigation into Congresswoman Waters' activities. I think what I said I find troubling is that in response to that letter the Federal agency has taken experienced officers, brought a case to a stop, whether it's officially closed, partially closed, kind of closed. That's what's disturbing to me, not her activities.

I think I used the word "unintended consequence." I don't think she would have wanted such a thing to occur. She wanted her complaint investigated but I don't think she wanted an investigation into a drug dealership done. So I didn't consider yesterday's hearing to focus on her activities but more on the activities that the agency undertook once they received their complaint.

Mr. CUMMINGS. Yes.

Mr. WAXMAN. I thank you very much for that clarification. I think it's a good one. There are other unintended consequences. For example, Secretary Babbitt had to go through the turmoil of an independent counsel investigating him, hiring lawyers, others had to go through the same thing. They're eventually cleared. And sometimes they're cleared because there wasn't enough evidence to do anything even though they might have done something wrong, and sometimes they're cleared because they never did anything wrong.

Again I started with if one of our witnesses tells us a version of his understanding of what happened, to tell him he's got to then possibly face perjury charges is to again repeat the same process again because he's going to have to go out and fight a legal fight.

In my mind there's no question that he didn't do anything illegal or even, quite frankly, anything wrong unless he's in fact misleading the committee. But if he just had a different version, that is not perjury, that is not falsehood. It's just the way things are. But thank you.

Mr. Chairman, I want to express my appreciation for your tolerance for those of us on this side to express our feelings because it has been a sore subject with us, among others, for this last couple years. And perhaps if you're listening to us and I see that you are, maybe we won't run into these problems again.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Waxman. Mr. Cummings, Mr. LaTourette, any more questions? If not, we'll start our questioning of witnesses now. We'll be under the 5-minute rule for this panel and the next panel. Let me start off by saying to the officers that are here today, or asked this question, in addition to the four offi-

cers that are here today, the three from the Houston Police Department and the agency, were there other officers present at the September 1999 meeting with Mr. Howard?

Mr. STEPHENS. Yes, sir, there were.

Mr. BURTON. Can you give us a number of how many were there?

Mr. STEPHENS. At least 9 or 10, maybe 12 or 13.

Mr. BURTON. To your knowledge would they all agree with your statements concerning the shutdown of the case by Mr. Howard?

Mr. STEPHENS. Yes, I believe they would.

Mr. BURTON. At this September 1999 meeting Mr. Howard said he never told the group the investigation was closed. He testified that he told the group that proactive steps could only be taken if they were approved by the associate special agent in charge. Do you agree with that?

Mr. STEPHENS. No, sir, I don't.

Mr. CHAISON. No, sir, I don't.

Mr. ALLEN. No, sir, I do not.

Mr. SCHUMACHER. No, sir, I don't.

Mr. BURTON. Did he suggest at any time that new leads could be followed?

Mr. SCHUMACHER. I don't recall him saying that, sir.

Mr. STEPHENS. No, sir.

Mr. CHAISON. No, sir.

Mr. ALLEN. No, he did not.

Mr. BURTON. Did Mr. Howard sound receptive at this meeting for any new leads to be followed or did he give you a sense of finality? Did he say this is the end of it, this is it?

Mr. SCHUMACHER. I perceived it as a sense of finality, sir.

Mr. STEPHENS. The same.

Mr. CHAISON. I understood it to be over.

Mr. ALLEN. The end.

Mr. BURTON. Do you take issue with anything else that you heard about that meeting yesterday? Can you go into any details about the meeting that you think you have a differing opinion of what happened?

Mr. SCHUMACHER. I don't recall ever hearing the word "proactive," Mr. Howard using that word.

Mr. BURTON. So what he said, he looked at his watch and said as of this time and date this is it, it's over. You all agree with that?

Mr. SCHUMACHER. Yes.

Mr. STEPHENS. Yes.

Mr. BURTON. There was no indication that there would be any other avenues followed to go after anybody in this case?

Mr. ALLEN. That's correct.

Mr. CHAISON. That's correct.

Mr. BURTON. Following your testimony on this matter yesterday, Mr. Schumacher, did you listen to the testimony given on panel two which featured Mr. Howard and Deputy Administrator Mercado and Mr. Campbell.

Mr. SCHUMACHER. Some of it, yes, sir.

Mr. BURTON. Yesterday—and I think you all listened to it as I recall, is that correct?

Mr. ALLEN. That's correct.

Mr. CHAISON. That's correct.

Mr. BURTON. Yesterday you testified there was no new investigative activity concerning Rap-A-Lot after September 1999. However, Mr. Howard stated there were arrests made in this case in December. Are you familiar with those arrests?

Mr. SCHUMACHER. I now am, yes, sir.

Mr. BURTON. I believe it involved Cedric Rogers and McCarter on a crime committee in November 1998 with all the work in the case done prior to the letter that we heard before that was sent on August 20th by the Congresslady.

Mr. SCHUMACHER. Probably for the most part what happened to McCarter and Cedric Rogers in December 1999 is that they were finally federally indicted for offenses they committed in November 1998.

Mr. BURTON. So as far as—so as far as you know, no other persons were arrested or indicted or convicted in this case after that time other than those who had already been indicted or convicted?

Mr. SCHUMACHER. There was some individuals—yes, sir. But there were some other individuals that I later learned were arrested that on a separate file had been opened but at some time somehow it was covered under the Rap-A-Lot OCDETF umbrella. But to my knowledge they had no direct links to Rap-A-Lot.

Mr. BURTON. Is that what you gentlemen understand as well?

Mr. ALLEN. That's correct.

Mr. CHAISON. That's correct.

Mr. STEPHENS. We did no more Rap-A-Lot investigation following September 1999.

Mr. BURTON. Were there any other arrests or indictments—well, I already asked that question. I guess Mr. Singleton was arrested but you said that was a separate case not immediately related to the Rap-A-Lot case, correct?

Mr. SCHUMACHER. Yes, sir.

Mr. BURTON. Do you still contend that no investigative work was done on this case after September 1999? I want to make that clear.

Mr. SCHUMACHER. No active investigation that I'm aware of.

Mr. STEPHENS. Only judicial going to court testifying, but no active investigation.

Mr. BURTON. Is that the same with you gentlemen?

Mr. ALLEN. No active investigation.

Mr. CHAISON. That's correct.

Mr. BURTON. Would you have been aware if any investigative work were being done?

Mr. SCHUMACHER. I think so.

Mr. STEPHENS. I think so.

Mr. CHAISON. Yes.

Mr. ALLEN. Yes.

Mr. BURTON. Now, the Houston police were removed from the task force. This is—oh, my time has expired. Mr. Waxman, do you have questions at this time? Mr. Waxman, we'll yield to you. Then we'll go down the line here.

Mr. WAXMAN. Mr. Howard testified yesterday that prior to temporarily pulling off Houston police officers and DEA agents from proactive investigation he had learned from Mr. Schumacher that the Houston Police Department wanted to put back its officers for regular assignment. That's what he told us. And we received an

unsolicited letter last night from James Nims, who is Mr. Schumacher's supervisor. And his letter says the same things. He writes,

I can honestly say, however, that when Mr. Howard came to address the group, the HPD members had already physically relocated back to their own headquarters. We were still working together, however, at this time. It was mainly regarding judicial proceedings. And I know that Sergeant Stephens had been under pressure for some time for him and his squad to return to HPD headquarters as his captain wanted them back there. I am quite sure of this; however, I have checked with two other members of Group 4 who corroborate this time line. At no time was it my understanding that Mr. Howard pressured nor implied the HPD squad to leave or terminate this investigation.

Now, I would ask unanimous consent that this letter be entered into the record.

Mr. BURTON. Without objection.

[The information referred to follows:]

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DEC -06' 00 (WED) 23:34 DEA HOUSTON GROUP 4

202 307 5512 TO 92022283348
TEL: 713 693 3416

P.02/03
P.002

James E. Nims
Group Supervisor
Drug Enforcement Administration
Houston Divisional Office

December 6, 2000

Mr Dan Burton
Chairman,
House Committee on Government Reform
United States Congress

Dear Mr Burton,

I am writing this letter to you in an attempt to clarify some issues which were raised today during testimony in regards to your committee's inquiry into the James A. Smith, AKA Rap-A-Lot matter. As you might already be aware of, I am the Group Supervisor of Enforcement Group 4 of the DEA Houston Field Office. I believe that I can offer an unbiased sentiment to some of the discrepancies which I personally heard live over the internet during today's proceedings. I would further like to add that I admire and respect both Special Agent Schumacher and Special Agent in Charge Howard, and perhaps my perspective of events from an independent stance can offer you a different viewpoint, and assist in clarifying the events as I know them.

First of all, I did not actually hear Mr Howard address the members of my group and the Task Force members of the Houston Police Department (HPD). I was in my office and observed Mr Howard enter the bay area of the group, however, I did not hear or see him when he spoke as it was out my view. It was not uncommon of Mr Howard to unexpectedly come in and speak to the agents, especially Agent Schumacher. I also believe that Mr Howard was mistaken when he stated that he called an 'all hands meeting' to address the subject of suspending the case, as I definitely would have been aware of that and ensured that everyone was aware and present for SAC Howard. I can honestly say, however, that when Mr Howard came to address the group, the HPD members had already physically relocated back to their own Headquarters. We were still working together, however, at this time, it was mainly regarding judicial proceedings and I know that Sgt Stephens had been under pressure for sometime for him and his squad to return to HPD Headquarters as his Captain wanted them back there. I would estimate that it was at least three weeks prior to Mr Howard's speech that the HPD squad left. I am quite sure of this, however, I have checked with two other members of Group 4 who corroborate this timeline. At no time was it my understanding that Mr Howard pressured nor implied the HPD squad to leave or terminate this investigation.

As I had not heard Mr Howard's remarks personally, I went to his office to ask for clarification and instructions. It was there that Mr Howard informed me that he had suspended the case and advised me that until the OPR investigation targeting Group 4

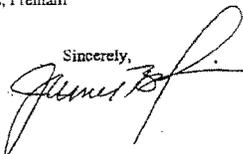
was concluded, there was to be no enforcement action taken unless it was cleared through the chain of command.

In regards to my memorandum to DEA Administrator Donnie Marshall dated September 27, 1999, I stated in regards to my meeting with SAC Howard... "it is unfortunate because there are still many investigative leads and enforcement operations to carry out." I cannot at this time recall any specific leads or operations, but I believe, and it is still my contention to this day, that the best course of action to pursue against Mr Smith is to explore the avenue of RICO charge against him. I went on in this same paragraph to document some events and elements to substantiate this. To do this, however, we would have needed the support and commitment of the United States Attorney's Office and the Internal Revenue Service. During the course of the substantive stage of this investigation, it was apparent to me that neither of these two agencies were anxious to assist us. During the initial stages of this investigation, I spoke with my counterpart at the IRS trying to gain their support and interest in this OCDETF case, however, they were unwilling to commit to the investigation and thus we had to do without this very necessary and important aspect of the investigation. In regards to the US Attorney's Office, we could not convince them to indict Brad Jordan, AKA "Scarface", even though I strongly believe we had him tied in solidly on a federal drug conspiracy charge. This was devastating to the case as we felt that Brad Jordan could have provided us with important leads and information regarding Mr Smith.

In conclusion, Mr Burton, I would like to reiterate that I am very proud to be a part of DEA, and I believe everyone's intentions during this investigation were honorable, and it distresses me, as well as a number of other DEA personnel, that this whole matter is now where it is at. I would also like to state that I would be more than willing to appear before your committee if you feel I could be of assistance.

Thanking you for taking the time to hear my concerns, I remain

Sincerely,



Cc: Mr Henry Waxman

Mr. WAXMAN. Mr. Schumacher, do you recall telling Mr. Howard about the Houston Police Department's interest in pulling its officers back for regular duty?

Mr. SCHUMACHER. No, sir.

Mr. WAXMAN. Do you think Mr. Howard is lying when he says that he recalls that the Houston Police Department wanted to pull its officers back for regular duty?

Mr. SCHUMACHER. Sir, I think he may be referring to some information he was privy to and I wasn't. OK. I remember—and Sergeant Stephens can better address more accurately the details concerning his conversations with his superior at HPD. But it was never about—it was about relocation physical, but it was always HPD always wanted to make sure that Bill and his team were being productive. That's what I recall.

Mr. WAXMAN. Sergeant Stephens, you were the senior Houston police working on the task force. Have you ever heard directly or indirectly that your captain or anyone else in the Houston Police Department had discussed pulling you back to the Houston Police Department prior to the meeting with Mr. Howard in late August or September 1999.

Mr. STEPHENS. On moving our offices, yes. On terminating the investigation or anything to do with the criminal aspect of the case, how my UC is working it informants wise, no. Our actual logistical location of being at DEA was a temporary thing and I wanted us to office back at HPD. That's what happened. And I believe we went back, actually moved our offices back to our main headquarters in Houston prior to September. But I'm not positive on that, but I think it was prior to that meeting in September.

Mr. WAXMAN. Mr. Howard has testified that he closed down the proactive portion of the investigation pending completion of the Office of Professional Responsibility investigation and would only allow it to proceed if he or one of his associate special agents in charge gave permission for it to proceed. Mr. Nims, Mr. Nims has that same recollection. Mr. Schumacher, did you ever ask Mr. Howard or one of his associate special agents in charge for permission to conduct any proactive investigation?

Mr. SCHUMACHER. No, sir.

Mr. WAXMAN. Are you aware of anyone else asking for such permission?

Mr. SCHUMACHER. I don't recall—no, sir. And I never recall that statement being made.

Mr. WAXMAN. It may not have been made to you then.

Mr. SCHUMACHER. I'm sorry, I didn't hear you, sir.

Mr. WAXMAN. It may not have been made to you. Mr. Nims seems to corroborate what Mr. Howard said yesterday.

That's all I have to ask, Mr. Chairman, and yield back the balance of my time.

Mr. BURTON. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman. I want to thank you for continuing this important review of what occurred at Houston. I'd like to address my question to the Houston officers. Did you know you have been recalled from the joint task force, as Mr. Howard stated yesterday, because your chief wanted you to come back? Were you informed of that?

Mr. ALLEN. That was never provided for us. We were told that we were going back to our home location.

Mr. GILMAN. But no explanation.

Mr. ALLEN. No.

Mr. BURTON. Would the gentleman yield? But when you went back, you relocated, as I understand it, they did not say you were going to be taken off this case in any way. I mean, the continuing of the case was going on. I mean you weren't going to terminate that until you heard from Mr. Howard?

Mr. ALLEN. That's correct.

Mr. CHAISON. That's correct. Our—as I remember, our going back to our office was logistical purposes. We had just received a new captain. Our old captain was gone to another division. And being a new captain that he wanted all his people in his office, which is understandable. And I remember our concern was that we would have to go to our office and report and then go to the DEA office, and we just thought it wasn't feasible because of the traffic problem that we would incur because of where the DEA administration office is based.

But as far as the investigation, that was never terminated. It was obvious that we did not want to relocate, the DEA had put us up in their building, we were assigned phones, cubicles to work, and it was more of an inconvenience for us to go back and forth. Again, the investigation was never terminated. That was never a factor in that.

Mr. GILMAN. Thank you, Mr. Chairman. Did you know you had been recalled from the joint task force for any reason at all?

Mr. ALLEN. Could you repeat that, please?

Mr. GILMAN. When you were withdrawn from the task force, did anyone state any reason to you why you had been withdrawn from the task force?

Mr. CHAISON. No, sir. The only time that we knew that we were—we actually were never taken from the task force. The investigation was halted.

Mr. GILMAN. Well, when you returned to your police department, were you told you were no longer needed for the task force?

Mr. CHAISON. No. I don't remember that, no, sir.

Mr. ALLEN. We were told that we weren't going to be investigating the Rap-A-Lot.

Mr. GILMAN. Mr. Howard indicated there weren't many leads to follow, just the need to wait and see if some indicted individual might cooperate. Was that where you left the case? Was that your understanding where the case was at when you left?

Mr. ALLEN. No, we were still doing the investigations. Again, like I said yesterday, we had a couple of informants that were out there still beating the bushes. So it was still ongoing.

Mr. GILMAN. Were you following up those leads then when you were withdrawn from the task force and asked to return to your headquarters?

Mr. ALLEN. No. Mr. Howard—it was stopped. It was stopped.

Mr. GILMAN. When did he tell you to stop?

Mr. ALLEN. In the meeting that we all were discussing.

Mr. GILMAN. What meeting was that?

Mr. ALLEN. On——

Mr. GILMAN. September?

Mr. ALLEN. Yes.

Mr. GILMAN. Where did that meeting take place?

Mr. ALLEN. In the DEA building.

Mr. GILMAN. What did Mr. Howard tell you?

Mr. ALLEN. Basically that the investigation was going to stop. And, again, we were all sitting around talking and kind of inquiring why. That's when the times that was given as of this time there will be no more investigation.

Mr. GILMAN. Did you ask why and what was the response?

Mr. ALLEN. Well, basically, myself and my partner, that's not our jurisdiction. We're just officers. It's up to the supervisor to discuss that.

Mr. GILMAN. Were you asked why it was stopped?

Mr. ALLEN. Among ourselves we were asking each other, yes.

Mr. GILMAN. Did you get any response?

Mr. ALLEN. We didn't know. Again, it comes from—that type of answer would probably come from our supervisor, our immediate supervisor, Mr. Stephens.

Mr. GILMAN. Did the supervisor inform you why it was stopped?

Mr. CHAISON. Let me say this: During that particular meeting in September, let me try and paint you a picture. If you're all sitting in chambers here, and your boss, the head boss comes in and say you're no longer going to investigate this complaint that we're doing today, then you start to murmur between one another like what happened, what brought this about? This is the type of discussion. That brought the time check. Because I felt at that point that Mr. Howard did not want to entertain any questions concerning what caused him to close the—

Mr. GILMAN. Was Mr. Howard present at that meeting?

Mr. CHAISON. Yes, he was.

Mr. GILMAN. Who was your head boss at that time?

Mr. CHAISON. Sergeant Stephens is my boss.

Mr. GILMAN. He didn't make any explanation, is that correct?

Mr. CHAISON. Again someone inquired and that brought about the time check to see that no more questions. Once that was made, I mean it was just understood if I told you I'm not going to ask any more questions as of this date and time and I walk out that door, that's it. It's finished. And that's how it was.

Mr. GILMAN. So neither Mr. Stephens nor Mr. Howard told you why the investigation was stopped at that point in September 1999, is that right?

Mr. CHAISON. Mr. Howard stated that for political reasons this case was being closed and the time checks signified I don't want to hear anything else.

Mr. GILMAN. Mr. Howard said for political reasons this case was being closed?

Mr. CHAISON. That's correct.

Mr. BURTON. Mr. Gilman, your time has expired.

Mr. GILMAN. Could I have one more question, Mr. Chairman?

Mr. BURTON. Yes. Go ahead.

Mr. GILMAN. Mr. Schumacher, it's alleged that your March transfer to a desk job was for your benefit and security. Were you ever told that's why DEA leadership wanted you moved?

Mr. SCHUMACHER. No, sir.

Mr. GILMAN. Why do you believe you were transferred then?

Mr. SCHUMACHER. I believe personally that DEA headquarters succumbed to political pressure and notified the front office management, DEA Houston, to have me taken as far away from the Rap-A-Lot investigation as humanly possible.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. BURTON. Thank you, Mr. Chairman.

Mr. Cummings.

Mr. CUMMINGS. Mr. Schumacher, yesterday the—

Mr. BURTON. Excuse me just 1 second. We have in the past allowed Members who are not on the committee to participate by unanimous consent. And today we have a Member of the minority, Ms. Sheila Jackson-Lee, who would like to ask some questions. So without objection we will allow that to take place. Thank you.

Mr. CUMMINGS. Yesterday Mr. Howard said that he selected you for this job and he felt very confident about you and he seemed to have a tremendous amount of respect for you. And then you heard—I think you were in the room most of his testimony I think, yesterday, and I guess we're still back to this difference of what was—what his interpretation was and what all your interpretation was. And I'm saying this to all of you. It seemed like I got the impression that all of you are very concerned about making sure that we address this drug problem in Houston. And anywhere else. But the question still remains, I mean you all said yesterday Mr. Howard is an honorable person. And you really believe in him. And I'm just wondering what do you think accounts for this difference? I think you just said that you think there was some politics, but you also said he was an honorable man. And we're in a situation where it appears that somebody may have a different recollection or is not being truthful with us. So the question is, is how do you—what do you think the difference is here? I mean, is there room for misinterpretation, do you think? Do you understand my question?

Mr. SCHUMACHER. I'll try, Mr. Cummings. And I am sure it's quite obvious to yourself and to other members of this panel this is rather agonizing and tough on all of us here.

Mr. CUMMINGS. I can imagine.

Mr. SCHUMACHER. As I've expressed to Mr. Howard, not many weeks ago, I thanked him for his support privately, publicly, inside and out of DEA. And I do respect him and do believe that he delivered a message he was told to deliver. He didn't like it, he was uncomfortable with it. And I told him when we talked that there would never ever be any bad blood between he and I. But it was going to be a long time before I could forgive DEA headquarters for what they did. And it's tough on all of us. Because I believe everybody here carrying a badge and the ID really wants to do the right thing.

Mr. CUMMINGS. What about you, Mr. Stephens?

Mr. STEPHENS. I think everybody wants to do the right thing. Like I said yesterday, he was our biggest supporter up to September. But after September he told us to stop. And I don't remember anything about proactive, I don't remember anything about a chain. I just remember stop. And prior to that we didn't have a bigger fan or a bigger supporter. That's why it surprised us so much.

Mr. CUMMINGS. Mr. Chaison.

Mr. CHAISON. Again I will just reiterate the sentiment of Mr. Schumacher and my sergeant. Mr. Howard was very supportive. And I think he wants to be supportive today. I can't get into his mind and tell you what's going through his head or why he's taking a stance that he's taken. My integrity has been questioned. I have children. I teach Sunday school, Bible study, I have people that look up to me as well. I'm sitting here today to convey to you that the truth is the truth. And that's the bottom line.

Mr. CUMMINGS. Mr. Allen, I'm going to have to come back to you but—I'm running out of time but I got to ask Mr. Stephens this question: One of the things—and I'm trying to find things that are consistent, OK. One of the things that Mr. Howard said yesterday was something about that there were two cases. Do you remember that? He talked about that there were two cases, two defendants that needed to turn? You remember that?

Mr. STEPHENS. Yes, sir.

Mr. CUMMINGS. Then there was testimony a few minutes ago that McCarter and Rogers were apparently indicted. Is that in December? I mean that's what you all learned?

Mr. STEPHENS. From what Jack said and I'll have to go off of him for the date, McCarter and—Cedric Rogers was the Houston police officer indicted for civil rights violation. That came up in the Rap-A-Lot investigation. And McCarter was indicted with him.

Mr. CUMMINGS. With your indulgence, Mr. Chairman, maybe Mr. Schumacher, do you know—I don't know who would be better to answer this question—do you remember any discussions with Mr. Howard going back to what he said now, that they were waiting, that it was his understanding that you all were waiting for somebody to possibly turn of two people? And I'm assuming—I'm assuming that he's talking about these same two people—I may be wrong, I don't know, but it's just interesting that we had two people that were indicted allegedly in December 1999. I'm just wondering did you ever have any discussions with him or any of you saying something to the effect that you know, we need to see what happens in these cases and if these guys turn, then we have some things that we can accomplish with regard to possibly pulling in other people to be arrested and indicted and arrested? Do you remember that?

Mr. SCHUMACHER. Mr. Cummings, Steven McCarter was first arrested along with Everett Russell, along with two others, Ballard and Bradley, by the team here January 7, 1999. McCarter was subsequently, as the others, indicted federally for that offense. In December 1999 McCarter was again indicted on a separate charge of conspiring with Houston police officer Cedric Rogers, acting under cover of law, civil rights violation, to steal drugs and drug money from drug traffickers. That was two separate indictments.

Reference your question about comments to Mr. Howard, I had numerous, many conversations with Mr. Howard because he was constantly asking us about the progress of the case. And numerous times I told him we really need McCarter to roll over because McCarter is close and based on the support that Prince had demonstrated inside and outside the courtroom for McCarter, we believed, the team believed, that Prince had a lot of exposure behind

McCarter. And what also reinforced that theory to us was back in 1988, when Anthony Price went down with 76 kilos of cocaine and he was driving a vehicle that was licensed under Mr. Smith's auto sales at that time, Prince was going by the name of Smith then, that then Prince had demonstrated the willingness to really support those that take a fall for him both financially and otherwise. But at no time did I ever say that unless McCarter or Russell roll over the case is dead.

Mr. BURTON. The gentleman's time has expired.

Mr. CUMMINGS. Thank you. I would hope at some point—it looks like Mr. Stephens wanted to answer that but maybe it will come up later.

Mr. BURTON. Would you care to elaborate real quickly, Mr. Stephens?

Mr. STEPHENS. Real quickly, I was present for discussions about McCarter. We do feel like he held a key to the case, not the only one. But the only way we could continue investigating him and possibly our having leverage on him in it was to keep working like we were prior to September.

Mr. CUMMINGS. Mr. Chairman, thank you for your indulgence.

Mr. BURTON. You're welcome.

Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. Some of this will be repetitive but we're trying to get at it from various points of view. This is for Mr. Schumacher. Did you recall that Special Agent in Charge Howard saying yesterday that he was told that there were just two key people to get in order to make a case against Prince?

Mr. SCHUMACHER. Yes, sir.

Mr. HORN. So that two people and no more is what you needed, is that it?

Mr. SCHUMACHER. Are you asking me what I believe or what I heard yesterday?

Mr. HORN. Saying yesterday that he was told, yeah, that there was just two key people to get in order to make a case against Prince. And you're saying yes, that you could make the case on those two or were there other people? And was Mr. Howard knowledgeable of that or wasn't he?

Mr. SCHUMACHER. I believe Mr. Howard was talking about McCarter and Russell. And I would call it—style it as Sergeant Stephens did. They were a means, not the only means of pursuing or going forward with this investigation.

Mr. HORN. In your talk with Mr. Howard you didn't say it's just two, or did you?

Mr. SCHUMACHER. I don't recall ever saying that unless McCarter rolls over this case is dead. No, sir. I don't recall ever using those words or something to that effect.

Mr. HORN. What else occurred in that conversation? What else occurred in that conversation besides those two witnesses that he's talking about? Was there anything else in that particular conversation?

Mr. SCHUMACHER. Mr. Horn, myself and SAC Howard had numerous conversations concerning ongoing enforcement activities, projected enforcement activities recommended to this case. So for

me to sit here and articulate the actual words and details, I'm sorry, that's beyond my capacity.

Mr. HORN. During that conversation were there others present when you told him that and could there be anybody with you today that was standing there when you and Mr. Howard were talking about this? Was there anybody around?

Mr. SCHUMACHER. Mr. Howard and I spoke numerous times, sometimes Sergeant Stephens was there, sometimes other agents were there. I mean we spoke weekly.

Mr. HORN. Were they always personally or were they over the phones or what?

Mr. SCHUMACHER. Speaking with Mr. Howard?

Mr. HORN. Yeah.

Mr. SCHUMACHER. Usually he would come down from the 6th floor to the 4th floor where the enforcement groups are, and walk down and we would chat.

Mr. HORN. Well, I think we've had this from various angles. And I want to now go with the visit of Vice President Gore and Gore's meeting with Prince. That was on March 12, 2000. And for all of the Houston police officers, we'd be curious, were you aware that Vice President Al Gore visited Houston in March of that year?

Mr. STEPHENS. Yes, I am.

Mr. HORN. Yes.

Mr. CHAISON. Yes.

Mr. ALLEN. Yes.

Mr. HORN. All of you have. You mentioned to the committee staff you heard that when the Vice President was in Houston he traveled to the, "Church Without Walls," a church which had received large sums of money from the head of the Rap-A-Lot organization. Is that accurate?

Mr. ALLEN. Yes.

Mr. CHAISON. That's correct.

Mr. STEPHENS. Yes.

Mr. HORN. All three of you are saying that. You also mention that you heard that the Vice President had a private meeting with the minister of the church and the head of Rap-A-Lot. Is that correct?

Mr. STEPHENS. I heard that he was present in the church, yes, at the time that Mr. Gore was there.

Mr. HORN. Was that from Houston police officers or—

Mr. STEPHENS. Yes.

Mr. HORN [continuing]. The papers or what?

Mr. STEPHENS. Recently it was a Houston police officer assigned to security detail there.

Mr. HORN. Two or 3 days after the Vice President's visit, Agent Schumacher was transferred from a law enforcement position to a desk job. Did you consider this move of Agent Schumacher to be the final nail in the coffin of the Rap-A-Lot investigation?

Mr. STEPHENS. The final nail? We had been shut down in September. It was very curious to me, personally, that it came so shortly after Mr. Gore visited the church, but I have no substantial facts to back up that there was any influence. It's just because of the timing was very curious.

Mr. HORN. Mr. Schumacher, did you discuss the Rap-A-Lot investigation with Mr. Howard during the March 2000 time period?

Mr. SCHUMACHER. I think Mr. Howard and I talked briefly about the fact that Vice President Gore had visited Mr. Prince's church and anything we would have talked about probably had to do with the visit there to the church.

Mr. HORN. Did Mr. Howard communicate to you or others that he was shutting down the investigation at this point? We're now talking about the March 2000 time period.

Mr. SCHUMACHER. No, sir.

Mr. HORN. Did he communicate to you and others that he was shutting down the investigation at this point?

Mr. SCHUMACHER. Are you talking about March?

Mr. HORN. March, yeah.

Mr. SCHUMACHER. No, sir.

Mr. HORN. Was there any investigative activity at this time to shut down?

Mr. SCHUMACHER. Not to my knowledge.

Mr. HORN. Were you aware that Ernie Howard briefed committee staff on this case on July 17, 2000.

Mr. SCHUMACHER. I was subsequently told that, yes, sir.

Mr. HORN. Did Mr. Howard tell you anything about his July 17, 2000 briefing to this committee?

Mr. SCHUMACHER. No, sir.

Mr. BURTON. The gentleman's time has expired. We have our guest with us now, Ms. Sheila Jackson-Lee. Do you have some questions you would like to ask?

