



OFFICE OF NATIONAL DRUG CONTROL POLICY
EXECUTIVE OFFICE OF THE PRESIDENT
Washington, D.C. 20500

August 19, 1993

ONDCP COMMENTS ON DEA/FBI REORGANIZATION

Any reorganization of the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) should be undertaken only after careful consideration of the impact of this move on the nation's overall drug control program. DEA is the only drug control program agency that has as its sole mission the suppression of traffic in controlled substances in and directed at the United States. There are fundamental drug policy reasons for this approach.

DEA was created by Reorganization Plan No. 2 of 1973 to bring a sense of order and unity to Federal drug law enforcement efforts, which up to that point had been diffused in many Cabinet departments and agencies.

The Reagan Administration explored the merger concept in 1981 - 1982 and rejected that approach, opting instead to give the FBI concurrent jurisdiction over Title 21 offenses with DEA and the FBI and harmonizing some management between the two Justice units. At the time of that decision, it was recognized that having a separate drug enforcement agency was vital to the leadership of the United States on drug control issues. The March, 1982 Implementation Directive for Concurrent Drug Investigative Jurisdiction Between the Drug Enforcement Administration and the Federal Bureau of Investigation (hereinafter referred to as the "Implementation Directive") emphasized this point by mandating that "DEA will continue to function as the principal Federal drug enforcement agency".

The leadership role of DEA was repeatedly mentioned at Congressional hearings on the subject in 1982 before the House Judiciary Subcommittee on Crime chaired then by the Rep. William J. Hughes, and the former House Select Committee on Narcotics Abuse and Control, chaired by former Rep. Leo C. Zeferetti and then Rep. Charles B. Rangel.

DRUG ENFORCEMENT MISSIONS

The Implementation Directive instructed the FBI to focus its resources on drug investigations involving traditional organized crime families and non-traditional, violence-prone organized crime groups. DEA was mandated to continue its focus on investigations of major drug organizations according to established priorities and continue its coordination role with State and local law enforcement agencies. In light of these two distinct roles, the question that must be asked is what is the objective of the proposed reorganization or merger?

Specifically:

If reorganization or merger is to harmonize specific functions of various Justice agencies to prevent overlap and duplication of effort, then full merger of the DEA into the FBI may not be necessary.

If somehow DEA has failed in its mission, and the FBI has proven it could perform drug control functions better, then a merger may make sense.

If Federal drug enforcement is a national priority - along with the other aspects of Federal drug policy - having an entity whose single focus is the enforcement of the nation's drug laws reaffirms that priority status.

As James Q. Wilson commented on the merger issue a decade ago in his book, The Investigators: Managing FBI and Narcotics Agents (Basic Books 1980), do the FBI and DEA perform similar or compatible tasks or utilize resources (eg. informants, evidence, cooperative witnesses) in similar ways to justify merger?

Answers to these various issues may be found in the following considerations:

Perception of Downgrading the Drug Issue

The Office of National Drug Control Policy is particularly sensitive to the perception that the Administration may be "downgrading" the importance of the drug control mission. The Administration has already taken a number of hits in this area - reductions in its drug budget submissions, the slow start in getting ONDCP organized, etc. - making it manifestly unwise to propose making DEA a "division" or "subdivision" of the FBI without some significant - and immediate - gain that would come in terms of improving the national drug enforcement effort. This is of particular concern considering the dramatic increases in heroin production and trafficking in recent years. We cannot afford to have "downtime" in our national drug enforcement efforts at a time when we are facing a growing heroin threat.

The FBI and DEA both concede that full merger would take a number of years, and that could be potentially disruptive to ongoing drug investigative efforts. As Wilson notes, a familiarity with tasks, and the resources essential to the performance of those tasks, is necessary if one wishes to alter investigative missions. Thus if one concedes the unique - and distinct - enforcement missions of DEA and FBI, it could be argued that in the interest of streamlining the Department of Justice's drug enforcement efforts, it makes more sense to transfer to DEA resources presently assigned to the FBI for drug enforcement to insure full Department efficiency in this area. This would enable the Department to comprehensively address all

drug responsibilities currently assigned to the Department within the expertise in DEA.

ONDCP appreciates the desire of the Department of Justice to control costs and avoid duplication in various programs and functions. However, forcing drug enforcement programs to compete with a myriad of other FBI programs for funding hardly demonstrates national priority to the drug problem. Further, if the Department has identified DEA and FBI programs that overlap, or can be more efficiently combined to effect a cost savings, ONDCP submits that this may reflect past management decisions at the Department of Justice that lend themselves to correction short of full merger.

Similarly, ONDCP is also concerned about the duplication of drug intelligence efforts. However, we submit that those problems cannot be solved by the merger of DEA and FBI alone, but require an extensive review of our nation's drug intelligence resources, techniques, and missions from both a tactical and strategic perspective. This review cuts across many other departments and agencies beyond the Department of Justice.

