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UNITED STATES SENTENCING COMMISSION

HEARING ON CRACK COCAINE

Pages 1 thru 187

Washington, D.C.
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UNITED STATES SENTENCING COMMISSION

HEARING ON CRACK COCAINE

Tuesday, November 9, 1993

Thurgood Marshall Federal
Judiciary Building
Room C-415
One Columbia Circle, N.E.
Washington, D.C.

The hearing commenced at 1 p.m.

BEFORE:

WILLIAM W. WILKINS, JR., Chairman

ILENE H. NAGEL, Commissioner

MICHAEL S. GELACAK, Commissioner

A. DAVID MAZZONE, Commissioner

JULIE E. CARNES, Commissioner

EDWARD F. REILLY, JR., Chairman,
U.S. Parole Commission, Commissioner Ex officio

JANET RENO, Attorney General,
Commissioner Ex officio

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P R O C E E D I N G S

CHAIRMAN WILKINS: Good afternoon. I would like to call this hearing of the United States Sentencing Commission to order. First, let me welcome all of those in attendance here, particularly our witnesses, some of whom have traveled great distances to be with us. We look forward to learning of your experiences and your sharing of your expertise with us.

Before I go any further, let me introduce to those here today members of the Sentencing Commission. To my immediate right is Judge Julie Carnes, who sits on the Federal Bench in Atlanta, Georgia. Next to Judge Carnes is Commissioner Michael Gelacak. Next to Commissioner Gelacak is Chairman of the United States Parole Commission, Ed Reilly, who is an ex-officio member of the Sentencing Commission. To my immediate left is Commissioner Ilene Nagel. Next to her is Judge David Mazzone, who sits on the Federal Bench in Boston. Certainly, but certainly not least, is the Attorney General of the United States, Janet Reno, who is our other ex-officio member of the Sentencing Commission.

Most of those who think of the Sentencing Commission, when you do think of it, you think of sentencing guidelines

that are used in the federal courts today in almost all cases of a criminal nature. But the Sentencing Commission by statute has a much broader mandate than just to promulgate guidelines and amendments. One of the things we are charged with doing is to research in a variety of areas to make recommendations to the Congress on how it may improve our justice system to produce one that is efficient and effective, humane, just, and rational. That is one of the reasons we have gathered today to participate in this public hearing.

Years ago, as I am sure many of you recall, the federal courts seemed immune from the problems of drugs and violence in America. But that is not true today, for over 45 percent of all defendants who appear in our federal courts today are there because of one drug violation or another. Many times very violent acts are associated with that type of misconduct.

Before we begin our hearing, just a couple of words of background. As I am sure many of you know, in 1986 and in 1988, Congress passed a series of mandatory minimum statutory penalties, and some of those statutes or a couple of those statutes dealt with cocaine powder and with crack

cocaine. Indeed, by statute, the ratio, as far as punishment purposes is concerned, is a hundred-to-one crack to cocaine powder.

Several months ago the Commission initiated a study of crack cocaine and the federal sentencing policy, and we are looking at legislative history behind these various mandatory minimums. We are looking at how states treat cocaine and crack abusers, and users, and distributors. We are looking at how our federal courts have handled various challenges to the hundred-to-one ratio that I earlier mentioned, and we are pulling together the latest scientific research on crack and cocaine and hearing from experts in the field.

To assist us in drafting a report that we will make to the Congress, we have convened this public hearing to learn more about these various issues. We look forward to hearing from experts from law enforcement, from community corrections, a former drug abuser, researchers, physicians, a high school principal, and criminologists.

A word of caution, if we run overtime, I am going to ring the bell. I do that because we have a number of distinguished witnesses here, and we need to hear from

everyone. So what I will ask all of our witnesses to do is to please confine your remarks to about ten minutes or so and then leave time for this group to engage in a question and answer series with you, which may prove as productive as anything we can do this afternoon.

Experts have always told us that some of our large nations have problems with crack cocaine. But, in recent years, Jamaican gangs and the Crips and Bloods from Los Angeles looking to expand their markets have targeted cities and states like Kansas, and Arkansas, West Virginia, and Mississippi.

At today's hearing, we will hear a prospectus from a city with an established crack trade and one with an up and coming market. In addition, we will hear a federal field agent's perspective on this issue.

Let me introduce our first panel to all of you at this time. Sergeant John Brennan from the District of Columbia Metropolitan Police Department's Narcotics and Special Investigations Unit. Sergeant Brennan has been with the D.C. Police Department for 22 years logging eight years as a uniformed patrol officer and the last 13 years in the Narcotics and Special Investigations Unit.

Jeff Tymony is Executive Director of Halfway House for Adults in Wichita, Kansas, a reintegration program for federal inmates. Mr. Tymony is active in a variety of community initiatives including the Drug and Gang Task Force, Project Freedom and the Child Abuse Prevention Network.

The third member of our first panel is Kevin Donnelly, a Special Agent with the Drug Enforcement Administration, assigned to the Camden, New Jersey office. During his ten-year career with DEA, Special Agent Donnelly has served in the New York field office where he worked with the Southwest Asian Heroin Squad. He has also worked with the Trenton, New Jersey Weed and Seed Task Force and the Violent Thunder Squad.

Sergeant Brennan, I think we will start with you. We are glad to hear from you.

LAW ENFORCEMENT AND COMMUNITY CORRECTIONS

SERGEANT BRENNAN: Mr. Chairman, Ms. Reno, and other members of the Commission. Like you said, I have been a member of the Metropolitan Police Department here in Washington for 23 years. The last eight I have spent in Narcotics and Special Investigations. In that period of

time in, say, the early '80s -- '81, '82, '83 -- the city had open-air markets numbering 10 to 20. Most of the markets involved pills such as phenmetrazine, and Dilaudid, and heroin, and marijuana.

But then starting in approximately 1986 we saw crack cocaine come to the city. We never really had an open-air market in the city for cocaine itself. Very seldom did we see the powder cocaine sold on the street. The crack cocaine markets probably now number in the 80s throughout Washington, D.C.

From that, we have seen groups of people -- I wouldn't say organized groups, but groups of people -- who get involved in crimes such as homicides and assault with weapons because of the number of the markets, the rival members who are in each other's territory, and things of this nature.

We have seen an increase in prostitution. In other words, we had a localized prostitution problem in the city, where one certain area had it. Now we have ladies that sell themselves for crack cocaine; in other words, they work the streets with the intent of getting enough money to use crack cocaine. They are actually street walkers in probably 10 to

12 other areas of the city than we normally had.

Since the mandatory minimum sentencing came into effect, we have seen that we are able to infiltrate larger organizations, in other words, larger drug groups, that would work in mid-level drug distribution network. From that, these people who in the past would not talk to the police would now communicate with us, and we are able to go higher in these organizations. We have been pretty successful in indicting and convicting some of the larger-scale people in the city we weren't able to get to in the past.

CHAIRMAN WILKINS: Thank you very much, Sergeant.

SERGEANT BRENNAN: You are welcome.

CHAIRMAN WILKINS: Mr. Tymony?

MR. TYMONY: Mr. Chairman, fellow Kansan, Attorney General Reno, members of the Commission. I kind of thought that maybe when you talked about not going over ten minutes it would be best if I had a prepared statement because my mouth can run for long periods of time. So I will read a prepared statement.

I appreciate the opportunity to be here and to provide some input on the topic of cocaine and how it is affecting

middle America. Obviously, we don't see the problems that exist in Washington, D.C., but we are seeing a tremendous increase.

Let me begin by giving you an overview about the problem as viewed by local law enforcement. From January 1, 1993 through to the end of September 1993, law enforcement in the metroplex area of Wichita confiscated in powder cocaine about 1,135 grams of powder cocaine. It confiscated about 1,765 grams of crack cocaine. With regards to actual arrests in the same period, arrests were as follows:

About 852 drug arrests for cocaine alone. Cases generated from these arrests were about 835. That is an indication of a problem. With regards to the issue of race, which is a concern of mine, 698 of those cases were black, 146 were white. With regards to sex, 668 were male and 183 were female. With regards to age, there were 94 under 18, but there were 406 between the ages of 18 and 28, which is also a concern of mine. Beyond that, about 268 were between the ages of 29 and 39. So, basically, we are looking at an age group that is consistent with national standards.

As you can clearly tell from the noted statistics, cocaine is the drug of choice and the drug of choice for

abuse and use as well as the choice of enforcement. You will also note from the stats that the grams confiscated do not show a significant difference between crack and powder cocaine.

One other disturbing thing that I found that I will share with you today is, through the use of student use surveys within the metroplex area of Wichita, we did some comparisons between 1992 and 1993 asking students certain questions. We asked them, "When have you ever used cocaine?" The most disturbing thing that I found was that there was a reflected increase of almost 20 percent among 7th and 8th graders in Wichita, Kansas -- middle America.

Increases were shown in almost every age group from the ages of the 5th grade through to the 12th grade. Another disturbing statistic from this survey was, "When do you think it is okay for students in your grade to use cocaine?" The highest increase between 1992 and 1993 were among 6th graders at 75 percent, 8th graders at 31 percent and 9th graders at 19 percent who think now that it is okay for their friends to use cocaine. This shows a dangerous acceptance level for the use of cocaine.

On the question of how often do you use cocaine, it

showed a 50 percent increase with 8th graders who use yearly, as high as 50 percent for 9th graders who use on a daily basis. These are extremely disturbing statistics for me because I spent seven years in a juvenile court and I never saw kids at this age use these kinds of drugs.

I wanted to kind of give you a feel for what I perceive to be the view of students and where I feel that the problem is existing at now. There is an increase. There is an acceptance. There is a tolerance, and this is without even talking about the enforcement aspects of it. I, also, wanted to give you a couple of case studies about some issues that have taken place in the state of Kansas that specifically involved crack cocaine; just a couple of case scenarios. A defendant who was in the area of a drive-by shooting was stopped by the Wichita police department. The defendant ran and when the police caught him he assaulted two police officers. He was in possession of crack cocaine. Later the same day the defendant was under surveillance at his home -- he was, obviously, released -- which was a known gang hangout and crack distribution house. The house had graffiti on the outside walls and many bullets; a typical gang house. The defendant spotted the surveillance vehicle.

He got into his vehicle. He drove by the officers' vehicle and opened fire wounding an ATF agent. He was found guilty of the assault and sentenced to maximum federal penalties.

We had another case that involved the crack cocaine business coming out of Los Angeles, where a number of our problems are coming from; the Tulsa area, Los Angeles. One defendant came to the Midwest to set up a crack house, which is typical of what is happening right now in Wichita. He was mailed the crack by another defendant. The defendant was in Wichita and arrested with 611 grams of crack. At the time of the trial, it was learned that both defendants had a history of violent behavior and gang membership to the L.A. Crips. The defendant in California was arrested in Mississippi when he fled his probation revocation hearing.

I just want to tell you one other case that involves small town America. This is Topeka, Kansas, the capital, which I am sure the Chairman remembers all too well. On a highway drug interdiction stop in Ellsworth County, two defendants were found in possession of 300 grams of crack cocaine and firearms. Both had convictions of assault in L.A. One defendant was charged with going for an automatic assault weapon, when police raided his home in L.A. Again,

we see an example of violence.

In the Kansas City area, same situation. There was an incident involving a law enforcement officer who had alerted his brother-in-law that the police had him under investigation. He had tipped him off. Basically, what was about to happen is that his wife was being investigated, also, because she was about to go to California to make a drug run. She didn't return. As a matter of fact, she was torched alive in California. Circumstantial evidence strongly suggested that the defendant had killed his wife. Two weeks later the primary informant was murdered. Both murders remain unsolved. It is just another example for us in the State of Kansas of the level of violence that is associated with cocaine and apparently seems to be a part of the trade.

I would admit that enforcement has made some significant arrests, but judging from the information, the quantities are generally small, but the most apparent statistic that I have seen from everything that I have looked at is that the majority are black and under 28, and they are not major traffickers. In Wichita, since I work in the federal system, I seldom see large amounts of

individuals being prosecuted for the distribution of crack cocaine. I see a much larger percentage that are being prosecuted for cocaine.

But I will add this in closing: that I am seriously concerned about what the violence associated with crack cocaine is specifically doing to the African American community, and I consider us to be by far most at risk at this point and would welcome anything that would curb that.

CHAIRMAN WILKINS: Thank you very much, Mr. Tymony.
Agent Donnelly?

AGENT DONNELLY: Good afternoon, Mr. Chairman, Members of the Commission. I would like to thank you for inviting me here today. It is an unusual opportunity for a street agent to come and testify in front of a commission such as this one.

As you probably are aware, cocaine comes into the United States from South America from a number of different Columbian and Mexican groups. It generally comes in through the major ports of Los Angeles, Houston, Miami, New York, Philadelphia, and it generally comes in, in large amounts; amounts over 25 kilograms. It is the purpose of the DEA to investigate and dismantle these organizations that bring

this cocaine and these amounts of cocaine into the United States. However, it filters down at some point.

It is sold on the street in kilogram quantities and ultimately it is sold on the street in ounce quantities as cocaine powder. The major groups bringing this cocaine powder onto the street and then cooking it into crack cocaine has been the Crips and the Bloods on the west coast and, more traditionally, on the East Coast, the Jamaicans and the Dominicans, although, however, they are all across the United States and their impact is increasing throughout the United States.

As cocaine in kilograms is then brought down into ounce quantities, the people who manufacture or cook crack cocaine go to the major distribution cities -- in my case it would be New York and Philadelphia -- and purchase powder cocaine, generally. They bring this powder cocaine then back into cities like Trenton, New Jersey, which is the capital of New Jersey, as you well know. The population of Trenton, New Jersey, is approximately 60,000 people. My experience over the last 18 months and being assigned to a violent task force in Trenton, New Jersey -- more specifically, the Weed and Seed Task Force -- has been to go in and work with the

state and local police officers not only to weed, if you will, the major defendants from that city, but then to also work with the Seed part of the program and bring these defendants into federal court because of the stricter sentencing guidelines in federal court.

Over the last 18 months, the defendants who have been brought into federal court, there have been 26 such cases. Of those 26 cases, 11 have been federal crack cocaine investigations. These defendants weren't targeted by law enforcement itself. Because of the Weed and Seed Program and because of the community policing done by the Trenton, New Jersey, Police Department, these defendants' names were brought to the police by the community itself. The community itself picked the areas in which they thought these defendants might be selling crack cocaine and gave us their names.

Once these names were given to the community police, they were given to the vice unit and/or the county narcotics unit who would then initiate investigations against these defendants. Ultimately, these defendants were arrested and then brought into the federal system.

What I would like to talk about or tell you about today

are the following case scenarios. I am aware that the DEA has furnished the Commission with a draft report of Crack Cocaine Use in the United States. Instead of going into the numbers of how many crack cocaine arrests we have made and how much crack cocaine is on the rise and the use of it is on the rise in the United States, I would just like to talk to you about the 11 particular investigations that I have been involved in, in the Trenton area.

Specifically, there was one investigation back in 1992; an investigation called The New York Boys. It is typical of the cases in the Trenton area, where you have a number of defendants who are from the New York area who realize because of the law enforcement efforts in the New York area that the police were onto them, if you will, that they moved down to the Trenton area where they could make more money in an open market where there was open competition.

The New York Boys came to Trenton and rented a crack house. It is unusual to have a crack house in the Trenton area, because it is generally sold on the street in rock form. It is not sold in capsules or bags. It is sold rocked off on the street. If you want to buy crack cocaine in Trenton, New Jersey, you walk up to a dealer on the

street; you ask him for a piece of rock for \$20; he cuts it off with a razor blade and just hands it to you. That is how it is purchased in these open-air markets that Sergeant Brennan previously described in the Washington area.

So the New York Boys came into the Trenton area and rented a home for the specific purpose of doing nothing but selling crack cocaine. They boarded the windows with 2 by 6s. They barred the front door with metal doors. They had three bedrooms upstairs to the house. There was no furniture in the home. When the officers executed the search warrant on the home, they found a sawed-off shotgun, a .38 caliber handgun with hollow-point bullets in it. They found 9 mm handguns. They found a gun commonly called a tommy gun or a machine gun from the 1920s and the 1930s that was in the house all concealed in a room with crack cocaine and money.

The defendants in this investigation were then brought into the federal court system, where during the trial they all pled guilty. They were charged with conspiracy to distribute crack cocaine. The longest sentence being 17 years for the major defendant in that case.

Of the other defendants that have been targeted in the

Trenton area, all have histories of criminal convictions. All have known reputations within the community for being violent. All have reputations in the community as being drug dealers within those particular communities.

One particular example is the case of The United States v. Neal Washington. During the Los Angeles riots, Mr. Washington was selling crack cocaine on the street in the Trenton area and threatened to bomb one of the houses on the street where he thought an elderly woman was giving information to the police about his crack cocaine distribution organization. In fact, she wasn't but, because he had threatened to bomb her house that particular evening, officers were able to obtain a search warrant and arrest him. Inside his house they found a sawed-off shotgun, a 9 mm handgun, over \$3,000 in cash, and an amount of crack cocaine. He was arrested under state law and, within the next day, he was released back out onto the street. Within the following week, we obtained a federal arrest warrant for this defendant, arrested him on the street again, where he was again in possession of crack cocaine. He was brought into the federal system, and he received five years in federal prison.

Finally, the last example I would like to give you is a three-case scenario, where a particular section of the Trenton area, the Wilbur section, where the community police officers in that area and the community came to the law enforcement officers and asked us to look at three particular defendants; James Jones, Rodney Wilcox, and Leroy Washington. All three of these defendants have prior criminal records. All three of these defendants were found to be in possession of more than 20 grams of crack cocaine. All three defendants had reputations within the community for selling crack cocaine and had criminal convictions for the same.

Mr. Wilcox, just by his very nature, standing on the street was an imposing figure in this community. He was 6'8", 360 pounds, and controlled a particular intersection in the city. Mr. Washington was his cousin and worked for him. Mr. Jones openly taunted the community police officers as they sat out in their van on this particular corner during the investigation saying, "You can't catch me."

Because of the Weed and Seed Task Force and because of the federal involvement in the Trenton area, this particular community, although I would not be so naive to say that we

have cleaned up this particular street corner, we have certainly reduced the amount of traffic coming into the area, and we have set an example of these particular defendants to the other people in this community who are trying to make a decent living.

Thank you.

CHAIRMAN WILKINS: Thank you very much, Agent Donnelly. As is the Commission's custom, I will offer my colleagues to my right an opportunity to ask questions and then my colleagues to my left, and then we will reverse the order with the next panel.

Chairman Reilly, I will give you the opportunity, if you have any questions you would like to put to any of the panelists.

CHAIRMAN REILLY: Thank you, Mr. Chairman. Let me preface my question, I think, to any of the members of the panel first by saying that, as Mr. Tymony knows, I have only been here about 14 months in the Nation's Capital and, needless to say, coming from the State of Kansas where we like to think that things are calm, sane, and sensible, it is not obviously the case in view of some of the testimony we have heard here today.

It certainly has been very depressing to me to arrive here and find that within our nation's capital the human carnage, the death, whether it is in our schools or on our streets or in our businesses, is obviously out of control and rampant.

I am not sure that, in spite of all of the wisdom we have in this country, we have been able, obviously, to find the solution. You folks have given us some thoughts and ideas as to your experiences, but I am more inclined to, I think, ask you what you would do, in view of where we are in terms of Congress right now debating the Crime Bill, and they have added 100,000 police and a lot of money to, hopefully, stem the tide of the violence that we do see in this country, and I think it is without question a war. We are at a war within our own country and our own nation in dealing with the drug issue and the violence that it breeds.

But what, as law enforcement officers, as folks that are involved in treating these folks, do we need to do? Is the message not there? One of the things that I have suggested to the administration is the need, maybe, to educate people more -- families and the children -- on the penalties. In riding in the cabs in this city, which I have

been doing for the past number of months, I cannot believe the lack of knowledge of the cab drivers in the Capital City and -- needless to say, those are people who are usually quite informed about the law -- at the lack of knowledge as to the penalty for drug offenses, and I have asked them. I have encouraged them to visit with me about drugs and people they know that are involved. I said, "Well, do they know what the penalty is?" When I start telling them what the federal sentencing guidelines are for drug possession, it is obvious they are ignorant. They don't know what the penalties are. They are shocked to think that, because of a certain amount of cocaine in possession, this person may get five, ten or so years.