Ms. JACKSON LEE. Mr. Chairman, if there is another round I would like to wait for a moment.

Mr. BURTON. That's fine.

Mr. LaTourette.

Mr. LATOURETTE. Thank you, Mr. Chairman. Mr. Schumacher, we learned yesterday from Mr. Howard that he received or there was a discussion between he and Mr. Gamble that perhaps while the OPR investigation was going on it was not appropriate for you to be a GS. That's a group supervisor in enforcement division four. Is that what GS is?

Mr. SCHUMACHER. Yes, sir.

Mr. LATOURETTE. You were transferred from that, as Mr. Horn just indicated, on or about March 14 or 15, 2000. When were you made the group supervisor of that organization?

Mr. SCHUMACHER. I was designated as an acting group supervisor, as I have been in the past several times, but for that particular timeframe around January 5th, maybe, 2000.

Mr. LATOURETTE. So just so we have our chronologies correct, there's this meeting in September where we have some disputed testimony or testimony that doesn't fit that this investigation is going to be closed down, the Houston officers go back to their postings in January, you're elevated to acting group supervisor. And during that entire time the OPR investigation is going on it was apparently open on August 20, 1999, and it was still pending apparently in March 2000. So it took about 14 months, is that right?

Mr. SCHUMACHER. That's my understanding, yes, sir.

Mr. LATOURETTE. So you served as the acting group supervisor from January to March 15th without any difficulty; I mean nobody said this isn't appropriate because of the OPR until March 15th? Is that a fair statement of where we were then?

Mr. SCHUMACHER. Yes, sir, it is.

Mr. LATOURETTE. Let me ask all of you, I would assume an investigation of this sort you need to use confidential informants, snitches, people who provide information to you, some of those people do it for patriotic reasons, some people do it for money, some people do it to get out of mischief. But somebody made the observation yesterday that when the investigation was effectively stopped, that all of the people that had served as confidential informants were sort of left twisting and without backup and support. Is that a fair observation of what happened to your confidential informants?

Mr. ALLEN. I would think that when we first started it was a close knit group in the 5th ward area. It was somewhat hard to get into them. Once we got into them things started loosening up. But once the investigation was shut down it was more like they started excluding themselves again because they were afraid they were back to the way it first started.

Mr. LATOURETTE. What's the life expectancy of a confidential informant or a snitch in the major narcotics information when the law enforcement agency pulls out? Sergeant, do you have an opinion on that?

Mr. STEPHENS. We hope as long as possible. I don't know that there's a time where I could say that they would become in grave danger. It's always better when we're involved with the case.

Mr. LATOURETTE. Yet when Mr. Howard was testifying he was talking about the visit by the Vice President, the fact that this Prince fellow showed up at the church. I'll come back to you, Mr. Chaison, because this question goes exactly to you. He indicated when he got that report this fellow that was under investigation for a variety of things was with again the second most powerful political figure in the country. Do you consider that to be a stick in the eye, a slap in the face that he was laughing at him?

Mr. CHAISON, when you were informed that your investigation was being closed down for political reasons, as a 21-year veteran of the Houston police department can you tell me how that made you feel? Did you have similar feelings to the one that Mr. Howard expressed yesterday?

Mr. CHAISON. Yes, I did. I made the statement that it was a slap in the face. And it still is. Because it's unresolved. I also made the statement concerning confidential informants that we had confidential informants that were out there doing things for us. Again this investigation was in full swing. And we had confidential informants that were doing things and making themselves—you know getting close to certain people. We had an agenda at that point. So we could—whatever resources we needed to assist them in getting close was pulled away. So now you have people playing roles, getting next to people, and then all of a sudden it's yanked.

Now the question comes, well, in the beginning from the bad guys, we're talking about doing deals, you know, what has changed your mind, what has happened. And that's what I'm talking about.

We had informants that were doing things. By no means was this investigation near any closure.

Mr. LATOURETTE. Thank you. My time has expired.

Mr. BURTON. Mr. Ose.

Mr. OSE. Thank you, Mr. Chairman. I asked yesterday, Mr. Schumacher, the timeframe during which the IRS assistance was initially provided and then rescinded. Were you able to dig that information out?

Mr. SCHUMACHER. Yes, sir. Reference that telephonic interview we were referring to, it seems it occurred on about September 9, 1998. And the report wasn't written until about 4 weeks later. So now we would be in obviously October 1998. And somewhere in that timeframe, that was the last involvement to my recollection.

Mr. OSE. So the IRS, the lack of interest by the IRS, the interest and then the loss thereof from the IRS actually precedes any letter from any Member of Congress or anything like that? I mean, so you can't—it's awful hard to draw a connection in that regard, if there is any connection at all. If I recall, the letter that went to the Attorney General was dated in August 1999.

Mr. SCHUMACHER. Yes, sir. But I do remember now that you said that it seems like in February 1999 or January 1999 that an IRS agent was at our office going through some documents that we had seized via a search warrant we had done on Mr. McCarter's residence. But in any event, prior to our—the IRS—to my knowledge IRS involvement was over probably prior to the Federal trial starting in July 1999.

Mr. OSE. Let me just develop into something here a little bit I was interested in. Mr. Gamble yesterday talked about the 121 referrals in the first quarter of this year to OPR. You've been in law enforcement 27 years. Has an instance similar to this ever—have you ever been involved in an instance similar to this where you're in the middle of an investigation, a referral gets made, an investigation gets stopped and you get put on a different desk?

Mr. SCHUMACHER. Not under these circumstances, no, sir.

Mr. OSE. OK. Sergeant Stephens, how about you?

Mr. STEPHENS. No, sir, not that I can remember, not like this.

Mr. OSE. Officers?

Mr. CHAISON. No, sir.

Mr. ALLEN. No.

Mr. OSE. Thank you, Mr. Chairman.

Mr. BURTON. Would the gentleman yield to me because I may need more than the 5 minutes I have coming.

Mr. OSE. I would be pleased to yield.

Mr. BURTON. I want to make sure we have everything clear because in the course of questioning we get yes and no answers instead of elaboration. What I want to make sure is that I understand clearly what transpired at the meeting when the investigation was shut down. Mr. Howard said that he does not indicate the investigation was shut down completely but it was not going to be proactive anymore. You said that you—I think all of you said that you don't recall the word "proactive" ever being used. And the only thing that you remember was that Mr. Howard said the investigation was over, that there was political pressure, and he looked at his watch after some discussion took place and said it's over as of

this time and this date. Now, am I incorrect or is that correct? I don't want to put words in your mouth.

Mr. SCHUMACHER. That's correct, sir.

Mr. STEPHENS. That's correct, sir.

Mr. CHAISON. That's correct.

Mr. ALLEN. It is correct.

Mr. BURTON. And there was no further discussion, as I understand it. Mr. Howard then in a short period of time left the room, is that correct?

Mr. ALLEN. That's correct.

Mr. SCHUMACHER. That's correct.

Mr. CHAISON. Yes.

Mr. STEPHENS. Yes.

Mr. BURTON. I want to make sure because we're going to have Mr. Howard up here in a moment and I want to make sure we've got this correct. All four of you agree and you said I believe earlier, Sergeant Stephens, that there were other people in the room that we could call forward who would agree with what you were saying—

Mr. STEPHENS. Yes, sir.

Mr. BURTON [continuing]. That No. 1, political pressure was brought to bear; No. 2, that the investigation was being shut down as of a certain time and date?

Mr. STEPHENS. That's correct.

Mr. BURTON. And No. 3, there was no discussion to your knowledge of any further investigation taking place or any mention of proactive. Is that correct?

Mr. STEPHENS. That's correct.

Mr. BURTON. You all agree with that?

Mr. CHAISON. Yes.

Mr. ALLEN. Yes.

Mr. BURTON. I want to make sure I've got that clear because we're going to be asking Mr. Howard about that and we're going to be getting very specific.

Now I want to talk about threats on your lives. As I understand it, Sergeant Stephens, there have been some contracts allegedly put out on Mr. Schumacher and some of the other officers, is that correct?

Mr. STEPHENS. That's correct.

Mr. BURTON. Start the clock. I'll take my 5 minutes now. Start the clock. I understand that contracts from some reliable sources have been put out on Mr. Schumacher and others to kill him. Is that correct?

Mr. STEPHENS. Yes, sir.

Mr. BURTON. And the Rap-A-Lot music that we heard yesterday talked specifically about that kind of activity?

Mr. STEPHENS. Yes, sir.

Mr. BURTON. So their lives have been in jeopardy since this investigation or at least some time during the investigation, according to an informant?

Mr. STEPHENS. Yes, sir, the informant came forward recently, but yes.

Mr. BURTON. OK. I want to go to this IRS thing real quickly. The IRS, according to you, Mr. Schumacher, did a cursory investigation,

gave you some kind of a report and then they did not followup any further, is that correct?

Mr. SCHUMACHER. The report they gave us was we by design, we being the investigative team, had the IRS agent speak with this source of information who was providing information relative to the church. And we felt that because it was a financial nature, that the IRS agent might be better equipped and better trained to conduct this telephonic interview. As such, the agent made notes and subsequently wrote a DEA—a report on DEA letterhead or report. So it was a DEA report that was submitted. And after that, I seem to remember, February for some reason sticks in my mind, that agent had come back and was looking through some of the items we had seized and then slowly thereafter just—there was not any more feedback, any more presence, any more assistance.

Mr. BURTON. Did you pursue this with this IRS agent? I think you indicated yesterday that you had run into him at court and elsewhere. And you said are you doing anything on this or what did you say?

Mr. SCHUMACHER. Well, it was—it appeared to me that he was preoccupied with other matters and did not want to take the time or did not have the time to discuss it with me. As I said yesterday, I did appeal to Mr. Howard to please contact someone in management at the IRS because we were in dire need, I felt, in some sort of assistance from him.

Mr. BURTON. If it's possible—you don't need to give us preferably right now—we would like to know who you talked to at the IRS. We would like to know the reasons why they didn't followup on that investigation.

Mr. LATOURETTE. Mr. Chairman, would you yield for just 30 seconds?

Mr. BURTON. I will be happy to yield to my colleague.

Mr. LATOURETTE. Mr. Waxman earlier put into the record, and I'm glad he did, the letter from Mr. Nims, who is the group supervisor down at section four. I would point to page 2 where he says the same thing, and that is, we would have needed the support and commitment of the U.S. attorney's office and the Internal Revenue Service. During the course of the substantive stage of this investigation, it was apparent to me that neither of these two agencies were anxious to assist us. And he indicates he spoke to his counterpart at the IRS without success. I just wanted to point that out.

Mr. BURTON. I'm glad you pointed that out for the record.

I guess the main thing we wanted to find out today, and I appreciate you're staying over to come back to us, is that after that specific date when you met with Mr. Howard and a number of other people, there was no further action, to your knowledge, taken on the Rap-A-Lot investigation. It was completely stopped. Now, Mr. Howard said there were two convictions, but those were already in process, those indictments, as I understand it, or they were unrelated to the Rap-A-Lot case. So as far as you know, there was no further action taken after he pointed into his watch and said, this is it, this time and date it's over with; is that correct?

Mr. SCHUMACHER. Yes.

Mr. BURTON. You all agree with that?

Mr. CHAISON. That's correct.

Mr. ALLEN. Yes.

Mr. BURTON. I wanted to be clear on that. I just wanted to make sure. And there were other individuals in the room from the DEA and the police department that heard this statement; is that correct.

Mr. STEPHENS. That's correct.

Mr. CHAISON. That's correct.

Mr. ALLEN. Yes.

Mr. BURTON. They all agree with that.

I think that pretty much covers my questioning. Do any of the other colleagues have questioning? If not, I was going to yield my time to either one of you if you needed it. No.

Well, I'll yield back the balance of my time. Mr. Cummings, I think you're next, and then we'll go to Ms. Jackson Lee.

Mr. CUMMINGS. Mr. Schumacher, where does Mr. Nims fit in the chain of command?

Mr. SCHUMACHER. Mr. Nims is a group supervisor and up until my transfer out of group four was my supervisor.

Mr. CUMMINGS. If an investigation were going to be called off, would he—I mean, is it pretty logical that he would know that?

Mr. SCHUMACHER. In my mind?

Mr. CUMMINGS. Yes, sir. I mean, just from the way your operation and the things you've done in the past, your experience with the police department. I mean, if he's your supervisor, he's your immediate supervisor, and he seems to recollect that the investigation wasn't called off—I guess what I'm trying to figure out is how reliable would you think his—I mean, wouldn't he be a logical person to know that it was being called off?

Mr. SCHUMACHER. Yes, sir, you would think so.

Mr. CUMMINGS. So he had the impression, based upon his letter, that it was—his letter is pretty much consistent with what Mr. Howard said as far as it not being completely called off, but sort of ongoing. What do you account for that difference? Here's your immediate supervisor. He has one opinion, and you have another. Did you ever discuss it with him?

Mr. SCHUMACHER. Can you allow me a minute?

Mr. CUMMINGS. Sure.

Mr. SCHUMACHER. Some of the comments that Mr. Nims made in this letter, that's the first I've ever heard, if indeed he wrote that letter. I have no reason to doubt that he did. But he has never made those comments to me.

Mr. CUMMINGS. And you had talked a little bit earlier about how often you would talk to Mr. Howard. Would you talk to Mr. Nims often, too?

Mr. SCHUMACHER. Frequently Mr. Nims would come up after Mr. Howard departed and say, what did the SAC say.

Mr. CUMMINGS. So you would, would you have more conversations with Mr. Howard than you would have with Mr. Nims?

Mr. SCHUMACHER. No, I would have more with Nims.

Mr. CUMMINGS. OK. So in other words, the instructions coming down, it doesn't have to necessarily flow through Nims to you? There was a lot of direct contact with you?

Mr. SCHUMACHER. Between?

Mr. CUMMINGS. I'm sorry. Between you and Howard.

Mr. SCHUMACHER. Yes.

Mr. CUMMINGS. OK. To Mr. Chaison and Allen, Officer, to all of you, I want to thank you all for being with us today and for staying over. I'm particularly concerned about your safety, and I was wondering if you're concerned about it. It seems as if it's my understanding that there was an article this morning in the local newspaper, and I'm sure—and we've had a lot of discussion here about money flowing, big money flowing, and I was just wondering did you all request more anonymity than what you have here today? I'm just curious.

Mr. CHAISON. We've asked questions; however, we understand that's a matter of public record. As for me, God is my provider. He's my protector, so I'm not concerned about what man can do to me.

Mr. CUMMINGS. Well, I am.

What about you, Mr. Allen? I understand. I got you. Mr. Allen.

Mr. ALLEN. Again, God is my provider, and basically when I'm here, I believe in the people I'm with. And when I get back home, I believe in the people I work with. So I focus on that and just pray and hope that nothing ever happens to any one of us.

Mr. CUMMINGS. I just want to, again, thank you all, all of you, for your testimony. I think it has left all of us a bit concerned about you because we seem to have two—as I said a little bit earlier, we have very dedicated folk, people who are trying to make a difference and putting your lives on the line every day, and that certainly includes Mr. Howard and the other witnesses, and these differences of recollection certainly concern us. We'll hear from Mr. Howard again in a moment.

But, again, I want to thank you, and I wish you all the best. Thank you.

Mr. CHAISON. Thank you.

Mr. ALLEN. Thank you.

Mr. CUMMINGS. I yield back.

Mr. BURTON. I thank the gentleman.

The gentleman from Connecticut has 5 minutes.

Mr. SHAYS. Mr. Chairman, given that I wasn't here for the questions, I think it probably would be a little inappropriate for me to get into territory that may have already been covered. I would just once again thank our DEA official Mr. Schumacher and Mr. Stephens and Mr. Chaison and Mr.—

Mr. ALLEN. Allen.

Mr. SHAYS. Allen. I'm sorry, I was about to say it.

I was particularly moved yesterday, Mr. Chaison, when you described to me—all of you have moved me, but after the hearing you reminded me of the fact that one of people that you served with, a fellow officer, I believe a woman who was serving with you, maybe you could just tell me and tell this organization the circumstance.

Mr. CHAISON. Yes. I'm sure all of you heard the situation with a female HPD officer. She and I were working undercover, and she and I was engaged in a shoot-out with a drug dealer, and she's paralyzed today. Of course, she never has the opportunity to marry or bear children, which she'll never have now. I mean, she has the op-

portunity to marry, but she'll never be like some of the ladies here that's mothers. She'll never be a mother in that sense.

So we take our job very serious, very seriously. Of course, I've been involved in several shooting incidents again. In our work you have to have a head. God has to be the head of your life. He has just has to, because we're in—as undercover officers we're in situations where supervisors aren't. We're the ones in the dope house with the dope man and has to come up with the correct answer at the right time. An error on our part could be our demise. So we take it very seriously.

Mr. SHAYS. When you described that, the officer shooting before, I didn't realize it was someone you had actually been serving with and involved in that same fight. But I am in awe of individuals who can go undercover and risk their lives every day and say good-bye to their families in the morning. I'm sure you give them an extra hug. I'm sure they give you an extra hug. But all of you are heroes, in my mind, and I hope we ultimately resolve this and get all the answers we need. So I thank you. Thank you, gentlemen.

Mr. HORN. [presiding]. I thank the gentleman from Connecticut. I think the views of Mr. Cummings and the gentleman from Connecticut, we all agree on that. Whether you're undercover or working back on the DEA or the police departments around the country, you're brave people, and we probably ought to be getting a few medals out of Congress for those who are on the firing line all across America because the scum that they have to deal with and the hurt of our families are just unbelievable.

We now yield 5 minutes to the gentlewoman from Texas, Ms. Sheila Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Horn. Let me thank the chairman and the Members.

Mr. SHAYS. Is your mic on?

Ms. JACKSON LEE. I'm not close enough to it. I also have a cold.

I am not a member of this committee, as I said. I'm a member of the Judiciary Committee, which has oversight on the DEA, and I started out by saying I thank the ranking member and the chairman for their courtesies, and I will likewise be courteous.

Let me ask Mr. Schumaker or Schumacher?

Mr. SCHUMACHER. That's close enough. Thank you.

Ms. JACKSON LEE. Thank you very much.

What is it in what we're doing here today that you like to see come out of these 2 days of hearings?

Mr. SCHUMACHER. Ms. Lee, I've been subpoenaed here as a witness to give testimony. That's what I have done. And I'm trying to fulfill my obligation.

Ms. JACKSON LEE. So you have no goals or desires for what may ultimately come out of this hearing, what results or actions?

Mr. SCHUMACHER. No personal goals or desires whatsoever.

Ms. JACKSON LEE. Thank you.

Mr. Stephens.

Mr. STEPHENS. No personal goals. I would like to have definitive answers as to why the case was stopped when it was.

Ms. JACKSON LEE. So informal responses to providing you back with at least an explanation. Would that be capturing what you're saying?

Mr. STEPHENS. That we understand why the case was stopped, yes, ma'am.

Ms. JACKSON LEE. I do want to acknowledge that I have had a longstanding relationship with the Houston Police Department. I'm from Houston. I have served as an associate judge. I am very much a supporter of the officers that I worked with on a regular basis. I know the officers that are here, and I have a great deal of respect for them. I would add my interest and concern on your safety. So I want to acknowledge that as much as I want to acknowledge that I know the Prince family. I have a great deal of respect for the contributions that many of them are still making in the fifth ward area. It's important to give balance here.

And then I'd like to pose a question to you, Mr. Stephens. You commented on the visit of the Vice President to the Brook Hollow Church family. Were there wired officers present during that service?

Mr. STEPHENS. Not to my knowledge.

Ms. JACKSON LEE. So do you have any wire evidence of meetings of Mr. Prince and the Vice President?

Mr. STEPHENS. No, ma'am, not to my knowledge, I don't.

Ms. JACKSON LEE. Do you have any direct evidence that there was a meeting between Mr. Prince and the Vice President?

Mr. STEPHENS. No, ma'am.

Ms. JACKSON LEE. Do you have any direct evidence for the reason for the Vice President to have visited that church?

Mr. STEPHENS. No, ma'am.

Ms. JACKSON LEE. So any suggestion of any actions being taken on the basis of the Vice President's visit to the church, is there any direct information you have on that?

Mr. STEPHENS. No, ma'am.

Ms. JACKSON LEE. I note the name of a Brad Jordan in a letter, a.k.a. Scarface. Is that person living in our area?

Mr. STEPHENS. He was. He may still be. He did have a house in the west part of Houston.

Ms. JACKSON LEE. You don't have any reason to believe that any actions not taken against him or taken against him had—was there any knowledge of political influence, any actions not being taken against him; do you have any knowledge of that?

Mr. STEPHENS. No, ma'am.

Ms. JACKSON LEE. There is a letter that we have that suggests that some actions were not taken against him by the U.S. attorney's office, and I was wondering whether you might be familiar as to why that had not occurred?

Mr. STEPHENS. I do not know why it did not occur.

Ms. JACKSON LEE. So we can't, through you at least, attribute any political actions that kept him from being pursued?

Mr. STEPHENS. That's correct.

Ms. JACKSON LEE. I think it's important, and I think you have answered very forthrightly that you are subpoenaed here, and you are providing information. I, too, have respect for the responsibilities of Members of Congress to get to the bottom of issues. I abhor drug use and the sales of drugs. I'm trying to protect our children. But I also think you are also sensitive to the concept of representative government. We elect individuals, and they work on our be-

half. Is that something that you at least adhere or are familiar with?

Mr. STEPHENS. I hope so, yes, ma'am.

Ms. JACKSON LEE. You support and are familiar with the idea that when Members of Congress or others are asked about issues of racial profiling, do you think it's worthy of them to inquire of such?

Mr. STEPHENS. I'm not following you.

Ms. JACKSON LEE. Do you think it's worthy when Members of Congress or elected officials are approached on issues by their constituents or others about, say, something like racial profiling, do you think it's important to have them look into it?

Mr. STEPHENS. Yes, ma'am.

Ms. JACKSON LEE. I see the light is on, and I simply want to say to the two, Mr. Allen, Mr. Chaison, you know that I have known you and seen you. I want you to continue to do your work in safety and in honesty. My position is let us get all the information out on the table.

And I want to close with the indulgence of the Chair by simply saying that I know the Brook Hollow Church family, and I also know the concept of redemption and baptism. So that church offers membership to anyone who will come, and it offers its pulpit to anyone who will come and offer words. And I will offer to say to you that was the only role the Vice President had on March 12 was visiting with those constituents in a church service and worshipping with them.

But, again, I thank all of you for the information provided, and I will certainly be persistent in following this matter and working as I can work on my committee. And I again thank the chairman. I'm not sure if we're ending on this line of questioning, but I thank the chairman for his very kind indulgence.

Mr. BURTON [presiding]. Thank you, Ms. Jackson Lee.

I think unless there's any more questions, we will excuse this panel and have the other panel brought forward. I want to thank you very much for your perseverance and your patience. You've been very, very helpful.

Mr. SHAYS. Turn off the cameras.

Mr. BURTON. Can you shut the cameras off so we can let the police officers leave?

According to the rules that we agreed to yesterday, we will now go back to the half-hour questioning on each side, and then we'll go to the 5-minute rule. And we will now—excuse me. On this panel it is the 5-minute rounds. We will go to the half-hour when Mr. Marshall comes in.

Mr. Shays, would you like to proceed.

Mr. SHAYS. Mr. Howard, do you still contend that this case was not shut down by any common understanding of that term?

Mr. HOWARD. Yes, sir, I do.

Mr. SHAYS. Yesterday you said there were several arrests in December 1999. Were these arrests or indictments?

Mr. HOWARD. They were arrests.

Mr. SHAYS. Were the indictments you mentioned in yesterday's testimony the results of work that had been done prior to your receipt of Congresswoman Waters' letter of August 20, 1999?

Mr. HOWARD. Which indictments?

Mr. SHAYS. I'm sorry. These would have been arrests, I'm sorry.

Mr. HOWARD. Were there arrests preceding that letter?

Mr. SHAYS. Yes.

Mr. HOWARD. No, sir.

Mr. SHAYS. Let me read it again. Were the arrests you mentioned in yesterday's testimony the result of work that had been done prior to receipt of Congressman Waters' letter of August 20, 1999?

Mr. HOWARD. These arrests were the result of a case that started after October 1, 1999.

Mr. SHAYS. And who was this work done by?

Mr. HOWARD. I received the information from a memorandum that Chad Scott had given to me in March 2000.

Mr. SHAYS. Do you recall how many individuals were present at your September 1999 meeting?

Mr. HOWARD. In the August meeting? The latter part of August?

Mr. SHAYS. Was it August or September? Yeah, you've maintained it was August, but it was a September meeting.

Mr. HOWARD. It was approximately 9 to—9 to 12, 15. It was most of the people that were assigned to group four.

Mr. SHAYS. Could you give us some of the names of the people present there, the ones that you remember?

Mr. HOWARD. I'm sure the gentlemen that were here.

Mr. SHAYS. So it would have been the four of them?

Mr. HOWARD. Yes, sir. I couldn't tell you. It was the majority of the people in that group.

Mr. SHAYS. If there were 9 or 12, you would know there were others. Let's do this. Let's ask you to submit the names of the other people present.

Mr. HOWARD. I'll have to go back and find out who was in that group at that particular time, yes, sir.

Mr. SHAYS. If we were to issue a subpoena to every last one of them, and every one of them contradicted your account, would you concede that perhaps you have been mischaracterized in your account?

Mr. HOWARD. What I recall, sir, is what I said yesterday, that I said to them at that meeting that we will do no more proactive investigation at this time, because I was concerned about the issues, the allegations.

Mr. SHAYS. In light of the testimony concerning the Houston Police Department officers returning to the Houston Police Department at your insistence, would you like to revise your statement?

Mr. HOWARD. No, sir, I would not. I did not ask them to go back to their department.

Mr. SHAYS. If you still believe their removal of this case was at the insistence of the HPD, who exactly told you this from the HPD?

Mr. HOWARD. I didn't talk to anyone from the HPD about them being removed. I was told they were going back to their parent department by the ASAC, which was Keith Boden and Mr. Nims and Mr. Schumacher. This had been ongoing for some time as of September.

Mr. BURTON. Would the gentleman yield on that point?

Mr. SHAYS. Sure.

Mr. BURTON. The Houston Police Department officers who were here said that they went back only because the new captain that took over that division wanted to have all of his officers in one location, but there was no way, any indication whatsoever, that they wanted them to curtail their activities as far as the investigations were concerned in the Rap-A-Lot case. Did you know that?

Mr. HOWARD. I had not talked to the captain. I didn't know what their status was.

Mr. BURTON. You knew they were continuing on with the case; did you not?

Mr. HOWARD. I thought they were, yes, sir.

Mr. BURTON. Thank you.

I thank the gentleman.

Mr. SHAYS. Is it possible in light of the testimony today that you never uttered the phrase "proactive" at this meeting, but instead ordered all work to cease except for the cases currently in the court system?

Mr. HOWARD. I recall what I said. Anything is possible, yes, sir. But I do recall also that Mr. Nims came to my office shortly thereafter and asked for clarification on what I said.

Mr. SHAYS. And you believe what you said was what?

Mr. HOWARD. I believe what I said was there are allegations, and that the proactive part of this investigation has to stop pending the outcome of the OPR investigation.

Mr. SHAYS. Was Mr. Nims one of the people who had attended the meeting in September?

Mr. HOWARD. No, sir. I believe he was in his office.

Mr. SHAYS. Why do you believe he was in his office?

Mr. HOWARD. I just believe he was in his office. I had my back toward his door. I don't recall seeing him at all, and I know he came up for clarification, so I would assume that he must not have understood what I said earlier.

Mr. SHAYS. He wanted clarification for a meeting—

Mr. HOWARD. He wanted clarification on what I said at the meeting, so either he was there and he didn't understand—

Mr. SHAYS. So he was either there and he didn't understand, or he wasn't there and he didn't understand?

Mr. HOWARD. I said either he was there or he wasn't there. I don't recall exactly who was there. I walked down into the bay area, and I simply said, would everybody gather around.

Mr. SHAYS. Who were the people at that meeting that spoke with you?

Mr. HOWARD. That spoke directly with me?

Mr. SHAYS. Who were the people that responded to what you said?

Mr. HOWARD. Probably everybody in the bay area that was there. They all were frustrated as was I. They were asking, why, why. I could not go into a lot of detail at that time. I said, we have to suspend this pending an OPR investigation.

Mr. SHAYS. It's hard for me to imagine a meeting of some consequence that the only people you would remember there are the people who happened to be here.

Mr. HOWARD. No, sir, I didn't say that the only people there were the only people here. We've had numerous changes in that group

in the last 2 years of personnel as we have throughout the entire office. There are people in that group that may not be in that group now. I don't recall the exact names. I have several hundred people that work for me. On any given date I can't tell you except for certain positions who was in which group. I can go back and look at the roster and see who was in the group.

Mr. SHAYS. Thank you.

Mr. BURTON. The gentleman's time has expired.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. Howard, let's go back to March 2000. As of that time, the OPR investigation was still ongoing, wasn't it?

Mr. HOWARD. Yes, sir, that's correct.

Mr. WAXMAN. And the status of the agents working on the case had not changed? They were off proactive investigation unless they got permission to go forward from you or one of your associate special agents in charge; is that correct?

Mr. HOWARD. Yes, sir, that's correct.

Mr. WAXMAN. But something did happen in March that made you angry. On March 9 and 10, 2000, there was a Houston management conference; isn't that correct?

Mr. HOWARD. Yes, sir, that is correct.

Mr. WAXMAN. And Mr. Gamble and Mr. Mercado, whom you've known for many years, were at that conference; is that correct?

Mr. HOWARD. That's correct.

Mr. WAXMAN. Some of us here have quibbled with you about—excuse me. During that conference you all got to talking about the OPR investigation; is that right?

Mr. HOWARD. Mr. Gamble and I have talked about the OPR investigation along with Mr. Peiro and Mr. Adura.

Mr. WAXMAN. Mr. Gamble was relatively new on the matter and was not aware that Mr. Schumacher was still assigned to the same enforcement group and still technically supervised the agents working on this investigation; is that correct?

Mr. HOWARD. That's correct.

Mr. WAXMAN. Mr. Gamble didn't think it was appropriate for Mr. Schumacher to occupy that position during the pendency of the investigation; is that right?

Mr. HOWARD. That's correct.