Foreign Policy Implications

Dating back to its predecessor agency, the Federal Bureau of Narcotics, the DEA has a long history of cooperative investigations with its counterpart drug suppression agencies in foreign nations. In a June 7, 1982 response by then Acting DEA Administrator Francis Mullen to questions from the House Select Committee on Narcotics Abuse and Control, Mullen noted that the Implementation Directive would not alter the traditional role of DEA overseas. Mullen wrote "DEA will continue to be responsible for the conduct of drug investigations in foreign countries...DEA is the U.S. Government's drug enforcement representative internationally. DEA relationships with host country representatives are credible and well-established; and as such we anticipate no misunderstandings regarding the differentiation in DEA and FBI roles in drug enforcement."

The FBI has no such history. In fact, some foreign nations are still suspicious of a FBI presence in country (See attached Los Angeles Times article, August 7, 1993, "Chileans Bristle at Plan for FBI Santiago Office"). Moreover, it was the role played by the FBI in counterintelligence activities and the negative perception that carries overseas which was a major factor that led the Reagan Administration to reject the merger of the two agencies in 1982. The Implementation Directive specifically states that "DEA will continue to be responsible for the conduct of drug investigations in foreign countries. This will include the investigations of leads generated in all types of FBI/DEA cases". In fact the Directive required FBI drug investigations that lead to a foreign investigation to task DEA headquarters to

transmit the lead to the appropriate DEA foreign office for action.

Further, we do not want to "downgrade" the importance of drug control in the minds of foreign governments who rely on the leadership of the United States in international drug control activities. Foreign governments have confidence in dealing with DEA. To put that confidence in jeopardy could destroy invaluable working relationships.

Based upon Director Brown's recent visit to the drug producing and trafficking nations of Latin America, the region is very concerned about the Administration abandoning them in the fight against international drug trafficking. Over the last decade these nations have undertaken, at our request, tremendous efforts to curtail drug trafficking at great human and financial sacrifice. To date the only discussions they have heard about drug policy out of Washington has been about "demand reduction", "budget cuts" and now the abolition of DEA. The symbol of DEA being submerged into the FBI reinforces the impression that the United States is retreating from the important objective of having a strong and effective international narcotics control program to concentrate on other foreign policy objectives in Europe and elsewhere.

Congressional Reaction

Congressional reaction to the merger can be expected to be intense. Senator Joseph Biden, Chairman of the Senate Judiciary Committee, and Rep. Charles Schumer, Chairman of the House Subcommittee of Crime that has jurisdiction over DEA, have reportedly expressed reservations about a merger. Other key members like Rep. Don Edwards and Rep. Charles Rangel may have strong views which oppose the merger. Rep. Edwards, whose subcommittee has jurisdiction over the FBI, has expressed concern about further consolidation of the federal law enforcement effort and expanding the role of the FBI, while Rep. Rangel has long championed the independence of DEA. House Judiciary Committee Chairman Jack Brooks has instructed his staff to undertake an extensive review of federal law enforcement jurisdiction in response to the Attorney General's and the Vice President's working groups.

Strong consideration needs to be given to what other drug policy and crime control initiatives the Administration will be recommending to the Hill in the near future and how the Administration wants to prioritize its drug policy agenda before any firm decisions are made on consolidation or merger.

State and Local Concerns

State and local law enforcement agencies have traditionally have had closer working relationships with the DEA, as opposed to

their FBI counterparts. The historical reluctance of the FBI to share intelligence and information with State and local officials, and the Bureau's fear of local police corruption, has in the past hampered working relationships between the FBI and State and local enforcement units. While various Federal task forces and working groups have eased some of these problems in recent years, the integrity of working relationships with State and local law enforcement agencies must be accounted for in any proposed consolidation.

These concerns were recognized in the Implementation Directive. It noted, "DEA will continue to be the agency responsible for coordination of the drug program with state and local agencies. This role will also continue in relation to the U.S. Customs Service, U.S. Coast Guard and others involved in various interdiction efforts." Significantly, in recognition of the lead role of DEA in interacting with State and local law enforcement, the Implementation Directive required the FBI to advise DEA of its interaction with State and local law enforcement in its drug investigations.

State and local law enforcement groups remain concerned that a merger of the DEA into the FBI would dilute the nation's drug enforcement efforts. Many have told ONDCP that a merger would cause drug enforcement programs to lose their focus and effectiveness as part of a larger, multi-functioned FBI. Many believe that resources would be diverted from drug enforcement. DEA and FBI roles are seen as separate and distinct in the view of many state and local law enforcement representatives, and, believe, ought to remain that way. While one cannot identify a "position" of State and local law enforcement interest groups on the issue of merger, because of the large role played by State and local agencies in drug enforcement, there exists general concern that any attempt to achieve organizational efficiency at the Department of Justice, be achieved with priority given and maintenance of effort assigned to the drug enforcement program.