So I am wondering is education the problem? Is communicating to families? Is getting on t.v. and saying to the American public, "If your son or daughter is caught with this amount of drugs in possession, they are going to go to prison and this is what they are going to do if it is federally charged," a deterrent? So far, at least, I am questioning because it doesn't seem to be a deterrent or else we are not getting the message out -- we, being those of us who are responsible to get it out, whether it is

Congress or members of the Sentencing Commission or whomever. I would like to hear your response to that.

MR. TYMONY: Chairman Reilly, it might be interesting. We may have different opinions here. I believe that you hit the nail on the head. What I believe is that, although suppression efforts are extremely necessary, I believe that there is a generation that the suppression efforts of these two gentlemen are going to take care of, but the plan must be comprehensive. It must include prevention, intervention, treatment, after care, and law enforcement. That is the only way that we are going to correct this problem.

CHAIRMAN REILLY: If I may, Mr. Chairman?

CHAIRMAN WILKINS: Certainly.

CHAIRMAN REILLY: Do you believe that we need to be involved in public service announcements on the t.v. educating the man and woman at home so that they can tell their 12-year-old child or 10-year-old child, "Did you know that, if you get caught, you are going to get in trouble, and the penalties are very severe? If you are 18, they are even more severe," and so on.

MR. TYMONY: Yes, sir. I think that is part of it. The point that I was trying to make here today is that our

young people have become tolerant. They have become extremely tolerant of the use of narcotics, which means that we haven't done a very good job of educating them about the cost.

CHAIRMAN REILLY: Then would you reduce the penalty -- let me ask you that question -- for drug use of nonviolent offenders, first-time nonviolent offenders?

MR. TYMONY: Knowing that, Attorney General Reno, you would know that I have talked to Judge Kelly on several occasions. My opinion is consistent with his. I think that federal judges need to have some discretion and mandatory minimums don't allow for that, if you really want to know what my opinion is.

CHAIRMAN REILLY: Thank you.

CHAIRMAN WILKINS: Sergeant Brennan or Agent Donnelly?

SERGEANT BRENNAN: I would like to add something to that. We speak and we say that the mandatory minimums don't allow any discretion. Well, that is not true. There is discretion because the people could walk away from a mandatory minimum charge by cooperating with the police departments. We are seeing widespread cooperation here in Washington, D.C. We are going to the upper levels of the

drug organizations and that is because of the mandatory minimums, otherwise we would never get beyond certain levels. We would not get beyond the street. People wouldn't cooperate unless they are facing something such as a mandatory minimum.

CHAIRMAN WILKINS: Agent Donnelly?

AGENT DONNELLY: I agree with Mr. Brennan and what he just said, especially in the investigations I just described to you, that in the upper levels of these organizations, the major reason that they do cooperate, and especially with the Weed and Seed Program in Trenton that was publicized, and the sentences were publicized locally, as soon as we did the search warrant in the house, the defendant saw the FBI, DEA, ATF or federal presence, he knew right away that the possibility existed that he was going to face mandatory minimums.

They knew right away that they were going to jail. They knew right away that they could be detained without bail. That knowledge in and of itself led to a lot of cooperation that led to these investigations and led to other investigations in state court. A lot of the investigations that I was involved in always went to federal

court. Because of their cooperation, a lot of times they went to state court for that reason.

I, also, agree that education in the long run is what has to be done so that people know what problems there are, what they face if they are caught with so much crack cocaine. In a small area like New Jersey, I think that is what has been done and that is why it has been successful.

I, also, think that it has to be evaluated over the long run. Although the program has only been in existence for two years, you need more time to totally evaluate whether or not you are getting through to children through these education programs and social service programs that are already in place.

CHAIRMAN WILKINS: Thank you. Commissioner Gelacak?

COMMISSIONER GELACAK: Sergeant Brennan and Agent Donnelly, if I mischaracterize your remarks, please stop me. But if I understand you correctly, what I think you are saying is that mandatory minimum penalties serve a purpose as a prosecutorial tool and impact directly upon your ability to either infiltrate or prosecute people involved in the drug trade, but they don't have much impact on the problem; the problem being drug use in the community, and

that the use of crack cocaine has increased incrementally, in spite of the fact that we have mandatory minimum penalties in place, and it continues to grow in this city; is that correct?

SERGEANT BRENNAN: Speaking for Washington, D.C., there is an increase and decrease at times in the problem of crack cocaine in the city; in other words, we have our ups and our downs. But the mandatory minimum penalties do help to take an organization from an area and stop the people from that certain area from distributing cocaine. You rid the streets of the people who are actually putting the product on the street. These people may move to another area and go back into crack use or crack distribution, but we do eliminate areas by the mandatory minimums. We are able to get rid of some serious offenders by having mandatory minimums.

COMMISSIONER GELACAK: I don't mean to suggest that you are not able to do that. What I am trying to get a handle on is whether or not you feel it has an impact on the drug trade. It has always been the case, as I understand it, that if you impact the source of supply, you either increase the price or they go to some other alternative drug. Are we having an impact on the drug trade itself, or are we just

incarcerating people, and the profit motive is so high that others take their place?

SERGEANT BRENNAN: The answer to your question is both. Other persons do take their place, but we are having an impact in certain areas of the city, in all cities because of the mandatory minimums.

AGENT DONNELLY: Mandatory minimum does have an impact in the Trenton area. The specific example that I was telling you about, this Wilbur section of Trenton itself, has had a specific impact in that, like I said before, I wouldn't be so naive to suggest that there isn't someone out there taking their place, but it is not as overt. We have taken them off the street, in a sense. I am not saying it is not going on in homes there or they move the drug trade, and I think that is important because what we are trying to do is make the streets safer in that community. So we are trying to move them off the street. We have been effective in doing that. Whether or not it affects whether or not people use more or less crack cocaine, I don't know if we have an impact on that or not.

COMMISSIONER GELACAK: The purpose of my question is to get to the next question, if I might, which is that I think

what you are saying is that the mandatory minimum sentence is important, but how you get to it is not necessarily important, so that the fact that there is a hundred-to-one difference between crack and cocaine base doesn't make any difference. If they were both the same in terms of a mandatory minimum, you would be able to impact the problem just as much. You don't need that difference between crack and cocaine. A mandatory minimum would be enough to serve your purpose for prosecutorial purposes.

AGENT DONNELLY: No, sir. Speaking for myself as a DEA agent on the street, I think I need the difference between crack cocaine and cocaine powder.

COMMISSIONER GELACAK: Why?

AGENT DONNELLY: Because more violence is associated with crack cocaine than with just regular cocaine. I understand the hundred-to-one theory and that there is no scientific basis for it. I understand that. But, as a street agent, what I see out there and what I am sure Sergeant Brennan sees out there, is there is a lot more violence associated with crack cocaine than with powder cocaine. For that reason and because of the nature of the distribution of the drug, at the lower level of the scale

and the street level of the scale, I think you need the mandatory minimum for that reason and the difference between crack cocaine and powder cocaine; if that answers your question.

SERGEANT BRENNAN: May I add something to that?

CHAIRMAN WILKINS: Yes.

SERGEANT BRENNAN: I don't mean to really disagree in the mandatory minimum hundred-to-one, but I do. My problem is that powder cocaine and crack cocaine are being transported on the buses, trains, and other forms of communication throughout the country. A kilogram of powder cocaine and 50 grams of crack cocaine are so much different. It should be the same. I mean it takes fifteen minutes to turn powder cocaine into crack cocaine -- a box of baking soda, a pot of water, and a microwave or a stove and you have crack cocaine. The penalties should be the same, I believe.

COMMISSIONER CARNES: Does that mean you think cocaine should be increased or crack penalties should be decreased?

SERGEANT BRENNAN: Whichever way the Commission sees fit to go, I believe they should be the same.

COMMISSIONER CARNES: You call it.

[Laughter.]

SERGEANT BRENNAN: Right. They should be the same. In other words, if 50 grams of crack cocaine is a mandatory ten years, then it should also be 50 grams of powder cocaine is ten years.

COMMISSIONER CARNES: Let me ask you this, then: If we decide to achieve some parity by lowering the crack sentences, would the lowering that we would do of the crack sentences create sentences you think too low then for you to have the leverage you said you needed to break into the gangs, or all you need is leverage and it doesn't matter what the level is?

SERGEANT BRENNAN: In other words, you mean going lower than what they are now?

COMMISSIONER CARNES: I had an offender last week that under the guidelines was looking at about 17 to 18 years. I think they told me had it been a cocaine equivalency he would have been looking at about three years. That is a pretty big difference.

SERGEANT BRENNAN: It is a pretty big difference. But, also, the person with the crack cocaine still has the opportunity to cooperate with the law enforcement, and if he

does enough, I have seen judges actually put people back on the street for severe sentences. They have cooperated enough to take major groups off the street. So I think it should be the same. The penalties should be the same.

COMMISSIONER CARNES: Let me tell you, as a judge, I have two hats here. As a Commissioner, we look at I think what Commissioner Nagel has called the macro point of view; the national interest, the big picture. As a judge, whenever you are sentencing someone, you look at the individual and you are faced with all sorts of mitigating circumstances. Except in very rare situations, your heart almost always goes out to that person standing there.

What I wanted to ask you is my heart also goes out, as I am sitting there, to the communities involved, and I know that Mr. Tymony had said that, while on one hand we are very sensitive to the fact that primarily African Americans are being sentenced for crack offenses, we are also sensitive to the fact that the victims of these offenses are the poorest and most beleaguered members of our community.

My question to you is what can we do? Are there enough law enforcement people to pick up all of these people that are selling crack and are devastating this community? Would

it be a better approach, since we are here to talk about the hundred-to-one ratio, to say maybe 15 to 20 years is too much for a drug offense, but maybe if you give everybody a five-year whack and put them in jail, but have more room and get more offenders in? My question to you is open-ended. First, what can we do to help these communities that really are in very difficult straights and, secondly, do you think that the crack sentences you are seeing are just out of line?

Anybody?

MR. TYMONY: Judge, again, I think we may have different opinions. I think that the way that the federal sentencing guidelines are set up already that federal judges can basically give that amount of time anyway. I think that the mandatory minimums give the appearance of being extremely harsh at times because you don't have that discretion.

However, on the other hand, I think that we have learned over the last twelve years that no matter what level we incarcerate, we are not affecting the level of use. So I, again, think that if we are going to incarcerate, when we incarcerate, we need to look at treatment and we need to

look at after-care. If we look at five years and we actually have somebody that can come back into the community and be a productive citizen, then I don't see any reason why I would want to put a 20-year-old kid in jail for the next ten years on a mandatory minimum because he had a weapon and five grams of crack cocaine in his possession.

AGENT DONNELLY: I think you have to take the approach that it is a multifaceted problem anyway and that you can throw all of the money in the world and put out law enforcement officers out there to go out and lock up and take these offenders off the street, but that is not going to solve your problem. I think a multifaceted approach where you go in and use education -- and this is why I was saying earlier about it is a long-term kind of project -- but I think, to be effective, you have to remove the offenders who are out there on the street right now off the street. Get them in jail somehow for an extended period, so that you have the opportunity to go in and to have that education and have the opportunity to rebuild that community in other ways to be effective.

So I think the answer is both. It is that you need to take them off the street and that you also need then to have

programs where you start with youngsters, and families, and social service institutions, and the users are, also, educated and/or counseled to be rehabbed, to ultimately get the community back together. But I think to do that effectively, the first thing that you have to do is remove the offender from the street.

CHAIRMAN WILKINS: Thank you. Attorney General Reno?

ATTORNEY GENERAL RENO: No questions.

CHAIRMAN WILKINS: Judge Mazzone?

COMMISSIONER MAZZONE: I don't want to highlight the differences between Officer Brennan and Agent Donnelly, but I think you brought it up yourself. Mr. Brennan, you say there should be no difference between how we treat crack and how we treat cocaine. I believe Mr. Donnelly said that he thinks there is a vast difference between the treatment, because of the violence associated with crack that, at least in Camden or Trenton, he does not find associated with cocaine -- with powder. Do you find that on the street here in Washington?

SERGEANT BRENNAN: Commissioner Mazzone, on the street here in Washington, we find mostly crack cocaine and the violence associated with crack cocaine. What I am saying is

that the couriers bringing the cocaine into the city, the four to five to ten kilogram people that are delivering it, this is powder cocaine. This is a major person in an organization who brings in the ounces, the pounds, the kilograms. That comes in powder form. Those people are as much responsible for getting that product onto the street where the violence occurs as the person with the crack cocaine.

COMMISSIONER MAZZONE: You don't see much powder on the street in Washington.

SERGEANT BRENNAN: You don't see very much powder on the street at all, no. The powder is made into crack cocaine and then distributed on the street. In the clubs, in some of the nightclubs and a couple of the heroin areas, we may see some powder cocaine, but not that much. But it all comes from the same source; the powder.

COMMISSIONER MAZZONE: Mr. Brennan, if you are involved in a street arrest as a street narcotics officer, has there ever been an offender that you have talked to, if you arrested him -- or I should say the same thing to Agent Donnelly -- who has said to you or has indicated any awareness at all of what the penalty was? Is there anybody

who ever came to you and said, "My, God, if I had only known that this was going to be a five-year minimum mandatory penalty, I wouldn't have done it"? Have you ever run across any arrest in which you take part -- either one, Mr. Donnelly or Mr. Brennan -- in which someone has said to you, "I wish I had known. I wish someone had told me that the penalties were so high that I wouldn't be in this line of work"?

SERGEANT BRENNAN: Yes, I have. I have been told that on several occasions. But they have also told me that, "I am willing to do anything, anything at all, now that I know the severity, to help myself," and most of these people who were not aware of the penalty were able to help themselves, and they did not receive the mandatory minimums.

AGENT DONNELLY: My answer would be the same, Commissioner. I have had people say to me that they were aware of what the mandatory minimum was before they were involved in the distribution of crack cocaine and that they had always been involved in it but that, once they found out that the federal government was involved, as soon as the agents, like I said before, walked into the house and they saw the federal alphabet jackets -- the FBI, DEA, ATF

jackets -- inside they immediately realized what was going on and immediately cooperated. This wasn't cooperation after speaking with an attorney. This was cooperation right then and there saying, "I will bring you to New York right now, and I will tell you where I got this." So, yeah, and they do say that they will turn right away.

COMMISSIONER MAZZONE: I heard you say that before. That almost seems to be an incentive to do it knowing, as you say, before they are told what the penalty is, they have already known about the mandatory minimums. They already know they can get out from underneath the mandatorys by cooperating so, before you snap the cuffs on them, they already have that escape valve. All I have got to do is deal in whatever quantity I want to deal because as soon as I get caught, I will flip and I will get away from the mandatory minimums. You are not telling me that that is what happens, are you?

AGENT DONNELLY: In this particular instance, this particular gentleman received 22 years with his cooperation.

[Laughter.]

COMMISSIONER MAZZONE: I bet he was disappointed.

[Laughter.]

AGENT DONNELLY: That was because of his record, sir.

CHAIRMAN WILKINS: Commissioner Nagel?

COMMISSIONER NAGEL: If I were to tell you that my primary concern is violence and only secondarily drugs, except to the extent that drugs involve either violence or ancillary crime, could you sort of help me understand the answers that you would give to three questions.

The first is what? Within the drug trafficking enterprise, what is the source of the violence? That is, in what context does it occur? We have heard sort of conflicting or we have read conflicting studies about the source of the violence, and that is something I would like you to tell us.

Second, who is it that uses guns and maybe perhaps in what context? Is there a difference between users and dealers?

Finally, third, I believe that you said, and Judge Mazzone picked up on this, that there was more violence associated with crack. I guess your statement was that it is hard to determine that because in D.C. it is so predominantly crack that you don't really have a good

comparison. But why is there more violence, to the extent that there is, or there is a perception that there is more violence associated with crack? Because, as you say, they are really the same drug; that is, crack is a derivative of cocaine. So what is it about the distribution or the use of crack that lends itself or produces this increase in violence?

AGENT DONNELLY: Crack, as I understand it, is extremely psychologically addictive as opposed to being physically addictive, from what I have read. Because of that, a crack user will buy crack cocaine, say, for the first time. They may even receive it free. They have been buying regular cocaine. They have been sniffing regular cocaine for a while. The distributor or the guy on the street will give them a piece of rock for free for the first time out. The euphoric high received for the shorter period of time -- that fifteen to twenty minutes -- is so great that he wants to go back and get it again; therefore, he needs money this time because now he is hooked. So now he has to go out and get twenty dollars. The next twenty-dollar hit takes him through like the next hour or so perhaps. But then he needs another twenty dollars, and the

next time he needs forty dollars. So now he has to go out and get money.

So it is the secondary crime then. It is the purse snatching. It is the robbery of the corner grocery store, the 7-Eleven, the Wa-Wa in the Pennsylvania and New Jersey area, that kind of thing, which breeds more violence because the high is so great you want to go back out and buy more.

COMMISSIONER NAGEL: So what you are saying is that the ancillary crime rate is higher with crack because the demand for more crack comes faster and it is expensive and the users, as Judge Carnes said, largely come from the poorer populations.

AGENT DONNELLY: Right. I couldn't statistically give you that, but that is my perception of what has happened with me, yes.

COMMISSIONER NAGEL: I take it that that is different from the kind of violence about which we ordinarily think when we think about the violence associated with drugs; that is, what you are talking about -- purse snatching, robbery - - is sort of small time.

AGENT DONNELLY: Right. Not only that but, also, in these particular cases that I have mentioned, there are only

eleven of them, I am guessing, but over half of them I have seized guns with the crack cocaine in the house.

COMMISSIONER NAGEL: Are these the users?

AGENT DONNELLY: No, these aren't users. These are distributors with prior histories. These aren't users that I am talking about when I talk about that kind of violence. These are distributors -- major distributors -- on the street, which is the level that it is sold. The major distributor on the street is selling more than a couple of grams and holding a couple of grams in his pocket. In fact, of all of these defendants that I have already mentioned, none of them was a user.

COMMISSIONER NAGEL: And he is using guns, what, because it is part of the culture? Because he is worried about protecting his supply? What is the reason for the gun?

AGENT DONNELLY: These individuals that I have spoken with were basically saying that they were protecting their own stash. They were worried about other groups coming into their particular corner or house or rival groups, and these aren't organized groups, just a few guys together coming into a particular area and taking over their distribution

network.

COMMISSIONER NAGEL: Do the cocaine distributors maintain weapons for the same purpose? Are they not worried about their stash? I would assume it is more valuable; right?

AGENT DONNELLY: It depends on the case. Now my experience in Trenton has been that the powder cocaine street distribution, although it is not as big a problem as the crack cocaine problem, we haven't found as many guns.

COMMISSIONER NAGEL: So they don't use guns.

AGENT DONNELLY: I am not saying they don't use guns. I am just saying it is not as prevalent as with crack cocaine.

COMMISSIONER NAGEL: Is there some explanation for that?

MR. TYMONY: Commissioner, I would take a shot at that. The explanation is that, with powder cocaine, it has been my experience that it is a very middle-class hidden issue, where there are no open-air drug markets, and there is no violence because you are not being threatened. I live in this neighborhood.

COMMISSIONER NAGEL: But wouldn't that be the user

rather than the distributor?

MR. TYMONY: It can be both. It can be both. They are not necessarily threatened at the levels that I am threatened in my own community because the open-air markets are not there, and the weapons are not there, and the addiction at the level that we are talking about is not there.

SERGEANT BRENNAN: My answer to your question is that you have ten to twenty open-air markets. If one is armed to protect his market, then all twenty are armed to protect them from the next. That is why you see more weapons out here in the street.

The actual person purchasing the drug normally you won't find a weapon on this person; in other words, the person who drives into the block to buy a rock will not be carrying a gun. The person who is standing on the corner watching the sellers conduct their business most likely will have the gun, and he will disappear before the police come there and get the sellers. The person watching the group will disappear with that gun. We do not arrest many people standing on the corners with guns in open-air markets -- very seldom -- but they are there.

COMMISSIONER NAGEL: So what you are saying is the seller is standing out there on the street distributing and there are a couple of guys around him covering him.

SERGEANT BRENNAN: Right; the protector.

COMMISSIONER NAGEL: And they are the ones who are armed.

SERGEANT BRENNAN: Right. The seller is vulnerable. He might sell to an undercover police officer. He may be arrested; therefore, to have a weapon, he realizes the increase in penalty in having the weapon. So, therefore, someone else is watching his back; in other words, he is out there watching his sellers.

COMMISSIONER NAGEL: I have one last question. Is there as much violence and ancillary crime and the use of guns associated with other drugs, other than crack; meth, ice, crank, PCP? Take your pick.