Mr. WAXMAN. And he suggested that you move Mr. Schumacher to another group, one that did not have the enforcement activities; is that right?

Mr. HOWARD. Yes, sir.

Mr. WAXMAN. Mr. Gamble did not believe that Mr. Schumacher should still be supervising members of that group while they were subject to an ongoing investigation?

Mr. HOWARD. That's correct. Can I reiterate, sir?

Mr. WAXMAN. Yes.

Mr. HOWARD. In January 2000, when I made Mr. Schumacher the acting GS of group four, I had three ASAC vacancies in my division, I had nine GS vacancies in my division. At that particular time I had severe manpower shortages. I determined at that time improperly that Mr. Schumacher should be the action supervisor of that group because he is one of the senior agents.

Mr. Gamble at a later time in March advised me that I was wrong in assigning Mr. Schumacher as the acting group supervisor of group four. At that time I did not want to demoralize Mr. Schumacher or anybody else in that group. I moved him to be the acting group supervisor of a nonsupport group. Also at that time I still had nine group supervisor vacancies and three ASAC vacancies in the entire division.

Mr. WAXMAN. Mr. Gamble, the line of questioning, is that consistent with your recollection?

Mr. GAMBLE. Yes, it is.

Mr. WAXMAN. Mr. Howard, did it make you angry?

Mr. HOWARD. Yes, sir, I was very angry. I was angry about several things. I had just come back off extended travel for the prior 2 weeks. For the last month, ever since the articles came out with my name being blasted every day in the paper about this situation, I have been trying to figure out what triggered me to send the e-mails.

At 3 a.m., I woke up thinking about HIDTA. I got my diary out and I looked back at the dates preceding the March issues. A lot of things were on my mind at that time; a lot of things came to surface in 24 hours beginning on that Monday, whatever Monday would have been prior to the 14th and 15th. I was on a panel on a committee to restructure the southwest border HIDTA. We had some problems with that. We were trying to restructure that. That was meeting resistance. I had been told that upon my return from extended travel.

I had also been told that I was losing in excess of 20 task force officers from my Laredo office. They were going to be involved in money-smuggling and money-laundering. I am severely short of manpower.

I am also concerned that I have been trying to get Mr. Schumacher promoted. I had been told by Mr. Mercado that I cannot promote Mr. Schumacher or get him promoted at that time because of the OPR investigation. I am trying to get another individual in my division promoted, but I can't.

Mr. WAXMAN. My time is running out.

Did you feel strongly that Mr. Schumacher was taking a hit because of an investigation that you believed had no merit?

Mr. HOWARD. That's correct.

Mr. WAXMAN. When you sent your e-mail saying that you were bowing down to political pressure, you were referring to this whole situation?

Mr. HOWARD. I was referring to everything I was going through at that time.

Mr. WAXMAN. Is it still your testimony that it was appropriate for the Office of Professional Responsibility to conduct an investigation?

Mr. HOWARD. Yes, sir. They had to.

Mr. WAXMAN. And it's still your testimony that it was appropriate to take Mr. Schumacher off the case and off the group to which he was then assigned?

Mr. HOWARD. Yes, sir.

Mr. WAXMAN. Mr. Mercado or Mr. Gamble, do either of you have different recollection of events or anything else to add?

Mr. MERCADO. No, sir.

Mr. GAMBLE. No, sir.

Mr. WAXMAN. Some of us here have quibbled with you about how much you knew about the details of this investigation. You're the special agent in charge of Houston field division; isn't that correct?

Mr. HOWARD. Yes, sir, I am.

Mr. WAXMAN. And how many DEA agents are part of that field division?

Mr. HOWARD. Approximately 300 DEA agents, but a total task force officers and everybody, it's over 400.

Mr. WAXMAN. If the chairman—I just have one more.

Mr. BURTON. Sure.

Mr. WAXMAN. Just looking at the task force investigation, for example, Officer Allen who testified here earlier reported to Sergeant Stephens. Sergeant Stephens, while he was deputized on this investigation, reported to Special Agent Schumacher. Special Agent Schumacher reported to his group supervisor, and that group supervisor reported to an assistant special agent in charge. That assistant special agent in charge reported to an associate special agent, and that associate special agent in charge then reported to you. Is that the way it was?

Mr. HOWARD. Yes, it was.

Mr. WAXMAN. With this many levels of bureaucracy separating you from the people on the ground, it's not particularly shocking that you and they had different information or different impressions about this investigation; isn't that correct?

Mr. HOWARD. That is correct.

Mr. WAXMAN. Thank you, Mr. Chairman.

Mr. BURTON. Mr. Howard, for the second day in a row now we've had the policemen and Mr. Schumacher testify very vividly and very clearly that you pointed to your watch and said, this case is shut down as of now. They also very vividly remember you saying it was because of political pressure. And none of them recall you saying anything like proactive, or if you're going to do anything further with this investigation, you have to get permission.

Now, you said that Mr. Nims came over and talked to you later to get more clarification, and you may have told him, but as far as those officers who were the mainstays of the investigation of Mr. Schumacher, they didn't know, they weren't told. And the only thing they got from you was that you were shutting down the investigation.

Now, as a matter of fact, there was nothing more done by them. They testified here just a minute ago that there were no more investigations taking place, no more street contacts taking place. The informants were left twisting in the wind, and then there were death threats on Mr. Schumacher and some of the other Houston policemen. In addition to that, your e-mail is very clear saying that there was political pressure; not one e-mail, but two. And so everything in the e-mails and what you told those officers indicated you were closing down the case as of a specific time and date, and then there was nothing else that took place.

Now, you said that the Houston police officers were going to be sent back. And Mr. Nims's letter to Mr. Waxman said they were being sent back to the police department. That was only for loca-

tion purposes. It had nothing to do with the investigation because they continued on after that, and they were told by their officers in charge and the new captain that they could go ahead and do the investigating as part of that task force, or whatever you call it.

Now, what I don't understand is there's this divergence between what you're saying and what those officers said, and they said all the other officers that were in the room at the same time would verify what they said, and then the e-mails verify what they said. And yet you're telling us today and yesterday that there was proactive and get permission. Nobody remembers that except possibly when you went and talked to Mr. Nims. Now, how do you explain that?

Mr. HOWARD. Mr. Chairman, I can only tell you what I thought that I said, and then I clarified it with Mr. Nims at a later time.

Mr. BURTON. Well, you said the investigation was ongoing, that it went on after that. But as far as they're concerned, and as far as the records that they have access to, there was no further investigation. And the convictions that you talked about, as I understand it, and correct me if I'm wrong, one of those was from an investigation that had been going on, and the other was from another indictment that took place after that on an unrelated subject. Now, is that correct?

Mr. HOWARD. Mr. Chairman, that's not true.

Mr. BURTON. Explain it.

Mr. HOWARD. I asked for a status on the entire umbrella investigation on the local impact target in March 2000. Mr. Chad Scott, who was also the co-case agent along with Mr. Schumacher, sent me a memo indicating all the arrests that had occurred in the umbrella investigation of the local impact target. There was a case taken out under the name of Mr. Singleton where he was arrested along with four or five other people, and seizures were made in December. I don't have all the details of that investigation. I only know what was in the memo that was given to me in March 2000.

Mr. BURTON. According to them—and we'll check further and find out if there were any more arrests or convictions or what else transpired as far as the continuing investigation of the Rap-A-Lot—to their knowledge and to the records they have, there was nothing further done.

Mr. HOWARD. Mr. Chairman, the police department doesn't have access to our records. They would not know.

Mr. BURTON. Mr. Schumacher does, doesn't he?

Mr. HOWARD. Yes, sir, he does.

Mr. BURTON. OK. Now, the other thing that you said was that you were told by Schumacher, that the case against Rap-A-Lot and Mr. Prince in all probability would turn on two witnesses. Now, they just testified here that there were a lot of other avenues; that those two were important to their case, but that wasn't the only thing that they were concerned about, that there was a lot of other avenues they could pursue through their snitches on the street, but that you chopped them off at the knees.

Mr. HOWARD. Mr. Chairman, I was not told about any other leads. If there were any informants utilized in this investigation, they had to be used under DEA guidelines.

Mr. BURTON. Mr. Schumacher was your man in charge?

Mr. HOWARD. Mr. Schumacher was not my man in charge. Mr. Schumacher was the case agent.

Mr. BURTON. He was the case agent.

Mr. HOWARD. Yes, sir, he was the case agent.

Mr. BURTON. The thing is I don't understand how you can say to them, as they understand it, we're going to shut down this investigation as of this time. They don't remember proactive. They don't remember getting permission. They don't remember anything else. They were all upset because they were being chopped off, they thought, at the knees, and then you said that the case was going to turn on two witnesses that they thought would turn on Mr. Prince. And yet they—you had told them to shut down the case, according to them, and they had other avenues to investigate through snitches and other people out there in the district, and you didn't know about it. If you didn't know about it, did you ask them? Did you talk to them about it at all?

Mr. HOWARD. I had discussed this with Mr. Nims. Mr. Nims never told me about any other leads. Neither did Mr. Schumacher, never told me about any other leads. There are no other leads put on paper. I don't know where they are.

Mr. BURTON. Mr. Schumacher said he talked to you on a weekly basis, and what he said, according to the testimony here today, as I understand it, those two were important, and they were going to try to turn them; that those weren't the only leads and those weren't the only avenues they were going to pursue to try to get more convictions and indictments.

The thing that bothers me is 20 people were convicted of drug trafficking or murder, and yet this case was stopped. And you say it wasn't stopped, but we have no indication that it didn't go forward, and your e-mails are pretty clear.

Mr. HOWARD. Mr. Chairman, I said the case would be put on a hold. No proactive part of the investigation would be done pending the OPR investigation. The only way we were going to get the target of this investigation, the local impact target, was through conspiracy. Conspiracy can be done today, it can be done next month, it can be done 6 months from now. You need witnesses, you need people that are close to it. I was led to believe by everybody that knew about the investigation that the key to getting to the local impact target was these two individuals.

Mr. BURTON. That's not what we heard from them today, and I find that very unfortunate, and they say that a lot of people who could turn and be witness and who were snitches out on the street, who were drug dealers that could give them some additional information, many of them are no longer available as far as a possible conviction at this time.

Mr. HOWARD. Mr. Chairman, can I say something else? We talked about the contract on Mr. Schumacher. The contract is also on me.

Mr. BURTON. Yes, I knew that. I knew that. I didn't want to mention more than I had to in this public hearing. I understand it's a very volatile situation that you're faced with. But the main thing that concerns us is what we saw in these e-mails, the investigation apparently being closed down at least during the duration of that investigation. And they're writing rap songs that are No. 6 or 7 on

the hit list about killing police and how they can get away with bloody murder. I think it's really tragic.

Mr. HOWARD. I agree.

Mr. BURTON. Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Mr. Howard, let me just ask you a few questions. Mr. Nims seems to—as I said yesterday, seemed to have devised some corroboration to your recall of the—of that meeting when the officers alleged that you terminated this investigation. Mr. Nims was Mr. Howard's immediate supervisor.

Mr. HOWARD. Mr. Nims is? Mr. Schumacher.

Mr. CUMMINGS. I'm sorry. I apologize.

Mr. HOWARD. OK.

Mr. CUMMINGS. And did you—you said he came to you and asked for clarification; is that right?

Mr. HOWARD. Yes, sir, that's correct.

Mr. CUMMINGS. Now, would you normally tell him—I mean, if he's the supervisor of the group, would you normally go to the supervisor first, or would you go to the group first?

Mr. HOWARD. Under normal circumstances I would not have been involved directly in this case in the first place. I'm the one that brought this case to that group because it had been stagnant since—well, 1992 to 1997. I wanted to see what could be done with this investigation. I don't normally get involved with cases at this level.

Mr. CUMMINGS. So, but in this instance, go back to my question now with regard to Mr. Nims, although you may not get involved on this level, you were involved here.

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. And this was an ongoing investigation; is that correct?

Mr. HOWARD. That's correct.

Mr. CUMMINGS. Did you have conversations off and on with Mr. Nims?

Mr. HOWARD. Yes, sir, I did.

Mr. CUMMINGS. And here we were at a point, a very critical point of the investigation, where you had apparently received some news that you weren't too happy about, and I'm just asking you do you recall going to Mr. Nims first before going to the group?

Mr. HOWARD. No, sir, I did not. I went down to the bay area, and everybody that was in there, I just said, I need to talk to you all right now.

Mr. CUMMINGS. All right. And you don't recall Mr. Nims being in that meeting; is that right?

Mr. HOWARD. I don't recall. I don't know whether he was there or that he wasn't there.

Mr. CUMMINGS. You do recall, however, that there came a time when he came up to you, or you all met; is that right?

Mr. HOWARD. That's correct.

Mr. CUMMINGS. Do you know whether that was the same day of the so-called termination meeting?

Mr. HOWARD. I believe it was the same day.

Mr. CUMMINGS. Do you remember what his demeanor was? Was he upset? Was he saying, what the hell are you doing this for? Do you recall what he said?

Mr. HOWARD. He was frustrated like everybody involved in the situation was. He asked me what was going on and what did I mean by what I had said in the meeting, and I clarified it.

Mr. CUMMINGS. And what did you say to him?

Mr. HOWARD. I told him that no proactive part of the investigation could be done without approval from an associate SAC or myself.

Mr. CUMMINGS. So you're telling us that conversation took place somewhere not too long after your conversation with the officers; is that correct?

Mr. HOWARD. That's correct.

Mr. CUMMINGS. Now, is it possible—and I've been trying to figure this out over the last 24 hours—is it possible that you would have told the officers a limited amount of information and would have told Nims more detailed information? Is that—

Mr. HOWARD. Not only possible, it is probable.

Mr. CUMMINGS. It's probable.

Mr. HOWARD. Yes, sir.

Mr. CUMMINGS. Why do you say that?

Mr. HOWARD. Because Mr. Nims is a supervisor, I probably would have gone into a little more detail and asked him some questions more so than I would have the officers and agents involved, because the officers and agents involved were the ones that were accused of allegations.

Mr. CUMMINGS. So I take it that you—would you have felt more comfortable going into more detail with Mr. Nims?

Mr. HOWARD. It's not a matter of comfort. It's just a matter of he's the supervisor, and I need to know—I'm concerned about what had happened about the allegations.

Mr. CUMMINGS. The reason I asked you that is that you would be talking to some officers. Nims wasn't accused of anything; is that right?

Mr. HOWARD. It was the group; no, sir, it wasn't Nims.

Mr. CUMMINGS. The reason why I asked you about the comfort level is that you were talking to some officers, at least some in the bunch who had been accused of something that you didn't think they had done, but you certainly, I take it, didn't want to necessarily go into a lot of detail there.

Mr. HOWARD. I'm not permitted to, that's correct, sir.

Mr. CUMMINGS. That's why I asked you about the comfort level. I know you may not be able to recall exactly how you felt at the moment, but do you think you would have felt more comfortable telling more detail to Mr. Nims than you would have to the officers?

Mr. HOWARD. Definitely.

Mr. CUMMINGS. Was this a very unpleasant experience when you went to the officers?

Mr. HOWARD. It was very unpleasant. I was frustrated because I was responsible for the officers having gotten in the situation whether or not it was true or false. I did not believe the allega-

tions, but I felt responsible because I'm the one that put them in that situation.

Mr. CUMMINGS. Just two more questions. How long did that meeting take place, the one with the officers; do you remember?

Mr. HOWARD. It was very short. It was very, very short.

Mr. CUMMINGS. That doesn't tell me anything. What does that mean? Does that mean a minute, 2 minutes, 3?

Mr. HOWARD. Not more than 2 minutes. I went down there. I said what I had to say in very short sentences. They wanted to ask questions. They wanted to know why. I told them—I looked at my watch. I said as of this time, this date, that's it.

Mr. CUMMINGS. So you wanted to get it over with as fast as you could?

Mr. HOWARD. I didn't want them to have to ask questions. I knew they were frustrated and totally demoralized. I did not want to have to answer questions regarding why I took the action that I took.

Mr. CUMMINGS. Do you know how long the conversation took with Mr. Nims?

Mr. HOWARD. It was probably about 15, 20 minutes.

Mr. CUMMINGS. All right. I see. Thank you very much.

Mr. SHAYS. [presiding]. Thank you very much.

Mr. Horn, you have the floor.

Mr. HORN. Thank you very much, Mr. Chairman.

You said in answer to one question that nothing was happening between 1992 and 1997 on this particular case, and that you had assigned it to Mr. Schumacher and his group after 1997.

Mr. HOWARD. By that I didn't mean entirely nothing was going on. There was not a lot of progress in the investigation from 1992 to 1997. In 1997, it was assigned to group four. This is before Mr. Schumacher was in the group. They were working on this investigation on the local impact target for a period over several months prior to me assigning it to Mr. Schumacher. The original case agent from 1992 to 1997 was assigned also to group four when I initially assigned it to group four. The case still was not making a lot of progress.

At that time Mr. Schumacher had just finished a project I had him involved in earlier in east Texas. I wanted to know whether this local impact target investigation could proceed. I assigned it to Mr. Schumacher, I think, in the summer or early fall of 1998.

Mr. HORN. You mentioned in the course of a response to another question about 20 people being taken away from the Laredo station?

Mr. HOWARD. Yes, sir.

Mr. HORN. That certainly upset you.

Mr. HOWARD. Yes, sir, it most certainly did.

Mr. HORN. I can understand that. I wondered how many people were cut in the Drug Enforcement Agency in your region.

Mr. HOWARD. These weren't DEA agents. They were task force officers from local departments.

Mr. HORN. I see. But the Laredo 20 were what? What were they doing?

Mr. HOWARD. They were all task force people. They were task force officers from the local departments assigned to my enforce-

ment groups in Laredo. There were several—I have four enforcement groups down there. With 20 people leaving, that really hampers or restricts the number of investigations we could conduct.

Mr. HORN. Well, those individuals are dealing with border matters, aren't they?

Mr. HOWARD. No, sir, they're not.

Mr. HORN. What is the range of geography that they would be looking at big drug deals then?

Mr. HOWARD. We have investigations that are not only local impact cases, but they're national cases and international cases. Without going into specific cases, we have an investigation going on there now that is an international case involving several countries and many, many cities in the United States.

Mr. HORN. Well, getting back to this particular situation, you mentioned that they gave approval of leads and so forth to the assistant special agent in charge.

Mr. HOWARD. Associate SAC, yes, sir.

Mr. HORN. Is it called associate?

Mr. HOWARD. Yes, sir.

Mr. HORN. Did they ever go to them and say, we want to lead—we want to follow it up?

Mr. HOWARD. I don't know.

Mr. HORN. So, then, the realistic thing of this is everything stopped once you came in and said, we're out of it, or whatever. And it just seems to me did the Houston police pick that up?

Mr. HOWARD. Did they pick up the investigation?

Mr. HORN. Yeah, the investigation.

Mr. HOWARD. I don't know.

Mr. HORN. So it's just sitting out there.

Mr. HOWARD. Mr. Horn, I don't know what the Houston Police Department Narcotic Unit—I don't know what they're investigating. I have no way of knowing.

Mr. HORN. Well, we've poured millions into DEA.

Mr. HOWARD. Yes, sir.

Mr. HORN. So I'm really upset when I hear 20 agents are pulled out of a very hot situation in Laredo and things like this with one letter from a Member of Congress. I was in a Cabinet office for years, and I would be curious if the Attorney General personally read that and then referred it Mr. Gamble, to your organization. Is that what happened?

Mr. GAMBLE. That is what happened. That's what I understand happened.

Mr. HORN. How long did it take from the August 20—isn't it on the thing? How long did it take that to get down to your office?

Mr. GAMBLE. I don't know the exact time, but I know—

Mr. HORN. I will tell you in a bureaucracy there is a date stamp on everything, and I would think your office has a date stamp. And I would be curious how long did it take to go from the Attorney General of the United States down to you. And did you—did they have any directions to give you with that, whether this was a friend of the Attorney General or whoever; did you get any directions from the Attorney General's Office? Do you even know she saw it, or was it one of her 11 political appointees up there?

Mr. GAMBLE. I don't have any information about that. I was not the chief inspector during that time.

Mr. HORN. Well, I would like to have, Mr. Chairman, the trail of where that letter went and what time was it. I don't think most agencies really work very fast when a congressional letter comes. Now, I would be—if I was in that situation as assistant to the Cabinet officer, I would be very irked when a letter from Congress did make certain particular things—

Mr. SHAYS. Mr. Horn, if I could point out, 4 days afterwards, though, an investigation was commenced in that Congressman's office with an OPR interrogating the very individual who was being investigated for potential crimes.

Ms. Jackson Lee, let me just defer to our member of the committee, and then we will come to you. You will get equal time, it's just in terms of order.

Mr. HORN. I will finish my minutes. How many minutes do I have there?

Mr. SHAYS. Your red light was on, unfortunately.

Mr. HORN. OK.

Mr. SHAYS. You will be able to come back for another 5 minutes. Mr. LaTourette.

Mr. LATOURETTE. Mr. Horn, would you like a couple minutes?

Mr. HORN. No, go ahead. I just want to pick up on the routine here, and I'm assuming that you would do that.

Mr. LATOURETTE. I did have in my notes, gentlemen, the time indications that Mr. Horn was just talking about, and I think when we were talking to Mr. Howard yesterday, he indicated that you received the letter on August 20—I mean, the letter dated August 20 came to your attention August 20; isn't that what you told me yesterday?

Mr. HOWARD. I believe that was the date, yes, sir. I have not gone back and looked, but I believe that was the same date that I was notified.

Mr. LATOURETTE. And so we have a letter, thanks to Mr. Horn's question, that comes in to the Attorney General, makes it to somebody else, and makes it to you all in the same day. We also indicated that the letter is dated the 20th, and it didn't go through the mail, so it was faxed. So this letter not only had a pretty direct route through our government, but then, as Mr. Horn indicated, on August 24th there is an interview in a Member of Congress' office with a fellow who is the subject of a Federal drug investigation for 8 years. Anybody in your lengthy careers ever experience anything like that fact pattern before? You ever seen anything like that before?

Mr. Mercado, you ever see anything like that before?

Mr. MERCADO. Sir, I receive requests from Congress which we respond immediately on several occasions.

Mr. LATOURETTE. OK. Well, let me ask you now about the fact that this complaint turned out to be baseless except for the reprimand on the basis of mishandling of a piece of evidence or a piece of private property, the medallion, where there was a reprimand. But at the end of the day, this complaint by this individual in Houston was found to be without merit. It took 14 months to reach that conclusion. Can anybody tell me why, if you move so expedi-

tiously to consider the complaint including interviewing the fellow making the complaint 4 days after it was received, what the heck took 14 months to sort it out?

Mr. GAMBLE. What I understand is there were 37 witnesses to be interviewed, some of which were not readily available, some of which we never got to interview and we just made a determination they were not going to make themselves available. And it was not all people within DEA that we would have access to that we could have compelled to come and have an interview. So it's just the investigative process, it just took a long time.

Mr. HOWARD. Mr. LaTourette, one additional comment that you might need to know, too. Also during the process of the OPR investigation, there was a member of that group, group four, who also said that the allegations did happen, so that did occur, which resulted in him—

Mr. LATOURETTE. Let me bounce this off you. You're all experienced law enforcement officers. Here you have an investigation that was laying dormant since 1995. Mr. Howard comes into Houston and he says, we really ought to take a look at this because anybody who is able to move \$1 million in the trunk—of cocaine—in the trunk of a car is someone worthy of our Federal attention, and thanks to your good work, Mr. Howard, and the good work of Mr. Schumacher and the HPD officers, 20 arrests are occasioned, indictments up, convictions go, and you work your way up to the No. 3 man, as I understand, in this organization. That's how Mr. McCarter has been described; is that right?

Mr. HOWARD. Yes, sir. But can I explain how this investigation is in chronological order or really in order of what we do in Houston?

Mr. LATOURETTE. I also understand your observation that the RICO case or a conspiracy case can be brought today tomorrow or anything else.

Mr. HOWARD. Yes, sir.

Mr. LATOURETTE. But what you have after you get to the No. 3 man—maybe you can explain it to me. If I'm the No. 1 man, I see you worked your way up my organization, you come to No. 3, and if I can convince somebody—and you said it didn't have to be a Member of Congress, it can be any citizen—to send you a letter or apparently the Attorney General a letter saying there is racial going on or some other violation of the law, as alleged that for 14 months, which is the effect of the suspension, and if I read Mr. Nims's letter and we don't get into this thing called—Mr. Nims said you suspended it.

Well, that simple filing of a complaint when you're this close you're nipping at the heels of Mr. Big, you can cause the suspension of a Federal drug investigation of someone who has, at least according to your information, a pretty big sway down in the Houston area of poisoning their children at least with cocaine, but for 14 months—so while you're right that you can come back and do a RICO case any time you want, the confidential informants and others who have helped you get information on this organization, they've not only seen one investigation called off for political pressure, as was the quotation, but Officer Chaison testified this was the second time that this fellow went to his friends and said,

they're being mean to me, or they're violating something, and it was the second time. So how many times are these confidential informants going to have faith in you all that you're going to stand up for them and not take a walk the next time a complaint is made? And I welcome any comments you have.

Mr. HOWARD. First of all, this local impact case is not Mr. Big. It is a local impact target. It is not a major case that we get involved in in Houston. We are a target-rich environment. We had reached—as far as what I was told, we had reached a stalemate on going any further pending the cooperation of two people. That's what I was repeatedly told. I know at that time nothing can be done with these two individuals. We can go back at any time and go to grand jury, as Mr. Nims had said. This is not a major investigation. It's a local impact case.

Mr. LATOURETTE. Well, with the indulgence of the Chair, in Ohio where I'm from, a guy that can move \$1 million of cocaine in a trunk is an amazing case.

Mr. HOWARD. We seize 1,000 kilos or 1,000 pounds of cocaine or marijuana every month in my division. That's a lot more than 76.

Mr. LATOURETTE. How many kilos of cocaine was Rap-A-Lot moving, according to the information that you've received?

Mr. HOWARD. I don't know. I couldn't tell you off the top of my head.

Mr. SHAYS. Thank you.

Ms. Jackson Lee, you have 5 minutes.

Ms. JACKSON LEE. Thank you very much, Mr. Shays.

Again, coming to the microphone, let me thank again the ranking member and the chairman. I think it's important here, as I indicated, as a member of the House Judiciary Committee and in the oversight of the DEA, Mr. Howard, to thank you very much for the leadership you have given, the danger that you have put yourself in place or in front of along with your agents in our area and across the country. I think it's important. The knowledge and respect that I have for the Houston Police Department, I frankly believe that our community is safer for some of the excellent work that has been done by DEA agents.

I am particularly glad that you clarified my colleague's question about the fact that you have a lot of big fish that you have caught and still are looking toward. Is that my understanding? You have major operations that are going on?

Mr. HOWARD. That's correct.

Ms. JACKSON LEE. And in the scheme of things, though I am ready to get rid of any that were threatening our lives as it relates to drug usage, that in the scheme of things this does not—or this series of investigations at least, I understand your words, is not one of those major targets, but it is a target. Is that my understanding?

Mr. HOWARD. That's very correct.

Ms. JACKSON-LEE. My legal knowledge suggests that conspiracy has no statute of limitations?

Mr. HOWARD. That is correct.

Ms. JACKSON-LEE. And today, tomorrow, you can bring an action?

Mr. HOWARD. That's correct.

Ms. JACKSON-LEE. I want to acknowledge Mr. Nims's point of view that he understood that Sergeant Stephens had been under pressure for some time for he and his squad to return to the HPD, so they were headed back, their resources were needed?

Mr. HOWARD. Yes.

Ms. JACKSON-LEE. You indicated that you had been on 3 weeks of travel, and I know—being a manager and having to worry about people being pulled from investigations, would you have considered yourself under office pressure to make sure that things were balanced?

Mr. HOWARD. When I came back on that Monday, I had the normal 2 weeks of inbox. There are a lot of things that you have to do in a short period of time.

Ms. JACKSON-LEE. A lot of decisions?

Mr. HOWARD. A lot of decisions.

Ms. JACKSON-LEE. Let me refer you to some conversations, so I can see whether—maybe you were talking to one group when you thought you were talking to another.

You think you and Mr. Nims talked shortly after you talked to the officers in the bay. I am wondering, given the discrepancies in your recollection and the other officers', if you might be mixing the conversations. You need to think about it.

Is it possible, for instance, that you used the phrase "proactive" with Mr. Nims and maybe not the officers? Is it possible that you used shorthand phrases when talking with the officers that might account for differences in interpretation?

Mr. HOWARD. I can't tell you word for word what I said. I was trying to make it as short, but still get the meaning out to the officers because I was frustrated, as well; I knew that they were totally demoralized at that point.

Ms. JACKSON-LEE. How long have you been a DEA agent?

Mr. HOWARD. Since December 26, 1973. I have had 12 transfers.

Ms. JACKSON-LEE. Have real commitment to your work?

Mr. HOWARD. I took a cut in pay to come on this job. I was a Vietnam vet. I wanted to work in a problem area or with kids. I certainly consider this a problem area. I have been transferred because I have had my life threatened in the past.

Ms. JACKSON-LEE. Wouldn't be part of any cover up?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. Don't consider yourself weak-kneed?

Mr. HOWARD. This is my last year on this job, and I am disturbed about my name being in the press. Everything that I say, it is like I am being told I am a liar.

I know what the truth is. My integrity has been out there in these papers almost weekly since October. I know what the truth is here and I know what I did and what I didn't do.

Ms. JACKSON-LEE. So, as I said, I am concerned about that as well, Mr. Howard. So this term that you could have used, the phrase "proactive" with Mr. Nims and not the officers, you may have used it with Mr. Nims and not the officers?

Mr. HOWARD. That is very possible.

Ms. JACKSON-LEE. Did you get a direct call from the Attorney General of the United States to tell you to stop this case?

Mr. HOWARD. No, ma'am, I did not.

Ms. JACKSON-LEE. Did you get a direct call from anyone to stop this case?

Mr. HOWARD. I have never been told to stop this case by anyone.

Ms. JACKSON-LEE. Do you have a concept of what you meant by "political?"