Diversion Control Program

DEA's controlled substances and chemical diversion control program is a very extensive regulatory function. The diversion of licit controlled substances into avenues of abuse is a drug control problem of importance. For example, earlier this month, the General Accounting Office released a study showing the serious problem of medicaid fraud and the diversion of prescription drugs. Similarly, since being assigned jurisdiction over the Chemical Diversion Trafficking Act in 1988 and by working closely with U.S. manufacturers, DEA has established an effective program to curtail the diversion of U.S. produced precursor and essential chemicals into the illicit traffic. This program has been saluted by our foreign counterparts in nations where these chemicals are used in the drug processing chain. Any consolidation plan needs to maintain the integrity of these two important programs.

Summary

These are a few of ONDCP's concerns. ONDCP looks forward to reviewing all the various FBI and DEA position papers on the proposed consolidation so that the recommendation Director Brown makes to the President is based on a full understanding of the various options proposed. ONDCP strongly believes, however, that whatever reorganization plan is ultimately agreed to by the Administration, its guiding principles must be based on what is in the best interests of U.S. drug control policy.

Chileans Bristle at Plan for FBI Santiago Office

By WILLIAM R. LONG
TIMES STAFF WRITER

SANTIAGO, Chile—The Chilean television report was titled "The FBI in Action," and it started with some hard-hitting footage of Kevin Costner and Sean Connery in the movie "The Untouchables."

But the main focus of the TV report was the intense Chilean debate over plans to create an FBI office in the U.S. Embassy here. The plan has brought protests from both the right and left, based on fears that the FBI may violate Chile's sovereignty by conducting investigations, operations or arrests in this country.

The controversy shows that the FBI's "Untouchables" image, and sensitivity about "Yankee imperialism," are alive and bristling in South America.

Chilean and American officials have been obliged to give repeated assurances that the planned FBI office here will be strictly barred by Chilean law and American regulations from any operational activities, including detective work and arrests.

They stress that the office will make it easier for Chile to receive FBI technical aid and to exchange data, especially about organized criminal activity such as drug trafficking and terrorism.

Interior Minister Enrique Kraus, responsible for Chilean police, told reporters that the FBI operations "will never be carried out in a country like Chile."

Congressman Jorge Pizarro, a member of Kraus' Christian Democratic Party, put it another way: "The 'Untouchables' are not going to move in here or bring in their team headed by Eliot Ness, no."

But some opposition politicians remain unconvinced. Conservative Congressman Jaime Ortiz told The Times that he opposes the establishment of an FBI office partly because of a danger that it could intervene in internal Chilean affairs. "Always, with any police-type organization in a country outside its own, that risk exists," Ortiz said.

Jorge Insunsa, a Communist leader, told a Chilean newspaper that the planned presence of the FBI in Chile "means nothing good, because it has a tradition of repressing alternative political ideas, and since the '50s that organization has persecuted American Communist leaders."

Some criticism of the FBI office apparently reflects sentiments that Kraus referred to as a "nationalist drunken spree" induced by "electioneering juices." But critics of the plan also point with concern to a 1988 U.S. Supreme Court decision on the abduction of a Mexican physician for trial in California.

The court said the abduction of Dr. Humberto Alvarez Machain did not invalidate his trial on charges of participating in the 1985 torture-murder of U.S. drug agent Enrique S. Camarena. Some Latin Americans interpreted that decision as authorization for American

agents to conduct abductions overseas.

But "to conclude from that that the U.S. government condones or advocates kidnapping is not accurate," a U.S. official said. Charges against Alvarez were dismissed, and he was released.

The FBI's Chilean office is to be created after construction is finished on a new, \$34-million U.S. Embassy in Santiago, some time next year. The office is expected to be staffed by one FBI agent and one secretary. Their role will be that of a liaison between Chilean police and the FBI. That role now is carried out by agents assigned to the U.S. Embassy in Uruguay.

The FBI has agents attached to U.S. embassies in 21 countries, including six in Latin America and the Caribbean.

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NEWS EXPRESS
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August 25, 1993

MEMORANDUM TO DR. BROWN

FROM: RICIA MCMAHON *RM*
ED JURITH *EJ*

RE: DEA/FBI REORGANIZATION

The attached memo outlines what happened at the working group meeting Monday at the White House. The Attorney General wants to make a decision on this issue before the Vice President issues his NPR report. Phil Heymann said that Ms. Reno would be reaching out to you before she makes a decision. However, we do not think you should wait for her. We believe it imperative that you send the attached letters to the AG and the Vice President setting forth your reservations about the DEA/FBI merger and suggesting that other mechanisms be found to eliminate duplication between the agencies.