SERGEANT BRENNAN: Pick another drug and you would pick PCP. We had a PCP problem in the city of Washington, D.C., in the past, that we were able to deal with very well. There is very little PCP in Washington any more. There was violence associated with PCP, not only with the weapons, but with a baseball bat or something of that nature. I mean

serious bodily injury brought to people because of the way people acted on PCP. Like I said, community policing is how we are trying to stop this problem.

COMMISSIONER NAGEL: Thank you.

CHAIRMAN WILKINS: Thank you. This concludes the testimony of our first panel. Gentlemen, it has been informative and very interesting. We thank you again.

Let me ask our second panel to come forward, please.

As was testified to, one of the reasons cited by the Congress in setting the ratio of crack to cocaine was because of the perception of the association of violence with crack distribution and crack use. We have three experts with us this afternoon to discuss the relationship between drugs and violence focusing particularly on crack cocaine and associated violence.

First of all, let me introduce to everyone Dr. Steven Belenko, who is a senior research fellow at the New York City Criminal Justice Agency and has studied the cocaine violence connection for years. We are presently reviewing his recently published book, Crack and the Evolution of Anti-Drug Policy, as we prepare our report to the Congress.

Also with us is Dr. Jerome H. Skolnick, who is a

professor of jurisprudence in social policy at the University of California, Berkeley. For ten years he has served as the director of the University of California Center for the Study of Law and Society. He has also done extensive research on gangs and violence in America.

Our third panel member is Dr. Paul J. Goldstein, who is an associate professor in the School of Public Health at the University of Illinois and Chicago Circle. He is a nationally recognized researcher on substance abuse, violence, and crime. In June, he appeared before this Commission's symposium on drugs and violence in America.

Dr. Goldstein, we are glad to have you back and, Dr. Skolnick and Dr. Belenko, we welcome you.

Dr. Belenko, are you prepared to offer your testimony first?

DR. BELENKO: That is fine.

CHAIRMAN WILKINS: We will be glad to hear from you.

VIOLENCE AND GANGS

DR. BELENKO: Thank you, Mr. Chairman, Attorney General Reno, and members of the Commission.

I have been studying various aspects of the crack phenomenon as well as other drugs, primarily looking at

their impact on the criminal justice system. My concerns have been over the court's response, both at the state and federal level, as well as police response to the emergence of crack beginning in the 1980s.

In particular, I have been interested in and examining the severity of the law enforcement response to the emergence of crack, which as you all know has resulted in substantial increases in the local jail population, state prison as well as federal prison populations beginning in the early to mid 1980s. The bulk of that increase I think we can attribute to users and sellers of various drugs, but especially crack and other cocaine products.

This criminal justice response to crack and the resulting increased jail and prison populations, as previous law enforcement responses to drug abuse problems, such as the response to heroin in the late 1960s and the early 1970s, has had minimal effects on levels of drug abuse and drug dealing in our communities, but a rather substantial impact on the criminal justice system at all phases, and we are all well aware of that.

I think we also need to think about this response to crack in the context of the political and media attention

that was paid to this drug in the beginning of approximately 1986, which far outshadowed any response to previous drug eras. I think the context of the 1988 elections, which generated enormous attention towards crack and its impacts or supposed impacts on our communities, the passage of the Anti-Drug Abuse Acts in those years, the development of the Office of National Drug Control Policy and the resulting national drug control strategies focused a tremendous amount of attention on crack and its effects on violence and other types of crime. So, in that context, I was interested in looking at the empirical evidence for crack's relationship to crime and violence.

What I have done is both my own research and review of other research, including some important work by Paul Goldstein, looked at what the empirical evidence tells about this relationship between crack use, crack sale and violent crime. My research and my review of other research has been based on both interviews with crack users and crack dealers, review of ethnographic research, especially in New York City, by Philip Bourgois, and Ansly Hamid, and Terry Williams, who have actually gone into crack dealing and cocaine dealing organizations and lived with them for years

and tried to understand the dynamics of the crack subculture as well as powder cocaine dealing and review of arrest and criminal justice records, official records of actual crime patterns and convictions, incarceration rates, and arrest rates. So I am going to review some of that information for you briefly and then my conclusions regarding this relationship.

I think we can divide the question into three primary parts, and I will address each of those briefly in terms of the crack violence relationship.

No. 1, is there any evidence that the emergence of crack had any kind of gross effect on violent crime rates in the cities in which it became a problem? The answer to that is there is no clear evidence of that. There is conflicting evidence. I have reviewed FBI crime statistics on violent Part 1 Index crimes -- especially murder, and manslaughter, and robbery -- in those cities that were most touched by crack beginning in the mid-'80s; that is, Los Angeles, Miami, where the earlier emergence of crack was, and then New York, Detroit, Washington, D.C., and New Haven, which is a smaller city also touched by crack very heavily in the mid-1980s and comparing that with Chicago, where crack did

not emerge until relatively recently.

When you compare data on reported violent crimes before and after the emergence of crack, you find very inconsistent findings. In some cities, such as Los Angeles, looking at pre-crack and post-crack statistics, the increase in violent crimes was only 1 or 2 percent before and after crack. No evidence there of any, at least, gross effects on violent crime rates.

The Miami, however, Part 1 Index crimes rose by about 18 percent before and after crack and reported robberies by about 22 percent.

In New York, Washington, and New Haven, there are large, apparent increases in homicide rates between 1985, just before crack appeared, and 1988. For example, the number of homicides increased by 151 percent in Washington, D.C. during that time; 117 percent in New Haven; in contrast, Detroit, which showed no increase in either of these types of crime. In New York City, the data indicate that homicides increased by about 37 percent pre- and post-crack, but robberies did not increase, at least in the year before crack and then two years following the emergence of crack in 1986.

The increased homicide rate may have been attributable to crack. There is no way of knowing that, and I think Paul will speak to that issue a bit. In his research in New York City, there is some evidence that the increase in homicides in New York just reflected an abnormally high rate of homicides just before crack appeared, so inconsistent information in terms of any kind of gross effect.

The second major question is does crack cause people to become violent; in other words, is there evidence that those who were not involved in the criminal justice system and crime who start using crack then become violent as a result of either the pharmacological effects or the involvement in the crack-dealing subculture? The answer to that is probably not. There is no clear evidence that those who are not involved in crime or violence become violent as a result of crack as a drug.

There are several issues that speak to this. No. 1, all of the evidence indicates that those involved in crack, either on dealing level or in drug use, especially in the large cities, had been heavily involved in the use and dealing of other drugs and have fairly extensive crime histories before their involvement in crack. Initiation

into crack does not appear to have much impact on other drug-use patterns, certainly; that is, crack users and sellers tend to, also, use other drugs, including powder cocaine, alcohol, and marijuana, in addition to crack. Many of those involved in selling crack have had extensive prior drug-selling experiences. So, because of that, it is very hard to separate out the effects of crack versus involvement in the other drugs.

There are a number of reasons, however, to think, especially in the early years of the crack era, that involvement in crack selling especially would increase the levels of violence:

First, the increased demand for crack made the crack markets fairly volatile and jittery;

Second, the crack distribution did attract more useful distributors to the drug trade;

Third, there are substantial profits to be made by the dealers, and they have tended to try to flaunt this newly acquired wealth;

Fourth, in the case of especially the Jamaican posses and other Caribbean-based dealers, they began to exert more extensive control over the crack distribution, which

required perhaps greater use of violence to maintain discipline, resolve disputes, and enforce control of the drug markets; and

Fifth, dealers may have wanted to maintain access to their steady customers in a given location since the crack market depends heavily on repeated sales to the same relatively small numbers of customers.

So I, also, looked at evidence, a third aspect of this, which leads to does crack increase or augment violent behavior in those that have already been involved in criminal behavior? The answer, again, as researchers tend to say, is it all depends or it is not exactly clear what is going on. There may be some enhancing effects of crack on levels of violence and other nondrug crime, but this does not appear to be a result of any pharmacological effects of crack per se.

The evidence is that, again, compared to cocaine users, those who become involved in crack selling or dealing who have had prior arrests or drug-using histories, those crime rates tend to increase following involvement in crack. That is true both of drug-related crime as well as nondrug crimes. That is based on both interview data and analysis

of arrest data; that is, following initiation to crack, arrest rates tend to increase for nondrug and violent crimes relative, to a larger extent, than with powder cocaine involved offenders.

Thus, the extent that official arrest records at least reflect actually offending patterns, crack involvement appears to have increased the frequency of offending patterns, especially for nondrug crimes. But whether this finding is a function of the types of offenders attracted to crack during the initial stages of the epidemic, any behavior or pharmacological effects of the drug or the nature of the crack distribution networks or some other reason, is still somewhat difficult to determine.

However, the available survey interview data and ethnographic observations do suggest that the violent crime associated with the crack markets is primarily systemic in nature; that is, related to the structures, circumstances or the rules of the illicit drug trade for crack.

While our interview data suggests that drug sellers, at least in New York, appear to be more violent than other drug sellers, and their violence is not limited necessarily to the drug transaction, the reasons for this are, again, not

clear. They seem to be more involved in serious nondrug crimes than other drug sellers, including both property and violent offenses.

While the evidence on systemic violence among crack-selling organizations suggests that they are more likely to use violence, both for maintaining organizational discipline and to regulate disputes among dealers, the diversity and the frequency of this nondrug crime implies a more generalized pattern of deviants, at least in the samples that we have looked at.

Some have suggested that there is a process of self-selection and social selection of violent individuals in the crack trade that may account for these higher levels of violence compared with previous drug eras.

It, also, appears more likely that crack selling provides an environment that facilitates violence by the nature and differences between crack distribution and those of other drugs and, also, a milieu in which violent behavior is more acceptable, given both the nature of these markets and the absence of any other forms of legal recourse or social control to moderate disputes among dealers.

So the empirical research on crack converges to

suggest, while the crack subculture can be characterized as more violent and crime involved compared with previous or parallel drug subcultures, the reasons for this are quite complex and probably not a function of any psychopharmacological effects. Thus, the media and public fears of a direct causal relationship between crack and other crimes do not seem to be confirmed by empirical data. Rather, the levels of violence and crime associated with crack appear to reflect parallel and other interactive forces that are related to the relative immaturity and volatility of the crack markets, the ages and types of persons initially attracted to crack distribution, the increasing social and economic disorganization of the nation's inner cities beginning in the 1980s, and the mounting proliferation of more powerful guns, as well as a spread of cheaper powder cocaine during the same period of time.

So the crack violence connection really cannot be readily separated from these coterminous and quite powerful social forces. We do not see any evidence of any causal links here. There is certainly an association going on.

So the salient question thus becomes, if there were no

crack, if crack did not appear in the mid-1980s, would violent crime have increased anyway? We don't really know the answer to that. The evidence from the evidence is it probably would have, but perhaps not to the same extent.

Thank you.

CHAIRMAN WILKINS: Thank you, Dr. Belenko.

Dr. Goldstein, will you be our next witness?

DR. GOLDSTEIN: Thank you. I am very pleased to have the opportunity to share my opinions and the results of my research with the Sentencing Commission, with Attorney General Reno, and to be part of such a distinguished panel, especially those who say nice things about my research.

The intent of my testimony today is to discuss drug relationships to violence with special emphasis on cocaine in both the powder and the rock form. I would like to acknowledge the support that I have received from both the National Institute on Drug Abuse and the National Institute of Justice that enabled me to do the research that I will be talking about today.

In recent years, the impact of violence on medical and public health establishments has become increasingly clear. Emergency room physicians see more victims of violence than

do police. There are now over 1 million aggravated assaults and more than 20,000 homicides in the United States each year.

Homicide is the tenth leading cause of death in the United States. The United States has the highest homicide rate of any industrialized nation. Homicide strikes disproportionately among the poor, among racial minorities, and among the young. The leading cause of death among teenage boys is gunshot wounds.

Various informed sources have attributed much of this violence to drugs. However, currently, there are no valid and reliable sources of data in either the health care or the criminal justice systems that provide adequate illumination of drugs-violence relationships for policymakers.

It is currently impossible to examine trends in drugs-violence relationships over time within specific localities or to validly compare one city to another. It is important that our understanding of the relationship between drugs and violence be based on valid and reliable data, and these data must be organized in a conceptually coherent fashion.

In 1985, I first published my definition of drug-

related violence based on five years of field work among opiate and cocaine users in East Harlem. The definition took the form of a tripartite conceptual framework. Steve has already talked about psychopharmacological and systemic categories. Those are two of the three categories of the framework. The third is economic compulsive violence. We heard about this from the first panel. Economic compulsive violence is when people feel compelled to engage in economic crimes in order to finance costly drug use. Sometimes they are inherently violent, as is the case in robbery, and sometimes the violence results from an extraneous factor in the social context in which the economic crime is perpetrated.

I have been studying the drugs-violence nexus since 1984. NIDA supported two field studies on the lower east side of New York City. The first examined drugs-violence relationships among male drug users and distributors. The second studied drugs-violence relationships among female users and distributors.

NIJ supported two homicide studies. The first utilized existing police records to study the drug relatedness of all homicides that occurred in New York State in 1984. The

second involved working with New York City police detectives during active investigations of a sample of homicides that occurred in New York City in 1988. While the findings from these four studies have been presented in much more detail and depth in other publications, let me just give a summary of the key findings that I think will be useful for this hearing.

About one-half of all of the violence in all four studies was drug related. When we look just at the two street studies, we find the relatively high proportions of violence engaged in by the male and the female drug users and distributors were unrelated to drugs. Half of the violence is drug related and half of the violence is not drug related.

Psychopharmacological and systemic violence were the most common forms of drug-related violence reported by both the males and the females. The economic compulsive violence was rare. Here I think we are talking about the ancillary crime that came up in the first panel. This was relatively rare and accounted for only about 5 percent of the violent events which took place.

For both men and women, alcohol was the substance most

likely to be associated with psychopharmacological violence. Heroin and cocaine were the substances most likely to be associated with systemic violence.

The following findings emerged just from the two homicide studies. The two most common types of drug-related homicide were psychopharmacological and systemic. Very few drug-related homicides were economic compulsive. For example, in the New York City 1988 homicide sample, about 40 percent of all of the homicides we studied and about 75 percent of the drug-related homicides were systemic; that is, related to drug trafficking.

The psychopharmacological homicides were most often alcohol related. The systemic cases were most often cocaine and predominantly crack related. In New York City in 1988, 93 percent of the systemic homicides involved cocaine.

If we examine trends in the national homicide rate over the course of the 20th Century we find the following: Homicide rates began to climb when prohibition of alcohol was instituted by Constitutional amendment. Homicide rates peaked in 1933, the year that prohibition was repealed. Rates then declined and remained relatively stable through the 1960s. Since 1969, homicide rates have fluctuated

within a fairly narrow range; roughly, 8 to 10 per 100,000 population.

The absolute number of homicides has increased, but so has the size of our population. The rate of homicide, the number per 100,000 population has changed very little over the last 25 years. There were peaks in 1974 and from 1979 to 1981 where the rate did climb over ten homicides per 100,000 population. Last year in 1992, the homicide rate was 9.2 per 100,000. This was lower than the rate in 1974, lower than the rate in 1980, and actually lower than the rate in 1933.

The 1979 to 1981 peak was a result of what I call Cocaine War I. Crack had not yet appeared on the scene, and the illicit market being fought over involved powder cocaine. Miami was the murder capital of the United States then. The national homicide rate declined in the early and mid-1980s. Dramatic decreases occurred in Miami when Cocaine War I was over.

In the mid- to late 1980s, the homicide rate began to climb again, heralding the arrival of crack and Cocaine War II. New York City and Washington, D.C., replaced Miami as the nation's murder capitals. Crack, a new form of an old

drug, easily manufactured, attracted a large number of small entrepreneurs.

The New York experience suggests that, in the embryonic stages of the crack market, a steadily increasing number of new users provided distributors with sufficient business. Rates of violence at the preliminary stage of market development was low. As the market matured and the number of users began to stabilize, competition between distributors for market share grew.

Organized gangs tried to consolidate turf and bring independent dealers under their control. As an example, some gangs tried to create a monopoly by forcing small dealers to buy raw product from them exclusively and eliminated those dealers who refused.

Intensified law enforcement efforts probably contributed to increased levels of violence. Street sweeps, neighborhood saturation, buy-bust operations, and the like, lead to increased violence in a number of ways. For example, removing dealers from an established territory by arresting them creates a vacuum that other dealers fight to fill. By the time these hostilities have ended, convicted dealers may return from prison and attempt to reassert their

authority over the territory, resulting in a new round of violence.

The one substance clearly associated with a particular form of drug-related violence is the association between alcohol and psychopharmacological violence. The primary association between cocaine and violence is systemic. It is the violence associated with the black market and distribution.

Systemic violence fluctuates with phases of the illicit market economy. Rates of homicidal violence were high when a new market was being forged for powder cocaine. Wars between Columbian and Cuban syndicates for control of middle-level cocaine distribution contributed substantially to rising homicide rates in the late 1970s and early 1980s. When these wars were over, even though there was plenty of cocaine on the streets in the mid-1980s, homicide rates declined. The peak level of homicidal violence caused by the crack wars is similar to the peak caused by the powder cocaine wars which is, in turn, similar to the peak caused by the alcohol wars during prohibition.

The nature of a particular drug as a contributor to homicide is probably less important than the nature of the

illicit marketplace in which those drugs are being sold. Crack is currently a major contributor to drug-related violence. This has little to do with the psychopharmacological properties of crack. It has more to do with the fact that crack is currently the newest and most prominent substance in violent, illicit street markets.

Let me conclude by stating that I have no evidence that crack cocaine is more dangerous than powder cocaine. I have no evidence that crack is necessarily addictive. I have no evidence that crack is any more addictive than powder cocaine. As a representative of the public health community, I believe that the health risks from injectable cocaine is far greater than that from smokable cocaine. Such health risks from injectable cocaine include AIDS, endocarditis, abscesses, and hepatitis.

I thank the Commission for the opportunity to present this testimony, and I would be pleased to answer questions later.

CHAIRMAN WILKINS: Thank you. We will hear from Dr. Skolnick now.

DR. SKOLNICK: I will try to be brief. First, I do want to thank the Commission very much for inviting me, and

I thank Janet Reno for being here to listen to the testimony.

I just want to say that I have studied it from both ends; that is, from the law enforcement end and from the drug dealer end. Just to give you some background, I have studied drug enforcement in Oakland, California; Seattle; Los Angeles, with the Los Angeles sheriffs; the New York City Police Department, and the Kansas City Police Department, as well as the feds in Kansas City. So I have been out there.

Students and I have interviewed drug dealers in California prisons over the last couple of years. We have interviewed a couple of hundred drug dealers. So that is where I come from.

The first thing I want to say is I thought the testimony of the previous speakers was excellent. I really found nothing with which to disagree.

CHAIRMAN WILKINS: Doctor, we are recording what you say for many to read, please pull that mike up to your mouth so that the recording device will pick you up. This is a poor Commission. We wish that we could afford three mikes.

[Laughter.]

CHAIRMAN WILKINS: In any event, thank you very much. This is all going to be transcribed and made available. So we are interested to hear what you say.

DR. SKOLNICK: Let me start by saying I want to thank the Commission and all of those on it, including its ex-officio members. I have studied drug enforcement in six American cities, and I have interviewed drug dealers. Instead of giving my testimony -- you have heard excellent testimony -- let me comment on some of the findings and begin the discussion.

When we studied drug dealers in Los Angeles, we found something very odd, and this goes to your findings about violence and drugs. Los Angeles gangs started off being what we called cultural gangs, and a lot of the violence had nothing to do with drugs. We looked at the data from the Los Angeles Sheriff's Department, and more of the gang violence had to do with gang disputes, disrespect, insults and that kind of stuff than with drugs, but that was a few years ago. That was before the gangs were so much into drugs.

One of the things I think you would have to appreciate is that this violent population that you are talking about

of gangs, these are young men. They are not suffering from cocaine poisoning. They are suffering from testosterone poisoning. That is no joke. These are young guys with a lot of -- you are not going to deter them very easily. They are not necessarily rational thinkers. They are not Jeremy Benthamites. So you add a year, you reduce a year and so forth. Who knows? Yes, when they are caught, they will talk because they want to do as well for themselves as they possibly can. But, in terms of their street behavior, law enforcement doesn't affect them terribly much.