Mr. HOWARD. I was talking about the total environment, the press, the OPR investigation, just everything going on. Everything is political. Everything involving our job is political. It has ramifications on the community. It has ramifications on the agents and officers who work these cases. It has ramifications on the laws and throughout our society. That is all political as far as I am concerned.

Ms. JACKSON-LEE. Mr. Howard, I assume, Mr. Gamble and Mr. Mercado and Mr. Howard, you are under oath?

Mr. HOWARD. Yes, ma'am.

Ms. JACKSON-LEE. And as you have indicated when you explained the word "political," you have given us the truth?

Mr. HOWARD. I have given you the truth.

Ms. JACKSON-LEE. Do you know Dr. Ralph Douglas West personally?

Mr. HOWARD. Yes.

Ms. JACKSON-LEE. Do you have any cause to have invited him in for any questioning about any involvement in any activities that would have been illegal or untoward.

Mr. HOWARD. No, ma'am, I have not.

Ms. JACKSON-LEE. Is he a respected person in our community?

Mr. HOWARD. Very much so.

Ms. JACKSON-LEE. Is his church a well-known church?

Mr. HOWARD. Yes, ma'am.

Ms. JACKSON-LEE. Would you presume it unlikely that people of stature would want to come and worship at his church?

Mr. HOWARD. I believe anybody in the community would go to his church.

Ms. JACKSON-LEE. Did you get any calls from the Vice President or his assistants talking about this particular case?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. Do you have any knowledge that the Vice President had any influence about your decision?

Mr. HOWARD. No, ma'am, he did not.

Ms. JACKSON-LEE. Mr. Howard, knowing the outstanding leadership of Pastor West and his church, do you have any reason to know why he is in the press or being speculated to be involved in any way in these activities?

Mr. HOWARD. Only because somebody goes to his church. That is the only reason. There is no other reason.

Ms. JACKSON-LEE. You saw no reason to pursue him or his church members?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. And you believe in God?

Mr. HOWARD. Yes.

Ms. JACKSON-LEE. And you believe in rebirth and the right for people to attend church?

Mr. HOWARD. I go to Brentwood.

Ms. JACKSON-LEE. I am quite aware of the leadership of that church.

Mr. Chairman, you have been so kind again with the emphasis for the work that these individuals do; and whatever we can do to add to the protection of their lives, let us do so, and conclude as well that we as Members of Congress have our responsibilities. And I would hope, Mr. Howard and others that you know, that whatever we do, we do not do it in the intent to do anything but represent the constituents and issues that we have the responsibility for.

We thank you for your service.

Mr. HOWARD. Yes, ma'am, thank you.

Mr. SHAYS. Thank you, Ms. Jackson-Lee for your presence here. It has been very helpful. I am going to yield myself time and try to cover a few different points.

First, Mr. Howard, I believe you to be a very honorable man and have a distinguished service, and any time someone can point out that they served in Vietnam they should—and they should be congratulated for that.

But we are here for things that you did that frustrate you, but also frustrate the committee. We didn't write the e-mails; you did. We didn't say, "I understand that the situation involving Rap-A-Lot, a.k.a. James Prince, has gotten worse. To eliminate any further difficulty in this matter, I have decided that the Eastern Division will curtail any enforcement action against this subject. At any rate, it is over, and we are closing our case on Mr. Prince."

I didn't write that; you did. I didn't write, nor anybody up here or any of the people before, "Now we bow down to the political pressure anyway. If I had known this, I would never have brought Jack in the case, nor would I have even pursued it. But it is over now. The Houston Division will terminate all active investigation of Rap-A-Lot except for those persons who have already been arrested and indicted."

That is what you did. So be frustrated and we understand your frustrations; but you wrote this, and because you wrote it, we are here today. Had you not written it we might not be here today.

Mr. HOWARD. I agree.

Mr. SHAYS. Had you put other officers on active investigation instead of putting this on a stall for 14 months, we might not have been here. I mean, so those are the realities of it.

Yesterday was not a good day for the DEA. It was not a good day for a whole host of reasons. It wasn't a good day in part, Mr. Gamble, because it is clear that someone can put political pressure on the DEA, and that someone can be the subject of an investigation and then you will allow it, the DEA will allow it, to be suspended, and good men and women for 14 months are under a cloud. Why the hell it should take 14 months is beyond me, especially when the discovery and the determination was made in March, and from March until October, incidentally, only when people started to focus on it, did we then learn that the March clearing was going to be valid.

Yesterday, Mr. Waxman began these hearings asking that we not complicate or undermine the Inspector General's investigation of this case. I don't think that we have. What has become clear to me

over the past 2 days is how easy it is for the target of a DEA investigation to complicate and undermine that investigation.

All a criminal target needs to do is lodge a complaint or ask a Member of Congress to lodge a complaint against a DEA agent; isn't that correct, Mr. Howard?

Mr. HOWARD. No, sir, that is not true. If I had known there were additional leads, other agents would have been put on that case. I didn't know that there were additional leads.

Mr. SHAYS. Well, shame on you for that.

Mr. HOWARD. I was never told by the GS that there were additional leads.

Mr. SHAYS. If it was your testimony that the Rap-A-Lot case was stalled, or suspended anyway, pending the two key witnesses in custody helping, why were you so frustrated in September and in the March vetting e-mails about having to suspend the proactive aspect of the case if you have just said what you said? Why be frustrated? There were leads.

Mr. HOWARD. Why was I frustrated in March?

Mr. SHAYS. September you were frustrated.

Mr. HOWARD. I was frustrated in September about the allegations.

Mr. SHAYS. But not frustrated that you had to suspend the investigation?

Mr. HOWARD. I was the one that brought Jack Schumacher into this situation. I solely, nobody else, brought Jack Schumacher into the situation. He is being named as doing improper—

Mr. SHAYS. Mr. Howard, if the target of an investigation had not successfully gotten DEA to do an investigation, an OPR investigation, would you have suspended this case?

Mr. HOWARD. No, sir, I would not have done anything.

Mr. SHAYS. You wouldn't have, so the case would have continued. Right?

Mr. HOWARD. Yes, sir.

Mr. SHAYS. It would have continued and been an active case, a proactive case?

Mr. HOWARD. Yes, sir.

Mr. SHAYS. So let's not get into these mindless games of saying that there was no reason to continue. There was every reason to continue. The only reason you suspended it was the criminal in the case, the target in the case, succeeded in getting DEA to do an OPR investigation. That is the only reason why you suspended this case; isn't that correct?

Mr. HOWARD. Yes, sir.

Mr. SHAYS. Now give me your explanation.

Mr. HOWARD. As far as what I was being told by Mr. Schumacher and also by the group supervisor, Mr. Nims, the only leads, everything hinged on the cooperation of two individuals. That is all I can go on is what I was told.

Mr. SHAYS. Why not followup with the IRS?

Mr. HOWARD. I asked the IRS SAC to get involved in the investigation. He told me that they had already looked at this case several times. There was nothing there.

Mr. SHAYS. Who is he?

Mr. HOWARD. The SAC of IRS.

Mr. SHAYS. Special Agent—

Mr. HOWARD. His first name is Jack, Special Agent in Charge.

Mr. SHAYS. So you thought there were some leads?

Mr. HOWARD. No, sir. I was asked by the supervisor, Jim Nims, to ask the SAC of IRS, would he have his people come over and look.

Mr. SHAYS. So you were asked to ask the IRS to come over?

Mr. HOWARD. I didn't review the case file.

Mr. SHAYS. How persuasive could you be to IRS if you hadn't read the case, to ask the IRS to come get involved?

Mr. HOWARD. Mr. Shays, I do not review case files. I have hundreds of cases open.

Mr. SHAYS. A gigantic interest in this case would occur to me if I were in your shoes if the subject of the investigation was the one that succeeded in getting the investigation suspended. I would drop everything else and I would go into it overtime because once you let the subject of an investigation suspend a case, you are dead.

Mr. Ose, you have 5 minutes.

Mr. OSE. Thank you, Mr. Shays.

Mr. Gamble, we talked yesterday about the 121 cases in the first quarter of this year that OPR is dealing with, and I asked how many have resulted in the stoppage of an inquiry or removal of agents from active investigation; and I think you were going to get back to us with that information today.

Mr. GAMBLE. Yes, sir.

Mr. OSE. Do you have that information?

Mr. GAMBLE. Yes.

In 1998, we had a total of 248 investigations that we conducted; 37 mandated that people be removed from the job, taken off, out of the office and not able to perform any duties, two of which were put on limited duty, meaning put in another assignment other than the job that they were in. Six resulted in indefinite suspensions and 13 terminations.

Then we go to 1999 and we had 314 investigations that were conducted, 37 of which again individuals were placed on administrative leave, which means that they were not able to come to work and perform any of their official duties. Seven were placed in limited duty status, 10 were indefinite suspensions and 17 were terminations.

And then fiscal year 2000, 366 investigations were conducted, 31 of which were placed on administrative leave, 9 in limited duty status, 6 were placed on indefinite suspension and 33 were terminations.

If I can just—Mr. Shays pointed out the 14 months. It took us 7 months to conduct our phase of the investigation, which ran from August 24 through March 29. Once we conduct our fact-finding, it then goes to another board of review which all of these cases go to, in which all of them have to be reviewed; and they look at them in terms of priority. Some are more serious than others, and that is something not under my purview. I don't know how they do their workload.

From there it goes to a deciding official who supports the action that is being proposed.

Mr. OSE. Is it my understanding—I want to make sure that I have this correct—that the allegation that was made by Mr. Prince was judged at the end of this process to be without merit?

Mr. GAMBLE. It was in the case of Mr. Schumacher, yes. And in the case of Mr. Chad Scott, there was a letter of reprimand.

Mr. OSE. So Schumacher, there was no letter of reprimand, nothing?

Mr. GAMBLE. He got a letter of clearance.

Mr. OSE. And Chad Scott got a reprimand?

Mr. SHAYS. A letter of reprimand, not on racial profiling?

Mr. GAMBLE. The initial allegation was harassment, civil rights violation, illegal seizure and conduct unbecoming an agent. Those were the allegations.

Mr. SHAYS. Made by the subject of the investigation?

Mr. GAMBLE. Some of them were. The subject didn't say "conduct unbecoming"; that is something that we determined when we looked at the merits of the allegation. They wouldn't know what that is. So that was a phrase that we put in there. I mean, that's—

Mr. SHAYS. Mr. Gamble, Mr. Jimenez at the deposition said, "I just want to put it on the record that we feel that the information provided by Mr. Prince is insufficient at this point for us to—you know, we will take a look at it, but it does not pinpoint any civil rights violation. It is not identified, specific acts of wrongdoing of DEA agents and so on." That was the deposition taken by the person who brought the charge.

So tell me how you get from there to there?

Mr. GAMBLE. From?

Mr. SHAYS. Tell me, how do you pursue a case when the initial deposition of the person making the charge has no validity?

Mr. GAMBLE. I don't know what all—here again, I was not the chief inspector at that time. The only thing I know is the information that—

Mr. SHAYS. I just was trying to clarify one point. The letter of reprimand happened to be a medallion?

Mr. GAMBLE. Yes, sir.

Mr. SHAYS. Taking a medallion and not reporting it. That was the extent of the reprimand, correct?

Mr. GAMBLE. To my knowledge, yes.

Mr. OSE. Reclaiming my time, given the OPR investigations, how many of these cases in these respective years ended up in the termination of an active investigation?

Mr. GAMBLE. None, to my knowledge.

Mr. OSE. Zero?

Mr. GAMBLE. None.

Mr. OSE. Except for this one? This one with Mr. Prince was the only one where you could conceivably draw a line which led to the termination of an investigation?

Mr. GAMBLE. Here again there are two separate things. There is the OPR matter and the operation matter. I am responsible for conducting the allegations against employees for violations of our standards of conduct. That is all I know. That is all we do.

The consequences of that, an individual being removed or other disciplinary action being taken against an individual, I don't know how to translate into—

Mr. OSE. As it relates to Mr. Smith.

Mr. GAMBLE. As it relates to any ongoing investigation.

Mr. OSE. In terms of the ones that you cited here, am I correct in understanding your testimony that none of these investigations resulted in the ending of an active investigation?

Mr. GAMBLE. I wouldn't have that knowledge. I wouldn't know that. I don't think they would have. This is about the individual, it is not about—and it is about the individual and the individual's conduct in the performance of his duties. I wouldn't know and I wouldn't think that translated into the termination of an investigation.

Mr. OSE. My time is up.

Mr. BURTON. You are saying, no investigation of an agent, to your knowledge, had terminated an active, ongoing investigation of a subject out there in the field?

Mr. GAMBLE. That's true.

Mr. BURTON. Is that what you wanted to know, Mr. Ose?

Mr. OSE. Would you chairman repeat his comment.

Mr. BURTON. What I said was, no investigation of an active agent for misconduct, to his knowledge, ever resulted in the termination of an active ongoing investigation in the field.

Mr. OSE. You are far more eloquent than I.

Mr. BURTON. I know. Doesn't it scare you sometimes?

Mr. OSE. I do have one question of Mr. Mercado.

Mr. Mercado, you are No. 2 at DEA. Can you recall any other case where an active inquiry was ended in this fashion?

Mr. MERCADO. No, sir. We have had allegations, but we have had to hold an investigation pending an outcome. We have one in progress that is pending the end of the OPR investigation before we can continue.

Mr. OSE. Where the agent has been removed, but the investigation is continuing?

Mr. MERCADO. Because of the nature of the investigation, the investigation is on hold and both agents have been put on leave pending the investigation.

Mr. OSE. But you know of none that have been terminated?

Mr. MERCADO. None have been terminated.

Mr. OSE. And you have been with DEA—

Mr. MERCADO. Over 22 years.

Mr. BURTON. Mr. Horn.

Mr. HORN. Is a Member of Congress the agitator for this particular case or is it like this one?

Mr. MERCADO. No, this was an internal investigation, sir.

Mr. BURTON. I believe we have a few more questions of this panel, and I would like to wrap this up as quickly as possible because of time constraints.

We want to bring Mr. Marshall out, the DEA administrator.

Mr. HORN. Just to wind it up, Mr. Gamble, you mentioned local politics in regard to your response yesterday to a question. You said that you told Mr. Howard that he had to deal with his local

politics and you had to deal with yours. What were the local politics that you had to deal with at the Drug Enforcement Agency?

Mr. GAMBLE. Office politics. There are a lot of competing—we are asked to do a lot of things with limited resources. We have—you know, as I indicated, the total number of OPR investigations going on, we only have 52 agents to do these. How do they get done? So there are a lot of things—

Mr. HORN. How it gets done is when the powers that be in your agency talk to the budget people at the Department of Justice to get the resources you need.

Mr. GAMBLE. Yes, sir.

Mr. HORN. Well, I mean, you know, when you talk about local politics, you are using Speaker O'Neill's great quote.

Mr. GAMBLE. That's true.

Mr. HORN. That is the most overworked phrase we have in this building.

You heard about the 20 people from Laredo; that was upsetting Mr. Howard. I don't blame him. He mentioned also that this case, I think germs of it, Mr. Howard, between 1992 and 1997, wasn't going anywhere; isn't that correct, what you said? And then you put Mr. Schumacher in charge, and things started to happen?

Mr. HOWARD. There were very little things going on prior to 1998, yes, sir.

Mr. HORN. But it started in 1992; is that not right?

Mr. HOWARD. That's correct.

Mr. HORN. Was that because they didn't have the resources or the leadership?

Mr. HOWARD. I wasn't there in 1992. I didn't go there until 1995, so I don't know.

Mr. HORN. What made you then recommend that we need to focus on this issue?

Mr. HOWARD. Because the investigation was open since 1992. When I got briefed it was 1997. I got briefed with the Houston Police Department and various other agencies. The investigation was assigned at that time to my HIDTA task force, and no progress had been made over the past 5 or 6 years. I wanted to see, should the investigation be closed or pursue the investigation. That is when I brought it up to group four.

Mr. HORN. When you talked to the team that was working on it and said it was going to shut down, who was ahead of you in the hierarchy? To whom did you report at that time?

Mr. HOWARD. In Houston I don't report to anybody.

Mr. HORN. Never?

Mr. HOWARD. In Houston?

Mr. HORN. In Houston, who is the person that signs your paycheck?

Mr. HOWARD. Operational, at that time it was Richard Fiano, chief of operations.

Mr. HORN. He is positioned where, in Houston?

Mr. HOWARD. In Washington.

Mr. HORN. What would his title be?

Mr. HOWARD. Chief of operations.

Mr. HORN. Did he tell you to close it down?

Mr. HOWARD. No, sir.

Mr. HORN. Who told you? Is there a little tooth fairy up there that says, close it down?

Mr. HOWARD. Nobody told me to close this investigation down, Mr. Horn. Nobody has ever told me to close this investigation down.

Mr. HORN. Well, either it was going to evaporate or the personnel were going to go somewhere else, but what else could it be when you've had five members discuss this with you and—on the staffing and all. They had staff at that time. They were ready to do something, and then you said, close it down, and if there is something to be done, talk to the Associate Special Agent in Charge; is that right?

Mr. HOWARD. That's correct.

Mr. HORN. So you are the one and you are taking the heat for all of these people, is what frankly a lot of us—

Mr. HOWARD. I am not taking any heat. I am telling the truth. Nobody ever told me to close this investigation down. I closed the private part of the investigation down because I was concerned about my people. I was concerned about the allegations that were going on involving my people. Further, I was concerned about if the allegations were true, they were true against minority people in my city.

I know what police brutality is. I know what driving while Black is. I have had it happen to me before. I am sensitive to that, and I am sensitive to the idea that I brought Jack Schumacher in this investigation. I feel responsible to him for having put him in this situation.

Mr. HORN. Is it your knowledge of Ms. Waters' letter to the Attorney General?

Mr. HOWARD. Excuse me?

Mr. HORN. When you closed this operation down, was it based strictly on Representative Waters' letter to the Attorney General?

Mr. HOWARD. It was on the allegations, sir.

Mr. BURTON. The gentleman's time has expired.

Let me make one comment. If there was an allegation of racial profiling, if there was an indication of illegal activities, beatings or whatever, you knew that this was a very important investigation.

Why did you not put somebody else on the case? Why did you not replace Mr. Schumacher and replace the Houston Police Department? Nothing was done.

Mr. HOWARD. Mr. Chairman, I have never been told there were any more leads. First of all, this is a local impact investigation. This is not a major investigation in the scheme of things in Houston, TX.

Mr. BURTON. Thank you. We have heard that before. We heard just the opposite from the law enforcement officers from Houston and Mr. Schumacher. Thank you.

Mr. Shays.

Mr. SHAYS. Someone asked you to close down the case or at least not make it proactive; and the person who asked you, using the instrument of a Member of Congress, was Mr. Prince, who was the target of the investigation. That is the fact.

And the fact is yesterday you gentlemen left me with the impression if there is OPR, we take them off the case. That is the fact. You said that was standard practice.

And, Mr. Gamble, you have given us statistics today that show us that isn't standard practice. You have given us statistics today that show us 20 percent of the people who are going to have an OPR are taken off the case. That is what you have done. So what I learned yesterday is different from what I learned today.

Mr. GAMBLE. These are all employees of DEA, not agents necessarily. They are all employees of DEA. And I—if that is what you understood yesterday, that is not what I was indicating.

Mr. SHAYS. So it isn't the practice to take someone off the case if there is an OPR.

Mr. GAMBLE. That is not the practice.

Let me indicate—

Mr. SHAYS. That is not the practice?

Mr. GAMBLE. That is not.

Mr. SHAYS. If it is not the practice which we thought it was yesterday and accepted it and now we learn that it is not the practice, that is why we want to know why they in particular were taken off the case. Particularly when your predecessor said there really is nothing substantial, Mr. Prince, that we have heard about your complaint? He said it in front of a Member of Congress.

Tell me these statistics. Tell me how many times when the person making the complaint is the target of the investigation that you all have mindlessly acquiesced and taken them off the case? Tell me who?

Tell me another example of someone who is the target of an investigation who can go to a Member of Congress and get a Member of Congress to ask for an investigation, or even not go to a Member of Congress, because as you pointed out it is irrelevant whether it is a Member of Congress? Tell me?

Mr. GAMBLE. I can't recall.

Mr. SHAYS. No. This might be the first time.

Mr. Mercado, tell me? Tell me an example of when a target of an investigation has gotten you to take the agents off and stop the proactive investigation of the case?

Mr. MERCADO. I don't recall one, sir.

Mr. GAMBLE. Mr. Shays, if I can say why in my conversation with Mr. Howard, why I thought that Jack Schumacher should be taken out of the enforcement arena pending completion of the OPR investigation, and it was based on the fact that there was—in light of some of the things that—

Mr. SHAYS. Finish the sentence. There was a what?

Mr. GAMBLE. He had 19 allegations when he was with the Houston PD and disciplinary actions over a 6-year period of time. Since coming with DEA in 1994, there were several allegations that were reported, conduct unbecoming.

Mr. SHAYS. And how were they resolved?

Mr. GAMBLE. Most of them were in a letter of caution. But there was—unjustified or a letter of caution.

Mr. SHAYS. Let's put it on the record.

Mr. GAMBLE. So my concern—

Mr. SHAYS. No, no, no. Tell me exactly. Tell me why you decided to take him off specifically?

Mr. GAMBLE. Yes. I am specifically looking at what was going—the ongoing OPR matter, looking at his prior history of conduct, and the issues that were raised about civil rights violations that had gone to the Department. We had not heard whether it was—

Mr. SHAYS. Had he had any other case before the complaint about a civil rights violation?

Mr. GAMBLE. Since coming to DEA, no.

Mr. SHAYS. How many years has he been at DEA?

Mr. GAMBLE. Thirteen years.

Mr. SHAYS. For 13 years. Was this not a civil rights complaint?

Mr. GAMBLE. We reported to the—

Mr. SHAYS. Was it a civil rights complaint?

Mr. GAMBLE. Was it?

Mr. SHAYS. What was Mr. Prince alleging, a civil rights complaint, isn't that true?

Mr. GAMBLE. In the letter, yes.

Mr. SHAYS. That was his charge. He went to the head of the Black Caucus who then contacted the Attorney General. Is there any case against Mr. Schumacher preceding this that involves civil rights?

Mr. GAMBLE. Not to my knowledge, no.

Mr. SHAYS. Right. So tell me why, if that was the complaint and he had no previous one, why you would have taken him off?

Mr. GAMBLE. Because I was concerned, one, about safety. There were a lot of issues there about threats, and we have heard a lot of testimony about threats. I was concerned about his safety and whether or not someone would seek an opportunity to put him in a situation where he could be hurt or hurt—

Mr. SHAYS. Because the person making the charge—who made the charge, Mr. Gamble?

Mr. GAMBLE. The initial allegation came from Mr. Prince.

Mr. SHAYS. Was Mr. Prince the target of the investigation?

Mr. GAMBLE. I have learned that he is a local impact—

Mr. SHAYS. You knew he was the target of the investigation. Stop saying local impact. He was the target of the investigation, is that not true? Mr. Gamble, is it not true that he was the target of the investigation?

Mr. GAMBLE. That's what I know. That is what I have now learned.

Mr. SHAYS. You didn't know it until now?

Mr. GAMBLE. I was not in this job until February. We are only dealing with the conduct of our agent. I am not concerned about—

Mr. SHAYS. Mr. Gamble, you do not have to tell me it is your fault, but stop giving me excuses for your organization. You told me that you took him off the case. I didn't invent that, so I think you are involved. If you didn't take him off the case, I wouldn't be asking the question. Did you take him off the case?

Mr. GAMBLE. No, I did not.

Mr. SHAYS. Did you recommend that he be taken off?

Mr. GAMBLE. I talked about placing him in—

Mr. SHAYS. You are involved. So don't wash your hands of it. The question that I just want to know is, you recognize the person who made the charge was Mr. Prince who was the target of an investigation. You have acknowledged that in most cases you don't take someone off a case because of an OPR, isn't that true?

Mr. GAMBLE. That's true.

Mr. SHAYS. So we have a lot more questions. I hope, Mr. Burton, that it doesn't end today.

Mr. BURTON. Mr. Shays, you can rest assured that we are going to follow this diligently as far and as long as it takes.

I am going to yield to my colleague, but we want to bring Administrator Marshall—and some of the members have time constraints, as does Mr. Marshall. So, briefly, we would like to yield to you.

Mr. OSE. My question is, having done the OPR investigation and clearing Mr. Schumacher, once the investigation was done, having cleared Mr. Schumacher, why was he not put back on the case? Why was the investigation—excuse me, that is two questions. Why was the investigation not continued? I guess that would fall to Mr. Howard.

Mr. HOWARD. The investigation is still in group four. There are leads being investigated as we speak. We started the case 3 or 4 weeks ago. A new case has been initiated by another member of that group.

Mr. BURTON. I think we have pretty much exhausted the questions of Mr. Howard.

Ms. Jackson-Lee, I understand that you have one or two questions.

Ms. JACKSON-LEE. I do. Thank you very much.

As I understand the process and your understanding of it, when a Member of Congress wrote a letter to the AG—I asked you before, did the AG call you directly?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. And it is your understanding that the AG referred it to OPR?

Mr. HOWARD. Yes, ma'am.

Ms. JACKSON-LEE. As I read the Member of Congress's letter, there is no request in the letter—did you see the letter?

Mr. HOWARD. Yes.

Ms. JACKSON-LEE. And there is no request in the letter to shut the investigation down?

Mr. HOWARD. You are correct.

Ms. JACKSON-LEE. Does it simply ask for an inquiry and investigation?

Mr. HOWARD. Yes, ma'am.

Ms. JACKSON-LEE. It is important for us who are African American or come from the minority community to insist that people don't take lightly this concept of racial profiling, although we want the truth as well and I appreciate your passion on it.

Has the DEA Administrator indicated to you that you acted improperly in this matter?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. Wrongly?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. Have you had that said to you?

Mr. HOWARD. I have never been told that I acted improperly.

Ms. JACKSON-LEE. And the Administrator is a pretty straight fellow?

Mr. HOWARD. Yes, ma'am.

Ms. JACKSON-LEE. Have you heard anything—and I think you have been in this hearing room for 2 days?

Mr. HOWARD. Yes, ma'am.

Ms. JACKSON-LEE. Have you seen any documentation that there has been a \$200,000 donation to Mr. Gore from Mr. Prince?

Mr. HOWARD. No, ma'am.

Ms. JACKSON-LEE. You have heard nothing in this room today?

Mr. HOWARD. I heard it yesterday.

Ms. JACKSON-LEE. Seen any documentation on it?

Mr. BURTON. It was made clear yesterday that was secondhand information and it was unsubstantiated. That was given to one agent, but it was unsubstantiated.

Ms. JACKSON-LEE. Thank you for your indulgence, and again thank you for your service.

Mr. HOWARD. Yes, ma'am.

Mr. BURTON. I understand that we are going to have a vote at 2:30; and I would like to get on to the next panel, Mr. Marshall. I would like to thank the witnesses. You have been very patient.

I recognize Mr. Cummings.

Mr. CUMMINGS. Thank you, Mr. Chairman.

I have been sitting here and something is missing. Let me ask you a few questions, Mr. Gamble.

Did you have an opportunity to look into Mr. Schumacher's background?

Mr. GAMBLE. Yes, I did.

Mr. CUMMINGS. What did you find?

Mr. GAMBLE. Disciplinary actions, that would be the only thing that I would be concerned with. While he was with the Houston Police Department, there were 19 allegations, complaints filed against him, and four since he has been at DEA.

Mr. CUMMINGS. What about shootings? He seemed to be unclear about shootings and killing people.

Mr. GAMBLE. There were a total of about eight—just 1 second and I can tell you.

There were a total of nine shootings—two, four, six, eight with the PD and one with DEA.

Mr. CUMMINGS. Did they occur in the Houston area?

Mr. GAMBLE. Yes.

Mr. CUMMINGS. Did there a time when you shared the information that you just shared with us with Mr. Howard?

Mr. GAMBLE. I talked in general. I didn't go into great deal. I just said I had a lot of concerns about his safety. I did share this with him.

Mr. CUMMINGS. About whose safety?

Mr. GAMBLE. Mr. Schumacher's safety.

Mr. CUMMINGS. Why?

Mr. GAMBLE. And also I was concerned from the agency liability standpoint. We have an officer that is out there, there is an allegation about harassment, about inappropriate conduct at his behest,

and I was concerned until this OPR matter is resolved that we should safeguard his safety as well as that of the agency.

Mr. CUMMINGS. I knew something was missing. It is becoming a little clearer to me—

Mr. BURTON. Mr. Shays, and that will be it.

Mr. SHAYS. Mr. Gamble, in March they concluded the investigation.

Mr. GAMBLE. Yes.

Mr. SHAYS. So you knew in March that these were fallacious? You had access to the investigative report. The OPR had not cleared him.

Mr. GAMBLE. To the investigative report.

Mr. SHAYS. You had access to the investigative report. It was completed by March—

Mr. GAMBLE. March 29.

Mr. SHAYS. At the point that they clear him in the investigation, not the board, cleared him, you decided to remove him. I find that very curious.

Mr. GAMBLE. No, sir, I think your dates are wrong.

Mr. SHAYS. By a few days?

Mr. GAMBLE. The OPR investigation concluded March 29. It then went to the board of review. We just sent the facts over. We just gathered the facts and sent it to the board. We don't make a determination on guilt or innocence.

Mr. SHAYS. But you know that the facts—if you saw the investigative report, would that have substantiated the charges?

Mr. GAMBLE. That is not for me to say.

Mr. SHAYS. Did you look at the report?

Mr. GAMBLE. I did.

Mr. SHAYS. Did it encourage the board to find him guilty of the charges or clear him? Was that information substantiating his clearance, his innocence or his guilt? The answer is obvious, isn't it?

Mr. GAMBLE. No, it is not to me because I am not part of that review process. They look at a series of factors that determine whether or not—

Mr. SHAYS. Is there anything in the investigative report at the end that made you disagree with the decision of OPR? The review board?

Mr. GAMBLE. The review board does issue decisions that I disagree with.

Mr. SHAYS. That is not what I asked. When you looked at the investigative report, was there anything in the investigative report that made you disagree with the decision of the review board in October which cleared Mr. Schumacher?

Mr. GAMBLE. My personal opinion is that I think he should have gotten a letter of reprimand at the least.

Mr. SHAYS. For what?