We have also been advised that Joseph Treaster of the New York Time is preparing a full story on this issue for Sunday's edition. We believe it is important for you or Adrienne to reach out to him to give your input into this matter. Treaster's number in New York is 212-556-3718.

Please advise as soon as you can on the letters, we should get them to Reno and Gore ASAP.

August 24, 1993

MEMORANDUM TO DR. BROWN

FROM: ED JURITH

RE: DEA/FBI REORGANIZATION

Yesterday's meeting on DEA/FBI reorganization was chaired by Deputy Attorney General Philip Heymann, and was attended by DEA Administrator Bonner; DEA Deputy Administrator Steve Green; FBI Associate Director Floyd Clarke; Parker Borg (representing Bob Gelbard) Department of State; Richard Clarke, National Security Council; Joanne Harris, Assistant Attorney General-Designate, Criminal Division; Edward H. Jurith, Office of National Drug Control Policy; and David Margolis, Associate Deputy Attorney General.

Heymann opened up the meeting acknowledging receipt of the various papers submitted on the merger issue. He indicated that the Attorney General wanted to make a decision on the merger issue by next week, in order that she could fully consult with the Vice President before the release of the National Performance Review (NPR). Heymann stated that the Attorney General will be speaking directly to you, DEA Administrator Bonner, and FBI Director Freeh before making her recommendation.

Administrator Bonner reiterated many of the positions taken by DEA in the past two weeks opposing the merger. He specifically noted that the Department needs to clarify the various missions of DEA and FBI, and that better management is needed of Department resources in the drug enforcement area. However, he noted that merger would deal a severe setback to DEA programs and place the Administration in the position of downgrading our nation's drug enforcement efforts.

Bonner suggested that an alternative to merger would be a review of administrative and other areas (eg. training, intelligence) where DEA and FBI programs overlap and that the Department move to correct those areas while preserving the institutional integrity of both organizations.

Richard Clarke from the NSC expressed strong reservations about the merger. He indicated that the forthcoming Presidential Directive (PRD) on overseas drug operations relies heavily on DEA programming - programs that the FBI does not currently have in place in drug source and transshipment countries, nor the expertise to do. Clarke pointed out that the overseas personalities of DEA and the FBI are very different; he described DEA as being "very operational".

Parker Borg echoed many of Richard Clarke's sentiments. (FYI- Parker is a career Senior Foreign Service Officer, former Deputy Assistant Secretary at INM, and is Ambassador-designate to Iceland). He pointed out DEA's success at cooperative investigations in drug source countries, and that DEA has a unique ability to get foreign nations "to do things" in the area of drug control. He made note of the many agreements DEA has reached with the producer and transshipment nations.

On behalf of ONDCP, I expressed our concern that drug enforcement - and drug policy generally - remain a national priority, and that merger appears to be opposite to this goal. I observed that many of the areas of overlap and duplication cited as a reason for merger seem to be reflective of poor administrative decisions in the Department by prior Administrations that should be correctable short of full merger. I noted the reactions ONDCP has received from State and local law enforcement officials reflect a great deal of skepticism about the merger concept. I also pointed out that the merger idea was increasingly being questioned on Capitol Hill. The Administration needs to prioritize its legislative program in the crime and drug area before it signs off on a merger because it will be a distracting issue in Congress and divert from other important drug and crime legislative priorities. I also noted that the problems of duplication in the drug intelligence area cannot be corrected by merger of the Justice agencies alone, and that ONDCP believes that a more extensive review of this issue is needed.

Heymann in response commented that it was clear that DEA 's overseas operations were far superior to that of the FBI. However, he said that he was concerned about the apparent overlap in the domestic enforcement programs of the DEA and FBI, and the need to respond to the escalating levels of violence around the country. Bonner, in response, noted that what has been lacking is clear direction from the Department - and the Administration - as to what Federal domestic drug enforcement policies should be. I noted that these issues should be addressed in the National Drug Control Strategy as part of the Administration's program to respond to hard core drug use and revitalize communities hit hardest by drug use.

Recommendation

I think the Attorney General wants to avoid having the Vice President make any recommendations on the DEA/FBI issue in the September 7 NPR report. Hence the activity of the last two weeks. Even though Phil Heymann said the AG will be reaching out to you before she makes a recommendation to the Attorney General, we should send letters to both the AG and the Vice President which sets forth your objections to the merger proposal, the need to explore other mechanisms to eliminate duplication between FBI and DEA missions, and the need to examine this issue in the context of the overall National Drug Control Strategy.

DRAFT

August 25, 1993

The Honorable Janet Reno
The Attorney General
Department of Justice
Washington, D.C. 20530

Dear Janet:

The Office of National Drug Control Policy (ONDCP) has shared with Deputy Attorney General Philip Heymann our initial comments on the proposed reorganization of the Drug Enforcement Administration (DEA) into the Federal Bureau of Investigation (FBI). I am enclosing a copy of these comment for your review.