In Oakland, it was different. We didn't have cultural gangs. We had what we called entrepreneurial gangs. The Oakland drug market for years was controlled by somebody named Felix Mitchell. I talk in one of my articles about the Felix Mitchell dilemma. The Felix Mitchell dilemma was this: You had very good drug enforcement. The DEA got together with the Oakland Vice Squad. They put away Felix Mitchell and they put away the other two largest drug dealers in the city of Oakland. The result was not that there was a reduction in the sale of cocaine, but a rise in the homicide rate; a considerable rise. That is, what law enforcement did was destabilize a monopoly. When you

destabilize a monopoly, what you are going to get is violence.

There is something more general about all of this. When you deal with an underground economy, you don't have what we have in an overground economy. In an overground economy, we can sue for breach of contract. In an underground economy, you can't sue. So you use violence to enforce your breaches of contract or perceived breaches of contract. You sell adulterated drugs when you are promising something else. The only outcome of that is violence. So there are two kinds of violence that we are talking about here. In a sense, a kind of rational violence; that is, on the one hand, you have the deterrent possibilities of the criminal code and, on the other, you have the deterrent possibilities of street violence.

Well, think about that if you were a rational actor; what you would be more responsive to. You would be more responsive to the possibility of being killed in the street by somebody who you may have adulterated drugs with and so forth.

As the previous speakers have said, it is very hard to generalize about violence. You have to look at violence in

particular areas. Jamaican gangs have one kind of culture. L.A. gangs have another kind of culture. Oakland entrepreneurial dealers have a third kind of culture. It is the underlying culture of the gangs in a particular area that accounts for the violence more than anything else.

Now another unanticipated consequence of law enforcement in L.A. was, yes, there were street sweeps. Yes, there was harder law enforcement. L.A. became a focus the way Miami had earlier. Well, the Crips and the Bloods started to get out of L.A. and they moved to Kansas City, and they moved to Omaha where the cops weren't cracking down as much and where, because of their violent propensities and, also, partly because of the glamour of being from L.A., they were able to take over the drug market in these other cities, and they took over the drug market in many, many cities. Basically, everything west of the Mississippi is Crips and Bloods. Everything east of the Mississippi is Jamaicans and Dominicans, essentially. Something like that. It is very hard to say. But in New York City you don't find Crips and Bloods, you are going to find Dominican dealers and Jamaican dealers, for example.

One of the other puzzles in all of this is why do

people use drugs? One of the things that I said in my testimony is it is very difficult to construct a euphoria matrix for drugs. People use different drugs for different reasons. Mostly I would say that people use drugs because people they know use that drug. That is the drug of choice. Why is crack largely an African American drug when it comes through South America in through Mexico into L.A. and then is primarily used in the African American community; whereas, PCP is used more in the Latino community and so is powder cocaine? Why is methamphetamine a white working class drug?

There is no rationality to why people chase the kinds of highs that they get. Law enforcement really has very little to do with this as well. You can't determine which drug people are going to use, although sometimes you make some big mistakes. I think the biggest mistake in California, for example, was to have a crackdown on marijuana, which resulted in raising the price of marijuana and increasing the potency of marijuana, so that this drug that probably is on a harmful scale less harmful than -- I am not saying harmless -- I am saying less harmful than cocaine and especially crack cocaine, now is rarely used by

kids in poor communities because they can't afford it; whereas, crack cocaine is readily affordable.

So we have this paradox of law enforcement, and one of the ways in which we respond is to say, "Okay, we haven't succeeded by having high penalties. Let's make them higher. Let's make them more mandatory, and that is the way we are going to win." I don't think so. I think we really have to rethink this whole problem.

As your previous speakers have said, it makes no sense at all to talk about crack and regular cocaine. Crack is simply processed cocaine. In fact, the people who are probably the most violent are the people who are dealing in kilos because that is where the money is. A lot of the dealers, as one of the enforcement people here said, they don't use the crack. They sell it. They are business people, and they are dealing in powder cocaine. So that distinction just is not a sensible distinction.

I will stop there. I know you all have a lot of questions, and I think we would be better served to respond to your questions than to have me rattle on this way.

CHAIRMAN WILKINS: Thank you. We will start to my left here. Commissioner Nagel, any questions?

COMMISSIONER NAGEL: I just want to start by saying I thought your presentations, as the first panel's were, were excellent. It seems to me that the three of you are, in some measure, drawing remarkably similar inferences from very different sets of data, anecdotal data, interview data, pharmacological, et cetera.

Let me see if I can summarize what I think you are saying and that may lead to a very interesting possibility for a shift in policy. The first is that you seem to all be saying that there is indeed a greater degree of violence associated with crack. But it is not as people think, that it is because it has some special pharmacological property or because there is some addictive property or because there is some difference in potency, but that it has to do with what Dr. Belenko calls the systemic way in which the drug is distributed in the market. You talk about destabilizing the markets, et cetera. That is, there is nothing in the drug of crack that makes it any different and that produces the increased violence.

In fact, I think what you said, Dr. Goldstein, was that it is not user- or possessor-produced violence. That is really a small amount; 5 percent or something you said.

But, rather, it is the fortuitous nature of the way in which it happens to turn out to be marketed. Either it is selection of who goes into it, et cetera, so that that then leads us to conclude that there, A, is more violence but, B, it has almost nothing to do with the fact that it happens to be crack. B, or the second one, is that much of the violence that is associated with crack comes from -- I take it this is what you are saying, Jerry, is the absence of nonviolent means of dispute resolution, which may mean that, instead of having a drug court for users, maybe what we need is drug court for dealers, and I recognize that that sort of sounds humorous, but it sounds, in some measure, like if we had antitrust laws and contract laws that could be imposed and a viable means of resolving disputes among drug dealers that what you would have is potentially a means of reducing violence.

DR. SKOLNICK: It is a nice fantasy.

COMMISSIONER NAGEL: It is a nice fantasy, but it may be something with which we can at least begin to work in terms of identifying the nature of the problem. It gets us a lot closer than we were before.

The third thing is that there appears to be no causal

link -- I think all of you are saying -- between use or possession, and that would go to the way in which the drug mandatory minimums are currently structured with very heavy penalties for possession, especially with respect to crack and this inverse relationship between crack and cocaine. From what you are saying, if you are in my position, where what you really care about is violence much more than you care about drugs, except to the extent that violence is associated with it, then that suggests a reversal of where, to the extent that you think law enforcement has any relevance, it should be directed the other way. It should be directed towards the distributors and not to those who are small possessors or users.

Am I getting it wrong?

DR. SKOLNICK: I would say that is right. The people we were interviewing were saying that they will give what they call kids -- and they are kids. We are talking now 14-/15-/16-year-old males. This is very important because they are nervy people. They will go out there on the street and sell crack. They will get 40 or 50 rocks. Each rock is about .20 of a gram or something like that. So they may front them a thousand dollars worth of rocks and then they

have got to bring back the money and get a cut, so that, in a sense, the people who are out there on the street doing the selling are not very rich. They are hard workers. They are being exploited. They are the ones that frequently are being caught and jailed. So we have a real problem here. We would do better to think about what can we do about these 15-year-old kids. What does it mean? What we should think about are the points that were made in the last panel. We talk about education. Well, what does it mean to have education? We have boot camps now. Should we think of something a little bit longer?

I always think that the English upper classes had the right idea with respect to male teenagers. You send them away for four years and then they don't get into trouble. But maybe that is one of the things to do. Think about having longer periods of education for kids who are initially involved in this trade and not think about putting them into places where they learn the trade better, as they frequently do in our jails and our prisons.

DR. GOLDSTEIN: I thought your remarks and questions were both insightful and innovative. One maybe just brief clarification, in terms of the violence related to crack, it

is certainly greater today, but not necessarily greater historically. This happens to be the crack era. We had similar levels of violence during powder cocaine when that was big and during alcohol prohibition.

I think another thing we have to look at, which Jerry Skolnick stressed, was the social environment or the social milieu in which these marketplaces are going on. We have enormous problems in the city of Chicago right now. There is a real chance that our schools are going to get shut down because of fiscal crisis. You throw a few thousand more police on the streets, and shut down the schools, and turn all of the kids out there I guarantee you are going to get more violence. It is pretty obvious.

In terms of your idea for the drug court, there was an idea floating around New York about fifteen years ago, as I recall, for an ombudsman to try and resolve some of these street disputes before they led to violence. Probably the clearest manifestation of that today is some of the gang truces which have taken place and gang summit meetings. These tend to be not trusted and not supported by local government and local law enforcement, but perhaps there is a way to work with community-based settlements of some of

these disputes which I think would very definitely be a step in the right direction.

COMMISSIONER NAGEL: You could send them all to Harvard and have them take a course in alternative dispute resolution.

DR. GOLDSTEIN: It would be cheaper. That is right, and it might be more effective.

DR. BELENKO: Just a quick comment. I thought your summary was very accurate. Again, I want to just remind you it is important to remember that most of these anti-crack laws, especially those aimed at users, evolved during an era when there was tremendous media coverage and hysteria about crack. It was front-page news in Time, Newsweek, The Washington Post, New York Times, hour-long shows on the networks about the evils of crack.

In the context of the actual effects of crack at the time, the response was, I think, well out of proportion to the actual damage that was being done at that point. So we now have that legacy of legislation passed in that context, and I think we are paying for that now in the criminal justice system. But I don't want to leave the panel with the impression that crack is a benign drug, even though we

may argue that it is not any more associated with violence as a drug than powder cocaine. It is a serious drug. It is a very efficient route of delivery of cocaine. It delivers relatively large amounts of cocaine to the brain very quickly and has enormous health effects on chronic users, including HIV transmission, other sexually-transmitted diseases, affects on all systems of the body. So it is certainly a serious drug, but I think, in the context of personal use, that crack becomes more of a public health issue and prevention education issue than a criminal justice issue.

COMMISSIONER NAGEL: Just one follow-up. Am I correct, though, that if you were to do a controlled experiment, which I take it nobody has done, where you took youth and assigned them to different drug use, that you would predict on the basis of all of your findings, as well as a review of other research, that there would be no heightened correlation between those who happen to use crack versus those who use some other drug and violence in terms of -- that is, it is simply a function or it is largely a function or predominantly a function of the way it is marketed, but it is not the drug, crack, that per se leads to violence?

DR. GOLDSTEIN: Not speaking specifically to crack, but addressing your point in general, I think there has been some experiments the results of which have emphasized the importance of social milieu.

COMMISSIONER NAGEL: That is why I said controlled experiment.

DR. GOLDSTEIN: Yes. Researchers set up double-blind laboratory paradigms, the sort of thing where people give other people electric shocks and they are given marijuana before the experiment, and there is another group that is getting the placebo. Nobody knows what they received. One such study found that the use of marijuana reduced violence, reduced the frequency and severity of electric shocks. The sample in this particular study was college students who generally would smoke marijuana in party situations -- listening to music, drinking wine, and being in a very mellow state.

Another study done by another researcher, a very similar sort of paradigm, used street people; heavy-duty drug users. They found that, with this group, the use of marijuana increased aggression; that they gave more shocks and more severe shocks. The suggestion here is there is

something about the milieu, something about the circumstances under which people learn to use the drug. The speculation is that street folks will frequently smoke a joint before going out to do something risky, before going out to commit a robbery or get into a fight, and they associate the effects of marijuana with an expectation of doing something more aggressive, and that is how they behaved in the laboratory situation, very differently than the college students.

COMMISSIONER NAGEL: If you assume that the drug merely suppressed their normal tendencies, then you would assume that college kids would smoke marijuana and then listen to music and mellow out because that would be their inhibition. To mellow out would be what they would not ordinarily do. They would study. That would make sense. That would have gut validity.

DR. SKOLNICK: It is very interesting. The effects of drugs are so socially defined. If you had this testimony in 1939, you would have heard Harry Anslinger talking about the assassins and the consequences of using marijuana making people violent. So, yes, the social milieu is very important in determining how people behave with respect to a

drug.

However, once people are hooked on a drug, they may do things that you don't want them to do in order to get the money to get the drug. But that was as true of heroin. In the 1960s, when I started in this business, heroin was the problem because you had junkies who were stealing, and robbing, and so forth, to get the money to get heroin. So there is an addiction here. There is no question about it. Cocaine is a very dangerous drug. Crack cocaine, which gives you a shorter and more intense high, is a very compelling drug. Now the question is what are the conditions under which it is so compelling? Why is it being used differently in different communities? One of the answers might be that, as one of the people who talked to me said, "Well, you know, what crack does is it takes you out of where you are and puts you where you want to be." Now if you are in a place where you don't want to be, that is the drug you want to take, because it takes you away from that place, and that is why people take drugs.

So you have social milieu operating in two ways. You have social milieu operating in terms of encouraging drug use because people want to get away from where they are, and

to where they want to be and, two, social milieu also identifying how you should interpret the effects that you get from the drug; whether they make you quieter or whether they make you more active and more violent, but it is not the inherent property of the drug necessarily.

I have to say this: I was studying convicts in Wethersfield State Prison in Connecticut in the late 1950s. Do you know what made them commit the crimes? "The booze did it to me," is what they told me. That was the only drug they had at the time.

CHAIRMAN WILKINS: Thank you. Judge Mazzone?

COMMISSIONER MAZZONE: If what you are saying is that it is the nature of the market and the economics of the market that breed the violence, does it make any difference whether it is crack or cocaine? Is what you are saying is that -- well, let me ask you the question. What if powder were as available, as cheap, and as marketable as crack? And, even if crack does give you a shorter, more intense and faster high, powder gives you a longer high. Suppose it were economically as --

DR. SKOLNICK: It would not matter.

COMMISSIONER MAZZONE: So violence then --

DR. SKOLNICK: It would not matter.

COMMISSIONER MAZZONE: There is no association with violence.

DR. SKOLNICK: The question is the nature of the marketplace.

COMMISSIONER MAZZONE: That is all it is.

DR. SKOLNICK: What you are dealing with crack is a street marketplace and why? Because kids in poor neighborhoods they don't have that money; right? But you have a much more sophisticated market in users of powder coke. But powder coke is what you have to have in order to have base cocaine, smokable cocaine. Basically, all you have is powder cocaine and you have a chemical process and it turns it into base.

COMMISSIONER MAZZONE: But that is a process. Suppose you could get the powder. It lasts longer. It might be a little easier because you don't have to smoke it. I mean you might be able to get it somehow and it is just as cheap. It would still, as far as you are concerned, lead to the same violence because of the social milieu in which the distribution takes place.

DR. SKOLNICK: Oh, sure. What was discovered was how

to get a bigger bang from the cocaine buck with crack cocaine. So now you have got the "McBurger" of cocaine, the crack cocaine.

COMMISSIONER MAZZONE: Thank you.

ATTORNEY GENERAL RENO: If you could design federal law enforcement policy for other than major traffickers of cocaine and crack and if you could design federal sentencing policy, what would you do?

DR. SKOLNICK: I would do it on a cost-effectiveness basis. I would look at it and say, if I am going to take a kid who has got 50 grams and put him away for five years, that is going to cost the taxpayers a \$250,000 to \$300,000. What am I getting for that \$300,000? Am I getting a reduction in the sale of crack cocaine on the street? Am I getting a reduction in violence?

If you put somebody away for ten years, it is half a million dollars. I think we have to take very seriously what these policies cost and see whether we can use the funds that we are spending in a more effective way in order to reduce the problem. This is a long-term problem. It is not going to go away tomorrow. But I would certainly begin by looking at the cost effectiveness of federal drug

enforcement policies.

Is that an answer, Attorney General Reno?

ATTORNEY GENERAL RENO: Yes.

Dr. Goldstein?

DR. GOLDSTEIN: I think I would eliminate the mandatory minimums. I would eliminate the distinction between rock cocaine and powder cocaine. I would move our emphasis and our dollars towards demand reductions, towards prevention and treatment programs. I see that not much is going to get accomplished even with targeting the biggest traffickers. I know of no vice that we have ever been able to legislate out of existence or eliminate. As long as people want a product or a service, there is going to be somebody out there supplying it. If it is not Person A, it will be Person B.

I think we do have to focus on treatment. I think we have to focus on prevention. We have a society that is incarcerating more young people than any other society on the face of the planet. This is having implications for future generations. I think some of the problems we are seeing today are a function of the policies of 15 and 20 years ago where children were growing up. Their fathers were incarcerated. They were not raised in intact families.

They did not have the sort of economic resources that they might have with an intact family. They have aspirations to join dad in prison. It is the lifestyle they know, and we are perpetuating that for the next generation, and I think we have to stop.

DR. BELENKO: I agree with both Paul and Jerry's remarks that there is no evidence that there is any deterrent effects, even if these minimums were increased somewhat, either on street dealing or on use. This is a drug-using society. It has been for many years. When crack goes away and becomes less popular, there will be another drug to take its place. So I think we are kidding ourselves to think that either mandatory sentences or higher incarceration terms will reduce or deter drug users or dealers, especially in the face of the lack of economic opportunity and other social disintegration in our urban areas, especially.

I think the emphasis, as Paul mentioned, has to be on demand reduction for users, emphasis on treatment, especially diversion programs, which are, at least the early evidence from drug courts and other diversion efforts is that treatment interventions are much more cost effective

and have reductive effects on recidivism and other drug use compared to standard processing and incarceration.

CHAIRMAN WILKINS: Judge Carnes?

COMMISSIONER CARNES: Do we have enough time?

CHAIRMAN WILKINS: We have a couple more minutes. Go ahead.

COMMISSIONER CARNES: Dr. Skolnick, let me follow up then, so I won't take too much time. The information here has been very provocative. I gather what you are saying is that the entrepreneurial gangs that are just settling their own warfare it is almost like the Godfather when Don Corleone goes after the Totaglia's. We are sorry about that, but for the most part law enforcement didn't get involved and they settled their problems.

But you are saying that there is a second group, the cultural gang, the testosterone-laden young men, and I gather they are the ones that we are worried about shooting people on the expressway, shooting people on porches or just not shooting accurately, shooting bystanders, and those are the people, I gather, that you have some different concerns about.

When you get that 18-year-old youth who is selling

crack cocaine, who is of this cultural gang group, the one that is just not terribly mature and hasn't had a terribly good background, are you telling me you think we should send them off for four years to a school? Are you telling me, when we see that particular fellow, what do we do with him? We know that he is some threat to me and you but, frankly, he is a much greater threat to his community. Do we put him away for three or four years and hope it is better? Do we not put them away at all? What do we do?

DR. SKOLNICK: I am going to end up sounding like a social scientist.

COMMISSIONER NAGEL: That is not a bad word.

[Laughter.]

DR. SKOLNICK: I am here as a lobbyist, also. I have just become president of the American Society of Criminology, and we are believers in research. You all ask what do we do? I think drug courts are very promising, but they need to be studied.

COMMISSIONER CARNES: This won't help this fellow. I have been on the bench a year and a half, and I haven't had a drug trafficker yet that used drugs, except for one.

DR. SKOLNICK: That is absolutely right.

COMMISSIONER CARNES: So that is not going to help me. Drug treatment will not help.

DR. SKOLNICK: That is right. What we have to do is I think we really have to do some experiments. First of all, you don't become a drug trafficker right away. That takes a little while, and we have to catch these kids when they are younger and see what we can do for them.

COMMISSIONER CARNES: We have caught this kid, and he is trafficking in crack, and we are worried about his potential for violence. What do we do with him?

DR. SKOLNICK: We have to start developing institutions. I think the boot camp was an interesting idea. The research coming from boot camps now is that, yes, it is fine for the six months that they are in the boot camp, but when they go back, they go back into that community. Now part of the problem is that this is a broad social problem. If you are going to put somebody back in a socially-disorganized community where crime values are highly valued, there is not a hell of a lot you can do. But if we start thinking about how do we restructure those communities, and I am quite serious about this. Instead of having a six-month boot camp, have a two-year boot camp, but

have a lot of education in it, not just a disciplinary place.

What we have to think about is how we can develop organizations within those communities, all of the ones that were mentioned previously. We have to experiment with them and see which ones will work. Drug courts for that, extended boot camps, but give them education in those boot camps. Give them a chance to go out into the world and do something else besides being a wielder of illegal weapons, which are increasingly high powered. If you go back to the early studies of gangs by Frederick Thresher, the 1920s, in Chicago, you will find that kids were violent, but the difference was that they had fists and knives. They didn't have Uzis. They didn't have high-powered weapons. So now they are capable of doing a lot more damage.

The other way we ought to go is to try and take guns away or these kinds of guns away from the youth population, which I think is a good idea.

CHAIRMAN WILKINS: Any other comments?

DR. GOLDSTEIN: I think I would support what Jerry said. I am not sure if I would support the expansion of the boot camps, but I think I would certainly support the

expansion of the economic opportunities. I was horrified --

DR. SKOLNICK: Excuse me. I just want to interrupt by saying what I would want to support is research on these things; that is, the problem is --

COMMISSIONER CARNES: See, my question is I am a judge and, let's say, I don't have guidelines. I have this fellow here so I don't have time for research. Tell me what I do.