Mr. GAMBLE. Because he was the case agent that was responsible for the matter that we were investigating relative to taking the medallion from the officers, taking them back to our office, knowing full well that there are certain processes—

Mr. SHAYS. So there was nothing at all involving the racial charge?

Mr. GAMBLE. That wasn't a racial charge.

Mr. SHAYS. That was the whole argument. Your complaint was with the medallion and how he handled the medallion?

Mr. GAMBLE. How he handled the DEA evidence, yes, sir.

Mr. SHAYS. Thank you.

Mr. BURTON. Mr. Horn.

Mr. HORN. I am curious, Mr. Gamble, when did you first see the Waters' letter? What date did you see that?

Mr. GAMBLE. I can't say because I came to this job—

Mr. HORN. How many months before March 29?

Mr. GAMBLE. Several months. Probably in January-February.

Mr. HORN. And you must have known that Mr. Prince was the target of the investigation because the final page of Ms. Waters' letter is, "After listening to Mr. Prince's concerns and that of his customers, I suggested that he document his torments at the hand of DEA agents and send it to you for your perusal." Usually when we get a letter like this when we try to help someone we would say "alleged" torments. It just seems to me that it should have been very open that there is a game being played here and that individual won the battle.

Now you are a staff officer, not a line officer, right?

Mr. GAMBLE. Yes.

Mr. HORN. In DEA. And you went to Mr. Howard and gave him some of your views on the subject, is that correct?

Mr. GAMBLE. On the OPR matter, yes.

Mr. HORN. He doesn't have to follow your recommendation because it hadn't gone to that point yet, you just were briefing him, is that correct?

Mr. GAMBLE. That's correct.

Mr. HORN. Mr. Howard, why do you let a staff officer, a line officer and a darn good one and a tough one, why do you even listen to them? I have had personnel people in my organization, I say, gee, that is an interesting thing. Why didn't you write up a nice memo on that or something? But you don't let them tell you what to do. Would you say that Mr. Gamble's information to you led you to this and that is why you don't have anybody above you that you checked with?

Mr. HOWARD. Mr. Gamble is the chief of inspection. I respect his opinion as far as those matters go. His suggestion, because he made that recommendation, I took it very highly. I thought that it was a reasonable suggestion.

I was concerned also about Mr. Schumacher. Mr. Schumacher could have gone out and been at the grocery store and just so happened to run across somebody in this thing and the guy was robbing the grocery store. I was worried about Mr. Schumacher. I wanted him promoted and put in the safest possible place. It sounded like a reasonable request at that time, sir.

Mr. HORN. It seems to me you should ask Mr. Schumacher if he wants to be taken off this; and given the professional that he is, I believe he would say, don't tell me, I will take my own chances on this. He wasn't doing anything out of order. All of the things that she says on racial profiling, not one bit of truth is in it.

Mr. HOWARD. I did not know that at that time, Mr. Horn.

Mr. HORN. It just seems to me most line officers call in somebody when the personnel types come through the door and say tell me about it.

Mr. HOWARD. Mr. Gamble is not a personnel type.

Mr. HORN. I am saying that is the personnel group. They don't have line authority at that point in the case. It is stringently one staff member's view, and I am amazed you wouldn't talk to Mr. Schumacher before making that decision.

Mr. HOWARD. No, sir, I would not talk to Mr. Schumacher before making that decision.

Mr. MERCADO. Mr. Horn, may I answer?

Mr. HORN. Sure.

Mr. MERCADO. Mr. Horn, as Deputy Administrator, the staff reports to me, and Mr. Gamble and I had discussed it at the time. And we felt to protect Mr. Schumacher, protect the agency, the best thing was to put him in a nonenforcement group until the investigation was completed.

Mr. HORN. That sounds like a punishment to me. The heat is on the important people above, so you stop.

Mr. MERCADO. Sir, I have been doing this for 22 years. Sometimes you have to protect your team. At the time we were concerned if Mr. Schumacher did get into another shootout, we would be here today saying that Mr. Schumacher had shot someone or killed someone and we knew about it and we left him in the investigation. We were protecting Mr. Schumacher.

Mr. BURTON. Let me just say this is regarding racial profiling and a possible civil rights violation. It had nothing to do with shooting or anything else, so I don't think that argument washes.

I would like to bring out the head of the DEA, Mr. Marshall.

Mr. Marshall, would you stand and raise your right hand.

[Witness sworn.]

Mr. BURTON. Do you have an opening statement?

Mr. MARSHALL. I have some opening comments.

Mr. BURTON. Make sure your mic is on, please, sir.

**STATEMENT OF DONNIE R. MARSHALL, ADMINISTRATOR,
DRUG ENFORCEMENT ADMINISTRATION**

Mr. MARSHALL. Mr. Chairman, members of the committee, I appreciate the opportunity to appear here today. I wish that I could say that it is a pleasure to be here, which most of the time it is a pleasure to testify in front of this committee, but this has been a difficult time for DEA. It has been a difficult time for me, and I am very troubled by this entire matter. I want you to know that I am committed to full cooperation with the committee, and I have been committed to that type of cooperation all along.

I haven't submitted a prepared formal statement for the record, but I do want to just summarize my own personal knowledge of these events and my personal involvement in these events and then try to answer any questions that the committee might have.

I do want you to know that I am committed to ensuring that DEA fights the drug trafficking and drug abuse with all of the tools that we have available to us, and some of the most important tools that we have are 9,000 courageous and dedicated DEA employees and the integrity of those employees and the integrity of my agen-

cy. In order to preserve the integrity of that agency and the public confidence in the agency, we have to be objective as an agency and we have to be free of political influence.

I have read a lot of the news accounts of this matter. I have seen many of the documents, probably most of the documents which have been provided to the committee, and I share many of the same concerns that the committee has. That is why I requested an inspector general investigation a few weeks ago. That is, I sent an independent team to review certain investigative issues and to make recommendations to me on those matters.

My overriding goal here is probably not too much unlike the committee's. I want to determine whether anybody within DEA succumbed to outside pressure in connection with an official investigation; and, if so, I want to take appropriate action. If not, I want to ensure that the record is correct and accurate. Either way, I want to preserve the integrity of DEA and our employees.

Now I would like to summarize my personal involvement in the matter.

I first became aware of the investigation around May or June 1999. I am not sure exactly what time it was because I don't have notes of that, but it was around the May or June 1999, timeframe.

I was briefed on an upcoming trial that was going to be taking place in Houston, and that was the investigation in which there were 20 or so people arrested and, ultimately, there were court cases. I know that there was at least one trial in July 1999. It is my recollection that some of those defendants were convicted and at least one, my recollection is, acquitted.

I knew that there were some prominent local people who were associates of some of those defendants and showed up at at least one of those trials. At least one prominent person showed up at one of those trials.

After that timeframe I next heard about this investigation on or shortly before August 20, 1999. That day I got a call from the Attorney General saying that there was an inquiry about this case, that there were allegations that DEA was harassing a particular person and that particular person was in fear of his life at the hands of DEA.

Later that day, or later August 20th at least, I saw a letter that made those same allegations. That letter was short on details, but there was one allegation in there that was potentially serious, and I will quote from the letter that the individual referred to, quote, believes his life is in danger from rogue agents.

Now, I advised the Attorney General of some of the details of that investigation. I wrote the Attorney General a memo dated August 20. I believe the committee has a copy of that memo. I recommended against briefing that person making the inquiry. I recommended against briefing that person on the details of that criminal investigation. Rather, I advised for us to tell that person that it was simply a legitimate investigation supported by credible information.

I then referred the matter to DEA OPR because of the allegations contained in the letter. I have to tell you frankly that I did not put much stock in the allegations at that time, and there were very few details in that letter. But I will say that a referral to OPR

is standard procedure in DEA. When we receive allegations against our employees, we need to prove or disprove those allegations in order to maintain the integrity of the agency. The majority of our allegations that we receive, approximately 60 to 75 percent depending on which fiscal year you are looking at, are cleared as unsubstantiated, but we investigate all of the allegations.

I was briefed periodically on that OPR investigation. I discussed—in the early weeks of that investigation, I discussed that investigation with my then Chief Inspector Felix Jimenez. I discussed it with the SAC of the Houston office, Ernie Howard.

In the early stages of that investigation there appeared to be some corroboration of some of the allegations that were ultimately given—corroboration of stolen items, some early corroboration that there may have been some defendants that were beaten up. We determined that there was no paperwork on some of the arrests that had taken place; and at that time, because of that partial corroboration, we didn't know what the facts were.

Ultimately, I will say that we conducted that OPR investigation; and it led to a letter of reprimand for one employee and a letter of clearance for another employee.

Now, while I was talking about that OPR investigation, and kind of gathering facts about the criminal investigation, I had a number of conversations with Ernie Howard. And during one of those conversations he became very frustrated with the allegations and all of the activity surrounding this, the need to answer a lot of questions. And at one point Ernie became very frustrated. It was clear he was very frustrated. And he told me it was, "not worth the hassle, maybe I should shut this investigation down."

I advised that no, you can't do that. It's a viable investigation, it has to continue. We cannot let something like this derail a legitimate investigation. I advised Mr. Howard to put up with what he termed the hassle, let the OPR investigation run its course and continue the criminal investigation. I remember one of my sentences was, "There's no way you can close down a legitimate investigation."

Mr. Howard at one point in that conversation took a deep breath, he sighed, and he agreed. And he said, "Look, I am just frustrated. I'm just blowing off steam. Of course you're right; we cannot do this."

Now, in some of those conversations we also discussed a range of options for the duty status of the agents that the allegations were made against. And that's pretty standard procedure during these types of OPR investigations. We discussed possibility of limited duty, paid leave, unpaid leave. We discussed temporarily assigning this case to a different case agent in the same group under the same supervisor until that OPR investigation was completed. We discussed that, I think, for the protection of the agent who the major allegation was made against.

Now, I didn't dictate that course of action to Mr. Howard but we did talk about it. And our concern there was that this was perceived to be a very violent criminal organization. We felt that there was a very real possibility of officers or agents becoming involved in some of that violence and we were afraid that if the particular agent that the allegation was made against did become involved in

such an incident, that he would automatically be assumed guilty and even that the agency would be accused of negligence in action. And I really did believe that the possibility of violence was there.

Now, I was under the impression that Mr. Howard had made that change in case agents and was continuing the investigation and I was under the impression that he had done that around the late August or early September 1999 timeframe.

Now, over the next several weeks, I had several general conversations with Mr. Howard. I got routine briefings from the chief inspector, Felix Jimenez, and later on briefings from Chief Inspector R.C. Gamble on the status of that OPR investigation. And that was in the routine course of business. It was not only this investigation, but other OPR investigations that I was being briefed on.

Now, following that initial few weeks after the initial allegation came through, I didn't really place any special focus on this matter after September, October, possibly as late as November 1999, because I knew that the OPR investigation was proceeding and I believed that the criminal investigation was proceeding with the new case agent in the same group under the same supervisor. So it kind of dropped off of my radar screen.

The matter came to my attention next on January 13, 2000 during a meeting with the Attorney General. I have periodic meetings, the Deputy Attorney General biweekly meeting, the DAG Biweekly they're called. And during the meeting on January 13, 2000, the Attorney General asked me the status of that OPR investigation. She asked me if the person making—writing the original letter had been given a status report and, if not, would I please give that person a status report. I told the Attorney General I would check on the details of the investigation and that I would give that person a status report, if not already done.

Now, when I checked, I was told by Mr. Gamble that there had been no recent contact with the complainant. I asked R.C. Gamble to give her a status report. And in preparation for that status report, I advised Mr. Gamble that he was to give no details on any ongoing criminal investigation, that he was to describe the OPR process and procedures and where in that process we were, but no factual details, even regarding the OPR investigation, and certainly no details regarding the criminal investigation. Now, Mr. Gamble later on advised me that he had done that.

Now, he told me also in the process that there was a suggestion from that person that the agent be transferred out of Texas. Mr. Gamble advised that that was not possible. He told me that there was an inquiry on the status of an item taken from one of the defendants. It was a necklace, gold necklace. Mr. Gamble later on determined that that necklace—we had already determined that it was in our possession. Mr. Gamble determined that it was not evidence in either the OPR investigation nor the criminal investigation, and he arranged for that property to be returned to its owner.

Now, I want to assure the committee that at no time did I—did anybody tell me that the criminal investigation was closed down, and at no time did I have any reason to believe that criminal investigation had been closed down.

Now, my next involvement in this whole matter was when I got your letter, Mr. Chairman, dated June 29th, I believe it was. And

when I got that letter, as I recall, that letter requested a briefing on this matter and you named a couple of the defendants in that letter. And I advised Mr. Howard to come up from Houston and brief the staff fully on everything that was already public record in this case. And that would be the trials that had already arrived at disposition, the criminal action, anything that was public record in the court I advised him to brief the committee staff fully on.

I advised Mr. Howard to avoid any details of any ongoing investigation. And then later on I was told that he did that and that his briefing clarified the matters that were in question by the committee staff.

My next involvement with this matter was in October 2000 and, as you know, we received further communication from the committee, and you requested additional documents in that letter. It was at that time when we were gathering material to respond to that letter that I saw for the first time some e-mails and a memorandum from a group supervisor in Houston, none of which I had ever seen before. I directed at that time full compliance with the committee request. I directed that my staff give up all the documents that we found. I discussed our cooperation with you, Mr. Chairman. I assured that we would cooperate.

Now, by then, I want to tell the committee, it was apparent to me that there were some discrepancies between what I had been told and the apparent content of some of those e-mails and memos. And it was confusing to me exactly what was going on here. So for that reason, I refrained from discussing this matter with any of the individuals involved. And I requested very shortly thereafter that Inspector General investigation. And as you know, there is an Inspector General investigation going on.

Now, going further, the committee subsequently requested more interviews with—or, not more interviews, but interviews with many, many of the people involved, DEA employees, and more documents. I did recommend in Department discussions that we cooperate with those requests. I believed that we could cooperate with the committee and have the Inspector General investigation go on a parallel track. But the subsequent decision was to defer the cooperation with the committee to the Inspector General investigation because of concerns of some other DOJ components.

Now, that pretty much from a very broad brush perspective summarizes what my involvement has been and what I knew about this investigation pretty much up until this moment. And again, it's a broad-brush, just to sort of put things in perspective here. It's my hope and I think it's my belief that the Inspector General investigation and perhaps this hearing will help answer a lot of the remaining questions, because I still have a lot of questions. Once I know the full details of what happened here, I assure the committee that I will act appropriately. And I will—my actions will be with a view toward protecting the integrity of DEA, the public confidence in DEA, and I assure the committee that I will try to do that.

I want to close by just commenting to the committee, I'm sure you're aware of this, but all of the people, the witnesses that have appeared here, DEA employees, Houston police officers, all of them, have in fact put their lives on the line for the American people.

They have difficult jobs, all of them. They do many things day to day which requires judgment calls and they have a very difficult job, all of these people. If we have made mistakes in the agency, I assure you that those mistakes will be corrected. And I hope that the members appreciate how difficult this is for DEA and for all of the people here that are involved. I will be happy to try to answer any questions that you might have.

Mr. BURTON. Thank you, Mr. Administrator. We have 30 minutes on each side for initial questioning. We probably will have a vote, Mr. Shays, here pretty quickly. If we do, what I'll do is I'll continue, then let you come back and pick up where I leave off.

First of all, this was a major investigation. As I understand it, 20 people were convicted, one of murder, many for drug trafficking and related crimes. And an allegation was made by the principal target of the investigation, Mr. Prince, that there was racial profiling and civil rights violations. Do you know of any investigation that has been closed down because a target of the investigation made some kind of charge like this?

Mr. MARSHALL. No I don't, Mr. Chairman. I would be very upset if we closed down investigations in response to issues like this. I will also comment that my concern in this, in the allegations, was not so much the racial profiling issue, although that is an issue with DEA and it's an issue that I have to be concerned about, it's an issue in the police profession now days in our country, and I am concerned about that. But my overriding concern here was the fact that we had an allegation that a person was in fear for his life at the hands of rogue DEA agents, again quoting from the letter. And there were certain things in the early stages of our OPR investigation that corroborated other allegations here.

Mr. BURTON. But they were later found to not be accurate; is that correct?

Mr. MARSHALL. One agent received a letter of reprimand and the other received a letter of clearance. The more serious allegations were unfounded.

Mr. BURTON. They were unfounded. You talked to Mr. Howard about the allegations and about the letter from Ms. Waters, Congresswoman Waters. And you told him he should not close down an investigation, as long as it was legitimate, because of political pressure. That's correct, is it not?

Mr. MARSHALL. That's correct, yes.

Mr. BURTON. I don't know if you heard or not, but the Houston police and Mr. Schumacher when they testified, they said that—and there were about 10 other people, 9 other people in the room at the time who will verify if we want to subpoena them and bring them up. What was said, according to them, Mr. Howard said because of political pressure—and I'm paraphrasing it but—which is the—just because of political pressure this investigation is being shut down, and there were some questions and murmuring about it, and he said it's being shut down now and he gave the time and this date. And those people who testified said that there was no further investigating going on. It was shut down. The e-mails to which you referred are very clear, and I think, Mr. Shays, when quite a bit of detail—when he said the e-mails said, you know,

we're closing this down. It's over, it's over. And the investigation was closed down.

Now, when you talked to Mr. Howard and you said it shouldn't be shut down because of political pressure, you followed up on the OPR investigation. But did you followup on the investigation itself into Mr. Prince? Because it seems to me that the political pressure was brought to bear, or it appeared to be brought to bear, and the investigation, according to Mr. Howard, was shut down for that reason as of that time and date. And you, as the DEA Administrator, went ahead and pursued the investigation, as did the AG, the Attorney General, regarding Mr. Schumacher and the possible violations that may have occurred by the employees, but you didn't followup on the actual investigation of the target of the investigation, Mr. Prince. Why?

Mr. MARSHALL. Well, Mr. Chairman, there are about—at any given time, about 14,000 DEA investigations that are active.

Mr. BURTON. Let me interrupt.

Mr. MARSHALL. If I might, please.

Mr. BURTON. This is very important. I don't want you to miss what I'm pointing at. I mean, if it was so important to followup on allegation of improprieties on the part of an official of the DEA, brought by the target of an investigation, Mr. Prince, then why wouldn't you make that a cause celebre? I mean, you paid attention and the AG paid attention to Mr. Schumacher. But Mr. Prince is over here writing rap songs that's No. 6 or 7 on the rap chart, and talking about killing police and how political influence can get the DEA off their back. And I don't understand, if you're talking about the morale of the DEA and the credibility of the DEA, how you can say we were looking at Mr. Schumacher, and the AG was asking questions about Mr. Schumacher, yet the target of the investigation that brought the charges is running around on the street, bragging about getting the investigation stopped, which was stopped and you didn't followup on that. Why?

Mr. MARSHALL. If I may, sir, we have a system for handling both criminal investigations and OPR investigations. I directed a certain course of action with regard to the criminal investigation. I assumed that was being followed. The OPR investigation was in the normal process. And I did not pay any particular special attention to that OPR process. I believed that process to be working. And I got periodic briefings on that. And I had every reason to assume that my direction had been carried out with regard to the criminal investigation as well as the OPR investigation.

Mr. BURTON. This was not just 1 of 14,000 investigations. You had a murder conviction, you had 19 drug convictions or related drug convictions. This wasn't just some small case of one drug dealer. This was a major drug operation. It wasn't 1 of 14,000. This was a major one. The target of the investigation, Mr. Prince, brings a charge through a Congresswoman and the investigation is shut down, and DEA pays attention to going after the agent that was involved in the alleged wrongdoing, but they let the guy off and don't even investigate him who committed—who allegedly was in charge of the drug empire. I just don't understand it. You've answered the question.

Mr. MARSHALL. If I might comment further, Mr. Chairman, with all due respect, there are many of our investigations that have drug-related violence, drug-related homicides. As you know, we have a program that focuses a lot on the drug-related violence. And this is not an unusual case in the grand scheme of things. And actually, this case in terms of the amount of drugs that were being moved and the importance of this particular violator in the national and global scheme, frankly, was not a major investigation in terms of the drug investigations that we conduct.

I understand your point, I understand your confusion, but again I would just reiterate I had every reason to believe that this investigation was continuing and saw no reason to give any special followup on it.

Mr. BURTON. Mr. Schumacher and the police and the entire, probably, Houston Police Department have been demoralized because they had people out there who were snitches that were willing to give them additional information, and they had a couple witnesses that might turn, and all of them were left hanging out to dry, and there were contracts put out on Mr. Schumacher and Mr. Howard and others. And the investigation was stopped. I just cannot figure that out. And not only that, Mr. Prince was going around bragging about it and even has a rap song out about it. I don't understand it.

Mr. MARSHALL. I agree. I think that's despicable and I think it shows what a vicious bunch of thugs that we were dealing with here. I hope that—I wish that those kind of lyrics were a crime that we could deal with.

Mr. BURTON. Who asked you to transfer Mr. Schumacher out of the State of Texas?

Mr. MARSHALL. It is my understanding that—nobody asked me to do that. It's my understanding in a meeting that Congresswoman Waters made that request of Mr. Gamble.

Mr. BURTON. So we had a Congressperson requesting that a DEA agent be transferred out of Texas before the investigation had been completed. Was that the reason he was given a desk job and taken completely off the case?

Mr. MARSHALL. I didn't know that he was given a desk job. By the time I found that out—as I've said, I refrained from talking to my staff so I don't know why he was given a desk job.

Mr. BURTON. Is it routine procedure for DEA to take the requests of Congresspersons about transferring people who work at DEA to different jobs in different States?

Mr. MARSHALL. No, it's not. We didn't transfer him and we told her it wouldn't be possible to do that.

Mr. BURTON. But you did put him on a desk—but somebody did.

Mr. MARSHALL. That's what I'm told. I didn't know about that until October this year.

Mr. BURTON. There was a sign on Harry Truman's desk. It says, the buck stops here. You're the head of DEA. And you keep saying "not to my knowledge," again. And I know you've done a lot of good things and I hope to work with you in the future, but the fact of the matter is, you were concerned about and the AG, Janet Reno, was concerned about this case regarding Mr. Schumacher and alleged civil rights violations. But the target of the investigation and

the Congressperson who brought this information to your attention, the target of the investigation walked around scot-free knowing that he was no longer being under surveillance, was not being investigated for criminal activity, and he was bragging about it and you weren't even following up on that.

You say you weren't aware of it. You talked to Mr. Howard about it. You told him you knew he was upset. He said that he wanted to do the whole thing. You said, "Oh, no you can't do that." He said, "I guess you're right," and you didn't follow up on it. I think something of this significance should have been followed up on.

I have a couple more questions then I'll be happy to yield to my colleagues for some of my time. I did talk to you early on and you were cooperative. I want to make that clear because you were trying to cooperate with us. And then I called you about additional information and you were not able to call me back. And I was told that you had been told by the Attorney General not to talk to me or anybody on the committee. I'd like to know about that.

Mr. MARSHALL. When that came about, I believe that was around the end of October, first of November, this year. There was a long series of events there. If I can just look at my notes here. We discussed your request in a meeting at DOJ. I recommended that we should go ahead and provide the material that you had requested. Because of concerns of other elements of the DOJ, it was determined that we would defer that cooperation in deference to the Inspector General investigation.

Now, with regard to your call, I was told—we had a series of conversations between myself and Justice Department, and I was ultimately told that the Attorney General would return your call.

Mr. BURTON. She didn't. Let me just say this. It seems curious to me that a charge is brought by the target of an investigation, a man who is associated with and works with and has in his employ many people who were convicted and went to jail. He's an associate, knows the man who was convicted of murder, a contract hit, and he stops—he's able to stop an investigation. And the Congresswoman who was very—is a very important Congresswoman, who does a lot of good things, she makes a request that he be transferred out of State. The Attorney General of the United States tells her people and you not to cooperate with our committee and our investigation. And then the Attorney General starts asking the progress of an investigation into the alleged violations by Mr. Schumacher, because she's paying attention to that particular case. How many cases that involve agents does the AG ask you about? I mean, whenever there's a question about an AG doing something they shouldn't, does she take all that into consideration and ask you about them?

Mr. MARSHALL. Yeah, we cover a lot of topics in these biweekly meetings and informal conversations. And, she asks a lot of questions about a lot of issues, ongoing cases, OPR matters that sort of stuff.

Mr. BURTON. Does she ask about specific cases, about Mr. Schumacher's?

Mr. MARSHALL. When there are serious issues, yes, she did.

Mr. BURTON. This was that one she considered serious.

Mr. MARSHALL. Apparently so.

Mr. BURTON. Did she ask about the target of the investigation, Mr. Prince, and how that investigation was going?

Mr. MARSHALL. She did, and I gave her a status of that.

Mr. BURTON. You did. Did you tell her that the investigation was shut down by Mr. Howard?

Mr. MARSHALL. No, sir, because I didn't know it at that time.

Mr. BURTON. How could you tell her how the case was progressing if you didn't know?

Mr. MARSHALL. Because I was told in the August-September 1999 timeframe that the investigation was continuing and—

Mr. BURTON. Who told you that?

Mr. MARSHALL. Mr. Howard.

Mr. BURTON. Mr. Howard told you it was continuing?

Mr. MARSHALL. Yes, sir.

Mr. BURTON. Do you think he lied to you?

Mr. MARSHALL. I have not talked to him about it. I have only looked at his e-mails and the memo from Mr. Nims. And I have the same questions that you have. And I hope that the hearing and the Inspector General investigation will help us get to the bottom of that.

Mr. BURTON. Mr. Marshall, I find it very difficult for you to be able to respond to the Attorney General about a personnel matter involving an alleged rogue policeman or DEA agent which was not substantiated, and at the same time she asks you about an ongoing case and you say it's ongoing and you really don't know, and Mr. Howard is out there saying, saying in e-mails that the whole world knows about now that we're shutting this thing down and we're not going to go back to it. It's over. It's over. It's over. And you're telling the AG it's going on. I just don't understand it.

Let me go to one other subject then I'll yield to my colleagues. You know I like you, Mr. Marshall, I talk to you privately, I think you're a good manager. I think you're well-intentioned. But I really feel bad about this case. I think the ball has been dropped and a lot of information that could have led to some convictions and put people who are really risking—the lives of people in this country have been—the ball has just been dropped. It really bothers me.

Did you or any of your agents pursue the IRS to have Mr. Prince really investigated as far as Internal Revenue violations, tax evasion and so forth?

Mr. MARSHALL. Mr. Chairman, if I might suggest, I am reluctant to comment on the investigation past, present, or future because I am considering what actions we need to take to ensure that that investigation is appropriately done.

If we want to get into that aspect of it, I would request an executive session.

Mr. BURTON. We might ask you to come back for an executive session another time. I understand the sensitivity of that kind of information being in the public domain so I will not pursue it. But that is one thing I'm sure many members of the committee—you have heard other questions that have been asked today—would like to ask. I mean, if we have a major drug ring going on in Texas or anyplace else, it seems to me that one of the ways to nail them is to take a look at their bank records and tax returns.

Mr. MARSHALL. I understand that, sir. That's why I sent the team to see what happened on it and what future actions could be done. And I would be happy to share that with you in executive session.

Mr. BURTON. Who told you at the meeting over at DOJ that they would defer cooperating with the committee until after the IG investigation? Who told you that?

Mr. MARSHALL. That was at a staff meeting on November 1st and that was ultimately the Attorney General's decision.

Mr. BURTON. So the Attorney General said to defer or don't cooperate with this committee that has legitimate oversight and investigative powers, to not cooperate with us until after the IG investigation.

Mr. MARSHALL. It's my recollection that it was articulated that it was DEA policy or practice not to cooperate and give information like this to a committee as long as an Inspector General investigation was ongoing.

Mr. BURTON. You told us about a memo from you to the Attorney General, Janet Reno. Do you know why the Justice Department has withheld this memo from us?

Mr. MARSHALL. Memo from me to the Attorney General?

Mr. BURTON. Yeah. You mentioned a memo from you to the Attorney General. And we've asked for it and have not received it.

Mr. MARSHALL. I was under the impression that we had given you that memorandum. If I could consult with staff, please.

Mr. BURTON. Sure.

Mr. MARSHALL. Mr. Chairman, I was told that the request for that memo was not part of the request from your committee, and it's my mistake. I thought that had been provided.

Mr. BURTON. OK. Well, I thought our request from Justice and DEA was all inclusive, was it not? Well, we will officially request that right now. If you need a subpoena or anything for that, we'll be glad to give it to you. But we'd like to have that information.

Now, DEA and DOJ said they did not want to cooperate with this committee of Congress during this investigation. But you had somebody on staff giving a briefing to a Member of Congress, I believe, Ms. Waters. Can you explain that discrepancy to us? Why is a legitimate committee of the Congress that has requested information couldn't get the cooperation of DEA and Justice, but a Member who brought these charges against Mr. Schumacher and others to your attention does get a briefing? Why is that?

Mr. MARSHALL. We did not brief Congresswoman Waters on the criminal investigation. I specifically ordered that we not do that. I have been told that we did not do that. I also gave instructions that we not brief the Congresswoman on the details of the OPR investigation; rather, described how the process works, where we are in the process, but with no details about what we had found.

Mr. BURTON. Just 1 second.

The OPR investigation, they at least did talk to her and gave her some kind of a briefing. And the investigation that's going on right now, they said, you know, the AG—or the IG's investigation, they said that you weren't to cooperate with us. I mean, you are now and we appreciate that. But they initially said you weren't to co-

operate with us. I just don't understand that discrepancy. Can you explain that?

Mr. MARSHALL. I was told that there was a precedent that when we had an ongoing investigation that we waited until that investigation was completed and then moved into the congressional phase of it. That's what I was told. I'm not familiar with those policies.

Mr. BURTON. I understand. But at the same time that's going on, the investigation into Mr. Schumacher and the other allegations of racial profiling and so forth, there was a meeting with the DOJ employee, with Ms. Waters, wasn't there, to at least give her an update as much as you could?

Mr. MARSHALL. On the process and where we were in the process, but not the details of the investigation.

Mr. BURTON. Is an OPR investigation different than the IG investigation as far as your ability to cooperate with?

Mr. MARSHALL. No, we would not normally differentiate in terms of giving details of an investigation.