As you know from our previous conversations, I have many reservations about the proposed reorganization. I do not believe it is in the interests of the President and the drug control program to abolish DEA. This would signal retreat in our national drug control efforts. Based upon the review by my staff of the numerous papers submitted by both DEA and the FBI on this very complex suggestion, I am not convinced that merger of these two agencies would achieve any significant gains in our nation's drug enforcement effort. Moreover, a merger has the definite potential of doing severe damage to DEA's foreign cooperative investigations program with drug source and transit nations. The Deputy Attorney General specifically mentioned DEA's superiority in this foreign drug control area at the working group meeting on Monday. From ONDCP's perspective, we cannot place this program in jeopardy.

I do share your genuine concern that we strive to eliminate duplication in domestic drug enforcement efforts, as well as in administrative, training, and other support programs. I also share the Department's recognition that the Administration, ^{Deputy} come to the assistance of those communities around the country hit hardest by the twin evils of drugs and violence. To accomplish these two important goals, I suggest that the Department seriously examine the suggestions, as made in the ONDCP comment paper and put forth by DEA Administrator Bonner, that the Department of Justice ^{de} develop mechanisms for better planning and coordination of the Department's drug control resources.

I know that you have inherited many of these problems from prior Administrations, but the resolution of these management

DRAFT

issues is required now. The result will be a more effective Drug Enforcement Administration, and a comprehensive national strategy that combats drugs and violence.

I look forward to working with you on this important matter.

Sincerely,

LEE P. BROWN
Director

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DRAFT

August 25, 1993

The Vice President
The Old Executive Office Building
Washington, D.C. 20501

Dear Mr. Vice President:

First of all let me commend you on the excellent work done by the National Performance Review (NPR). I know the entire Cabinet looks forward to a through review of the recommendations, and to moving this important initiative forward.

I have reviewed the NPR draft recommendation calling for the consolidation of the Drug Enforcement Administration (DEA) into the Federal Bureau of Investigation (FBI), as well as the various papers submitted by both the FBI and DEA to the Attorney General on this issue. I have some serious reservations about the merger proposal.

As I noted in the attached letter to the Attorney General, I believe that merger of the DEA into the FBI would not be in the best interest of the President and the national drug control program. A merger would not achieve any significant gains in our nation's drug enforcement efforts, would place in severe jeopardy our foreign cooperative drug investigations with source and transit nations, and signal retreat in our national drug control efforts. As you know, the Administration has been seriously criticized for its actions in the drug abuse policy area to date. For example, the reductions in the Administration's drug budgets in the Appropriations process with the consent of OMB, and the delay in getting the Office of National Drug Control Policy (ONDCP) organized have been pointed¹⁶ as evidence of the Administration's lack of interest in the drug problem. I do not believe we want to add the abolition of DEA - the only drug control program agency that has its sole mission the suppression of the traffic in controlled substances in and directed at the United States - to the list.

We all share your desire to eliminate waste in the Federal Government. I know that the Attorney General is exploring options to harmonize various functions of the domestic drug enforcement efforts to avoid duplications between DEA and the FBI, but at the same time preserve the institutional integrity of these two important agencies which have vastly different enforcement missions. I respectfully suggest that this is the most appropriate way to resolve any overlap between DEA and the FBI, and at the same time reaffirm the commitment of the Administration to an effective drug enforcement program.

DRAFT

Sincerely,

LEE P. BROWN
Director



OFFICE OF NATIONAL DRUG CONTROL POLICY
EXECUTIVE OFFICE OF THE PRESIDENT
Washington, D.C. 20500

September 1, 1993

The Vice President
The Old Executive Office Building
Washington, D.C. 20501

Dear Mr. Vice President:

I appreciate all the efforts toward reinventing government by you and your staff. This undertaking will be a landmark initiative for the Administration and the nation. I was pleased to be present last evening for your discussion as to how the members of the Cabinet can be supportive of the National Performance Review (NPR).

I have reviewed the NPR draft recommendation calling for the consolidation of the Drug Enforcement Administration (DEA) into the Federal Bureau of Investigation (FBI), as well as the various papers submitted by both the FBI and DEA to the Attorney General on this issue. I have some serious reservations about the merger proposal.

As I have told the Attorney General, and noted in the attached comments, I believe that merger of the DEA into the FBI would not be in the best interest of the President or the national drug control program. A merger would not achieve any significant gains in our nation's drug enforcement efforts, would place in severe jeopardy our foreign cooperative drug investigations with source and transit nations, and signal retreat in our national drug control efforts.

As you know, the Administration has been seriously criticized for its actions in the drug abuse policy area to date. For example, the delay in getting the Office of National Drug Control Policy (ONDCP) organized, and the fact that there were no prior objections by the Administration to reductions in drug abuse control budgets during the appropriations process, have been pointed to as evidence of the Administration's lack of interest in the drug problem. I do not believe we want to add the abolition of DEA - the only drug control program agency that has as its sole mission the suppression of the traffic in controlled substances in and directed at the United States - to the list.