DR. GOLDSTEIN: I would never seek to advise you on how to be a judge.

[Laughter.]

COMMISSIONER CARNES: Well, then you are not much help.

DR. GOLDSTEIN: Sorry.

[Laughter.]

DR. SKOLNICK: We are not much immediate help.

COMMISSIONER CARNES: And I want immediate help.

[Laughter.]

DR. GOLDSTEIN: The thing I did want to add was something that I had seen on the t.v. news about six months ago. It is sort of strange after doing research in the field for fifteen years to be citing something from the news. But this was after the killings of some of these

tourists down in Florida and they were interviewing some of the gang kids about how they felt about this. One of the kids was saying, "Well, look, if we rob these people, they have checking accounts. They can get more money. They have checking accounts. What is the big deal if we rob them? They have checking accounts."

What was coming through from this kid is someone with the expectation that he will never have a checking account; that he belongs to a totally different class or group of people within this society. I think we have to do something about that kind of perception.

I think we do have to open up, not just economic opportunities, but the sense of participation in the society on the part of these young people that right now seem to feel very alienated from the society, feel that they are not participating and seem to be able to justify a lot of their behavior with that feeling.

CHAIRMAN WILKINS: Thank you. Mr. Gelacak?

COMMISSIONER GELACAK: I want to try to refocus a little bit. I agree with what Dr. Belenko said in terms of we are a drug-using society, and some of the statistics you see were 10 percent of professionals, 10 percent, in some

surveys of lawyers and doctors, will admit in blind surveys to drug use. That is pretty scary because it probably under-represents the amount of use that is out there.

But would it be fair to say that you all would agree that we ought to, if we are going to try to punish people severely in the drug area, and we want to have a prosecutorial tool in order to do that, does it make more sense to peg it to the ancillary use of violence rather than the quantity of drugs involved? Is that a fair statement?

DR. BELENKO: Yes.

DR. SKOLNICK: Yes.

DR. GOLDSTEIN: Yes.

COMMISSIONER GELACAK: Where would you draw the line on ancillary violence? Would you draw the line in terms of actual wielding of a weapon, use of the weapon, injury? Where would you draw the line? Where do you feel it is a fair place for society to say we won't tolerate that conduct?

DR. SKOLNICK: I think all of the above; that is, the more injury that you have caused -- obviously, when you murder somebody, you want to punish them more. See, what we are doing here with crack cocaine, it seems to me, is using

crack cocaine as a surrogate for violence. But we have laws on the books with respect to violence. My general feeling about criminal law is that we should use criminal law specifically for the crime that we want to get at. If we are interested in violence, then we want to deal with violence. Possession of a weapon is a potential for violence. Drugs are something else.

The other thing that I would do is I don't like mandatory minimum sentences for a lot of different reasons. One of them is that they really reduce discretion in the system. The other thing, and I don't know whether Attorney General Reno has turned this around yet or not, but when I was studying the Feds in Kansas City, there was a Thornburgh memo that said you had to prosecute to the max and that that reduced the discretion of the prosecutors, so that you had a double rigidity in the system. You had a rigidity at the judicial level, but you also had rigidity at the prosecutorial level. I would certainly get rid of that. I don't think prosecutors are soft on crime. They at least ought to have more discretion to make judgments.

CHAIRMAN WILKINS: Chairman Reilly?

CHAIRMAN REILLY: I don't want to take but a couple of

moments. I suppose if you look back at the history as to why we even have the mandatory minimum sentences in the first place and, in particular, for drug crimes, you can point the finger very quickly to the fact that the general public was fed up with crime in general. They were fed up - - no reflection on our judges on the panel -- with the judge shopping that went around, with various attorneys going to various districts in order to get judges who they knew were a little bit more lenient than others on some types of crimes. I suppose the most recent elections point to the fact that that has not changed.

The political reality of all of this, in spite of all of the philosophical discussion, is that public reaction drives political policy, if I may use that, or public policy. So Congress, at the moment as we sit here probably, is in the midst of debating a crime bill that will extend the penalties even further. What I am hearing from some of you and, please, I am not putting words in your mouth, is that, if you go back to the 1930s and the violence associated with prohibition and so on, and we have discussed this when I was in the legislature, then we need to reflect on whether what we are doing right now has any impact at

all. Yes, we are catching a lot of people. We are locking them up. They are there for a long time. We are building more prisons -- or whether we need to address, as I am sensing some of you may be saying, the fact that we are failing in terms of dealing with the situation and we need to look at the potential for recognizing the legalization, if you will, of drugs in some form. I just wonder is that the approach then that Congress should look at? I want to also follow that up with a question, without putting you on the spot. Have you gentlemen been invited ever to speak to Congress or have you been before congressional committees dealing with the issue of criminal justice and where we might go?

DR. SKOLNICK: No.

CHAIRMAN REILLY: "No" to the question of Congress?

DR. SKOLNICK: "No" to the question of Congress.

CHAIRMAN REILLY: You have not appeared.

DR. SKOLNICK: I have not appeared; no. As to your other question, that is a very long story. That is my next book, which is going to be called, The Social Transformation Device: Bad Habits in Public Policy. I am going to look at prohibition versus regulation and where you can regulate.

It is clear that, when you prohibit, you create and generate an illegal marketplace. When you generate an illegal marketplace, then you are going to generate a certain amount of violence. There are no courts in these illegal marketplaces. So I don't think there are any easy answers to this.

My general position has been the one that has been taken by the other members of this panel, which is to reduce the emphasis on law enforcement, to move toward rehabilitation of the communities to do research on different initiatives with respect to demand reduction, education, and so forth. I think we all agree on that.

But we also have to do research on it. I am quite serious about that. It really isn't just self-interest. Because we don't know what works and if we put another 100,000 police on the streets, we are not sure that that is going to work and there may be problems. The question is whether we are going to have nice community-oriented police, like some of the ones I studied in Santa Ana or whether we are going to have police like the ones who are appearing before the Mollen Commission in New York, who are stealing money and drugs and beating people up.

Just having these huge changes, assuming that they are going to work, always is very questionable.

DR. GOLDSTEIN: Just to address the issue of legalization, I don't know why I am choosing to do that. It is a pretty thorny issue to address. I think it is an unproven strategy. I think it is enormously complex, involving issues of production, distribution, consumption. We might be trading a criminal justice problem for a health problem, and I am not sure how society would feel about doing it that way. We certainly deal with traditional values, moral values, cultural values in our society.

We have to look at drugs individually because different drugs have different effects. Some are manufactured. Some are grown. Some, like alcohol, seem to have the potential of making people violent. Others seem not to have that effect. It is an unproven strategy, but I think it is one that we should look at. We should observe the experiences in other countries. But, again, you take a country like the Netherlands, what occurs there may not be what would occur in this country. It is a very different culture, a very different society.

But I think certainly it is within the context in which

we are talking. It is a potential to be discussed.

CHAIRMAN REILLY: Have you appeared before Congress, Doctor, at any time on the issue?

DR. GOLDSTEIN: I appeared about 10 years ago, when I was about 30 years younger. It was the U.S. Senate Committee on international narcotics trafficking. Basically, I appeared because they wanted to talk to some real addicts, and I was doing some street research then where I could bring some folks in to testify. That was it.

DR. SKOLNICK: I want to correct my answer. I did not appear before Congress, but in 1969 I was the Director of the National Violence Commission's Task Force on Protest and Confrontation where we were then discussing just violence. It had nothing to do with drugs.

DR. BELENKO: I have not testified before Congress. Two points to your remarks:

First, there is a whole range of policy options between the current mandatory minimum's emphasis on incarceration and legalization. I think the key, as Dr. Skolnick said, is a balanced approach utilizing demand reduction, treatment options, as well as incarceration, where warranted, recognition that different drugs do different harms, and

there are different levels of danger associated with them, much of which we at this point do not know the relative harms of these different drugs and need more research to do so.

Second, I think the relationship between political responses and public opinion is very complex. It is not just a matter of politicians following public opinion. Very often what they think the public feels is not really what the public feels, if you ask the public the questions in the right way.

There is a lot of research that would suggest that legislative attitudes are much more conservative in terms of criminal justice issues than the public at large. The role of the media in all of that is, again, very complex.

From '86 to '88 or '89, during the major coverage of crack in the media, public opinion and the relative concern about drug abuse really kind of followed the level of media coverage. When media coverage died down in 1987, all of a sudden crack and other drugs were not one of the major concerns of the public.

When President Bush gave his famous speech about crack in Lafayette Park, all of a sudden drug abuse became one of

the major concerns of the public, and political response followed.

CHAIRMAN REILLY: Thank you.

CHAIRMAN WILKINS: Thank you very much, gentlemen. We appreciate your giving of your time and your expertise. We are going to take a break for ten minutes. We will recess for ten minutes. We will start back promptly at 25 minutes after 3:00. Thank you.

[Recess taken from 3:15 p.m. to 3:25 p.m.]

CHAIRMAN WILKINS: We will reconvene our hearing. When Congress debated mandatory minimum legislation in 1986, it heard testimony from two prominent researchers. We are pleased to have the same two researchers back for a repeat performance seven years later. In addition, we will hear firsthand prospectus from a former crack abuser.

First of all, Dr. Charles R. Schuster served as the Director of the National Institute on Drug Abuse from 1986 to 1992. He is an internationally recognized researcher. For the past decade, he has been an expert adviser to the World Health Organization.

Dr. Robert Byck is a Professor of Psychiatry at Yale University School of Medicine. He is an author of more than

fifty works on cocaine and is widely known for his research into the effects of cocaine on humans. Dr. Byck's group at Yale published the first experimental works on the effects of smoked cocaine.

Finally, we are very pleased to have with us Ms. Frances D. Johnson. Ms. Johnson is employed by Integrated Systems Analysis, Inc. of Arlington, Virginia, and she is a former abuser of crack cocaine and powder cocaine.

We will start off with you, Dr. Schuster.

PHARMACOLOGY

DR. SCHUSTER: Thank you very much. I am very pleased to be here to talk to you about some of the aspects of the difficult decisions which you are faced with; that is, the distinction between powder and crack cocaine and to give you some information that we have derived from controlled laboratory studies of these substances.

Before I begin, I want to make sure that everybody understands some of the distinctions between the terms that we are using. As you know, cocaine can be extracted from the leaves of the Erythroxylon coca plant and, through a series of chemical steps, ending up with combining it chemically with hydrochloric acid, it becomes a white

crystalline powder, and this is what we call cocaine powder/cocaine hydrochloride. It is a combination of the cocaine molecule with hydrochloric acid.

In this form, cocaine hydrochloride is water soluble. That means that it can be snorted up into the nose where it will dissolve in the moisture on the mucosa membranes of the nose and, from there, it can be absorbed into the small blood vessels and gradually reach the brain and other organs of the body.

Since it is water soluble, it can also be injected. We primarily think today of people injecting intravenously. But, as my friend and colleague, Dr. Byck will tell you, historically cocaine has been injected by any number of routes. You can inject it simply under the skin, subcutaneously. You can inject it intramuscularly, and from there it is absorbed.

The form of cocaine hydrochloride cannot be vaporized. It cannot be heated and vaporized because it has to be heated to about 200 degrees centigrade in order for it to vaporize. At that temperature, the cocaine molecule is broken down. So it is destroyed.

It is, however, possible to convert cocaine

hydrochloride back into what is called free base cocaine. In one form of preparation we call that crack. In that form, which is simply separating the hydrochloride molecule off from the cocaine, it volatilizes it at a temperature of 100 degrees and, at that temperature, the cocaine molecule is not destroyed. So it is possible to heat it up, vaporize it, inhale it into the lungs and, of course, it is readily absorbed because the lungs are richly endowed with blood vessels for other purposes, but they serve in this case to allow cocaine to very readily enter the body.

In the old days -- by old days I mean in the late 1970s and early 1980s -- we heard the term freebase cocaine and that was a form of smokable cocaine, which required a rather elaborate series of chemical steps in order to extract the cocaine and separate it from the cocaine hydrochloride, ending up with dissolving the free cocaine base in liquid ether, and then you had to be patient enough to let the ether all evaporate before you struck a match to it. If you didn't, if you weren't patient enough, you ended up with a problem that you may remember Richard Pryor did when he too quickly tried to smoke the freebase cocaine while there was still ether vapor being gotten rid of.

It was discovered in the middle 1980s, or actually, I guess, rediscovered, that you could use a much simpler process. All you had to do was take cocaine hydrochloride - that is the powder -- mix it up in water, add an equal part of sodium bicarbonate, heat it a little bit, and it all precipitates out in the bottom of the jar that you are using as an oily residue. Then you pour off the water and let it dry, and that is crack cocaine. Simple, easily prepared, and now it is smokable.

Regardless of the route of administration, whether cocaine is injected, whether it is snorted into the nose, whether it is smoked, it produces a characteristic set of physiological and psychological changes. At low doses, these include things like slight increases in heart rate, blood pressure. Psychologically I would describe it as saying the people that I have talked to and I have observed would describe it as producing increased confidence, and feelings of increased competence, a mood change that is described as euphoria and, as well, a sense that it is a good day. It is a sunny day. I am talking now about a low dose of the drug.

As you increase the dose of the drug, however, in

addition to the sort of talkativeness, which you achieve at a low dose, people begin to get more agitated and more increased motor activity, larger increases, of course, in heart rate and blood pressure. Finally, at high enough doses, cocaine can produce convulsions, can produce very large increases in body temperature, which is one of the principal causes of death, and there are a variety of other things that can happen. If you happen to have some weaknesses in your blood vessels, you are going to have bursting of these blood vessels. If it is in the brain, that is a stroke. If they are in the heart, you can have a variety of cardiac problems and so forth.

In addition to that, at these doses, you oftentimes find people developing a paranoid toxic psychosis, which in many ways is indistinguishable from paranoia; delusions of persecution, delusions that people are after you. Under those conditions, people can do dangerous and dumb things. In addition, we know that people suffer from panic, increased rates of panic disorder after they have taken cocaine and, under those circumstances, suicide rates are increased.

I know that Dr. Chasnoff is here, but I have to

mention, of course, the other toxic consequence in the case of women who are pregnant and the possible damage to the fetus that cocaine can produce.

Make no mistake about it, although the numbers vary all over the country, one recent study from an inner-city urban hospital showed the analysis of what is called meconium, which is the material that is in the intestine of the fetus. You can chemically analyze that for the presence of drugs. 31 percent of the children born in this inner-city hospital, and there were over 3,000 children in the sample, showed cocaine in the meconium indicating that they had been exposed to cocaine in utero by their mothers, although only 11 percent of the mothers admitted to actually having cocaine use.

COMMISSIONER NAGEL: 31 percent?

DR. SCHUSTER: 31 percent, yes. This is a study by Ostria. I think it is no secret that the hospital was in Detroit.

I want to emphasize the fact that intranasal cocaine is the most common route of administration with about 76 percent of those who have used cocaine in the past year reporting that they have used it intranasally. Smoked

cocaine is less common. About 28 percent of those who have used it in the past year say they have smoked it, and intravenous cocaine is about 11 percent.

Despite the fact that smoked and intravenous cocaine are much less prevalent, they are the ones that are primarily responsible for people ending up in emergency rooms. We have a system that is sponsored by the National Institute on Drug Abuse and the Department of Justice called the DAWN or Drug Abuse Warning Network. The number of emergency room mentions for cocaine are very, very high, second only to alcohol in combination with other drugs. But, primarily, the routes of administration that are associated with people ending up in the emergency room are the smoked or the intravenous route, not the intranasal route.

What is the reason for this? Cocaine is cocaine is cocaine, whether you take it intranasally, intravenously or smoked. However, there are important differences, very important differences, associated with the manner in which you take it.

If you shoot a drug intravenously, you are going to be able to get large amounts of that drug into the body in a

very short period of time. We know that, within ten seconds, arterial blood levels have reached their peak after intravenous injection, and a large bolus of this drug goes to the brain, goes to the heart, and can have very toxic consequences.

Similarly, if you smoke a drug, it is absorbed in exactly the same time frame. I will say as an aside, in 1986 when I testified before Congress for reasons that are a little complex, but owing to the anatomy of the body, we thought that smoked cocaine might get into the brain more quickly than even intravenous cocaine. We have now done controlled laboratory studies at the Addiction Research Center, where I am located, where users of cocaine have been given controlled doses of the drug. We establish how quickly blood levels go up and how quickly they get physiological and psychological effects. It turns out that the time lines between smoke and intravenous cocaine are both the same; both very, very rapid, very rapid.

In contrast, when people snort cocaine, the effects come on very slowly because, for one thing, cocaine produces vasoconstriction. So it constricts the blood vessels in the nasal mucosa, thus interfering with its own absorption. So

the effects come on more slowly and last over a longer period of time.

What I would like to emphasize now is a study that was done at the Addiction Research Center in which we compared the dose of smoked crack cocaine, prepared as it would be on the street, smoked as it would be on the street, to an intravenous injection of cocaine hydrochloride in the same individuals. These are active cocaine users who are, at that point in their career, not interested in treatment, but they were willing with informed consent to participate in these experiments.

What we were able to establish was that 32 milligrams of cocaine given intravenously is equivalent to 50 milligrams of smoked crack; that is, equivalent in terms of the blood levels that are achieved, the psychological effects that are reported, and the changes in blood pressure, heart rate, and other physiological indices that we use.

COMMISSIONER CARNES: What was the second number?

DR. SCHUSTER: 32 to 50. Smoked crack is about 60 percent. Is it potent? No. That is because in the process of smoking, even though, as I said before, you don't destroy

much of the cocaine at the temperatures at which it is vaporized, you do destroy some and, also, you deposit some of it on the pipe coming in. Some of it just comes out of vapor and is deposited there. So it takes a little bit more. But for all practical purposes, 60 percent is pretty close. They are really pretty close in terms of their potency.

If we were to try to compare that to intranasal cocaine, it would be very difficult because you can't really get the same high out of snorted cocaine that you can out of smoking it or taking it intravenously. You can't get that big bang because of the rapid increase in brain levels of the cocaine.

It was mentioned before, and I would just like to say that the experience which we have had in controlled laboratory studies with both animals and humans is that, although cocaine powder when it is snorted lasts longer, that is not what cocaine users want. They don't want the prolonged effect. They want the change in effect. They want the onset effect. In our animal models of drug abuse, we can show the same thing; that they will prefer the shorter acting drug because they want to be here and get up

there. It is the change in state that appears to be what is reinforced or the aspect of the drug effect that is most compelling and seductive.

What I would like to say is that there are some very practical differences between intravenous and smoked cocaine, although I think on the basis of our controlled laboratory studies, we would say that they are equal in terms of their dependence potential. That is their addictiveness. It is a heck of a lot easier to smoke a drug than it is to cook it up, fix, find a vein and inject it. So per unit time, it is possible for the crack cocaine smoker to be smoking in a more compulsive, repetitive manner than it is for someone to be taking intravenous injections. That is assuming, of course, that the person is willing to put a needle in their arm.

In 1986, when I testified before Congress, my biggest concern was the fact that the people in the United States who are willing to put a needle in their arm, the numbers of those are significantly less than those who are willing to smoke a drug. Therefore, the public health impact of having a smokable form of cocaine; that is, crack or freebase, which is equal in its addictiveness to that which you would

achieve by putting it into a vein, seemed to me to pose a much greater public health risk. It was for that reason that I was concerned about crack cocaine then and continue to be concerned about it today.

If I may just take one more minute.

There are some other aspects of our research that I would like to bring to your attention; that is, that it was mentioned before that there is a disproportionate number of African American crack cocaine users in comparison to white Americans.

My colleagues and I at the Addiction Research Center have recently completed a study in which we have controlled for neighborhood. By that I mean you control for the fact that both whites and blacks are living in the same neighborhood. In those neighborhoods which are conducive to the use of crack cocaine, the odds ratios for whether the individual is white, black or Hispanic are equal. So there is no difference in terms of racial sensitivity to neighborhood variables.

If you live in a neighborhood that produces crack cocaine, if you are black, white, Hispanic or whatever, the chances of your becoming involved with it are equal. So I

think this is an important consideration because sometimes we talk about these in racial terms, and it is really neighborhood that we are talking about, not race specific.

Thank you.

CHAIRMAN WILKINS: Thank you very much. Dr. Byck?

DR. BYCK: I appreciate the chance to appear with Bob Schuster as well as to appear before the Committee.