Mr. BURTON. Well, it seems like, and I may be incorrect, but it seems like there's an inconsistency here. What I would like to do is stop the clock now. Oh, Mr. Shays is back. Mr. Shays, would you take the chair so I can go vote? I'll let Mr. Shays continue with questioning on my time.

Mr. SHAYS [presiding]. Mr. Marshall, just give me a second.

Mr. MARSHALL. If I may clarify my previous answer, I am told that that briefing to Congresswoman Waters, while it was a process briefing, as I've said, and it was not details of the actual investigation, it did take place before the Inspector General investigation was initiated.

Mr. SHAYS. Mr. Marshall, my name is Christopher Shays. I'm from Connecticut. And I'm very interested in this case. And I did hear your statement and I would describe it as allowing you, frankly, to take whatever happens and roll with the punches.

I am intrigued by the fact that—let me just preface it by saying I visited your agency over the past 14 years, I've gone to sites overseas where I've had contact with your agents, particularly Columbia. I was given a DEA hat. I wore it a few times until a law enforcement officer said, are you crazy, wearing a hat like that around in public? And I didn't take it off because of the challenges that are facing DEA now. Your agency doesn't look good. I'm not saying that Congress looks good, but your agency doesn't look good at all. And it doesn't look good because it looks like a very viable investigation was suspended, not closed, but suspended; not an active case, proactive case, in other words, because the subject of the investigation was able to go to a Member of Congress, and when the Member of Congress issued this complaint and concern to the Justice Department, you all jumped overboard to accommodate. And I want to first ask you how many times have you allowed an OPR investigation to be done in a Congressman's office?

Mr. MARSHALL. This is the only time that I know of, sir.

Mr. SHAYS. Did that have your approval?

Mr. MARSHALL. I believe I knew it was going to be done that way, yes.

Mr. SHAYS. Why did you think it was important to have Mr. Prince, who was the subject of the investigation, appear with a legislative assistant, appear with a Member of Congress, appear with a Congressman's spouse, appear with another member of Mr. Prince, a staff person of Mr. Prince, and a lawyer for the committee of civil rights and the law. Why did you think it was important that that happen that way?

Mr. MARSHALL. I didn't think it was important that happen that way. In fact, I had concerns about it happening that way. I thought it—I didn't think that was the proper way to do it.

It is my understanding, my belief, I was told by Mr. Jimenez that we tried several other arrangements for that interview and that we requested that interview be done in DEA headquarters. We offered to go to Houston for that interview. It is my understanding that the subject, the complainant himself said that he would only meet with us under those terms. And rather than forego the opportunity to hear what his actual allegations were, so that we could prove or disprove, and because that was the only conditions under which he was willing to talk to our OPR people, we very, reluctantly accepted those conditions.

Mr. SHAYS. Do you think you would do that again in the future?

Mr. MARSHALL. If that was the only choice that I had, yes, I would.

Mr. SHAYS. I'm sorry to hear you answer that way.

Chief Inspector Jimenez said on page 39—first off, looking at the transcript of this deposition, Mr.—Inspector Delgado said this interview is being conducted in reference to the letter from Maxine Waters, U.S. Congresswoman of the 35th District of California, to Janet Reno, Attorney General of the U.S. Department of Justice, dated August 20th.

So the letter was on August 20th and 4 days later the deposition begins. On page 39 Chief Inspector Jimenez says in response to some comments made by—well, basically in response to the deposition, and we're already on page 39, he says: "Fine. We will take a look at the situation. I just want to put it on the record that we feel that the information provided by Mr. Prince, it's insufficient at this point for us to—you know, we will look at it, but it has not pinpointed any civil rights violation. It's not identified specific acts of wrongdoing of DEA agents and so on."

Then Ms. Waters makes some comments. Then Chief Inspector Jimenez says, "Well, we will take a look and we will interview the investigator."

Congressman Waters: OK.

And then this is what Chief Inspector Jimenez says. "But with all honesty, I thought that I was going to hear a more formal complaint of facts. You know, this is what happened, this date, I was here, DEA did this, A, B, C, D, so you know, we will have more facts. Right now, the information that I am hearing is very general. We will investigate, but unfortunately it's not as specific as I thought. You know, when you initially told me civil rights violations, suspending agent so-and-so from employment, all that, I mean, you've been sitting here and we haven't heard any wrongdoing of these agents. I mean, we've been sitting here and we haven't heard any wrongdoing of these agents."

So you basically decided to allow a deposition to be taken in a Congresswoman's office, not in your office, first time. And you're now telling me that if a subject of an investigation demands that it be somewhere like in a Member's office, you are going to allow that to happen. But given that your chief inspector says, "I mean, we've been sitting here and we haven't heard any wrongdoing of these agents," what was your reaction to that?

Mr. MARSHALL. When Mr. Jimenez came back and characterized that meeting, that interview, to me after that, I agreed totally with his characterizations.

Mr. SHAYS. What was his characterizations?

Mr. MARSHALL. Pretty much what I've said there.

Mr. SHAYS. I want you to tell me what he said to you.

Mr. MARSHALL. He said that Mr. Prince—there were no specific allegations of wrongdoing. However, he also returned from that meeting—or within a very short time after that, received a report from a private investigator that had been hired by Mr. Prince. And in that report there were a couple of very specific allegations that we could prove or disprove, and we felt obligated to investigate those allegations. Those two allegations were that DEA agents had stolen a gold chain with a medallion. The other allegation was that Special Agent Schumacher had beaten up several of the defendants during one arrest. Those were concrete things that we could investigate and prove or disprove.

Mr. SHAYS. How—

Mr. MARSHALL. Frankly, I thought that we could disprove those. Because the rest of that, I thought, had so little substance, that I thought we would very quickly disprove those and they would be over with. Instead what happened was that we learned that the gold necklace had in fact been taken and was in the possession of an agent in the Houston office. We had another agent who corroborated that Special Agent Schumacher had—I believe the words, in his words, "had slapped around some of the defendants one night." And we felt like with that partial corroboration, we were obligated to go further and continue the investigation.

We did that. Ultimately, the beating up the defendants was disproven. It was not substantiated. And Special Agent Schumacher received a letter of clearance. The other agent who took the gold chain without properly processing it, we determined that there was no proof, no substantiation that he intended to steal it. Nonetheless, he mishandled evidence, he received a letter of reprimand. We have a process for investigating these things. That process worked. And the agents were dealt with accordingly.

Mr. SHAYS. Where was the gold chain in the possession of the agent?

Mr. MARSHALL. It was my recollection it was in the desk drawer of an agent by the name of Chad Scott.

Mr. SHAYS. Was he the gentleman who was reprimanded?

Mr. MARSHALL. Yes, sir, he was.

Mr. SHAYS. Was that a chain medallion that actually was the identification of a gang? Was it just a gold chain or was it a medallion that identified gang members?

Mr. MARSHALL. I am not sure I understand—all I know, it was a chain with a gold medallion on it.

Mr. SHAYS. Now, what interests me is—were you up for confirmation during this time?

Mr. MARSHALL. I was up for confirmation in the timeframe of May or June 2000. I would have to refer to my records back at the office to figure out exactly when those hearings were. Spring of 2000.

Mr. SHAYS. So, in other words, you were up for reconfirmation.

Mr. MARSHALL. I was up for initial confirmation.

Mr. SHAYS. So you were acting—you were in acting capacity for how long?

Mr. MARSHALL. I was acting from July 1999 until I was confirmed in May 2000.

Mr. SHAYS. Does that process in any way compromise your position to stand up to Members of Congress?

Mr. MARSHALL. I don't think it did, no.

Mr. SHAYS. Did you at any time contact any one in your bureaus to ask if there was anything of a political nature or a particular hot spot or something that you needed to know before your confirmation?

Mr. MARSHALL. I worked on and had my staff work on a wide variety of issues that might come up during my confirmation process; yes, I did. And I was prepared a briefing book, two briefing books actually, a stack of material about this high. This issue was not among those issues that I prepared myself for, because by that time it was off of my radar screen. I assumed that the criminal investigation was continuing, the OPR investigation was running its course, and it was not an issue with me at that time.

Mr. SHAYS. Well, first off, I would think that it would be very logical to know where you have your trouble areas. And in your judgment, this was not an issue that might present a problem for you?

Mr. MARSHALL. I didn't think that this would present a particular problem for me. And the reason I didn't think that, as I said, was because I had been assured back in the September-October timeframe that this investigation was to continue. It's—you know, that's a course of action. I have special agents in charge, field commanders that do that. I knew that the OPR investigation was proceeding according to our established process. And no, I didn't believe at that time that it would be an issue.

Mr. SHAYS. I'd like to request at this time you provide—I just want to interrupt to say I request that you provide a copy of your August 20 memo to the Attorney General that you mentioned in your statement. If you would provide a copy of that statement. If you have it now, we would like to see that. Also the briefing books as well, I would like you to submit to the committee as well.

Mr. MARSHALL. I'm sorry, the briefing books?

Mr. SHAYS. Yes, sir.

Mr. MARSHALL. If they are still intact, I will do so.

[The information referred to follows:]

DEC-08-2000 16:52

P. 02/03



U.S. Department of Justice
Office of Legislative Affairs

Washington, D.C. 20530

December 8, 2000

The Honorable Dan Burton
Chairman
Committee on Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Pursuant to the Committee's oral request at yesterday's hearing, please find enclosed a redacted copy of the attachment to Administrator Marshall's August 20, 1999 memorandum to the Attorney General.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Raben".

Robert Raben
Assistant Attorney General

cc: The Honorable Henry Waxman

Enclosures



U.S. Department of Justice
Drug Enforcement Administration
Office of Deputy Administrator

Washington, D.C. 20537

8-20-99

TO: The Attorney General
FROM: *D.R. Marshall*
D.R. Marshall
Acting Administrator, DEA
SUBJECT: Congressional Inquiry-Rap-a-Lot Records

Attached is the Houston SAC's account of the [REDACTED] et.al. investigation to date. As you can see, I have some questions which I have penned in the margins (I also attached a clean copy). Please feel free to add any questions of your own.

My questions and comments notwithstanding, it appears to me that this is a significant criminal investigation with [REDACTED] and others as legitimate suspects. There are multiple sources of information reporting his involvement in the drug trade, there is physical evidence which appears to tie him to the drug trade, and it is an active, ongoing investigation.

We would not normally brief a member of congress on an ongoing investigation, except to perhaps acknowledge in the most general terms that an investigation exists. The circumstances of the inquiry might also dictate how far we might go. I understand the sensitivity of the inquiry, but really question the propriety of the inquiry, especially in light of the report that [REDACTED] may be a relative of the member making the inquiry.

My initial reaction is that we should consider telling the member we cannot give a brief on this matter as it is an ongoing criminal investigation of a substantial and credible nature, and further, that we have reviewed the facts personally and are satisfied that it is a legitimate investigation, and not motivated by a desire to harass Mr. [REDACTED]. Let me know what other questions you may have and whether you would like to get a full brief on the case

HISTORICAL OVERVIEW

Since approximately September 1988, the Drug Enforcement Administration has been actively investigating the drug-related activities of [REDACTED]

Outlined below are specific instances of criminal activity directly tied to [REDACTED] known criminal associates, many of who are his employees or are under his direction or control.

On February 27, 1987, a 1987 Chevrolet El Camino bearing Texas Dealer license 6D7750 (subscribed to James A. Smith Auto Sales) [note: James Smith subsequently legally changed his name to James Prince, but has been known to use both interchangeably] was stopped at the Sierra Blanca Checkpoint, Hudspeth County, Texas. An investigation by the U.S. Border Patrol led to the arrest of the two occupants of the vehicle, Anthony Eugene Price and Daryl Dwayne Prince (a cousin of James Smith/Prince). In a hidden compartment, the vehicle contained seventy-six (76) kilograms of cocaine. Price was later convicted of the possession of the cocaine and sentenced in the Western District of Texas to 252 months incarceration.

[REDACTED] even had in his possession a business card for Smith Auto Sales as a sales representative. It was later established that the vehicle was en route from the Los Angeles area to Houston, Texas at the time it was stopped.

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This seizure and subsequent investigation was the genesis for DEA (HFO) OCDEF case [REDACTED]

Anthony Price, who is a career criminal, went to federal prison [REDACTED] Subsequent to his incarceration, Price has been credited on record jackets as the author of several rap songs. [REDACTED]

[REDACTED]

②
- How reliable is this CS?
- How well placed is this C
in the organization to know
this information?

[REDACTED]

In December 1998, DEA HFO Group 4 and HPD drug agents learned that one Edward Dwayne Russell, aka "Spook", [REDACTED] had solicited a [REDACTED]. At that time, Russell was the Chief Operating Officer for James A. Smith's Rap-A-Lot Records, Inc. in Houston, Texas. Russell is a career criminal who has served two terms in prison for robbery and drugs.

[REDACTED]

McCarter is a manager at the Rap-A-Lot company and a convicted felon. [REDACTED]

[REDACTED]

At about 11:00p.m. January 7, 1999, agents arrested Russell, McCarter, William Ballard and Erick Bradley after they took a container of six kilograms of cocaine and \$90,000.00 from an undercover motel room. The cocaine and money was a bait package provided by the DEA.

[REDACTED]

At the time of his arrest, Russell had in his possession a personal check from [REDACTED] to Russell for \$10,000.00. All four suspects were indicted in federal court.

Subsequent to the January 1999 arrests, agents learned that Stevon T. McCarter was a prolific crack/cocaine distributor. Agents learned that McCarter "cooked" and supplied crack cocaine to distributors in Houston and Port Arthur, Texas and Oklahoma City, Oklahoma. McCarter has also been identified as recruiting corrupt police officers to participate in drug and money rip-offs from other drug dealers (Houston Police Department's Internal Affairs section is investigating this aspect with occasional assistance from DEA).

During a federal trial in July 1999, McCarter was described by Bruce Toval, Chief Executive Officer for Rap-A-Lot, as the person who makes sure the artists report to work on time and complete all necessary paperwork [REDACTED]

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[REDACTED]

These judicial proceedings occurred in U.S. District Court, Southern District of Texas before the Honorable Judge Nancy Atlas. Russell was convicted. Judge Atlas granted McCarter a new trial after the jury found him guilty, and Bradley and Ballard were granted a Motion for Dismissal by Judge Atlas before adjournment of the jury. The U.S. Attorney is in the process of appealing this case.

[REDACTED]

[REDACTED]

Mr. SHAYS. Thank you. Now we'll make copies of that. Thank you.

Mr. MARSHALL. Please, if we're going to discuss that I would like to have a copy.

Mr. SHAYS. I will not ask you questions about it until we have a chance to look at it. Tell me, who is Marty Fanning?

Mr. MARSHALL. I'm sorry?

Mr. SHAYS. Who is Marty Fanning?

Mr. MARSHALL. He's an agent that was in Houston, assigned I believe to this group. I believe that he probably worked, in fact I know he worked this investigation. He was the agent who initially provided the corroboration that Special Agent Schumacher had "slapped around"—his words—some of the defendants. That was later discredited.

Mr. SHAYS. He was the agent who—I'm sorry?

Mr. MARSHALL. He was the agent who initially provided corroboration that that event had happened. That was later disproven because his credibility—basically he was not credible because he himself was under OPR investigation, I believe for theft of some property from a defendant and he was dismissed. He was terminated from his job as a special agent. And for that reason, his testimony was not considered credible. And on that basis, the letter of clearance was ultimately issued to Special Agent Schumacher.

Mr. SHAYS. How long did it take for Mr. Fanning's OPR investigation to be initiated and concluded?

Mr. MARSHALL. I don't know. I don't have those dates with me.

Mr. SHAYS. OK. Did you in the past year and a half give Mr. Ernest Howard any so-called merit pay? Did you make a decision that Mr. Howard receive a merit pay?

Mr. MARSHALL. I'm not sure if it was in the last year and a half, but if I could stretch that out to the last 2 years, yes, I did.

Mr. SHAYS. Was that a significant—

Mr. MARSHALL. It was, yes; it was a Presidential Rank Award.

Mr. SHAYS. How much would that be?

Mr. MARSHALL. I don't recall if that was the Distinguished Award or the Meritorious Award. I don't know. I could look that up for you.

Mr. SHAYS. You don't know when that happened?

Mr. MARSHALL. It would have been 2 years ago perhaps. Perhaps a bit less.

Mr. SHAYS. OK. Did you have any conversations with Mr. Howard about this case, the Rap-A-Lot case?

Mr. MARSHALL. Oh, yes.

Mr. SHAYS. How many conversations have you had with him?

Mr. MARSHALL. I had several conversations in the August, late August and then September-October 1999 timeframe, possibly into November. Since that time, I to the best of my recollection haven't had any conversations with him on the case.

Mr. SHAYS. I'm just going to ask another question. Mr. Cummings, I'll give you time to prepare. I'll just keep going. Mr. Cummings, you tell me when you're ready and then I'll stop.

I'd like to ask you about the OPR review board. Is it a coincidence that their decision took place, that the investigation took

place before you were confirmed and not rendered until after you had been confirmed?

Mr. MARSHALL. Is it a coincidence? I guess it's a coincidence. We have a process that it goes through. The OPR investigators investigate the allegations. They provide a report to what is called a Board of Professional Conduct. That Board of Professional Conduct reviews the case and either makes disciplinary recommendations or clears the employee. If they make disciplinary recommendations, it goes to a deciding official who reviews the case again, gives the employee an opportunity to respond and then makes a final decision. And that's pretty much a set process. I do not interfere in that process.

And so, yeah, that process was working independently of all the rest of this.

Mr. SHAYS. What initiates an investigation? Who decides that there's going to be an investigation? In other words, you just don't take every frivolous complaint.

Mr. MARSHALL. If we have an allegation of misconduct, that triggers an OPR investigation.

Mr. SHAYS. It has to go to the boards, no matter what?

Mr. MARSHALL. No. There can be a process by which, if the allegations are just disproven right off the bat and there is no credibility to them, the OPR office itself, the initial investigators can administratively close that and say there are simply no facts to support this.

Mr. SHAYS. Right. You had that option after Mr. Jimenez came back and said there's just no substance here.

Mr. MARSHALL. I had that option? No, I didn't have that option. Mr. Jimenez may have had that option.

Mr. SHAYS. Right. But then he decided, based on an investigative report requested by the law firm of Mr. Prince, that you would look into those allegations and that investigator——

Mr. MARSHALL. Yes, because there were specific allegations in that report that we felt could be proven or disproven.

Mr. SHAYS. But at what point when you start that investigation does someone have the ability internally to just close it because they think there's no substance, and at what point does it then have to go to the Board to resolve?

Mr. MARSHALL. Well, I think that Mr. Jimenez, or now Mr. Gamble, if I'm remembering the process correctly, I believe that they have the opportunity to administratively close that if there is no corroboration and the allegations are shown on the face to have no credibility. In this case, that didn't exactly happen. There was certain corroboration. There was certain facts that basically led them to take the investigation further. And then I'm not sure in the process exactly when the chief inspector loses his ability and it has to go to the Board. But this one obviously they thought should go to the Board.

Mr. SHAYS. But, see, the irony is that the work was completed in March and the decision wasn't rendered, made public until October.

Mr. MARSHALL. It is my understanding on that, there were several things that were going on. At some point in there, this was sent to either the DOJ Civil Rights Division or the Public Integrity

Section for review, which is standard procedure. Mr. Gamble could explain that, I hope, better than I. There was also in that timeframe in the Board of Professional Conduct, they had a pretty high workload at that time. We had in that fiscal year, in this general timeframe, 6, 8 months, either side of this, there were some 30 cases that resulted in the dismissal of DEA employees. They have a way of prioritizing what they look at first. And some of the first things they look at are serious cases where the employee is on limited duty, paid leave, or unpaid leave. And they prioritize those. And that wasn't the case in either of these. And it simply didn't float to the top of their priority list. And I'm told that it took that long largely because of that, because of high workload and because of there were—was a member or two of that Board that was missing during part of that time.

Mr. SHAYS. I will jump back, talking to the Board. I want Mr. Cummings to go and then Ms. Jackson Lee, but I would ask you this last question. You keep saying the OPR process works. Do you really think it worked in this case, or might it have been manipulated to the detriment of a DEA investigation, a DEA agent, and the agency's reputation?

Mr. MARSHALL. Well, I believe that the process worked. We received allegations, we investigated those allegations. One employee was cleared, one employee received minor disciplinary action. I believe that we discovered the facts about those allegations, and I believe that we properly dealt with him. So I believe it worked.

Mr. SHAYS. You left out one gigantic part. During this whole 14 months, the proactive nature of the investigation was suspended, wasn't it?

Mr. MARSHALL. I cannot say because I have not heard Mr. Howard's testimony. It appears from his e-mails and it appears from Mr. Nims' memo that it was. I understand that Mr. Howard contends that it wasn't. If it was shut down—

Mr. SHAYS. Mr. Howard is on record as saying it was an open case, but it was not a proactive case.

Mr. MARSHALL. If it was shut down, it shouldn't have been. And if it was shut down, it was done counter to my orders.

Mr. SHAYS. It was suspended. The proactive nature of the investigation was suspended. We get these little fine differences. It was not proactive. The case was suspended; it was not closed.

Mr. Cummings, you have a generous 5 minutes.

Mr. MARSHALL. My order to Mr. Howard was to continue the investigation, the active investigation. I thought that was being done.

Mr. SHAYS. You have 30 minutes, I'm sorry, without question. If you want to share it, you may.

Mr. CUMMINGS. Thank you, Mr. Chairman. And Administrator Marshall, I want to thank you for being with us. And I know these must not be the most pleasant circumstances but we do appreciate what you do every day. You have a very important job.

Let me just go back for a moment to the beginning of your contact with this matter. You said you got notice of it on, what, August 20th.

Mr. MARSHALL. It was August 20th to the best of my recollection. It's possible it was August 19th, but within a day or so.

Mr. CUMMINGS. Now, when you got—you got a memo at some point, you got Ms. Waters' memo, letter; is that right?

Mr. MARSHALL. I first got a letter from the Attorney General telling me that she had talked to Congresswoman Waters and she had these complaints; that a letter was to follow. And then either later that same day or the next day, the letter did follow and I saw the letter.

Mr. CUMMINGS. Now, how soon after that did you have conversation with Mr. Howard?

Mr. MARSHALL. That same day.

Mr. CUMMINGS. Same day.

Mr. MARSHALL. Yes, sir.

Mr. CUMMINGS. And would you have—to your knowledge, would you have been the first one to bring to his attention that there was an issue here with regard to this case?

Mr. MARSHALL. To the best of my knowledge, probably so, yeah. I have no indication otherwise.

Mr. CUMMINGS. And during that discussion, you had him brief you on what he knew about the case?

Mr. MARSHALL. That's correct.

Mr. CUMMINGS. And was a decision made at that moment as to what should be done with regard to the case in light of Ms. Waters' letter?

Mr. MARSHALL. No. I was simply gathering facts.

Mr. CUMMINGS. All right. Now, did you have occasion to talk to him again that day?

Mr. MARSHALL. I talked to him probably several times that day and I talked to him several times over the ensuing days and weeks after that initial—

Mr. CUMMINGS. Can you tell us what day it was that you had the conversation where he—you said he was a bit upset and that he wanted to end the investigation, I think you said, but you said that would be going a bit too far. Can you tell us what day that was?

Mr. MARSHALL. No, I can't, Congressman. I don't have notes of that conversation. But that would have been—for sure, it would have been after the August 24th interview with Mr. Prince, because that was a part of his frustration was the allegations that Mr. Prince was making.

Mr. CUMMINGS. Now, did you—do you know whether your conversation took place—I don't know if you know, there came a time—I understand that you haven't heard the testimony from Mr. Howard, but there came a time when he allegedly made—when he had a conversation with the agents in Houston, telling them the status of the investigation and what he wanted done. That's where all the controversy is, whether it was ending or not. You know about that, right?

Mr. MARSHALL. I know about that, but I don't know the dates of that.

Mr. CUMMINGS. Which is what I'm trying to get to. I'm trying to figure out your conversation where you gave the instructions to not end it but—the criminal investigation—but to allow it to go on. I'm trying to figure out whether you knew that came before he had that meeting with the Houston officers or after?

Mr. MARSHALL. I don't know.

Mr. CUMMINGS. Now, when you had your conversation with him where you had instructed him as to continuing the investigation, did he tell you anything about any conversation that he may have had, and did it sound like he had already made a decision with regard to the criminal investigation?

Mr. MARSHALL. No, he didn't tell me about any conversations. And he said, "You're right, I can't close it down, we'll keep going with it."

Mr. CUMMINGS. So you were—were you of the impression that he had not announced that to the Houston officers, that the investigation had been closed down?

Mr. MARSHALL. That's correct. I had no reason to believe that that announcement had taken place. I had no reason to believe these e-mails existed. I had no reason to believe that the Nims' memo existed. None of that came to my attention until October of this year.

Mr. CUMMINGS. Now, so all of this time since back there in August, August 20, 1999, you were thinking that this was an ongoing investigation; is that not correct?

Mr. MARSHALL. That's absolutely correct, sir.

Mr. CUMMINGS. Now, in answer to the chairman's question, one of the chairman's questions I think you said that you did not figure this to be a major investigation. Is that what you said, that is, a criminal investigation?

Mr. MARSHALL. No, I said when you look at this organization in the context of the large national and global organizations that we consider to be the cartels, as it were, this was not one of those types of investigations. This was certainly an important, very important investigation in Houston, TX.

Mr. CUMMINGS. Now, when you found out about Ms. Waters's inquiry, I think you said when you looked at the allegations, you said, "I didn't put much stock in the allegations," is that right?

Mr. MARSHALL. That's correct.

Mr. CUMMINGS. What did you base that opinion on?

Mr. MARSHALL. Well, basically I—if I can get a copy of Ms. Waters' letter here, I looked in the letter and there was really no details in here about specific allegations. There were things about long stretches of highway, there were things about the Department of Justice must intercede into the questionable practices of DEA. There was nothing really specific here in terms of allegations, so I didn't really think that there was enough detail here to tell whether there was really something here. The one thing that grabbed my attention here was the quote, "believes his life to be in danger at the hands of rogue officers."

Now, I looked at that as something that we have to look at and find out if Congresswoman Waters has specific information regarding that or if she has specific allegations regarding the harassment and intimidation, if she has specific details about the racial slurs, the illegal search of his automobile. None of those details were contained in this letter. And that's what I felt like we had to get at in terms of further interviews and get from Ms. Waters why is it you think this. So at this point, no, I didn't have enough details to put much stock in this.

Mr. CUMMINGS. So is there a, I take it that you could get, it's possible that a congressperson or citizen could write you a letter, make certain allegations that would not bring it to the level of you even having a discussion with an agent in charge with regard to whether to shut down an investigation. In other words, I'm trying to get to where do you draw the line. You just named several things. You said "life threatening." You went on and said what you just said, but is there a point, either in writing or is there a point where just from the common practice within the agency where you then refer something for further investigation, whether it would cause you to have this kind of discussion, or making you feel as if there is a major problem.

Mr. MARSHALL. Well, you—at the seriousness of each allegation, and if it is—if it's a mistake that somebody has made on the job that's a violation of procedures or rules or something like that, you treat that one way. If it's an integrity violation or a criminal violation, I certainly treat that much more seriously. Now, the words in here, the descriptions in here of the conduct would have indicated that these would have serious integrity, if not criminal violations. And yet those were generalized words that were here with no details to back them up. So because the general allegations were so serious but there were no details, I mean, the next logical step is what are the details, Congresswoman Waters, that you have to substantiate these allegations, and that's what we set out to do.

Mr. CUMMINGS. Now as I listened to some of the questions that were asked by the other side, it seems to be an implication as to your believing that when a congressperson makes a call or whatever, that an investigation should be shut down, you don't believe that, do you?

Mr. MARSHALL. Absolutely not. I never believed that. I think it's clear from the memo that I sent to the Attorney General that my mindset here was that basically we shouldn't even brief Congresswoman Waters on this investigation. And I told the Attorney General on August 20 in this memo, this is a legitimate investigation and we shouldn't even brief her on it.

Mr. CUMMINGS. So we're real clear, when you told Mr. Howard, Officer Howard, about what you wanted him to do in the case, did he express any objections to that? That is, when you said "I want this case to continue" and you may—I think you said "you may have to pull the officers off, but I want it to continue." Did he express any objection to that?

Mr. MARSHALL. No, no. In that conversation he was clearly frustrated with all of this. He used the words, "it's too big a hassle, I think I'll just close their investigation, it's not worth it." When I said no, you can't do that, you need to continue. As I said he took a deep breath, he audibly sighed, he said, "you're right. I'm just blowing off steam. Obviously, I just can't discontinue the investigation."

Mr. CUMMINGS. How long have you been working with Officer Howard, Agent Howard?

Mr. MARSHALL. Gosh, I have probably—I've known him for 20 years, worked closely with him for 10, 12 years, just a guess, but quite a while.

Mr. CUMMINGS. So you've had many conversations with him and worked with him?

Mr. MARSHALL. Yes.

Mr. CUMMINGS. And you find him to be a truthful and honest man?

Mr. MARSHALL. Yes, I always have.

Mr. CUMMINGS. Now, you said something that was very interesting. You said one of the reasons why you wanted the agents pulled off, the Houston folks pulled off and Schumacher, is that you were—

Mr. MARSHALL. If I may, sir, I hate to interrupt you. I did not say I wanted the Houston agents pulled off.

Mr. CUMMINGS. I'm sorry. One of the things you did say that you were concerned about, negligent action. Does that sound familiar?

Mr. MARSHALL. That's correct.

Mr. CUMMINGS. What does that mean?

Mr. MARSHALL. Our concern, the concern that Mr. Howard and I discussed were that, they were in the context of we have allegations from Mr. Prince, and we have a report from this private investigator that gives us specific acts that were committed by Chad Scott and Jack Schumacher alleged to have been committed, I'm sorry. We, by that time, had gotten far enough in the investigation that we knew that the gold medallion was in DEA's possession. We knew that there was one person that corroborated the mistreatment of, the alleged mistreatment subsequently not substantiated. We knew that was there. We knew that these people had been taken into custody, taken to the DEA office, no reports had been done. There were procedural violations there.