We all share your desire to make the operations of the Federal Government more effective and more responsive to the needs of all Americans. I know that the Attorney General is exploring options to harmonize various functions of the domestic drug enforcement, including a merger, to avoid duplications between DEA and the

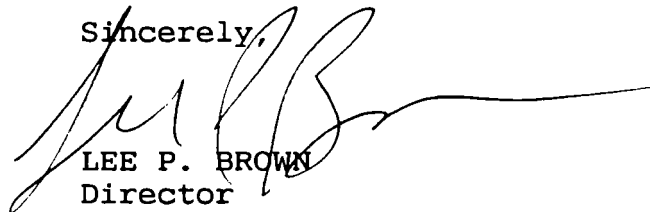
Page Two -- The Vice President

FBI. I believe it is important to preserve the institutional integrity of these two important agencies which have vastly different enforcement missions and thus reaffirm the commitment of the Administration to an effective drug enforcement program.

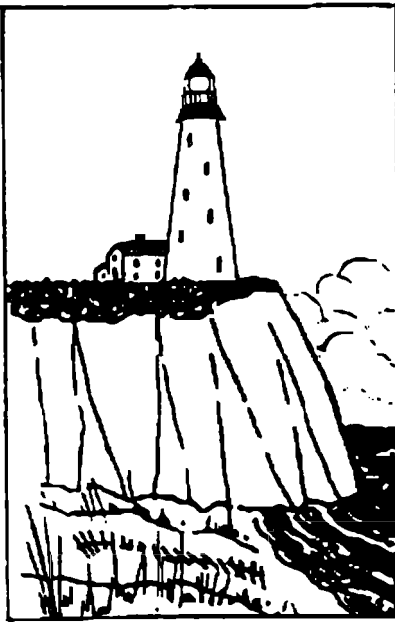
Congressional scrutiny of any proposal to merge the FBI and DEA will be intense. This goes beyond the issue of jurisdictional turf, but is reflective of the fact that many senior members of the Congress - on both sides of the aisle - who have expertise in drug policy issues share my concern that a consolidation of the DEA and the FBI would have a desultory effect on Federal drug enforcement efforts. These views are also shared by the State Department's Bureau of International Narcotics Matters (INM) and the National Security Council (NSC). In light of this, when legislation is proposed to accomplish a merger of the DEA and the FBI it would be difficult for me to approve such a reprogramming or transfer of DEA's funds as being in furtherance of the National Drug Control Strategy pursuant to ONDCP's statutory mandate.

Again, I want to be fully supportive of the objective of the National Performance Review. However, I strongly believe that the integrity of Federal drug enforcement efforts must be maintained and look forward to discussing this matter with you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'L. P. Brown', with a long horizontal flourish extending to the right.

LEE P. BROWN
Director



JOHN PITTA
RESIDENT AGENT IN CHARGE
MELVILLE FIELD OFFICE
135 PINELAWN ROAD
MELVILLE, NEW YORK 11747
516 694-8372
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TO: Jose Cerda

FROM: John

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PERSON: _____

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HAVE A NICE DAY!

ATF Back in a Bad Light

Agents Blame Gun Lobby

By Lisa Daniel

Federal Times Staff Writer

The conduct of Alcohol, Tobacco and Firearms agents has come under fire, renewing questions about the bureau's future.

Sen. Richard Shelby, R-Ala., chastised agency officials for "the over expanding litany of ATF horror stories" March 23 at a Senate Appropriations Treasury subcommittee hearing.

Government reinventors have recommended incorporating ATF into the FBI, but ATF Director John Magaw has resisted. Shelby is holding off making a recommendation on merger until Magaw answers his abuse charges, an aide said.

Shelby, the subcommittee chairman, cited several cases of alleged improprieties during searches and seizures in the past four years.

He said the agency appeared to have changed little in the 13 years since the Senate Judiciary Committee reported "numerous abuses of constitutional and civil rights" by the bureau.

The bureau "continues to harbor an institutional suspicion" toward law abiding gun collectors and users, harassing them without cause, Shelby said.

The practice continues the agency's "long-standing practice of taking reckless, paramilitary-style actions against harmless citizens without apology or remorse," he said.

ATF agents say the National Rifle Association is behind the charges leveled against them.

Shelby's aide, Laura Cox, said the subcommittee received information on questionable searches and seizures from the NRA, as well as constituents.

Shelby cited six cases of alleged abuses by ATF agents.



ATF Director John Magaw defended the bureau, highlighting last year's criminal arrests of 9,000 people.