Actually, it doesn't go back just to 1986. It goes back to around 1976, when both of us started off doing cocaine research. Neither of us would have predicted that we would be in this position today, because, at that time, although there was a sense that cocaine was a problem, the idea of an international multi-hundred-billion-dollar industry, the idea of all of America being torn apart was far from any of our minds. Now what happened?

First of all, I have to apologize. I am not going to talk about a hundred-to-one ratio or a five-to-one ratio or a ten-to-one ratio because those numbers are derived in relationship to weight of the substance and this is not what the pertinent variable is for a pharmacologist or for a psychiatrist or for a social scientist, because weight really is important only if something costs a tremendous

amount of money. The amount of money that cocaine costs is getting to be less and less and less. So the absolute weight becomes relatively irrelevant.

However, looking at the way the law looks at drugs, I get the sense that the law uses weight as a metaphor for intent; that is, you say this person has this amount of weight of a particular material and, therefore, he is going to deal it. Then it transfers into he is going to commit a different crime than somebody who simply possesses it and uses it. So that is one metaphor that the law uses.

The second related thing is that it is a metaphor for dangerousness and that, if a drug is more dangerous, then carrying a smaller weight is punishable by more punishment. So these are two metaphors which I can't, as a scientist, deal with directly.

I can, however, talk about the meaning of the characteristics of a drug and the meaning of dangerousness. In order to avoid re-saying what Bob has said so eloquently -- He gave my talk, so I have got to give something else. He didn't tell me. I have a feeling he gave my 1986 talk, so I will give you the 1993 talk.

[Laughter.]

DR. BYCK: The first thing is what are the characteristics of a drug? This is not a new talk. That is as old as the pharmacology books. The characteristics of a drug to a pharmacologist, first of all, it is chemical composition. Here I will go along and compare crack with cocaine hydrochloride or powder. In other words, a smokable form of a drug with a nonsmokable form of the drug; they are chemically distinct. You could not mistake one for the other. Somebody may have mixed a sample with some of each, but they are chemically distinct. They have different melting points. They have different chemical composition. They have different solubilities. They are totally distinct substances.

Now it happens for purposes of your use, and our use, and users' use that the active ingredient is the same, but they are different. The effect that they cause, if you got them to exactly the same amount or the same degree, would be the same. Just as I was sitting at the table the other day and I got some Equal and some sugar. They are different. They are chemically different. They both cause sweetness, and they have different side effects. This increases weight. This doesn't increase weight, but they both cause

the same effect and that is sweeten your coffee.

Cocaine hydrochloride and crack have the same effect. If they are absorbed into the body at the same rate, if the change in plasma level that Dr. Schuster talked about occurs at the same rate, they will have the same effect, but there are practical differences because they don't. As Dr. Schuster pointed out, most people who use powder cocaine snort it, and snorting has certain limitations. There is only so much you can pack into your nose, although people have tried to pack more.

When it is packed into your nose, your blood vessels close down, as Dr. Schuster said, and you can't get more in. Whereas, when it comes to smoking or intravenous, there is literally no limit on the rate of speed that the drug can be pushed in or, for that matter, the amount that can be absorbed, even more with smoking than it is with intravenous in that, as long as you can breathe, you can smoke in more crack. Whereas, intravenous you have got to keep preparing stuff, unless you have, as researchers do, a large jug full of cocaine and run it in. You can't simply put in infinite amounts. With smoking, an ordinary person can smoke a tremendous amount and thereby get a larger dose.

Cocaine is no different from other drugs. Its effects are dose related, and its effects over time are related to the total amount of cocaine that people get in. The amounts of cocaine that are being absorbed by the smoking route are much greater than any amount that was ever absorbed by the snorted route.

Let me give you two historical examples of where that happened. The first was Peru, where we first came upon smoked cocaine, except there it wasn't reduced from powder. Here we believe that you have to have cocaine hydrochloride and you convert it over into crack. There they were simply taking the jungle leaf extract and halfway through there was something called coca paste where, as they said, pasta, but our Italian friends got distressed by this, so we just called it coca paste. I guess pasta habit sounded a little bit too international.

So they never had a problem with cocaine in Peru. People have been chewing coca leaves for years, thousands of years. Cocaine was very cheap in Peru, at least when we went down for the meetings in the late 1970s. It was really dirt cheap, and it was available everywhere. Yet, they did not have major hospitalization problems. They did not have

major legal problems with cocaine until a psychiatrist by the name of Raul Jerri noted that there were about 150 cases of cocaine psychosis who were locked up in his hospital.

Now this is remarkable. At that time, we had been meeting in various places and no one had ever seen a cocaine psychosis. We kept talking about the fact there was a movie once made of a cocaine psychosis. We could look at it there. Let it be said last week I was in the emergency room at Yale New Haven Hospital, and I saw about eight cases of cocaine psychosis. I couldn't find a single person who had ever seen a case in 1970.

What had happened? The advent of smoked cocaine, which then permeated the middle class of the young people in Lima, such that they were using prefrontal lobotomies as a treatment for cocaine use in Lima, because they were so totally broken up by the incredible cocaine habits they had seen. They had never seen this before.

Let me switch venues over to the Bahamas. Jim Jekel, a professor at Yale and a professor of epidemiology, went to study the epidemiology of cocaine in the Bahamas. What he found, and this was published in 1986 in a lead article in the Lancet, was that the pattern of cocaine use in the

Bahamas followed the exact traditional pattern of an epidemic, such as smallpox or any of the other major infectious diseases. He then looked into what had happened. The Bahamas were always a transport point for cocaine. Cocaine went through the Bahamas. Boats dropped it off there and it was then brought into the U.S.

For some reason or other, the number of users in the Bahamas stabilized. Then, for reasons of trade let it be said, no more cocaine powder was available in the Bahamas, only smokable cocaine later to be known as crack. When that occurred, this epidemic occurred, and the admissions to hospitals, which used to be almost zero, went up to very large numbers. That, again, was a testimony to what happens when you change the route of administration and the dosage of a drug, and that is what happened in Peru. It happened in the Bahamas.

Prior to that, in 1979, I spoke to the House Committee on Narcotics and said we were about to have the worst drug epidemic in the history of this country and nobody paid any attention. I said we need somebody to get on this case, somebody to get on education, somebody to get on the whole effects of smoked cocaine, and nobody did anything.

So I came back in 1986, and now I am back in 1993, and I expect the same results. I am talking not to Congress, but I am talking to people who actually do something, but I can't help you in what you want to do because what you want to do is to set some ratio of weight, and I am telling you that weight isn't the pertinent variable. What is the most pertinent variable is marketing. I actually heard about a manufacturer of crack cocaine using the bicarbonate method in 1960. I talked to a user who said, oh, yeah, he had this friend who took the sodium bicarbonate and he heated it up with water and they made crack cocaine. That occurred long before. All of this stuff has been around for a long time. But, despite the fact that it has been around for a long time, it has not been advertised, and sold, and dispensed in the way it has been since 1986 and the advent of crack.

What happened then? First of all, a method that did not require a genius chemist came in, and that is a method that anybody on the street could use. Bicarbonate was easily available.

Second, the idea of selling unit dosage came in. Here material is available in a single package, just the right amount to be smoked.

Third, a route of administration, which was not bizarre, came in. Snorting is kind of bizarre, and injecting is clearly something that is only done by addicts. But smoking? Everybody smoked or certainly almost all. I don't think anybody ever learned to smoke on crack. They learned to smoke on cigarettes, and that was an acceptable habit.

So here was an acceptable route of administration, a very neatly done package, and single-dose pricing. What does that do? Think of what it did to hamburgers. Your mother certainly makes a better hamburger than McDonald's. I make a better hamburger than McDonald's. Schuster probably makes a better hamburger than McDonald's.

DR. SCHUSTER: I do.

[Laughter.]

DR. BYCK: But you don't package it right. You don't put it in a little plastic box. You don't sell it at the right price, and you don't advertise it to the right population, and so you are never going to be a success in the hamburger business, nor will I. The crack dealers did that. They sold it right. The result of it was this incredible epidemic of use.

I cannot talk to the issues of what causes the violence. I do know that there is little question that alcohol is involved in violence. All you have to do is, if you are going to try and take a picture of a fight, you go to a bar. Alcohol causes violence. All of the central nervous system depressants cause violence. It has been very difficult establishing that the central nervous system stimulants cause violence. So I can't talk to that issue.

What I can say, however, is there has been an epidemic, which has been totally destructive to the social fabric of this country, and it has been the result of the sale of a substance which is used in a different way, which is sold in a different way, and which may, in the long run, you may be able to equilibrate and set the effects as equal to the effects of powder cocaine, but this is different material sold and used in a different way.

Thank you.

CHAIRMAN WILKINS: Thank you, Doctor. Ms. Johnson?

MS. JOHNSON: Like I said, I am a former abuser of cocaine. By that I mean cocaine totally changed me. I wouldn't care what form you put it in, actually. You can smoke it, sniff it, shoot it. If you use the drug cocaine,

you are using a form of something that is going to change your personality, eventually. It is going to change your outlook on living. I went to college for four years. I walked in one day after being out on a little binge, I walked in college one day in a French class -- I got straight A's in French in high school -- I walked in and walked out and that was French. It was over.

I was a radiology major. I walked in class. I got tired every morning of going to classes. I sat there and I nodded out in the classes, because the effect of my sniffing the cocaine was over. I went to ball games. I was a cheerleader in college. On the way to the games, we sniffed cocaine, and then one day I walked in college and college was over.

I come from a background I found my mother dead when I was nine years old. I had an addictive personality then. I searched out for things that make me feel better as far as people. I looked for people that had a mother-type image -- older women. That is my mom. You always call somebody this is your mom because they are older than you and you think they know a little bit more.

Then I looked at the fact that, when I was in college,

and after snorting, and then I walked out, so I really didn't have that much sense of value then either.

Then I take a look at the fact that I had a job. I got a 100 percent rating. I walked in my job, when they gave me my rating they asked me, "Why are you quitting?" I quit because I had no more use for the job. I had found something a little bit better, so I thought.

My personality was changing. The progressiveness of my illness was changing. If you had asked me did I have a problem, I would have told you, no, I didn't have a problem. I was just doing something I liked to do a little bit better.

My family always wanted me to go to college to be what society calls a quote/unquote normal kind of person. I always tried to live up to those people's expectations. Then one day I got tired of living up to people's expectations, and I did what I thought I wanted to do.

I used cocaine every day, all day, all night. I sold it every day, all day, all night. I had a regular job like you get up and go to a 9:00 to 5:00. I had a crew that I worked for. "Meet me at 10 o'clock," and I was there at 10 o'clock. But I never had held a job to the point where if

they told me to be there everyday, there was some days you had to take off. When I was using cocaine, in whatever form I wanted to use, I never took off. I was there every day. It was a survival tactic for me.

I did everything and anything I had to do to get drugs. If that means sold this room before you had this meeting, it would have got sold. It might not have stayed sold, but it would have got sold.

I stayed out on the street. I had no car. I stayed out on the street all night, and then I stayed in what you all call base houses. Those were actual people's houses. They gave it up because of the fact that they was using drugs. I don't have any scientific method. All I know is my experience, strength, and my hope. I did what I had to do to get what I had to get.

I heard you say something about an 18-year-old; what do I do for that person. I don't know about you, but the judge that did it for me gave me four to twelve years. Did that change the fact that, prior to him giving it to me, he also gave me a three-day furlough? What did I do? I went right back to the strip which I came from, and I used drugs before he sent me to treatment.

I went to treatment for six months in Denver, Colorado. My whole way of thinking when I got there was, "Boy, this city doesn't have many strips. I better come up here and change a few things." My attitude had changed.

I am a graduate of Second Genesis. I stayed in treatment 21 months. Now I notice that Second Genesis treatment facility is 6 months long, 12 months long. In my 12th month, I didn't even know who I was. They asked me was I ready to go and I said no. Go out to where? They let me out of jail every day that I got locked up. I got locked up three days in a row, February 11th, 12th, and the 14th of February in 1988. They let me out each time. It wasn't the people that I sold drugs for that came and got me. It was my grandmother. She stayed with me through that process of me using.

I was 77 pounds at the end of my addiction. I asked my grandmother for some help, and she put me in Georgetown University Hospital. I woke up with a team of doctors around my bed studying me. I wasn't even awake, so I don't know how they were studying me. When I woke up, I had to remember what I had done. I had turned myself in because I thought I wanted some help.

I stayed in treatment 28 days, and the only thing I can remember those people telling me for those 28 days was, if you go back to using, it only gets worse. In the process, I didn't care how they gave cocaine to me. They could have gave it to me in the powder form, in a base form. The only thing I have never done was try to shoot it, but at the time when I had a pipe, if I had had a needle, I would have did that, too.

I can think about my life. I was facing 18 years and 8 to 24. I was 77 pounds soaking wet. That was my body. The judge said, "I see something in you, young lady, that you don't see in yourself," and he gave me an opportunity to go to Second Genesis. Second Genesis helped save my life. But I need to let everybody in this room know that treatment, boot camps, jails, institutions can't save people unless you want help internally. That is it. That is it in a nutshell. I have got to want to change in order to do that. But people making a big issue on whether I am going to give you 45 years because you got a few rocks or I am going to give you 10 years because you have got a quarter cocaine, as we call it on the street, the bottom line is, if I got that powder, and I base it up into crack form, then I am going to

get the same results, money -- the bottom line.

I talked to a 16-year-old prior to me coming here. He had a job in Safeway, and the whole time he was out in front of that store all he did was talk about his negative ways of how, "I want an Eddie Bauer's coat."

I said, "What difference does it make if you got an Eddie Bauer's coat on or the one you got?" I didn't even know.

But he told me, "How are you going to tell me something about doing something better? Yeah, I got a job. I'm doing that, but if the job don't pay the money that I want it to pay -- " See, I don't know, but I know society has made it up in these young kid's minds that, in order for me to be socially acceptable, I have got to live a certain kind of way.

It took me a long time to know that it is hip to be square. I have been clean for six years. I have been in recovery for five. But the whole time, even in my fourth year of recovery, I had doubts on whether or not I wanted to walk a straight and narrow path or I wanted to go back and sell drugs, because my bills was pressing me. Well, I kind of feel like, if I have to make a choice about whether or

not I want to live or die, use or sell, I would rather live. I would rather die living, than to die dying.

There are so many people out there, when I walk up on the strips, I give people my number that I have used with. I have gone back into institutions, and I have shared my experience, strength, and hope with the people that are there that were there when I was there. But you think those people looked at me and said, "Yeah, girl, I am going to change." No, what they said was, "So what you want me to do? What am I going to do when I get out?"

A judge told me he said, "Frances, do you think for real that those institutions are made for you to recover?" I said, "I know they not. I've been there."

He said, "You have got to want to change within." The bottom line, if I didn't want to change, there is nothing that this panel could tell me. There is nothing that a treatment facility could tell me. I would still be using today. I would probably be dead. I know that. I have been shot. I had my daughter, and I had to give her away in ten days while I was in the penitentiary when I had her.

But, today, I am living what society calls a normal life. I have a job. They just sent me another credit card

in the mail. I don't know if that is meant to destruct me or what.

[Laughter.]

MS. JOHNSON: I have been in my job. I started off as a receptionist, and now I am a Washington Area Operations Purchasing Agent. I wanted to change. But I do know this, that if I had stayed out there, I would be dead. Regardless, I wouldn't care what you gave me. You could have gave me crack, base, whatever you want to call it, cocaine is cocaine. If I give one person 45 years for doing it, and I heard a lot of people here talking about the balance, it is the money issues. It is really not the drug. It is the money issues that people go after.

I take a look at women out there selling their bodies, and I take a look at the people who are going to buy what they are selling. Who is the "worser" person, the person who buys it or the person who is selling it?

I heard somebody say something about a drug seller. He is the worst kind of addict. He just doesn't know that. When I sold drugs, I was the worst kind of addict because I was contributing to what society says is not the way to be. I was contributing to the fact that I was selling drugs. I

think I have said enough. Coke is coke. I don't care how you put it.

CHAIRMAN WILKINS: Thank you very much, Ms. Johnson.

Let me ask all of the panel members this: Assume, if you will, that no aggravating factors or mitigating factors are present in my hypothetical, and assume that the minimum punishment for the distribution of 500 grams of cocaine powder is five years. What should the punishment be for distribution of 500 grams of crack cocaine?

DR. BYCK: Thank goodness you have to make that decision.

[Laughter.]

DR. BYCK: I think I pointed out that this is a question of weight of substance which acts as intent or acts as dangerousness. I can tell you what I think the relative danger is. I think I just did. I think the relative danger of crack is much greater. I cannot tell you about intent, but that is something that is determinable. It is determinable how much somebody is carrying, which makes them a dealer.

I think that we are also dealing with so many clever people who can put children to work for them, and get around

any law by having kids do it, and have the people who are in the real money not actually hold the drug. So we are dealing with people who are very clever in getting around whatever structure we build. I don't have a number, and I couldn't give you one.

CHAIRMAN WILKINS: So you have been misquoted when they attribute the hundred-to-one ratio at Congress from your testimony.

DR. BYCK: That is interesting because, when somebody told me that, which I didn't know, I said on what part of the testimony? I went back and I re-read the testimony, and I guess my saying that crack is much more dangerous, much is probably a hundred, very much is probably a thousand, but I think somebody made up the number. I don't know that it was based on my testimony, but it might have been. There is nothing --

CHAIRMAN WILKINS: Do you believe it to be correct?

DR. BYCK: Pardon me?

CHAIRMAN WILKINS: Do you believe the ratio that Congress has set to be the correct ratio?

DR. BYCK: I think that the intent issue is important. The dangerous issue is important. The weight ratio is

incomprehensible to me. If it were known that five grams of crack made somebody a dealer automatically, then I would say, okay, treat dealers the same, all dealers the same. I think a half-kilo of --

CHAIRMAN WILKINS: If you have got two dealers dealing powder cocaine, and they each deal 500 grams, they are going to receive a five-year sentence, assuming all other variables are the same. But if you take one and put crack in his hand when he distributes it, should there be a difference in the punishment?

DR. BYCK: I don't know. Crack is historically and pharmacologically a more threatening material. What the number is, I don't know.

CHAIRMAN WILKINS: Dr. Schuster and then Ms. Johnson. I know you have an answer as well.

DR. SCHUSTER: First of all, I have to point out that if you have 500 grams of powder cocaine, you can convert that into about 450 grams of crack. You are just getting rid of the small portion of the molecule which is the hydrochloride. I find it somewhat difficult, since I know that very often people can buy powder cocaine and convert it themselves into crack cocaine, to really make the kind of

distinction that is being made.

I agree with Dr. Byck that the possible public health consequences of crack cocaine I think are larger because I believe that the proportion of the population that would be willing to smoke a drug is larger than those who would be willing to put a needle in their arm.

We know, for example, that in the past year users of crack cocaine about 28 percent of them are smoking it. Only about 10 percent are taking it intravenously. We know those people who used the drug at least once a month for the past year, 50 percent of them are smoking it and, again, only 10 percent are injecting it.

If a person is willing to take it both intravenously and by smoking it, from my perspective, it is going to be roughly equal. But the numbers of people who are potentially going to smoke a drug are much greater.

The other thing I would like to say is that I think that the dangers of crack cocaine have not been seen yet. I am going to speculate as to why that is the case. I think that when crack cocaine use came in it didn't come in through the jet-setters. It didn't come in through the role models. It didn't come in through the people whom we

emulate; the Hollywood movie stars. Freebase did and snorting cocaine did, but not crack cocaine. It has not spread to the extent that I think its pharmacology would indicate that it will because of the fact that it was associated very early on with a more sordid portion of our population.

You may remember when the Congressperson from New York went up and purchased crack cocaine. It was not glamorized, basically, is what I am saying to the same extent that snorting cocaine was in the beginning.

But a few years from now that history may very well be forgotten, but the process of making crack cocaine will not be. So I continue to think that it is a significant public health problem. But, remember, cocaine in any form is a significant public health problem. I just think the ease with which this can be taken, the amounts that can be taken per unit time, and the numbers of people who might be willing to do it are significantly greater than those who are willing to put a needle in their arm. I think that smoked and intravenous cocaine are significantly more addictive than intranasal cocaine.

CHAIRMAN WILKINS: Ms. Johnson, should you punish the

crack dealer more severely than the cocaine dealer?