At that point, we simply didn't know what we had from a standpoint of an OPR investigation. We looked also at the serious nature of this and the fact that Maxine Waters had characterized Jack Schumacher as a killer cop, as a rogue cop. He did, in fact, have several shootings that he had been involved in, and I hasten to add all were ruled as justified, but we simply looked at it at that time and not knowing the full extent of what we did or did not have here, and we felt for Mr. Schumacher's own protection that he should not be the point agent, the lead agent, the case agent on this, because if he goes out into of the 5th ward now and gets into a life-threatening situation and has to kill Mr. Prince or some of the other defendants in here, he's going to be automatically assumed guilty.

We're going to be perceived as not having taken action, and I'm going to be sitting in front of this committee or some other committee explaining those actions. And we felt it was prudent for the agency and for Mr. Schumacher's own protection for him to take him off as the case agent and reassign another agent in the same group with the same supervisor until OPR investigation was completed.

Mr. CUMMINGS. Now, you take it, you aren't aware of any improper political interference, are you, with regard to this case?

Mr. MARSHALL. No, I'm not.

Mr. CUMMINGS. Are you aware of any improper political interference by Vice President Gore?

Mr. MARSHALL. No, I'm not.

Mr. CUMMINGS. Are you aware of any improper political interference by any Member of Congress?

Mr. MARSHALL. Well, you've got to get a definition of "interference." I think it's obvious that some Members here consider the mere writing of this letter was interference. It's obvious that Ms. Waters wrote this letter. But as far as interference or pressure on me to shut down this investigation, there was none.

Mr. CUMMINGS. Are you aware of any management decisions made in this investigation on account of improper political pressure, any?

Mr. MARSHALL. I am aware that there are allegations of that, and I am still very confused in the light of what I thought was going on juxtaposed against the e-mails and the Nims memo. I am still confused as to whether or not you know exactly what action was or was not taken with regard to shutting down the investigation. And I want to get to the bottom of that through these hearings and the inspector general investigation. I'm still unsure about that, Congressman.

Mr. CUMMINGS. But you never—I just want to correct one thing. I made a mistake a minute ago and I had asked you about taking folks off of the investigation, a criminal investigation. When you talked to Agent Howard, did you have any discussions about personnel and personnel on who would be either left on the case, taken off the case? Did you discuss it at all? The Houston police officers? The DEA?

Mr. MARSHALL. No, we have only talked about agent Schumacher.

Mr. CUMMINGS. All right. Why is that, because you didn't—

Mr. MARSHALL. Because Agent Schumacher was the one that these most serious allegations were being made against, and we were concerned that he would be assumed guilty if there was an incident there. That was the sole reason. It was for the protection of Agent Schumacher and DEA, it was never intended, in my mind, that you take all the agents off.

Mr. CUMMINGS. So there was never any discussion with regard to the Houston police officers, none whatsoever. Is that right? When you left that conversation you were under the impression that Schumacher would be taken off of this criminal investigation, and that the investigation would continue. That was your impression; is that right?

Mr. MARSHALL. Absolutely, yes.

Mr. CUMMINGS. That was your impression up until this committee contacted you and you began to look into the matter?

Mr. MARSHALL. That's correct.

Mr. CUMMINGS. Thank you. I'll yield to Ms. Jackson Lee.

Ms. JACKSON-LEE. I thank Mr. Cummings very much and again, as I proceed to ask questions, I do want to acknowledge the kindness of the chairman and ranking member, and now Mr. Shays. I am a member of the Judiciary Committee and not a member of this committee.

Mr. Marshall, as you well know, the judiciary has oversight over the DEA and its capacity of its responsibilities differently from this present committee, so I appreciate very much your presence. And let me say what I have said in the past, that this hearing, my ap-

preciation and respect for the day-to-day front line action that the DEA takes. You are aware, Mr. Marshall, that your officers who were here previously were under oath; is that correct?

Mr. MARSHALL. Since I was sworn in, I assume they were too.

Ms. JACKSON-LEE. And being law enforcement officers, you are quite aware that in being sworn, you're sworn obviously under oath to tell the truth?

Mr. MARSHALL. Absolutely.

Ms. JACKSON-LEE. And aware as well of the penalties of the subject to do?

Mr. MARSHALL. Correct.

Ms. JACKSON-LEE. Do you have any recollection of the Attorney General speaking to you and asking for a transfer of Mr. Schumacher?

Mr. MARSHALL. No.

Ms. JACKSON-LEE. Anyone in OPR asking for a transfer of Mr. Schumacher.

Mr. MARSHALL. No.

Ms. JACKSON-LEE. So therefore, you gave an earlier explanation to my colleague, Mr. Cummings, I believe, and any movement, it seemed to be, as I understand your conversation, was based upon safety issues. Is that my understanding?

Mr. MARSHALL. Yes, that's correct. And I want to go back. That was in the August-September 1999 timeframe.

Ms. JACKSON-LEE. All right. I appreciate that very much. In receiving letters from Members of Congress, I assume you received quite a bit?

Mr. MARSHALL. That's correct.

Ms. JACKSON-LEE. Do you accept that as a role and responsibility, that members at varying times will make inquiries and make various comments in their letters or inquiries?

Mr. MARSHALL. Yes, we do. We actually have a congressional affairs office that deals with those matters and they stay pretty busy.

Ms. JACKSON-LEE. The letter that you have before you from the Congresswoman, is there anything in that letter that says to transfer or cease and desist, transfer any officer or cease and desist of any investigation?

Mr. MARSHALL. There is nothing in here that says to transfer the officer. There is something in here, and if I may find it. It is my recollection, and I can't really find it right now. It's my recollection that there is something in here that asks the AG to halt the questionable practices of the DEA. Is that this letter?

Ms. JACKSON-LEE. No, I don't think so. If you're talking August 20, 1999, you might peruse it yourself. There is, will you please give this matter your immediate attention, I await your response. I have not seen anything here that says anything about halting. You might peruse it, point out to me if you see something. I think you'd find that, the August 20 letter.

Mr. MARSHALL. Yeah, here it is. "Simply put," and this is quoting from the August 20 letter. "Simply put, Mr. Prince believes strongly that the Department of Justice must intercede into the questionable practices of the DEA and provide him with the necessary protection to ensure that his life and livelihood are not subject to the

ongoing harassment and intimidation.” That is the sentence I was referring to.

Ms. JACKSON-LEE. But that is not a request of the Department of Justice to stop to cause a cessation. It refers to the suggestions in the letter about the points made by Mr. Price.

Mr. MARSHALL. It talks about questionable practices and providing necessary protection to end harassment and intimidation.

Ms. JACKSON-LEE. Right, but not a stopping of the—stopping of an investigation, eliminate.

Mr. MARSHALL. It doesn't say that in this letter.

Ms. JACKSON-LEE. Let me also acknowledge, there seems to be some coordination—not coordination, but suggestion of collaboration between the March 12 visit to the Brook Hollow Church, and then I think the March 15 action that I believe Mr. Howard may have taken. You have indicated, or you indicate, again, for my sake, that you are not making a correlation or suggesting that the Vice President or his staff or anyone by his visit asked the DEA or Attorney General to do anything to your knowledge.

Mr. MARSHALL. No, that's correct.

Ms. JACKSON-LEE. And Mr. Howard, having been under oath, I know there is an OPR investigation still going on; is that my understanding?

Mr. MARSHALL. No, the OPR investigation has been completed.

Ms. JACKSON-LEE. The IG is still going on?

Mr. MARSHALL. The Inspector General is still going on, yes.

Ms. JACKSON-LEE. So the case is still open to the degree of trying to find out the facts in this matter?

Mr. MARSHALL. That's correct.

Ms. JACKSON-LEE. Mr. Howard, being under oath in this committee, would you have the impression that Mr. Howard would be telling the truth?

Mr. MARSHALL. Would I what?

Ms. JACKSON-LEE. Have the impression that Mr. Howard would tell the truth being under oath in this committee?

Mr. MARSHALL. I have not heard his testimony. I would have the assumption and the expectation that he would tell the truth.

Ms. JACKSON-LEE. Is he of such a person that you have known him and worked with him for 12 years that you would expect him to tell the truth.

Mr. MARSHALL. I have always known him to tell the truth, and that would be my expectation.

Ms. JACKSON-LEE. If that is the case, then at this juncture, would you be able to say that Mr. Howard has not done anything improper or you've not told him that he's done anything improper?

Mr. MARSHALL. Well, I think that that, and I want to be very cautious here, because I think that's part of the purpose of the Inspector General's investigation.

Ms. JACKSON-LEE. If, in fact—

Mr. MARSHALL. If I may continue, please. What I believed was happening here, and what personal conversations I had with Mr. Howard on the surface, do not correlate with the e-mails and the memo from Mr. Nims. So that's one of the reasons that I requested the Inspector General investigation was to clarify that for me.

Ms. JACKSON-LEE. Excellent. And I think that is an appropriate responsibility of an administrator, but today, and during the time you had your conversation, you did not indicate to Mr. Howard that you thought he was acting inappropriately.

Mr. MARSHALL. When I had the conversations with Mr. Howard?

Ms. JACKSON-LEE. That's correct.

Mr. MARSHALL. That's correct. I had every reason to believe that he was following my instructions and that the criminal investigation was continuing and while the OPR investigation was going on.

Ms. JACKSON-LEE. And I believe that was clarified, as I understand it here on the record, that that was occurring as we understand it. I am personally—I think that we should all be committed to finding out the truth, and I hope that this hearing will result in that. As I was sitting in this hearing, I had the opportunity to peruse some of the articles that recount some of the lyrics that I think are abhorrent.

I abhor improper, out of order, and clearly we all have a first amendment, but I have gone on record before for speaking against such lyrics, regardless of whether we're talking about artistic rights and privacy and first amendment. So I have hope that we can separate out those accusations as not those of any of us who are here today. And hopefully, they are not words that our children and young people will find with any credibility and are not spoken with courage, as far as I'm concerned. But I do believe that we have lives in question here, people's reputations, people's long years of service, and I think it's very important that we tread lightly as we pursue this as it relates to what may be people caught up in a set of circumstances who are not involved.

Do you have any knowledge of any involvement in any of these matters of the Brook Hollow Baptist Church or the Brook Hollow Church without walls that you may have heard of in your review of matters that you've heard of?

Mr. MARSHALL. Well, you've set quite a background there with the lyrics and freedom of speech, and our children and I share all of those. I respect certainly your viewpoints. I appreciate your support and I respect the difference. I will say with regard to those lyrics, I think that those very lyrics indicate that the people that wrote them, the people that participated in them, even the people that produce, perform them, that sell them, I think that—I think that those people are vicious thugs, and I think there is really no place for that in our society.

I recognize I respect free speech, but to me, those lyrics amount to inciting violence against police officers. I'm concerned for Jack Schumacher's safety as a result of that. I think that may very well encourage people to kill Jack Schumacher or try that, in fact, there are direct threats against Mr. Schumacher. With regard to the church, I have no reason to believe that the church participated, supported, condoned that in any way, shape, form or fashion. The only connection that I know of is that Mr. Prince, I understand it, is the owner, president, executive or some direct connection with the record company that produced that CD, and that he is also a member of that church.

Now, I can't say that, in fact, I would assume that that does not mean that the church, that the church was involved. So no, other

than that, I don't know of any connection between the church and those lyrics. I would hope that the church condemns those lyrics.

Ms. JACKSON-LEE. I think it's very important as we try to protect everyone's life integrity and reputation that we clarify when we have definitive information versus not. So as I take your testimony, you have nothing to associate this church and this pastor with anything that has gone on here today in this proceeding?

Mr. MARSHALL. Well, other than the connection that Mr. Prince, I understand is a member of that church. Now that doesn't mean that the church is involved, it certainly doesn't mean that the pastor—but when you say the word “connection,” there is a connection between the people.

Ms. JACKSON-LEE. I disagree with you. Church—

Mr. MARSHALL. There is an association.

Ms. JACKSON-LEE. But churches don't reject membership or members. In fact, churches are places where people of need go for whatever reasons, and I hope that is what you're saying here today.

Mr. MARSHALL. I think we're talking semantics here. I have no reason to believe the church or the pastor is involved in this type of activity.

Ms. JACKSON-LEE. I'm grateful for your clarification on that issue.

Let me finish in the 20 seconds of their graciousness. We have had a myriad of statements being made here today, a myriad, a number of witnesses that are testifying and under oath. I would hope that you, as a DEA administrator, will leave here, and we will leave here as members of this committee, and those who have been guests of the committee with the bottom line idea is to get to the truth and to be—free ourselves from innuendo and rumor. Is that the direction that you hope the IG is going and your office will be going?

Mr. MARSHALL. I made comments similar to that in my opening statement, yes.

Ms. JACKSON-LEE. Would you summarize them for me, please.

Mr. MARSHALL. Yes, my goal here, my underriding goal here is to find the truth of what happened here, to find whether DEA employees succumbed to political pressure, to close this investigation, and if so, to take the proper action to correct that, and if not, to see that the record is clarified. And I feel I have to do that to protect the integrity of DEA and its employees. So yes, absolutely I want the truth. I hope this hearing, together with the Inspector General's investigation, will get us to the truth, and that will allow me to take whatever action I need to take.

Ms. JACKSON-LEE. Nothing but the truth. I thank you. I hope we all stay focused. Thank you very much.

Mr. SHAYS. Thank you, Mr. Marshall. We think you've been very cooperative. I am going to recognize Ben Gilman, but I would also request at this time that we have the attachment to the August 20 memo, if you would give us the attachment to that, to get at the truth would be helpful. And I would then make unanimous consent to put the memo redacted into the record, and we have checked with counsel on the other side, and there is no objection to that. But we would like the attachment to this piece, please.

Mr. MARSHALL. Mr. Chairman I am told that the Prosecutors Office, the U.S. Attorneys Office in Houston, has some concerns about the information that is in the memo, that they are in the process of making some redactions on that memo. When that is done, we will provide it to you.

Mr. SHAYS. Let me be really clear on this. You have pledged that once that is redacted, it is presented to this committee. I would like to know when that will happen.

Mr. MARSHALL. I'm told that can be done before close of business today.

Mr. SHAYS. Thank you very much.

Mr. Gilman, thank you for your patience.

We'll be coming back. We'll be coming back. Mr. Cummings, you'll be recognized next.

Mr. GILMAN. Thank you, Mr. Chairman.

Administrator Marshall, we need your help to clear up these serious allegations with regard to political influence over major drug-related criminal investigation in Houston, TX; and I hope today's hearing and our DEA leader's appearance can help restore the public confidence in our DEA, something we have a high regard for.

Yesterday was not particularly a good day for the DEA before the Congress. Whatever one can say about the uncertainties surrounding political influence that we witnessed yesterday and today, some degree of certainty did emerge from our hearing and that's the unmistakable fact that the DEA Office of Public Responsibility [OPR], procedures are badly in need of repair.

From August 1999 to October 2000, a period of more than a year, a major drug investigation was shelved, no proactive investigation conducted, along with a DEA agent put out to pasture, all generated by the target of the investigation itself sidetracked by the inquiry. I think that's totally unacceptable. To me, this current OPR investigation—allegation investigation process looks like a road map for the bad guys to sidetrack DEA investigations when the heat is turned up outside the DEA.

No one wants to see allegations of abuse of authority by DEA ignored or not thoroughly examined. However, I would urge you, Mr. Marshall, to totally evaluate and create a better system than shutting down an inquiry for more than a year and putting the lead DEA and his local police counterparts out to pasture based solely upon the unsubstantiated and self-serving allegations by the target himself.

DEA appears to have over-reacted to a letter from the Member of Congress. The DEA gave the target of this investigation the benefit of the doubt over its own DEA agents and Houston police officers who are out there trying to do their job. When all of these fine police officers and agents were of course eventually vindicated and no wrong being found, the only beneficiary, however, was the target of a major drug trafficking inquiry.

I hope that this case before us and the target's efforts being successful and the inquiry may never get back on track—I hope it will get back on track; and I hope, Mr. Marshall, you consider ordering a full review of the current OPR procedures so we may never again find ourselves in this kind of a situation.

Mr. Marshall, on August—

Mr. MARSHALL. May I comment, sir?

Mr. GILMAN. Yes, please, Mr. Marshall.

Mr. MARSHALL. Congressman, I agree with you that if this investigation was shut down and there are serious questions on that, that shouldn't have been done. There is no reason for an OPR investigation to derail a criminal investigation, absolutely no reason. If it was done, it shouldn't have been done. It was done counter to my direction and my belief.

With regard to the OPR process, we need to find ways to expedite that process. But when we receive allegations against—of misconduct I think we're obligated to investigate those allegations to prove them or to disprove them; and I will look for ways to expedite the process, but I will never compromise the integrity of the agency.

I have recently asked for a review of that whole process to see if we can expedite the entire process from the investigation up through the decision process. It is my understanding that the Deputy Administrator has recently made some changes in there. I will review that for—to see if there is further progress that we can make.

But I have recently articulated my philosophy of discipline, and it's a little bit of a change from what we have had in the past perhaps. The way I articulate that publically for all of our employees is that I want a speedy and compassionate discipline process for mistakes, honest mistakes that are made in the course of conducting our business. Because we all make mistakes. But, at the same time, violations which are integrity related which impact the effectiveness of my agency, the ability to do its job that are criminal in nature, they will be dealt with hopefully again swiftly but harshly. Because there is no place for that type of activity in DEA.

That's my disciplinary process and the two sides of it. I am doing my best to see that we move in that direction. We must, however, investigate serious allegations and either prove them or disprove them and in either case protect our integrity and the public confidence in the agency.

Congressman, I will look further at that process. Thank you for your comments.

Mr. GILMAN. Thank you, Mr. Marshall. I think it's encouraging you to hear you say that.

Mr. Marshall, on August 24, 1999, despite your serious reservations as outlined in your memo of August 20 to the AG in which you say we would not normally brief a Member of Congress on an ongoing investigation except perhaps to acknowledge in the most general terms that an investigation exists, the circumstances of inquiry might also dictate how far we might go. I understand the sensitivity of the inquiry but really question the propriety of the inquiry, especially in light of the report. Mr. Marshall, who overrode your concerns?

Mr. MARSHALL. I—

Mr. GILMAN. You recommended not doing this.

Mr. MARSHALL. No, I don't believe the concern was overridden, Congressman. I made a recommendation—

Mr. GILMAN. If I might interrupt. You made a recommendation to the Attorney General saying that you question the propriety of

this kind of an inquiry, and your reaction was that you should consider telling the Member we cannot give a brief on that matter.

Mr. MARSHALL. That is correct. And that recommendation was not overridden. In fact, there was a letter that went back to Congresswoman Waters, if I can find it in my notebook.

Mr. GILMAN. Just briefly tell me.

Mr. SHAYS. Excuse me. Let me interrupt for a second. I want to respect the time that Mr. Cummings has coming back, and we have gone over the 5 minutes. I just need an answer to this, and then we need to go to Mr. Cummings.

Mr. GILMAN. Mr. Chairman, I understand our side had 30 minutes.

Mr. SHAYS. We already used our 30 minutes. In fact, we used slightly more. Mr. Cummings was very generous in letting us go over time about 10 minutes, and then he had just 30 minutes, and I closed him right down. So I am determined to give him his 5 minutes.

Mr. MARSHALL. If I may just give an answer to the question. A letter went back from the Office of Legislative Affairs, Department of Justice, telling Congresswoman Waters that we cannot acknowledge even the existence of an investigation; and that was signed by Mr. Raben, I believe. I have it somewhere in this book. I will provide it to you because it was an official correspondence, and I'm surprised the committee doesn't already have it because it was a correspondence that was written, and I thought it had been provided already.

Mr. GILMAN. Mr. Chairman, will there be another round?

Mr. SHAYS. Definitely, and I will even yield you my time. I want you to have more time. Your questions are very important, and you need more than 5 minutes. But I want Mr. Cummings to have his time.

Mr. GILMAN. I will go to a meeting, and I will come back.

Mr. SHAYS. We hopefully will still be here or maybe not, hopefully. Mr. Cummings, you have a generous 5 minutes.

Mr. CUMMINGS. Thank you very much.

Mr. Administrator, I want to direct my questions at something that I don't think anybody here has dealt with too much, but I want to make sure that we address the reputation not only of the agents that we have been talking about but I want to make sure we address your reputation and that of Ms. Reno, Attorney General Reno. And you will see where I'm going in a minute.

When you had your discussions with the Attorney General—and I know that some information may be privileged, I mean, confidential, that you need to keep, but there was no pressure placed on you to try to stop this investigation or anything of that nature, was there?

Mr. MARSHALL. No, there wasn't.

Mr. CUMMINGS. And her—she basically brought to your attention the information—I mean the fact that she had gotten this memo, gotten a telephone call; and basically she was passing on information to you. And I take it that you felt confident that what she was saying is that she trusts your judgment, “go forward with it and I'll check with you later to see how things are going.” Is that a fair—

Mr. MARSHALL. Essentially, yes, that's a fair representation.

Mr. CUMMINGS. But you didn't feel any pressure to do anything in particular.

Mr. MARSHALL. No, I didn't.

Mr. CUMMINGS. Now, you never got a call from the Vice President of the United States or the President or Ms. Waters, did you? Have you ever talked to them about this case?

Mr. MARSHALL. I have never talked to the President or the Vice President about this or anything else. My only encounter with Congresswoman Waters was in the context of a congressional hearing. I believe it was a subcommittee of the Judiciary. I have never had a private conversation with Ms. Waters.

Mr. CUMMINGS. But was the subject matter this issue here?

Mr. MARSHALL. No, I have never talked to any of those three individuals about this issue.

Mr. CUMMINGS. Very well. Did you have—get any other pressure from any other government official in regard to saying, “Mr. Administrator, you've got to do something to shut this down or bring it to a halt,” or whatever? Anything like that?

Mr. MARSHALL. I never had any conversation with either the President or Vice President or Ms. Waters. The only communication that I believe I saw was the letter from Ms. Waters.

Mr. CUMMINGS. All right. Now, when you—your conversations with Mr. Howard, when you spoke to him, what were your paramount concerns when you initially talked to Mr. Howard—Officer Howard? When I don't say Officer Howard, it's not any disrespect. What were your major concerns? In other words, you were not trying to pressure him to do anything in particular, is that right?

Mr. MARSHALL. No, that's correct. In fact, as I represented that conversation, it was my clear expectation that the criminal investigation was to continue. It was my—it was my goal really to do two things: No. 1, that we needed to get to the bottom of allegations that had been made. That was one objective. The other objective was to continue the criminal investigation on a parallel track as the OPR investigation was going forward.

Mr. CUMMINGS. Did there—was there any discussion about the backgrounds of the DEA officers involved in this investigation when you talked to Mr. Howard?

Mr. MARSHALL. We only discussed one officer, that being Special Agent Schumacher; and, yes, we did talk about his background.

Mr. CUMMINGS. Did you have any concerns—you did have some concerns about his background, didn't you?

Mr. MARSHALL. Well, I have already articulated my concerns in that conversation. And the concerns were that we have an allegation, an allegation that he is out to kill an individual. Our concern was—and he had been involved in several fatal shootings, all of which I hasten to add had been found to be justifiable.

But, yeah, with that background and with this complaint on record we were concerned that if he got into a violent situation and had to use deadly force, a very real possibility with these violent drug organizations, that then he would be assumed guilty. And for his own protection and to ensure that there was no chance of that happening we discussed reassigning him, not as the point on this, rather giving the case agent duties to another agent in the same

group under the same supervisor for Mr. Schumacher's own protection. That was the discussion.

Mr. CUMMINGS. Now if you were—before you were contacted by this committee, if one were to tell you—if Mr. Howard had said, I had followed your instructions, Mr. Administrator—keep in mind what I said, before you were contacted by this committee—you would have had no reason to doubt his word, would you?

Mr. MARSHALL. No, I wouldn't, that's correct.

Mr. CUMMINGS. I don't have anything—I don't have anything further. Thank you.

Well, I have one other thing. Mr. Administrator, I will be very brief because I know our committee member's time is running. Did you have something you wanted to add?

Mr. MARSHALL. Well, this is in response to Congressman Gilman's request for the letter that went back to Congresswoman Waters. I'm told that the committee has that document. It is DEA/TX-0073. That's the Robert Raben memo back to Congresswoman Waters answering her August 20 letter.

Mr. CUMMINGS. With regard to cooperation, one of the things we're most concerned about on this committee is cooperation from the agencies. And I looked at your memo of August 20, 1999 to Ms. Reno, and without even getting into it, because I think I can see how it can be a very sensitive document, I take it that there are some concerns that she might have and you might have with regard to making sure that the IG investigation does not prejudice anyone and that it's a fair investigation. And I take it that you also are concerned about making sure that there is an ongoing criminal investigation or if there is an investigation that is to be reopened that you do not—you want to make sure that nothing is prejudiced either on a possible defendant's side or your side. Is that a fair statement?

Mr. MARSHALL. That's a fair statement. I'm a little bit confused if you're talking about the IG or the OPR investigation. But, yeah, that's a fair statement.

Mr. CUMMINGS. Yeah, I'm talking about—there were questions that you were asked a little bit earlier about your cooperation when a call was made to the chairman. The chairman said he called you, and he said—I don't know whether he talked to you directly or talked to someone in your office, but a statement was made that—based upon words from the Attorney General, and then you mentioned something about a meeting where you had gotten word from the Attorney General that you were supposed to either have limited cooperation with this committee or no cooperation. And I guess I was just trying to get to the bottom of why that was, what was that based upon. You follow me?

Mr. MARSHALL. OK, those are two separate timeframes.

Mr. CUMMINGS. Fine, let's deal with both of them.

Mr. MARSHALL. My recollection is that in October there was an initial request from Chairman Burton for documents and a request to interview DEA employees, and the documents he asked for were communications to and from Ernie Howard, myself—and I'm sure that subpoena is in here. There was a subpoena that was issued that was faxed over to my office asking for those things.

I did in fact call the chairman and said, "Mr. Chairman, you don't have to subpoena these things. I will cooperate voluntarily." He later wrote me a letter saying he will withdraw his subpoena based on my assurance that I would cooperate. We have provided those documents to the chairman.

Now, fast forward to the November timeframe, and that's when we had the discussions at the Department of Justice about continued cooperation, and that is on the day or the day after—it was on the day that the Attorney General ordered the special investigation—and that was at my request by the way—and it was at that meeting that it was determined that we would not continue to provide documents or interviews because the inspector general investigation was ongoing and that we would basically defer cooperation with the committee until that IG investigation was completed.

Mr. CUMMINGS. And I take it that now you are looking into or have looked into the possibility of taking a look at this criminal investigation because all of us have concerns about the criminal investigations. We heard the officers. It doesn't make too much difference who you believe, but we do know and I think it was pretty consistent the information that we have got is that there is a lot more to be done with regards to that criminal investigation. I take it that you're looking into that.

Mr. MARSHALL. Yes, I am looking into that and particularly in light of the allegations that were pulled that we shut the investigation down, that sort of stuff. I know that we've been investigating this general trafficking group, either us or other law enforcement agencies, for probably 7, 8, 10 years in Houston and have not made the kind of progress during that entire time that anybody would like to see made.

In light of that and in light of all of these allegations I did in fact send a team down to take really a new fresh look at that whole investigation to see what had been done, to see where we are now, to see if there are any approaches that have been missed, if there is any future way that we can go. And I have a preliminary report from that team. I don't want to discuss that in open session, but I do want to assess that.

Mr. CUMMINGS. I would hope that, Mr. Chairman, at some point we can have a private discussion, because I really would be interested—I think our entire committee needs to feel some kind of confidentiality. Because I think the pain that comes to us—there are a lot of things that we have concerns about, but I think on both sides of the aisle our greatest pain comes from just a thought that an investigation that should go forward, that should be addressing this whole drug situation, that it was—it may not have gone the distance.

And I appreciate your comments.

Mr. MARSHALL. I agree. If this investigation was shut down, it shouldn't have been. We need to not only find ways to reverse that, but we need to find ways to prevent that from happening in the future.

Mr. CUMMINGS. Thank you very much. Thank you for your indulgence.

Mr. SHAY. Mr. Cummings, I appreciate your questions.

I just want to, before I recognize Mr. Ose, and he will be next, I just want to say, in the reference to shut down, suspend is almost as equal to shut down. I just hope we are not going to get semantics later that we have a technical file that is open but not active. We already have testimony that there is not a proactive investigation.

Mr. MARSHALL. I will try to clarify that from my point of view.

Mr. SHAY. I am just making the point to you, and I don't want to take Mr. Ose's time.

Mr. MARSHALL. I just want to clarify. I never intended—and, in fact, when I gave the order, I intended for this investigation to continue on its present pace. I didn't draw the distinction at that time between shut down and suspension. I intended for it to go forward, and I was very clear about that.

Mr. SHAYS. To be proactive.

Mr. MARSHALL. Yes, sir.

Mr. SHAYS. Thank you, sir.

Mr. Ose.

Mr. OSE. Thank you, Mr. Shays.

Mr. Marshall, I've been sitting up here just thinking; and I'm aware of Ms. Waters' letter to the Attorney General dated August 20 or something like that to which you responded with a memo. How did the issue of Mr. Prince's/Smith's allegation surface with Ms. Waters?

Mr. MARSHALL. Well, it was articulated in her original letter of August 20.

Mr. OSE. Did Mr. Smith/Prince call Ms. Waters? Did he send her a letter an e-mail? Any idea?

Mr. MARSHALL. I don't know if that's explained in Ms. Waters' letter or not, and I don't recollect that I ever knew exactly how he got that word to her.

Mr. OSE. I want to—clearly, you have an excellent reputation; and I applaud you for it. Clearly, you've had to delve into this probably more than you've ever wished you had to. Have you read the deposition of August 24 that Mr. Smith/Prince provided in Ms. Waters' office?

Mr. MARSHALL. I read portions of it a few days after it was transcribed. It was over a year since I've read it. I didn't read the whole thing, but I've read portions of it.

Mr. OSE. I've just read it again, and the reason I have read it again was that it was my memory that Mr. Prince could not in the course of that deposition ever cite a single incidence of Mr. Schumacher ever perpetuating harassment or intimidation on him whatsoever. Is that your recollection?