• In February 1993, agents raided the home of Janice Hart of Portland, Ore. Hart was returning home with her two young daughters when agents allegedly ransacked her house, breaking dishes and tearing clothes, before holding Hart for questioning.

Agents had a warrant for Janice Harrell, a woman wanted on drug charges. Hart was released without charges after her fingerprints failed to match those of Harrell.

Magaw said he was unfamiliar with details of the case.

• In May 1991, agents raided the home of Louis Katona, a Bucyrus, Ohio, part-time police officer and gun collector. Agents allegedly threw Katona's pregnant wife against a wall during the raid, causing her to have a miscarriage.

Magaw denied that agents threw Katona's wife against a wall during the raid. He said Katona's weapons

documents were forged, but the charges against him were dropped because police couldn't prove that he forged them.

• In May 1994, agents allegedly held Harry Lamplugh and his wife at gunpoint for six hours before taking 61 weapons. The Wellsboro, Pa., couple are gun show promoters.

One of the couple's cats allegedly was stomped to death and two others died after agents spilled Harry Lamplugh's cancer medicine on the floor and the cats ate it.

Magaw didn't have details of the case, but said it was a valid search. State police also participated in the raid, he said.

• In July 1994, Monique Montgomery, a 21-year-old St. Louis woman, was shot four times during a 4 a.m. raid. Montgomery survived the shooting.

Magaw said agents identified themselves, then, after hearing commotion behind the door, stepped in and identified themselves again.

When Montgomery pointed an automatic weapon at them, they shot her four times. Agents seized a gun, documents and a bulletproof vest from Montgomery's home.

Agents did not find a man they were looking for. He allegedly lived with Montgomery. She has not been charged, Magaw said.

• An off-duty agent threatened a man and held him at gunpoint in a Milwaukee tavern in March 1995.

Magaw said preliminary investigations showed the agent reacted to a woman being attacked. He didn't have further information.

Magaw said he would provide more information to the subcommittee about the allegations.

Magaw defended the bureau's record, highlighting successes such as last year's criminal arrests of 9,000 people, a quarter of whom had histories of violence.

Ronald Noble, Treasury Under-
See ATF, Next Page

THIS WEEK

Merger Idea Gets New Life

ATF, From Preceding Page
secretary, also praised ATF agents for executing 10,000 search and arrest warrants per year.

"I say we should be credited," Noble said. "ATF should be credited. The American people should be happy."

Magaw and Treasury Secretary Robert Rubin have proposed no change in the bureau's indepen-

'The NRA has for years looked at us as their enemy.'

ATF Agent

dent status, despite a recommendation from Vice President Al Gore's National Performance Review that ATF be incorporated into the FBI.

Officials concluded that because ATF is a regulatory and enforce-

ment agency that collects \$14 billion a year in revenue, it should be left alone, Magaw said.

Shelby has not made a recommendation about the future of ATF and "will withhold any judgment" until Magaw answers the allegations, said Laura Cox, Shelby's press secretary.

Many agents contend criticisms of the bureau are fueled by the National Rifle Association, which recently targeted ATF in advertisements in several big city newspapers.

"The NRA has for years looked at us as their enemy," said John Pitta, an agent in New York and

vice president of the Federal Law Enforcement Officers Association. "Basically, anything to do with gun enforcement is against their grain."

Pitta said the criticism has taken its toll on agents.

"There comes a point in an agent's career where he or she is

sick of getting kicked," he said. Cox said the issue was not all the gun lobby.

"It's a matter of what's right and wrong, rather than it being an association or group against another group," she said.

NRA officials did not return phone calls by press time.



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4/29/93

Jose :

Thank for your time last week. I thought you might be interested in the stories we did. I've also enclosed the other piece we discussed on the "consumer product" approach to gun control.

Gordon W



Day of reckoning. Near David Koresh's Branch Davidian compound, agents move forward into position during the fatal siege.

G-men of the Nineties

After Waco, the FBI faces one of its most daunting challenges ever

After the Bureau of Alcohol, Tobacco and Firearms' tragic February 28 raid on the Branch Davidian compound outside Waco, Texas, it didn't take long for FBI agents to start the second-guessing. The ATF's performance was amateur night, some FBI agents groused. If Washington really wanted to get the job done right, one ranking FBI official said, it should have sent for "the A-Team," the Federal Bureau of Investigation.

Of course, it has not been a really great year for the A-Team, even before the hellfire that transfixed the nation last week near Waco. A bruising ethics investigation of Director William Sessions had exposed a load of dirty laundry, led to a virtual mutiny among some FBI brass and left the proud bureau almost rudderless while the Clinton administration allowed Sessions to twist in the wind. A New York-based FBI agent spoke for many last Monday as he watched television on the 26th floor of the Jacob Javits Federal Building on lower Broadway in Manhattan. "Damn," he exclaimed, as

the Cable News Network broadcast the first licks of flames from the compound near Waco. "Just what we needed."