MS. JOHNSON: No; only because I sold cocaine and I sold crack and different houses I was in, I will give you a scenario like this: I was in the house when I was selling cocaine. A friend of mine wanted to buy some cocaine, and another friend came and she wanted to buy some crack. Well, the person that bought the powder cocaine shot it. She was just as high as the person that bought the crack, and I am going to sell it for the same amount of money. If you put a pound of sugar and a pound of salt, somebody asked me in a meeting, they said, "If I weighed a pound of sugar and I weighed a pound of salt, how much different weight would I get?" A pound is a pound. I don't care how you look at it.

If I sold crack or I sold coke, I am selling the same kind of substance. It is the same.

CHAIRMAN WILKINS: Thank you. Let me ask my colleagues to my right does anyone have any questions?

CHAIRMAN REILLY: A quick question for Ms. Johnson, because you touched on the issue, which I would like you to pursue a moment, if you would, if you would do anything, including sell this room. You may wake up and it suddenly dawns on you that you didn't sell it, but you would do

anything to get that. Yet we have heard some commentary and comments that you can't really always associate the use of this with violence. I am wondering if you would talk a little bit about that; either yourself having committed a violent act or what have you -- without incriminating yourself here -- to get it or other people you know that did violent things in order to get it. You said you would do anything to get it.

MS. JOHNSON: I am talking about a behavioral change. When I sniffed coke, say, for instance, you might be sitting in a room with a few guys. I've been to a party before and they had cocaine. People give you just enough for you to enjoy yourself and then after that they might say, "Well, hey, if you want some more, you have got to act this kind of way." I was in that situation.

Did I say, "That is all right. I don't want no more coke. You can keep that," because it was powder? No. I did what I had to do. If it meant standing on my head and spinning around the room, I did that. These are things I said I would never do in my life. We were standing around and all of us were abusers of crack cocaine or cocaine however you want to say it, and these guys said, and these

are the dealers mind you, "We have some crack. You all want to come and go with us?"

We counted them. "Oh, it is seven of you and there is only two of us."

"Do you still want to go?" I went.

CHAIRMAN WILKINS: Thank you. Mike?

COMMISSIONER GELACAK: Just one quick one. This Commission was created to bring sentencing policy in the country into the form of justice so that there was no perceived differences between how people were treated by our criminal justice system. One of the things is more me taking a soap box, I guess, but one of the things that troubles me about the difference between what amount of crack is necessary to get you to a mandatory minimum and what amount of cocaine will get you there in light of what has been said, and I don't know that anyone has focused on this here, but I am sure people have thought about it, is that we are creating what I perceive to be as sort of a time bomb in our penitentiary system.

We are creating a class of individuals who are going to jail for 10/15/20/30 years at a time and who, when they get there, are asking themselves the question and knowing the

answer, and the answer is that they are there for an unjust reason; that they have been singled out and haven't done anything different than the cocaine abuser. Those people are not going to be happy campers when they come out of jail. We have created a societal problem that hasn't hit yet, but it is going to at some point down the road.

I just wonder if you have experience with people in jail or you have talked to folks in jail and they have that kind of a reaction.

MS. JOHNSON: I talk to people every day. I have people that call me. I go into the judicial system and I talk about living a different way. I went into Lorton and they had a whole room full of guys, and I was the only female, and I was supposed to tell them about my experience, strength, and hope. All I could tell those guys was, if I didn't change my way of thinking while I was here -- all they do is sit around and glorify their stories. "You know I was a big drug dealer when I was out there. I had a Porsche. I had a this. I had a that." The majority of them didn't have anything because the government probably got it before they even went in.

So what do you have when you go out? Nothing. So the

first thing you do when you come back out on the street is you try to get what you have lost. I talked to guys and I said, "Well, change your attitude." You are right. You are definitely right. The same people that you sent to the penitentiaries, the jails, the institutions have the same mentality they did when they leave as they do when they come in.

I went into another part of Lorton, and I talked to guys that had 22 years and were getting ready to come home. I said, "What are you going to do when you come home? Have you thought about it? Have you set any goals? Have you figured out what you are going to do?" The first thing they say is, "I am an ex-con. What can I do? The first time I tell somebody that I come from the penitentiary, they are not going to hire me."

I tell them I said, "You had 22 years -- " I just recently the other day I seen a guy. He had 20 years. He just came home. You know what he is doing now? Standing around on the strip selling coke all over again. So I said, "Why you didn't change your way of thinking? Why didn't you try to do anything different?" He said, "This is all I know."

But when you go into jails and institutions, you tell people, "I am sending you there so you can be rehabilitated. I am punishing you for the things you do." The only thing they do when they get in there is teach each other how to be better criminals.

CHAIRMAN WILKINS: Any other comments?

DR. SCHUSTER: I would just like to say that, although treatment is not perfect by any means, a significant number of people, such as Ms. Johnson, and many thousands of other people have been helped to achieve a drug-free lifestyle.

Let's analyze it from this viewpoint: So we are not perfect. We may only be able to help 30 or 40 percent of the people. In any other aspect of medicine being able to help 30 to 40 percent of people who have an intractable virtually incurable disease would be heralded as incredibly good.

Further, I think even in those cases where we are able to help people cut down their drug use significantly, from a public health viewpoint, that is of the utmost importance. I can tell you that all of our research at the National Institute on Drug Abuse has clearly indicated that treatment can be effective. I emphasize "can be" because it is not

when it is underfunded. When inadequate treatment programs that are not offering the comprehensive range of services that are essential to help people become rehabilitated are simply acting as revolving doors, then you might as well forget about it and close them down. If you are not going to fund them properly, they are not going to work.

Finally, I would like to say I have heard mention in the newspaper that in the new crime bill in Congress there is going to be treatment in prison for drug abuse problems. That is fine. But if it is not linked to long-term care when they leave prison, again, I would say that those are going to be wasted dollars. I am simply making a plea for the fact that we are seeing an increasing emphasis on incarceration as a means of solving this problem, and I don't believe that that is either cost effective or in the long term really going to have the impact that we think it should.

DR. BYCK: Not as a pharmacologist, but rather as a psychiatrist, I would say that there is very strong evidence, as Ms. Johnson pointed out, that putting people in jail for a long period of time does not discourage them from coming back to the same environment where the same

businesses are available. There is only one profitable business in many areas, and that is the cocaine business. That is the only profitable business that anybody can go into, so they go into it, even though they have just suffered the consequences of being caught at it, because I assume -- and I don't have any numbers for it -- that most people don't get caught.

You can't have 22-ton warehouses in Los Angeles full of cocaine and assume that most of the dealers are being caught. That is 180 million doses of cocaine. Most of the dealers are not being caught, so being a dealer is not such a high-risk proposition regardless of what weight you have to carry. It is the only economy available.

Until there are alternative economies in these same communities, people are going to always go back to dealing the most profitable thing possible.

CHAIRMAN WILKINS: Any questions from my colleagues to my left?

COMMISSIONER NAGEL: Ms. Johnson, in your experience, were most of the people who were dealing crack using as well?

MS. JOHNSON: No. No, they weren't using then. When I

went away to treatment -- and sometimes we kind of want to go back to our old areas until we learn that they just don't have anything to offer us -- the majority of the people that was out there, when I was out there, and they were dealing, and they were like the superiors or the lieutenants or whatever, the majority of them are using crack today.

COMMISSIONER NAGEL: Oh, they are.

MS. JOHNSON: The majority of them are using. See, what they might do is they might take the crack and they might crumble it up to a powder form and then they might lace it. Lace it meaning they put it on marijuana or they might put it in a cigar and call them blunts or whatever. But the same thing is that they are still smoking crack. They are just getting it back to the powder form. A majority of the dealers that I knew then are strung out. But when I was out there, they was talking about me like, "Dang, look at you. You look like a bad bag of drugs." But the same people that talked about me, when I got help, they started using.

CHAIRMAN WILKINS: Thank you all very much. Ms. Johnson, we wish you every good luck in the future.

The next panel will focus on how crack and powder

cocaine affects infants, our public high schools, and our hospital emergency rooms.

Dr. Ira J. Chasnoff is President of the National Association of Perinatal Addiction Research and Education and a Professor of Pediatrics at the University of Illinois School of Medicine in Chicago. He is one of the nation's leading researchers in the field of maternal drug use during pregnancy and the effects on the newborn infant.

We will then hear from Marguerite Poindexter LaMotte. She is a principal at Washington Preparatory High School located in the heart of South Central Los Angeles. Washington Prep has 135 teachers and a total of 225 employees on its staff. The school has the largest number of African American students in the Los Angeles Unified School District and boasts 70 percent plus of its graduating seniors annually receiving acceptance letters to four-year colleges and universities.

And then Dr. Robert S. Hoffman, who is here. He is the Director of the Medical Toxicology Fellowship Program and Associate Director of the New York City Poison Control Center. Dr. Hoffman is, also, a senior attending physician at Bellevue Hospital Department of Emergency Services. He

has conducted extensive research and published numerous articles dealing with the effects of various drugs, including crack and powder cocaine, as well as the impact of drug abuse and addiction in our society.

In that order, I think, Dr. Chasnoff, we will start with you.

SOCIAL INSTITUTIONS

DR. CHASNOFF: Thank you. We are going to talk about the children.

I think, as we talk about drug use, especially crack and cocaine use during pregnancy, there are some basic underlying principles we have to recognize.

First, any drug a woman takes during pregnancy will cross the placenta and reach the fetus. You can measure the level of cocaine and its metabolites in the fetal blood, the fetal urine, the amniotic fluid, and in the fetal brain.

Second, is that crack cocaine has especially become a problem among women, women of child-bearing age and specifically pregnant women because it is easily accessible and it does not require intravenous injection. Women drug users tend to not use drugs that have to be injected, so that crack cocaine was the answer or became an answer very

quickly for many women.

Third, is, as was discussed by the previous panel, the pharmacology of cocaine and crack is identical. They are identical drugs, so that any effect that you have on the fetus is similar, whether the woman uses crack or uses cocaine.

Fourth, and probably most importantly as we look at the children over the long term, our longitudinal research has shown without any doubt that the single most important factor affecting the life of a child is the environment in the home in which he is being raised. It has nothing to do with what drug he was exposed to prenatally.

With that information underlying our discussion, we can then understand some of the effects of drugs on pregnancy and on child outcome. If we look at a child at birth who was exposed to crack or cocaine, there is a high rate of low birth weight, prematurity, growth retardation, and neuro-behavioral difficulties. Those neuro-behavioral difficulties are the most important aspect of what we have to concentrate on as we look at the child over the long term.

When you take a newborn infant and begin to interact

and play with the infant, and watch how the infant can respond to you, you find that a child who is exposed to crack or cocaine in utero has difficulty responding, and there are two basic areas the child has difficulty with. One is an area of being easily overloaded; that is, if you have a child who is exposed to cocaine and a newborn of two/three days of age and try to hold that child, look him in the eye and get him to respond to you, he often will turn his head away. He has something we call gaze aversion. If you try to continue to force the issue, he will eventually spit up or fill his diaper. Basically, what he is saying is, "Get out of my face." From a scientific perspective, that is called overload.

The other area is state or behavioral regulation. The baby has difficulty taking information in and responding to it so that he has very erratic behaviors. He will be quiet and sleeping and suddenly will startle and begin crying and irritable and then will fall back down to a deep sleep. We call it a yo-yo behavior.

Those two difficulties -- the easy overload and the difficulty with regulating behavior -- are the two areas that we see that continue to occur among children as they

get older.

In our research, we are following a population of about 400 children who were exposed to both cocaine, crack, and other drugs during pregnancy. We are in the eighth year of that study and have been able to track the children from the prenatal period. It is those two areas -- the overload and the behavioral regulation -- that show the most difficulty.

From an overall testing viewpoint as far as understanding or testing the intellect, the cognitive functioning of the children, that is normal. So that cocaine and crack, unless the child suffers from cerebral palsy or some other specific problem, the cocaine and crack exposure does not affect intellectual functioning.

However, it does affect behavioral functioning. So that, even in the children who are now 3/4/5 years of age, although they have the cognitive capabilities to understand and to learn, their behaviors get in the way. So that a child who is exposed to crack or cocaine during pregnancy will become easily overloaded in the classroom. If too much is going on or if, heaven forbid, there should be a fire drill, that child's learning behaviors fall apart. He has difficulty regulating his behavior, so the children can

become quite aggressive and will begin to strike out as they get frustrated and will have shortened attention spans. So that the difficulties we see, whether they were exposed to crack or cocaine, are quite similar, but they do affect learning. That is the bad news.

The good news is that you can do something about it. Early intervention works. We have found, by identifying those children who were exposed to drugs prenatally, providing physical therapy, occupational therapy, speech therapy, parenting interventions for the mothers, you can prevent many of the problems. Of the 400 children we are following -- all of the women, of course, were in our treatment programs during pregnancy and we followed up -- 95 percent of them were mainstreamed in school. They are not requiring special education. They are not requiring any other special educational interventions. However, if we lose them to follow-up or if we have children referred to us who were not in those early intervention programs, those are the children you are reading about in the media, the media that talk about crack kids.

There are other issues, of course, that come in. One is that exposure to drugs does not occur just prenatally,

but, in fact, children can be exposed post-natally. One of the more common ways we have found is through breast feeding. Any crack or cocaine that a breast-feeding woman takes will pass over into the breast milk and can cause seizures, heart attacks, strokes, and death in the infant who has been breast-fed.

Children have had seizures or other complications subsequent to being in a closed room where someone was smoking crack. The child inhaled the crack and had the difficulties.

There are parents, who are using crack or marijuana, who will smoke the crack or marijuana and blow the smoke into the baby's face to quiet the infant if the infant is irritable or crying.

Finally, there is the area of child abuse. We know that in families where there is substance abuse, there is increased risk for child abuse. That is not to say, however, that a woman who is using crack or cocaine cannot be a good mother. Again, it comes back to putting a woman in jail and separating her from her child versus trying to stabilize the home and the family and providing treatment to the mother and child.

Where our focus is now is working with families. We have done this through several intervention modalities. One that we are proudest of is Head Start. We have developed model Head Start programs where drug treatment is given to the mothers while the children are enrolled in Head Start.

Unfortunately, just two weeks ago, we had to close our Head Start program down three times during one week because the gangs attacked the Head Start program.

If you are asking me what affects learning in a child, is it crack or cocaine use by the mother? I can tell you it is far more affected, learning is at much higher risk if a child's school is hit by bullets from the gangs caught in the cross fire.

The simple question or relatively simple question on the surface of whether crack or cocaine should be more heavily penalized doesn't really make any difference to the children I am working with. I can tell you that a child comes to school. We have had 3- and 4-year-olds talk to us about the funny white powder their mothers put up their nose or the kind of funny smoke that they smell in their home that makes them feel silly. So children are growing up with this. The only way to intervene is to provide the services

and the family interventions from a holistic perspective.

I cannot answer for you whether you should be sentencing someone who uses crack versus cocaine or dealing crack versus cocaine to a longer period of time. But for the children, I think that you have to decide what your ultimate goal is. If it is to provide that child with the best opportunity for growing and learning, then we are going to have to find other ways than taking their mothers away and putting them in jail. That is going to mean, as the previous panel said, much broader treatment opportunities and a new understanding of what treatment means for families.

CHAIRMAN WILKINS: Thank you very much.

Ms. LaMotte?

MS. LaMOTTE: Mr. Chairman and members of the Committee. In order for you to understand my position regarding differentiated sentencing for crack or powder cocaine, I would like to, first, give you some demographics of the district in which I work.

The school district in Los Angeles, the Los Angeles Unified School District, is the largest district in the State of California, and it is the second largest school

district in the nation. It encompasses the city of Los Angeles as well as all or part of 28 other cities and covers 706 square miles.

The enrollment exceeds 800,000 students who attend 413 elementary schools, 72 junior high schools, 49 senior high schools, and 291 other sites including children's centers, for approximately 825 sites.

The students with whom we deal in Los Angeles reflect the racial and ethnic diversity of the Los Angeles area. 81 different languages are spoken in our schools. Of the 800,000 students, over 55,000 students are enrolled in special education, some at regular school sites and some at special schools. They include students who are learning disabled, orthopedically handicapped, visually impaired, hearing impaired and developmentally disabled, and we have begun special classes for students for young children who are crack babies in the special education program.

These students range in age in these special programs from age 3 to 21. 21 percent of the district's K through 12 enrollment comes from families whose income is low enough to qualify for Aid to Families with Dependent Children.

61.8 percent comes from families whose circumstances

are such that they qualify for free or reduced-price school meals. These statistics indicate that many of our students can be identified as students who are at risk simply because of the environment in which they live and because they are more vulnerable because of these circumstances.

More specifically, the school at which I work, Washington Preparatory High School, we have 3,100 students. 75 percent of the student body is African American and 25 percent is Latino. Washington Prep has the highest percentage and the greatest number of African American students in the city of Los Angeles. It is located in South Central Los Angeles, and our campus was actually used as a staging area during the civil unrest approximately two years ago. It was interesting to see how the students co-existed with the National Guard.

Despite this, in the last two graduating classes, over 70 percent, as was stated, of our students qualified and received acceptance letters to four-year colleges and institutions and many are matriculating in post-secondary schools throughout the country. However, because of family financial constraints, many of them had to compromise and attend a two-year college in Los Angeles and, yes, there are

many cocaine houses in our school community.

I was a bit hesitant when I was asked to make this presentation because the incidence of cocaine at Washington Prep is almost nonexistent. Marijuana is the major cause of drug abuse at my school.

This heightened my curiosity, and so I asked the school police department to share with me the Los Angeles Unified School District's School Crime Report Summary for July 1st to July 31, 1992 and from January 1st to June 30, 1993. There are 13 crime description categories on the report. Under the category of chemical substance offenses, the data showed the following:

The uses of marijuana in the schools with the background that I have given you we have a total of 351. Alcohol, 5 offenses, and other drugs 25. This also indicates that the major cause of drug abuse in the other schools as well is marijuana and not cocaine.

However, it should be noted here that Washington Prep and about six other senior high schools in Los Angeles are a part of a comprehensive drug-free school zone project; a joint venture of the Los Angeles Unified School District, the Department of Education and the California State

Department of Alcohol and Drug programs. This is a project which creates a comprehensive model to mobilize community resources to create drug-free zones. The purpose of the project is to reduce drug and alcohol use among students in South Central Los Angeles and to protect students from drug and alcohol offenses in or near the school.

With all that we have said this afternoon, one of the most important aspects we know is prevention. This project empowers students, parents, and community residents and leaders and encourages them to work together to address drug and alcohol problems in our community. Our goals are simple -- to reduce the chronic incidence of drugs and alcohol use in and around the school and to strengthen youth, parents, law enforcement and community involvement in solving school and community problems.

A 1,000-foot radius surrounding our school has been designated as drug free. Through the project's community coalition that has been formed, the city has cooperated by posting street signs within that radius informing members of the community that it is a drug-free school zone and given a warning that anyone convicted of providing or selling drugs or controlled substances to a minor within this area will be

subject to increased penalties.

The program provides counselors from mental health, resources from youth gang services. It pays parents a small stipend to assist in patrolling the campus and its perimeter. One of the most important components is that the program provides jobs for students at minimum wage. We have found that one of the greatest deterrents to students becoming involved in drugs is to build their self-esteem and provide them with some degree of economic stability so they do not develop a dependency on drugs or selling drugs.

However, this is only a three-year grant. We are in the second year, and we are currently seeking ways to continue or find other grants to continue this program. Since I am in Washington, this is a slight commercial, and anyone that knows of any other grants, please let me know.

As an educator and principal of a school with 3,100 students, for whom I feel somewhat personally responsible, I don't care how you designate the drug; crack cocaine, rock, or powder cocaine, I feel that the effects on society and especially on unsuspecting students are equally devastating, and the statutory penalty for those who traffick in or possess any kind of cocaine should be the same.

When a person injures, maims or is found guilty of vehicular manslaughter because of intoxication by alcohol, the sentencing is not determined by whether the drunken condition was the result of drinking 100 proof Jack Daniels, 80 proof vodka or the 800 malt liquor. The cause of the intoxication does not alter the crime or undo the injury or death that was caused.

Does distinguishing the kind of cocaine for sentencing purposes send a message to the drug dealers in the community that it is more legitimate to deal powder cocaine than crack cocaine and that if he or she trafficks powder cocaine to our school children, that the sentencing will be lighter? I say this is the wrong message to communicate to the drug dealer, to the community at large, and especially to the students who fall pray to the prowess of slick drug dealers.

As we conferenced with students who have experienced marijuana for one or more years and get them involved in treatment processes and programs to become drug free, I reflect on the fact that, to my knowledge, there is -- and I am a novice. I have learned a whole lot sitting here today -- that there is no differentiated sentencing for the varied qualities or types of marijuana.