Mr. MARSHALL. Yeah, that's my recollection. And that's the way it was characterized to me when Mr. Jimenez told me about the interview. That's the impression I had when I read the transcript. However, at the same time, we walked out of that meeting or Mr. Jimenez walked out of that meeting and got a report from a private investigator. And in that report there were some allegations, some of them, most of them, frankly, unsubstantiated but two specific allegations that he made that we felt like could be either verified or disproven; and we set about to do that.

Mr. OSE. I want to get to the private investigator report, but I want to go back to the deposition because it's interesting to me. I've had the indubitable pleasure, Mr. Shays, of actually having been deposed on a number of times. And I provide—when I have been deposed I had to provide my statement under oath. So we have Mr. Prince/Smith in the course of a deposition under oath saying that he has never been identified, harassed, what have you, by Mr. Schumacher, whatsoever. I mean, that just seems like very clear evidence that it doesn't—I mean, I'm stunned that we would—I mean, here's the guy that actually asked for the investigation saying he's never been harassed or intimidated, saying it under oath and that the OPR thing goes forward.

Mr. MARSHALL. If I might, please. I agree with that with regard to that deposition. The private investigator report was now a completely separate thing which said that Special Agent Schumacher had beaten up a couple of defendants and that a gold piece of jewelry was stolen from one of those defendants. Those are specific allegations. Those are fairly easily, with a little bit of investigative work, either negated or corroborated. Those are the investigations that we set out to look at, not anything that was in Mr. Prince's deposition because there was nothing there.

Mr. OSE. As I understand—let's address both of those incidents. The gold necklace was from an individual named Chad Scott, according to the PI report, if I recall. It was Chad Scott who wore the gold necklace.

Mr. MARSHALL. Who took the gold necklace.

Mr. OSE. Correct, it wasn't Mr. Schumacher.

Mr. MARSHALL. I believe that is correct. The allegation against Mr. Schumacher was that he had beaten up a couple of defendants, as I recall.

Mr. OSE. Now the private investigator—I have seen the report. It's a very, very copious report. Who is this—for whom—who is this private investigator? What's his background? Who does he work for; etc.

Mr. MARSHALL. It's my understanding that he was retained by Mr. Prince, Mr. Smith, I don't know what his background is.

Mr. OSE. Is he an employee of Mr. Smith/Prince?

Mr. MARSHALL. Well, if you consider an employee to be somebody that he is paying to do that piece of investigative work, I guess he was. He was clearly being paid by Mr. Smith to compile that report.

Mr. OSE. Does he have any past or present or ongoing relationship to any other parties in this whole entire ugly episode?

Mr. MARSHALL. I don't know the answer to that, sir.

Mr. OSE. OK. Your memo references—in the body of the third paragraph references that the report says I understand the sensitivity of the inquiry but really question the propriety of the inquiry, especially in light of the report that blank may be a relative of the Member making the inquiry. Could you tell me what that means?

Mr. MARSHALL. Yeah. When this all came about I believe it was Mr. Howard that told me that Mr. Prince was a cousin of Ms. Waters, and that's the reason I questioned that. And then I questioned the motivation in my mind.

Mr. OSE. Has that ever been substantiated or refuted?

Mr. MARSHALL. It's my understanding—and I would have to defer to someone else to confirm this, but it's my understanding that he may be—he's either a relative or childhood friend of Ms. Waters' husband is what I've been told.

Mr. SHAYS. Let us say for the record—and clearly I will be very delinquent if I didn't establish this—there is no relationship, family relationship, there may be another kind of relationship, but there is no family relationship to Mr. Prince I think is the fact. You're not—

Mr. MARSHALL. If you know that, sir, I'll defer to that. I don't know of my own personal knowledge if there is or isn't.

Mr. SHAYS. The point is, though, that this memo is the memo that we requested from you; and it was intended to be internal as far as you know.

Mr. OSE. Actually, this memo is from Mr. Marshall to the Attorney General that I'm talking about, dated August 20, 1999.

Mr. SHAYS. OK.

Mr. OSE. I have another round, but I see my light's red.

Mr. SHAYS. I just want to establish for the record there is no substantiation in any way of a blood relationship between anyone in Congressman Waters' family and this—and the subject of the investigation.

Mr. MARSHALL. I'm not sure whether we established that or not. Could I research that and get an answer back to you?

Mr. SHAYS. I'm just going to say it hasn't been established and in all of our research we haven't found that to be the case. There may be a relationship of living in the area, family relationship—not family relationship, maybe another relationship that goes back a long way but not a blood relationship.

Mr. MARSHALL. Then I'll defer to your knowledge on that.

Mr. SHAYS. That's what I'm most comfortable saying for the public record.

Mr. OSE. Mr. Shays, I think you're asking the question, are you not, and that's exactly the question I ask, is whether there is any evidence to corroborate or refute the suggestion in Mr. Marshall's memo to the Attorney General of a familial relationship.

Mr. SHAYS. Can we do this? Can you check with your parties to understand what kind of relationship existed just so we have it on the record accurately before you leave today.

Mr. MARSHALL. I will do so.

Mr. SHAYS. Mr. Horn.

Mr. HORN. Thank you, Mr. Chairman. I have just a few questions, Mr. Chairman. I had to be out of the room earlier.

I am curious, Administrator Marshall, when did you first know Mr. Howard? When did he first come to your attention?

Mr. MARSHALL. I have known him for quite a number of years now, perhaps as long as 20 years; and I have worked with him fairly closely for 10 or 12 years.

Mr. HORN. If I knew somebody for 20 years and you are the boss, and I was given an order dealing in something very carefully that could blow up one way or the other, I would pick up the phone, if I were Ernie Howard, to ask you "what are we supposed to be doing here?" Or if I were you and you knew him for 20 years, and

your people around you might say, "we are going to let this one go, it is going to be a suspension, we have this letter, you should pick up the phone."

Did you get a call from Mr. Howard that relates to anything around this particular issue, but primarily this issue?

Mr. MARSHALL. On August 20 I picked up the phone and called Mr. Howard to get an orientation for my own benefit and as a result of the letter from Ms. Waters. I initiated that conversation, and I got a brief on the case. I already knew a few details about the case, but not any great depth. He gave me some more information.

Over the course of several weeks, I had a number of conversations with Mr. Howard. Sometimes I called him and sometimes he called me. I did give very specific instructions to Mr. Howard that the investigation continue.

Mr. HORN. So in dealing with this, you didn't leave it to your deputy administrator or if there is a regional administrator, or were they clued in at the time that this was a hot potato?

In other words, you personally dealt with Mr. Howard?

Mr. MARSHALL. For the first few conversations, I personally dealt with Mr. Howard. I personally dealt with Mr. Jimenez, but I know that Mr. Howard and Mr. Jimenez were dealing on a parallel track. Once I got the lay of the land and felt like we were progressing on a satisfactory track with both the OPR investigation, and the criminal investigation was continuing per my directions, then I backed away from it and assumed that Mr. Howard and Mr. Jimenez were handling their respective tracks. That is their job.

Mr. HORN. How much contact did you have with Chief Inspector Gamble on this case?

Mr. MARSHALL. Since he became chief inspector, he briefs me periodically on all of the OPR, significant OPR activities, and I got periodic briefs from him, once a month perhaps, where he would brief me on this and other matters.

I talked to him specifically about this investigation probably—let me think to be sure about this answer, probably on just a couple of occasions. And those couple of occasions would have been first following my January 13 meeting with the Attorney General where she asked me to give Maxine Waters a status report on the OPR investigation.

I discussed that with Mr. Gamble. I gave him some parameters for what he was and was not to tell Ms. Waters. Basically I told him not to discuss the ongoing criminal investigation. I told him to discuss the process of the OPR investigation and where we were within that process without giving the details of what we had found in that investigation.

And then I believe I had another conversation with Mr. Gamble after that meeting where he related to me that he had done so. He also related to me at that time that Ms. Waters requested that Agent Schumacher be transferred out of Texas and that we look into the issue of the gold—the piece of gold jewelry.

As far as I know, these were the only two conversations that I had with Mr. Gamble specifically regarding these matters.

Mr. HORN. I remember that J. Edgar Hoover, when he had a person in the FBI that he didn't want around, they sent them to Mon-

tana or Idaho or some place, and that became a very large FBI office.

Is it appropriate and is it used very much to put an agent from one State dealing in a number of things to another State, and is it for the good of the agency rather than not necessarily the good of the agent?

Mr. MARSHALL. OK, I will have to give you an explanation on this.

I don't believe in punitive transfers. We do make transfers for the good of the agency. I believe if a person has a performance problem, that the management of that office should deal with that performance problem.

On the other hand, where an agent is ineffective in whatever locale he is in for whatever reason and that happens from time to time, then I think for the good of the agency they need to be moved to a location where they can be effective. But punitive disciplinary transfers, per se, I do not believe in them and I do not use them.

Mr. HORN. The briefer for Ms. Waters was Mr. Gamble. You didn't go see her, or did you see her?

Mr. MARSHALL. No, I have never had a private conversation with Ms. Waters.

Mr. HORN. Because often agency heads come up and talk to committee chairmen.

You are saying that Mr. Gamble could brief her on the matter?

Mr. MARSHALL. That's correct. Certainly, like any agency head, I have visited personally with Members of Congress and Senators, but not Ms. Waters.

Mr. HORN. I wonder if the people that advised Ms. Waters and the people that advised Mr. Gamble, were there any other suggestions made relevant to this unit, not just Mr. Schumacher, but the unit and to what degree did there seem to be a knowledge of what the unit was doing?

What other great ideas came out of Capitol Hill?

Mr. MARSHALL. I am not sure that I understand your reference to the unit. But with regard to Mr. Gamble's representation of that conversation to me, the two issues were—the transfer of Schumacher out of Texas and the gold piece of jewelry. I don't recall any other issues that he reported back to me on.

Mr. HORN. Well, in other words, did she object to that? Did the Representative object to that or did it just die after that?

Mr. MARSHALL. Object to what?

Mr. HORN. Object to dealing with Mr. Schumacher. And one suggestion was, move him out of Texas. And then did that satisfy her, or who told her that he wasn't going to be moved out of Texas?

Mr. MARSHALL. Mr. Gamble told her on the spot that is not going to happen, that is not the way that we operate, we will conduct the OPR investigation. I suppose she accepted that.

Mr. HORN. So you did not hear any more from her on that issue?

Mr. MARSHALL. I didn't hear any more on that issue, or from him.

Mr. HORN. I have had those sessions with the State legislature, so I understand what you have to go through. Just tell the truth is the best way to handle it.

Mr. Chairman, I yield back the balance of my time.

Mr. SHAYS. Mr. Marshall, I think we are kind of getting to the end, and you have been a very cooperative witness and helpful witness. I am going to ask counsel—

Mr. MARSHALL. At some point, I have two items that I would like to clarify.

First, I have just been handed a note that the document number that I gave you—I'm sorry. The attachment to my August 20th memo, it looks like we are not going to have that by close of business today. We can get it tomorrow.

Mr. SHAYS. Tomorrow will be acceptable. Before the close of business tomorrow will be very nice.

Mr. MARSHALL. Thank you.

The second item, I have a note here that says Ambassador Williams, who is Ms. Waters' husband, grew up with Mr. Prince in the fifth ward of Houston, and there is no mention of a blood relationship.

Mr. SHAYS. Thank you.

Mr. Cummings, I was going to have counsel ask questions. Then you can ask your questions.

Mr. WILSON. I have just a very few questions.

I have in my hand the August 20, 1999, memo from yourself to the Attorney General. Who wrote the memo?

Mr. MARSHALL. I wrote the memo.

Mr. WILSON. You just mentioned a few moments ago that you at some point on August 20 got an orientation from Mr. Howard; is that correct?

Mr. MARSHALL. That's correct.

Mr. WILSON. Prior to writing this memo, did you speak to Mr. Howard?

Mr. MARSHALL. Yes, I would have gotten that orientation from Mr. Howard before I wrote the memo.

Mr. WILSON. Is it fair to say that what you wrote is a product of your conversations with Mr. Howard on August 20?

Mr. MARSHALL. That is fair to say, yes.

Mr. WILSON. We had some discussion about differing recollections, but one of the principal issues that we have to reconcile amongst ourselves is Mr. Howard's testimony that he thought in August 1999 that there were no leads to be followed up on; and we have to reconcile that with all of the other testimony we have received, the Houston policeman that testified thought that there were leads, the special agent from the DEA, Mr. Schumacher, thought that there were leads to follow up on. And it appears in your memo to the Attorney General, which is a fairly significant thing if you write a memo to the Attorney General, you said and I will quote from your memo, "My questions and comments notwithstanding, it appears to me that this is a significant criminal investigation with"—and the document we released has a name redacted, "and others are legitimate suspects. There are multiple sources of information reporting his involvement in the drug trade. There is physical evidence which appears to tie him to the drug trade, and it is an active, ongoing investigation."

So it appears that there is a continuum of employees here—Houston policemen, DEA special agents, Mr. Howard, then yourself, then the Attorney General of the United States. The only per-

son in this continuum, it seems, that thinks there are no leads to be followed up on appears to be Mr. Howard.

Did you have any discussions on August 20 with Mr. Howard where he indicated to you that there was nothing else to be done at that point?

Mr. MARSHALL. Well, no. I have to tell you that is one of the confusions that I have in this whole issue, and it is one of the reasons that I requested the inspector general investigation.

This memo was written following a conversation with Mr. Howard, and it was my clear impression from Mr. Howard that this is an accurate characterization of that investigation, that we had a viable investigation here that we should continue. And then it was a few days later, I guess, or perhaps a week later, that he became frustrated and said, "it is too much hassle, I will close it down." And I said, "no, you can't; you told me it is a viable investigation and we have to go with it."

Mr. WILSON. This was just provided to us today, it had not been provided to us by DOJ, and this has a dramatic bearing on what Mr. Howard told us yesterday and today because it provides some contemporaneous evidence that at least Mr. Howard told you that there is an active, ongoing investigation. Is it fair for me to conclude that you would have no other way to conclude that there was an active, ongoing investigation unless Mr. Howard told you it was?

Mr. MARSHALL. That's correct.

Mr. WILSON. Because you didn't talk to anybody else on August 20 about this case?

Mr. MARSHALL. Not about this case, no.

Mr. WILSON. You asked Mr. Gamble to brief a Congressman about the OPR investigation, correct?

Mr. MARSHALL. Correct. Well, let me clarify that again.

I asked Mr. Gamble to give her a status report on the OPR investigation. I was very careful that I told him not to brief on the criminal investigation and not to give any of the factual details on the OPR investigation, to describe status and the process. That is what I told him to brief the Congresswoman on.

Mr. WILSON. There was at least some direction to speak under the terms that you have outlined. From what we have heard during the briefing, the Congressperson at issue here asked Mr. Gamble to pull Special Agent Schumacher out of the case and take him out of Texas?

Mr. MARSHALL. That is what Mr. Gamble reported to me after the conversation, yes.

Mr. WILSON. And from what we have heard today, shortly thereafter, Mr. Gamble told Mr. Howard to take Mr. Schumacher off of the enforcement action?

Mr. MARSHALL. I don't know what Mr. Gamble told Mr. Howard.

Mr. WILSON. You are not aware of how that process played out?

Mr. MARSHALL. No, I am not.

Mr. WILSON. My final question: Is it fair to say that Mr. Gamble's recommendation was made as a result of his interaction with a Congressperson, but it sounds as if you would not be able to make that connection?

Mr. MARSHALL. I don't know what recommendation that you are talking about that Mr. Gamble would have made.

Mr. WILSON. To take Mr. Schumacher off enforcement.

Mr. MARSHALL. I just don't know that Mr. Gamble made that recommendation to Mr. Howard.

Mr. WILSON. Just a couple of last things.

Earlier this year a member of committee staff interviewed Houston police officers and encountered some difficulties at the last moment. Are you aware of any efforts by the DEA to slow down the committee's efforts to talk to Houston police officers?

Mr. MARSHALL. No, I am not. In fact, I heard that story, and I asked my Congressional Affairs staff to ask about that. They told me that they did inquire about that, and I believe they talked to Mr. Howard about that. Mr. Howard denied that he made any such efforts.

Mr. WILSON. Did those inquiries establish whether anybody from the DEA was in contact with the Houston Police Department on the day that we conducted our interviews?

Mr. MARSHALL. Well, I don't know that they established that nobody did that. But they didn't uncover affirmatively anyone who did that. Does that make sense?

Mr. WILSON. That does make sense. That is something that we wouldn't mind following up on because when we tried to interview Houston Police Department personnel, we were held up, apparently because of DEA. Our concern is that there was an attempt to—

Mr. MARSHALL. I recall that incident, and at least some of my staff asked Mr. Howard about that, and Mr. Howard told the staff member that didn't happen.

Mr. WILSON. At least he didn't know that it happened?

Mr. MARSHALL. Right. That he didn't know that it happened.

Mr. WILSON. On July 17 of this year we did interview Mr. Howard actually in this room, and we appreciate your efforts to facilitate that. Did you talk to Mr. Howard before the interview?

Mr. MARSHALL. Yes, I did.

Mr. WILSON. Mindful of the question what did you discuss, if you could tell us what you discussed that is germane to the issues we have been discussing in the last day-and-a-half?

Mr. MARSHALL. My recollection of your letter that came to me was that it was a very general request, that you wanted—and I believe I am thinking about the same letter here—that you wanted to interview Mr. Howard, or DEA staff, and you named a couple of subjects in that letter, a couple of names that you wanted to talk about.

I didn't know before they came over here exactly what it was that you wanted to learn about that. I don't think that my staff knew. I don't think that Ernie Howard knew. I told Ernie Howard in a meeting in my office, prior to his coming over here, to come over and fully brief the committee staff on any of the activities with regard to those two people that had already been adjudicated in court and was a matter of public record; and for that matter, any other defendants that you ask about or people that you ask about, if there was a problem to fully discuss, disclose, talk about, whatever, with the committee staff.

I cautioned him not to discuss with committee staff any aspect of the ongoing investigation, and I was very clear about that. And it was reported back to me later, not by Mr. Howard, but I believe by a staff member of mine, that those guidelines had been followed in the discussions.

Mr. WILSON. I think we have already established that at that point you did not have the e-mails and you had not read the e-mails that Mr. Howard had sent to some of his colleagues?

Mr. MARSHALL. That's correct. Nor was it mentioned to me, nor at any time during that conversation was I given any reason to believe that the investigation had been shut down.

I specifically said, "do not brief on active, ongoing investigations." There was no comment to me, "well, there are no active, ongoing investigations," so I still, even at that point, assumed that these were active, ongoing investigations.

Mr. WILSON. Thank you very much.

Mr. SHAYS. Mr. Ose, you have the floor.

Mr. OSE. Thank you, Mr. Shays.

Mr. SHAYS. Mr. Marshall, do you need a break?

Mr. MARSHALL. No, sir. Thank you.

Mr. OSE. On page 8 of the private investigator's report, the second paragraph cites the instance having to do with the gold necklace and the other incident that Mr. Schumacher was accused of hitting someone in the stomach. Now we have ascertained that the gold necklace incident did not involve Mr. Schumacher, that in fact Mr. Chad Scott received a letter of reprimand for that.

Mr. MARSHALL. That's correct.

Mr. OSE. I am just trying to make sure that I understand whose reputation is being impugned here. As it relates to the allegation against Mr. Schumacher, certainly you investigated that much as you did the gold necklace allegation; is that correct?

Mr. MARSHALL. I'm sorry?

Mr. OSE. The allegation that Mr. Schumacher hit somebody in the stomach during the course of an investigation, did you investigate that?

Mr. MARSHALL. Our OPR investigated that.

Mr. OSE. Did they find substance or lack thereof?

Mr. MARSHALL. They initially found an agent by, I believe, the name Fanning that said, yes, that happened. He was there when it happened. He described how it happened. He described that the defendant, or two, were up against the wall and that Mr. Schumacher, I believe the words were, "slapped them around, kicked their feet out from under them," and initially there was that corroboration.

Later on, however, we determined that Mr. Fanning himself had a credibility problem because he was under OPR investigation and subsequently was terminated from our employment. So his credibility then washed out, and the charges against Mr. Schumacher were unsubstantiated and he received a letter of clearance.

I share your frustrations.

Mr. OSE. We have a guy who registered serious allegations against a DEA agent on, like, August 19, and then came in under oath in a deposition and said, no, "I have never had any contact with the guy."

Then we had an OPR investigation to followup on an additional allegation from a private investigator of who knows what origin, none of which was found to have any substance, and yet it seems to me somebody—I am trying to figure out, for what purpose are we continually trying to impugn this gentleman's character?

Mr. MARSHALL. It is clear to me. We have allegations of theft and brutality that were specific allegations, specific names, times and places attached to them, and those were allegations that we simply have to investigate; and we did, and the process resulted in minor discipline for one, a clearance for the other. That is our process and that is what we have to do.

Can you imagine if I turned my back on those allegations and then they subsequently turned out to be true?

Mr. OSE. I am not questioning that.

In terms of the clearance given to Mr. Schumacher regarding the alleged incident with the individual, I think it was January 27, 1999, how long did it take OPR to investigate and come to the conclusion that the allegations had no merit—6 months, a year?

Mr. MARSHALL. I believe that the OPR investigation—and I discussed this earlier—it is my recollection that the OPR investigation took a number of months. There were some reasons for that, one of those reasons being that some of the witnesses that the OPR investigators felt that they needed to talk to did not want to talk to them. It took a while to get them to talk. At some point I believe that investigation was sent to the Department of Justice, either the Civil Rights Division or the Public Integrity Section, to review.

That aspect of it took, as I recall, from November to February or March. It was sometime in that March timeframe, and if you'll allow me to get the exact dates, I will do so, but my recollection is sometime in that March timeframe it was sent to the Board of Professional Conduct.

Mr. OSE. So the investigation was finished in November and the paperwork basically took 5 or 6 months?

Mr. MARSHALL. No, the investigation was not finished in November. In fact, I recall a notation on one of my notes at a biweekly DAG meeting at the Department of Justice that they still had to interview Special Agent Schumacher, and I believe that was in February. So I think that perhaps the OPR wasn't completed until March. Now, at any rate, it was sent to the Board of Professional Conduct, and that board—and I looked into this, and the explanation I got was that that board was operating at least one person short because one of the members was on sick leave for about 2 months. Sometime in that timeframe I was told that they were dealing with some other serious allegations, some 30-odd people were removed. I am told that they prioritize their cases, first dealing with the ones where employees are on limited duty or leave without pay or even leave with pay. That was not the case in here, and they simply didn't prioritize it as high as some of the other cases in their heavy workload.

Mr. OSE. If I may go back, the deposition that was taken on August 20, who paid for that? Did the DEA pay?

Mr. MARSHALL. You mean the court reporter?

Mr. OSE. Yes.

Mr. MARSHALL. DEA paid for that.

Mr. OSE. Who paid for the private investigator's report?

Mr. MARSHALL. Mr. Prince, I believe.

Mr. OSE. Mr. Prince, the same guy that was deposed and testified that he had no knowledge of ever interacting with Mr. Schumacher in a manner that would be characterized as harassment or intimidation?

Mr. MARSHALL. Correct.

Mr. OSE. Submitted a report that said there was intimidation and harassment—Mr. Chairman, I'm sorry—

Mr. MARSHALL. You've said that a couple of times, and the only thing I know is to repeat in the private investigator report, regardless of what we thought about it or what we thought about the person or regardless of what we thought about Mr. Prince, regardless of what we thought about Ms. Waters, that report contained some specific allegations that were either verifiable or refutable. Those allegations were serious.

Now, we deal with the criminal element all of the time. The criminal element makes allegations against other agents very frequently. It is not unusual. But just because we don't think that it is true doesn't mean that we shouldn't investigate. I once again ask rhetorically, what if we turned our back on those allegations and they turned out to be some substance to them? So for those reasons and to protect the integrity of the agency and frankly to protect the integrity of the employees, we feel that we have to investigate those allegations where there is a specific allegation and either prove it or disprove it. In this case, one of those allegations was substantiated, and one was not. We acted accordingly. That is the way that our process works.

Mr. OSE. I'm done.

Mr. SHAYS. Mr. Gilman, you have the floor.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Marshall, first of all, I want to commend you and the men and women of our DEA who are—each and every day are out there fighting illicit drugs for the benefit of our youngsters and our communities.

Your August 20, 1999, memo for not permitting information about any pending criminal case to any public official and to the target to the agency's investigation is quite appropriate and on the mark, and we commend you for that.

With that said, let me ask you a few more questions.

Mr. Marshall, you told your SAC agent in Houston, Ernie Howard, not to shut down this Rap-A-Lot case; is that correct?

Mr. MARSHALL. Yes, that's correct.

Mr. GILMAN. So was it your belief that this case was continuing and being pursued?

Mr. MARSHALL. That was my belief, yes, it was, until October of this year.

Mr. GILMAN. How did we get to this point of lack of adequate communication to your office that it actually was not being pursued?

Mr. MARSHALL. That is one of the issues that I can discover in the inspector general investigation that is the result of these hearings.

Mr. GILMAN. To this date, have you found out why it was not being properly pursued?

Mr. MARSHALL. No. If I had received any indication of that, I would have taken action. Had I seen the memo from Mr. Nims, I would have taken action and I would have corrected that situation.

Mr. GILMAN. To your knowledge, Mr. Marshall, has any allegation lodged against a DEA agent previously shut down an active DEA drug investigation?

Mr. MARSHALL. To the best of my knowledge, no.

Mr. GILMAN. And can we assure the American public, that is not a normal DEA operating procedure and will not be so in the future?

Mr. MARSHALL. I can assure you, that is not our procedure. It should not have happened if it happened.

Mr. GILMAN. Can we be assured that the investigation into the Prince case is not going to lie on the shelf and gather dust?

Mr. MARSHALL. Mr. Chairman, I want to reserve any comment about the future of the investigation for a closed session. That seems like a simple enough question that you ask. I can assure you that I will see that all aspects—all appropriate measures have been taken.

If I may, please just ask for that in an executive session. I think the more we talk about the future of this publicly, the more damage it might cause.

Mr. GILMAN. I am pleased to observe your discretion.

Thank you, Mr. Chairman.

I wanted to thank you, Mr. Marshall, for coming before this committee.

Mr. SHAYS. Mr. Horn.

Mr. HORN. I am very impressed by the Administrator's testimony. I think we have learned a lot, in both the majority and the minority.

Mr. SHAYS. Thank you.

Mr. Cummings.

Mr. CUMMINGS. It has come to my attention that Sidney Williams, Congresswoman Waters' husband, is 25 years older than Fred Smith. It is my understanding from Ms. Waters that he did not grow up with him. They did, however, come from the same neighborhood. So for whatever that is worth, I wanted to make sure that the record is clear on that.

I wanted to comment on one thing that really bothered me during this hearing, and that is when—you weren't here, but yesterday we had an opportunity to hear the lyrics to this song by the artist known as "Scarface." And I tell you when you have lyrics in a song that talk about harming police officers and things of that nature, while I believe very strongly in the first amendment, I am also very concerned about what we often call this "thin blue line."

In Maryland you may—I am sure you are aware of this because I think your agency may have been involved—we had an officer, undercover officer, who was murdered during an undercover operation, one of our State troopers whom I knew well. It is so painful to think that men and women who are putting their lives on the line to make life better for all of us could be subjected to that kind of—those kinds of threats and that kind of reality.

I have often said that we are all bounded by the reality of our mortality, and I will tell you—I say all of that to say, I think we have got to really, as a Congress and as a nation, begin to look at some of these lyrics, because I am going to tell you, when I heard that—and to think that police officers who were sitting here in front of me could possibly suffer while doing their jobs and trying to protect us, I tell you, it bothers me to no end.

While we know that this has been a painful process for the DEA and for the Houston police, too, we want to make it clear that all of us are supportive of our police and supportive of the DEA.

I appreciate everything that you have said because I can tell that this whole matter is something that concerns you, I can tell just from the things that you have said. But I want to also make it clear that we fully understand that you were under the impression that you had an ongoing investigation.

We are still not clear on all of that, and the IG, I am sure, will get to the bottom of all of that. But I just wanted to leave that message with you.

I know that you personally have personnel that may hear this or get it on the Internet or whatever, but I want to make it very clear that we support the Drug Enforcement Administration, and we support all of our law enforcement officers who are trying to uplift our lives.

I wanted to leave you with that, and I want to thank you for your testimony.

Mr. MARSHALL. Thank you for your comments, sir. I commented on this earlier, but I think it bears repeating.

With regard to the lyrics on the song, I think the people that write those lyrics, perform them, sell them, promote them, the people that buy them, those are really vicious thugs; and I think things like that endanger the lives of our officers, these courageous—Special Agent Schumacher, Ernie Howard, they all have had threats against them. And I think those—I don't think that is freedom of speech; I think that is inciting violence against police officers. And I hope that we as a country, the next Congress, the next administration, somehow can do something to prevent that kind of stuff in the future.

And thank you for your comments, sir.

Mr. CUMMINGS. Thank you.

Mr. SHAYS. Thank you, Mr. Cummings. You shared exactly what the rest of us think. I appreciate your making that point.

We have one last issue and it deals with a memo of September 27, 1999, regarding Mr. James A. Smith, a.k.a. Prince, and related OPR investigations. It is from Mr. Nims to you, but it says through Ernest Howard, Robert Joura is crossed out and Keith Baudoin, and in there it says, "I have recently been instructed by HFD SAC Ernest Howard not to pursue any new leads regarding Rap-A-Lot until OPR investigation is cleared. However, we are cleared to talk about any witnesses and participate in any judicial proceedings. This is unfortunate, because there are still many investigative leads and enforcement operations to carry out."

My question is, is it your testimony that you did not see this memo?

Mr. MARSHALL. That's correct.

Mr. SHAYS. Is it a standard practice if it goes through someone, they can stop it before it gets to you?

Mr. MARSHALL. I am not sure that we have a standard written rule on that. I wish I had seen that memo. If I had, we wouldn't be here today.

Mr. SHAYS. Mr. Marshall, it is very clear—it is very clear that you expected this investigation to be ongoing and active. You have been very cooperative with both of us on both sides of the aisle. We thank you for your cooperation. We look forward to seeing the results of this investigation. If no one else has any other comments, we are going to adjourn this hearing. You are free to leave and you have been very helpful.

This hearing is adjourned.

[Whereupon, at 5 p.m., the committee was adjourned.]