As I talked with a group of students, informing them of my invitation to testify here today, they reminded me of a poem that we circulated at the school. If you will pardon some of the language in it, since I am an educator, I am going to share it because we shared it with our students.

It says, "My Name is Cocaine. Beware, my friend, my name is cocaine -- coke for short. I entered this country without a passport. Ever since then, I have been hunted and sought by junkies, and pushers, and plain-clothes cops, but mostly by users who need a quick fix. I am more valued than diamonds, more treasured than gold. Use me just once and you, too, will be sold. I will make a school boy forget his books. I will make a beauty queen neglect her looks. I will take a renowned speaker and make him a bore. I will take your mama and make her a whore. I will make a school teacher forget how to teach. I will make a preacher not want to preach. All kinds of people have fallen under my wing. Just look around you can see the results of my sting. I have got daughters turning on their mothers. I have got sisters robbing their brothers. I have got burglars robbing the Lord's house. I have got husband's pimping their spouse." Today I heard we have them attacking children in

Head Start -- too much. "I am the king of crime and the prince of destruction. I will cause the organs of your body to malfunction. I will cause your babies to be born hooked. I will turn the honest of men into crooks. I will make you rob, steal, and kill when you are under my power. You have no will. Remember, my friend, my name is big C. Some call me the white lady. I have destroyed actors, politicians, and sports heroes. I have decreased bank accounts from millions to zero. I am a bad habit, too tough for the man. I have caused the law to invest in the battering ram. Yeah, I am raising hell all over the Earth. Don't believe me, just check out Bentenhurst. I've got them standing on the corner yelling, 'Rock.' I have made it where shootings and stabbings are common on the block. Well, you know, what will you do? Remember, my friend, it is all up to you. If you decide to jump in my saddle, you better ride me well, for on the white horse of cocaine I will ride you straight to hell."

In closing, the students and I share the same position. Drugs are drugs. A student who gets hooked on cocaine, be it crack or powder, is still an addict and will suffer the same consequences. So the dope dealer should be subjected

to the same sentencing.

Our communities need to be rid of the perpetrators and the cocaine houses, rock, crack or powder. The devastation to lives is illustrated in the poem. It had no distinction of the kind of cocaine. Therefore, from an educator's perspective, I recommend that there should be no differentiation of sentencing for the kind of cocaine.

CHAIRMAN WILKINS: Thank you very much, Ms. LaMotte.

Dr. Hoffman?

DR. HOFFMAN: Thank you and good afternoon. It is my pleasure to address this committee. After listening to all of the other speakers, I am quite humbled, and I almost feel like I have nothing to add after that last poem. Despite that, I would like to represent for you the urban health care system, those of us who are on the front lines of, as you have put it, the war against drugs, those of us who deal with the violence, the clinical manifestations, the acute and severe intoxication, and the other manifestations of cocaine.

If you will indulge me for a second, I am a practicing internist emergency physician and medical toxicologist. My short career, but career interest nonetheless, has been with

regard to cocaine, specifically its toxicity, its subcellular events, its physiology, its treatment and, most importantly, its effect on the society that we practice in, the inner city, the urban health care of all of our folks.

Our group has studied over 500 patients with acute and severe cocaine intoxication. The publications range from journals to the lay press. Currently, we are involved in quite a number of single-center and multi-center projects looking at the manifestations and looking at treatment options.

In addition, we have a very active laboratory looking both at bench work, at animal models for cocaine, and currently we are pursuing quite actively treatment, specifically, an antidote for the molecule. We are in animal testing and soon the FDA will hopefully release our product for human investigations something specifically to antagonize the events of cocaine.

What I have heard today is really a lot of discussion of the pharmacology and the physiology. What people have neglected to tell you is that we are really dealing with the intersection of two very, very common disorders.

Violence is pervasive in society. There was violence

long before there was cocaine. There will be violence long after cocaine. Cocaine, in and of itself, though, produces violence. I haven't heard really anybody say this today. People who take cocaine have violent behavior. It is the way the drug works. The drug specifically triggers an area of the brain known as the limbic system, more so than most other areas of the brain. This is that area that controls the primeval drives that make us function since the time of the cave man. I want to eat. I want to feast. I want to have sex. I want to have lots of sex, and I want to kill my enemy. Those fundamental drives that allow the species to survive are, in fact, stimulated by cocaine, and there is no doubt about this based on our animal research and based on other's animal research.

If you take an animal and put it in a cage and give it a certain dose of cocaine, it will respond in a very predictable fashion. If you take two animals and put them in a cage and give them each less cocaine, they will both die. The reason they die is an effect that we commonly call grouping. In the throws of intoxication, the stimulation by having another intoxicated individual enhances the behavior, enhances the toxicity, and enhances the events that we see.

There is no doubt that cocaine causes violent behavior and that the social use of cocaine enhances both cocaine toxicity and the violent behavior, at least, in animals, and we think that this is very much true in people.

To tell you a little bit about the people. I practice in Bellevue Hospital, which is in Midtown Manhattan. We are considered to be the flagship hospital of the Health and Hospital Corporation in New York, which is quite an honor. We have a 250-year history of devotion to community health care. We are probably the oldest functional -- unfortunately not at the same site -- but the oldest functional hospital in the country.

Currently, we are a Level 1 trauma designated hospital with over 100,000 emergency department visits per year and supported by a 1,200 bed inpatient facility. When you combine that with the rest of our medical center; meaning the Manhattan VA Hospital and New York University's Hospital, we are one of the largest health care facilities in Manhattan and, as such, one of the largest health care facilities in the country.

Our patient population is quite unique. We serve Midtown Manhattan. What that means is anyone who comes to

do business in Manhattan, anyone who comes for pleasure, they are all our patients. This commuter-based population goes across all socioeconomic lines, across all racial barriers, and into all areas of society. Our stable population is largely lower class, lower middle class, the working poor, and the unemployed. With that, we have a very, very large population of homeless people as well.

As you might expect, substance abuse in this group of individuals is rampant. From one of our studies recently at the hospital, there was a 25 percent likelihood that if you came to Bellevue's emergency services, you could be designated by scientific criteria as an alcoholic. One in four patients we see is an alcoholic.

Since 1986, we have had another problem and that other problem has been crack cocaine. As of 1986, crack surpassed all other causes of illicit drug presentations to the emergency department, such that, if you came to our emergency department for some drug-related cause, it was going to be crack in well over 50 percent of the events. Now we are up in about the 70 or 80 or 90 percent, if you include crack cocaine or cocaine with other drugs.

The Drug Abuse Warning Network, DAWN, that some other

speakers referred to, functions in our institution. On an average day, we will have three to five patients coded as being in the emergency department for some cocaine-related problem, usually coded as crack.

Countless others are clearly there for cocaine-related problems and the connotation of drugs just never makes it into the chart.

I also represent the New York City Poison Control Center here which also has a ripe history, where we are the oldest Poison Control Center in the United States and certainly one of the oldest in the world. We serve about 70,000 poison-exposed patients a year. Cocaine is coded daily. We see this all of the time. It accounts for about one-half of 1 percent of all of our calls. Despite this very low incidence, it accounts for 8 percent of our fatalities.

Of illicit drugs, cocaine-induced fatalities are far greater than anything else and is really only second to alcohol in total number of deaths.

If I could, I would like to spend a few moments with you just telling you about the kinds of problems we see and how they are dealt with.

The presentations of cocaine are really multi-factorial, and they include acute and severe intoxication, which we will talk more about in a few minutes, AIDS and other infections, trauma and violence that is related both to the intoxication itself and to the problems associated with the sale and purchase of cocaine. These patients are largely very easy to define. They are a minority. They are male, and they are between about 15 and 35 years of age. Now these demographics may be somewhat biased by who I am and where I practice. But, in general, the ages, the race characteristics, and the maleness tends to be reproducible in other studies and other places in the country and the world.

When acutely intoxicated, these patients present with wild severe agitation, uncontrollably violent behavior, life-threatening abnormalities of their vital signs, usually accompanied to the hospital by six or eight or ten police officers, a number of paramedics. They are outwardly violent, boisterous, in need of emergent health care and, singlehandedly, one wildly intoxicated crack patient can disrupt the entire functioning of one of the largest emergency services in the country.

We also see women, and we have spent a lot of time focusing on women and children, with some quite unique problems. Dr. Chasnoff talked about placental transmission and breast milk transmission. We have some other phenomena. It is quite popular in our community that, as you go into labor, you smoke cocaine. Why? To ease the pains of labor. These same women subsequently apply cocaine directly to their breasts or to the gums of their children to ease the pain of teething, either locally or, again, at the child -- a substitute for Anbusol and some of the other over-the-counter products.

We have treated countless numbers of children with agitated behavior, with seizures, with life-threatening events and strokes in newborns related to this problem.

Our major focus is on trauma. Trauma is very, very unique to Bellevue, to Bellevue's history, to New York City and, specifically, to cocaine. Teenagers, young adults at the prime of their lives, are routinely shot, stabbed, beaten to within inches of their lives during conflicts over the sale and purchase of cocaine. 80 percent of our major trauma cases test positive for at least one illicit substance; cocaine being counted for in 60 to 75 percent of

them.

Repeated trauma from cocaine use is very, very real. If you present to our hospital a victim of some major trauma, there is a 60 or 70 percent chance that you have used cocaine. If this is your second trauma, there is a 70 or 80 percent chance that you used cocaine. If this is your third, fourth, or fifth or sixth major traumatic event, we don't even test you any more. It is 100 percent.

Trauma in itself is a disease. Repeated trauma has as its number one risk factor cocaine use. Falling from a height, stumbling onto the subway tracks, walking into ongoing traffic all occur during acute intoxication. If you die in New York City from a motor vehicle accident fatality, there is an 18 percent likelihood that your blood or urine will test positive for recent cocaine use. This is second only to alcohol which, as you know, is up around 50 percent.

Crime is very difficult to quantify, but a recent study in New York showed that three out of four inmates, male arrestees in New York City, will test positive for cocaine.

What I have painted for you, unfortunately, is a very dismal picture. For those of us on the front lines of

health care, there is no doubt that, using the words of the previous administration, the war on drugs is being lost. The numbers of innocent victims are mounting from very, very predictable events. These are random shootings, stray bullets, out-of-control motor vehicle accidents all claiming innocent lives on a daily basis.

AIDS contracted through unprotected intercourse, either at crack houses or from prostitutes who need to support their habits, is transferred again to innocent victims, the children.

In my area, there is no doubt that the correlation between crack cocaine use and these events is very, very strong and very, very clear that there is a resounding bias. Crack is so prevalent compared to other forms of drugs and compared to cocaine itself that we have no scientific data to compare this to. Violence existed in this community in inner-city America long before there was crack. Now with crack, there is violence as well and the two just come hand-in-hand.

What we are left with really is this question of is there is a difference between cocaine hydrochloride and crack, between cocaine powder and the rock form?

Unfortunately, we don't have much data to base this on. Scientifically, you have heard from each and every one of us that these are essentially the same molecules. IV cocaine and smoking crack produce the same effects in the same individuals, at least individually, on a laboratory basis. When you put them out into their respective societies, how they behave is probably more a function of who they are and where they are than what drug they have been given or how they have taken that drug.

We have good studies to suggest that, if you come to the hospital with a cocaine-related problem, whether you have taken crack or cocaine hydrochloride, whether you have smoked it or used it intravenously, the outcome is about the same and that the route of the drug or the type of the drug isn't really a risk factor. Yet there is this perception that violence and trauma is specifically related to crack cocaine.

Some of the other people have discussed the issue of is it intravenous use versus smoking, the socially unacceptable process of using a needle. Clearly, there is a dexterity problem. You can't get repeatedly high and function, get the needle into your arm. Whereas, smoking can be done with

the ease of a friend or quite easily even through the throws of acute and severe intoxication.

What I believe the real difference is, is accessibility to the general population. Cocaine is a powder. It is difficult to divide. It is difficult to handle. It is difficult to sell. Crack is available in unit doses. It is easy to divide. It is attractive. It is socially acceptable to smoke. There are commercials. There are magazine ads, and smoking cigarettes is just transferred over to smoking crack. It is a learned behavior. With larger availability, with a new market, people who are willing to smoke rather than use a needle, we have a free-market enterprise. There is competition and competition clearly breeds violence.

All of these hypotheses are testable, but the analysis has never been attempted. I am certain that the intentional and accidental violence has increased in our area in a real consequential manner or as the result, in part, of crack cocaine's prevalence. I am unclear really as to whether it is the drug, how the drug is used or the people who are using the drug that is responsible for the events.

As a scientist and clinician, from my viewpoint, the

issues need to be better clarified. Until they are, it doesn't make sense to punish a molecule with a little twist so much more severely than the same molecule in a different scenario. What we really see in practicing urban health care is that lower, unemployed, minimum-waged, homeless, socioeconomically impoverished people are going to suffer for using the molecule in a different way, in a way that is socially acceptable to them, and the potential bias for punishing crack cocaine differently than cocaine hydrochloride is a bias towards inner-city America.

I can't tell you how to write the law. I think a lot more consideration needs to go into this issue before we don't change things to have such a disparity between these two events.

CHAIRMAN WILKINS: Thank you, Dr. Hoffman.

Let me ask you a question, and I will ask Ms. LaMotte and Dr. Chasnoff to comment on it. You said that because of the way cocaine affects the brain that it produces violence. Cocaine produces violence.

DR. HOFFMAN: Yes, sir.

CHAIRMAN WILKINS: And, if a dealer distributes cocaine, the dealer is distributing potential violence.

DR. HOFFMAN: That is correct.

CHAIRMAN WILKINS: And, if the dealer distributes 50 grams of cocaine, the dealer distributes 50 grams of potential violence. If one distributes 1,000 grams, it is 1,000 grams of potential violence. From your experience, would you conclude that quantity is a fair measure of the seriousness of the offense; that is, if I am a 100-gram dealer or I am a 1,000-gram dealer -- you relate that into violence -- would that be a fair measure of the seriousness of the offenses being committed?

DR. HOFFMAN: This is a very difficult issue for me. As a physician, we don't really look at things or, at least, I don't really look at things in those terms. The drug has the ability to produce almost anything in anybody. The more drug that is sold, whether it is cocaine or marijuana or heroin or alcohol or cigarettes, the more likely it is to have a health-care consequence.

CHAIRMAN WILKINS: On more people.

DR. HOFFMAN: On more people or more severe in the same number of people. So that truly someone who purchases a personal amount of cocaine has created less of an offense to society, in my mind, than someone who sells an amount that

is going to go out to hundreds or thousands of people.

But, again, that is cocaine. As so many people have told you today, cocaine is cocaine. It probably doesn't matter what the form is.

CHAIRMAN WILKINS: I was just addressing quantity and not form, assuming the form is crack.

Ms. LaMotte, do you think quantity is a fair way to measure seriousness of conduct?

MS. LaMOTTE: I think I was quite clear. I don't think so. I don't think quantity enters into it and, after sitting here today listening to the reports that I did, and especially being privileged to share with Ms. Johnson what she said as a first-hand user, she said the same thing, "Coke is coke." A kid who is addicted is addicted, whether it is powder, whether he uses five grams or fifty grams or whatever. I don't think quantity comes into play at all for me.

CHAIRMAN WILKINS: Thank you.

Any comments, Dr. Chasnoff?

DR. CHASNOFF: Yes. From looking at the process of addiction, that is quite true. One person taking a gram of cocaine and another person taking five grams of cocaine you

cannot predict that the person that took five grams is going to have a worse reaction or be more violent. There are some people who tolerate various levels of the drug so that the amount that is taken has nothing to do with the response.

CHAIRMAN WILKINS: How about the amount as an indicator of seriousness as far as the dealer is concerned?

DR. CHASNOFF: From the dealer's perspective, it makes a lot more sense that the quantity does have an impact because, if you have ten grams to sell and you sell those ten grams to ten different people, that is, from a societal perspective, worse than having five grams to sell and selling a gram to five people. So your impact on society is greater the more that you are selling.

MS. LaMOTTE: You are still a dealer.

DR. CHASNOFF: You are still a dealer. But the more you deal, the greater impact you have.

CHAIRMAN WILKINS: Let me ask my colleagues to the left if they have any questions.

COMMISSIONER MAZZONE: I will pass. Thank you.

COMMISSIONER NAGEL: I understand that one of the points, I think, all of you were making is that many people involved in drug use are abusers of multiple drugs, and that

includes alcohol, cocaine, crack, et cetera. If we can sort of separate those out for a second, the multiple drug users, do you have any sense -- and I assume from what Dr. Hoffman said that there are, on quantitative empirical data at this point -- but do you have any perception or any qualitative impressionistic data that would give us any sense of whether there are differences with respect to child abuse, violence against women, violence as a function of any drug; that is, are some drugs more highly correlated with child abuse, and sexual abuse, and violence, and violence against women than other drugs?

DR. CHASNOFF: From a pure numbers' perspective, it would be alcohol, just because alcohol is used so much more widely. When I got into these discussions about legalizing drugs, and there those who say we should be legalizing drugs and it would do away with the problems, you merely need to point to alcohol to combat that discussion. By far alcohol.

Now, of the illicit drugs, there does appear to be a greater level of child abuse in those populations, now we are speaking about illicit drugs, that are using crack or cocaine. Why?

First, is that one of the biggest risk factors

associating substance abuse and child abuse is if the mother is the drug abuser. Since crack and cocaine have become so popular among women, I think that is one of the reasons that we see much higher rates.

COMMISSIONER NAGEL: Is there any difference between crack and cocaine?

DR. CHASNOFF: No. As far as we can tell prospectively looking at child-abuse risk, a rose is a rose is a rose. There is no difference that has been measured between crack and cocaine. What you should understand, whenever you are talking about issues that deal with women, however, what you should understand is there is probably not such a thing as a woman who uses just cocaine or crack, because in all of our work we have found that it is poly-drug use. The most usual combination is cocaine or crack plus alcohol, marijuana any tobacco. That is the combination.

It reminds me I was in front of a large audience once, and they opened the questions to the audience, and a woman stood up and asked about "happy sticks." "What effect does happy sticks have on -- " and I had never heard of a happy stick in my life. Much to my embarrassment, what I found was that that is PCP, phencyclidine, cigarettes dipped in

formaldehyde. So there is no limit to what you may find, and to be able to address one drug in isolation, such as crack or cocaine, is next to impossible. I think that is why the many scientists that have been sitting here you may think that you hear us stumbling around quite a bit in trying to look at these issues on an individual basis. That is because from a scientific perspective you really cannot isolate one drug.

COMMISSIONER NAGEL: Because they are multiple drug users.

DR. CHASNOFF: Because they are out there, they are using everything.

COMMISSIONER NAGEL: Thank you.

CHAIRMAN WILKINS: Do you have questions?

CHAIRMAN REILLY: No, I think I am out of questions. I have really appreciated this testimony. I would hope, Mr. Chairman, that the recorder did a good job in capturing all of this because -- she is nodding her head that it did -- I think this is the kind of testimony -- unfortunately, I don't know whether you folks have been before Congressional Committees -- but it needs to be shared with members of Congress who are wrestling, as is the Sentencing Commission,

with the issue of what should be the penalties.

If there is anything that has come out of all of this, I think it only highlights, for me at least, again, the fact that we are indeed in this country, in my opinion, and I don't mean to make it sound like a radical statement, but we are indeed at war in terms of this crisis that has come to the doorstep of all America and that is obviously, based on Dr. Schuster and other's testimony, just even more alarming than they ever dreamed it would be when they first brought it up back in the late 1970s.

So, if a missile landed on our shores tomorrow, Americans are known to retaliate, and I am sure that we are faced right now with the same situation. We have a lot of missiles out here that need to be addressed, and I must say, Ms. LaMotte, that my wife would agree with you, as a teacher, that a rose is a rose is a rose no matter, and we can't justify the drugs, period, and she has discussed that at length with me, as a teacher herself.

I appreciate all of you being here very much.

CHAIRMAN WILKINS: Yes. This has been a very productive, informative, and certainly an interesting meeting and hearing. Your testimony will be transcribed and

included in a report to the Congress. I have learned a lot from the testimony given. This successful hearing is a result of the outstanding witnesses. Not only to you three, but the others who were here, we greatly appreciate your time and expertise.

Any other comments?

[No response.]

CHAIRMAN WILKINS: If not, we will stand adjourned. Thank you very much.

[Whereupon, at 5:15 p.m., the proceedings were adjourned.]

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