For the men and women of the FBI, these are hardly the best of times. Indeed, the Waco disaster seemed to sucker punch the FBI while it was already down, serving, at least in the eyes of some, as an unhappy metaphor for the bureau's fragile situation. Faced with a changing world, a new administration, a sea change in its leadership and a shrinking pool of experienced personnel, the FBI finds itself at one of the most critical junctures in its long and storied history.

To be sure, there are many who still agree with former Attorney General William Barr, who calls the FBI "the finest law-enforcement

organization in the world." The bureau has deftly handled the investigation of the World Trade Center bombing, and it can still scramble the jets to solve dramatic crimes, like last year's kidnapping of Exxon executive Sidney Reso. For

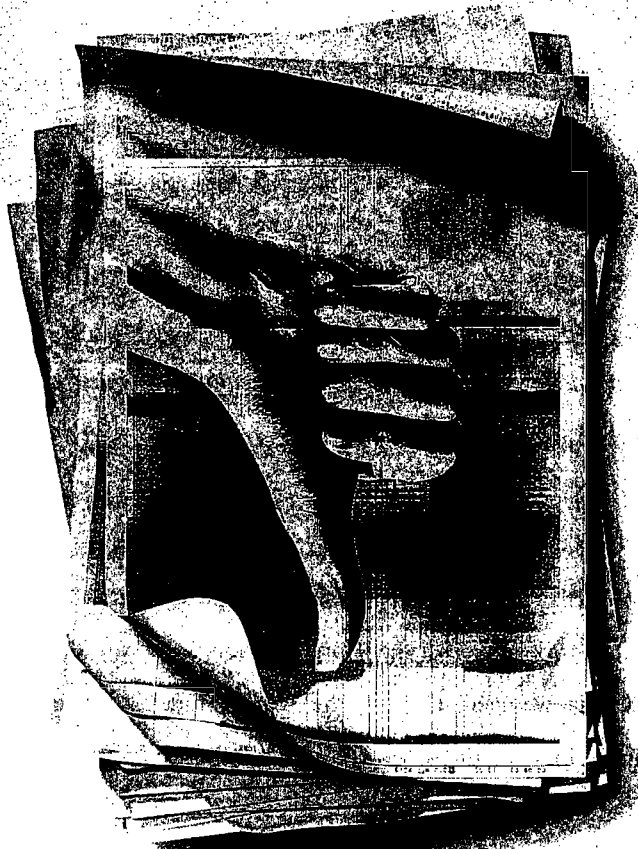
the most intense, complex and demanding investigations of criminal activity, U.S. and foreign law-enforcement experts say, no agency even comes close to the FBI.

But often these days something seems missing at the bureau. "I don't see the spirit that was once there," says former FBI executive Francis "Bud" Mullen. "They've lost that edge somehow." Even before a January Justice Department report showed what Barr called a "clear pattern of your taking advantage of the government," Ses-



New missions? Janet Reno

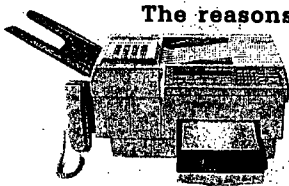
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sions's disengaged leadership had been eroding morale like a steady leak in a tire. Now, says one Justice Department official who works closely with the bureau, "an incredible number of things are being contaminated by the issue of the director. There's political infighting, decisions are not being made and people are hedging their bets. The agency has been caught up in an environment of cover-your-rear and paper shuffling, instead of going out and doing the job."

Wider role. The job, meanwhile, has grown more than a tad unwieldy. In the past decade, the bureau has taken on a dizzying array of new assignments. Gangs, drugs, street crimes, hate crimes, savings-and-loan scams and carjackings—these merely top the list. In fact, the FBI is now responsible for investigating 281 criminal violations—up from 229 in 1982. In return, the agency got some generous budget increases. Today, it has 10,366 agents and a budget of \$2 billion. That's up from 7,857 agents and a \$622 million budget in 1980.

The days of big increases in money and manpower are over, though. The FBI's overall budget is slated for just a slight increase in 1994, and the number of special agents is scheduled to decline slowly, the result of retirements and a hiring freeze. Yet the new assignments from the White House and Capitol Hill just keep coming. As the result of a law passed last year, for instance, the FBI anticipates becoming involved in chasing down deadbeat parents for child-support payments. And Attorney General Janet Reno is looking into the possibility of the bureau's protecting access to abortion clinics; in a *U.S. News* poll* conducted last week, 52 percent of the respondents opposed the idea.

Adding to the number of criminal violations of federal laws has become a quick and dirty way for politicians to appear tough on crime. "Lots of members of Congress want to turn FBI agents into street cops and family counselors," says California Democrat Don Edwards, who chairs a House subcommittee that oversees the FBI. "This federalization of state laws is a very dangerous concept."

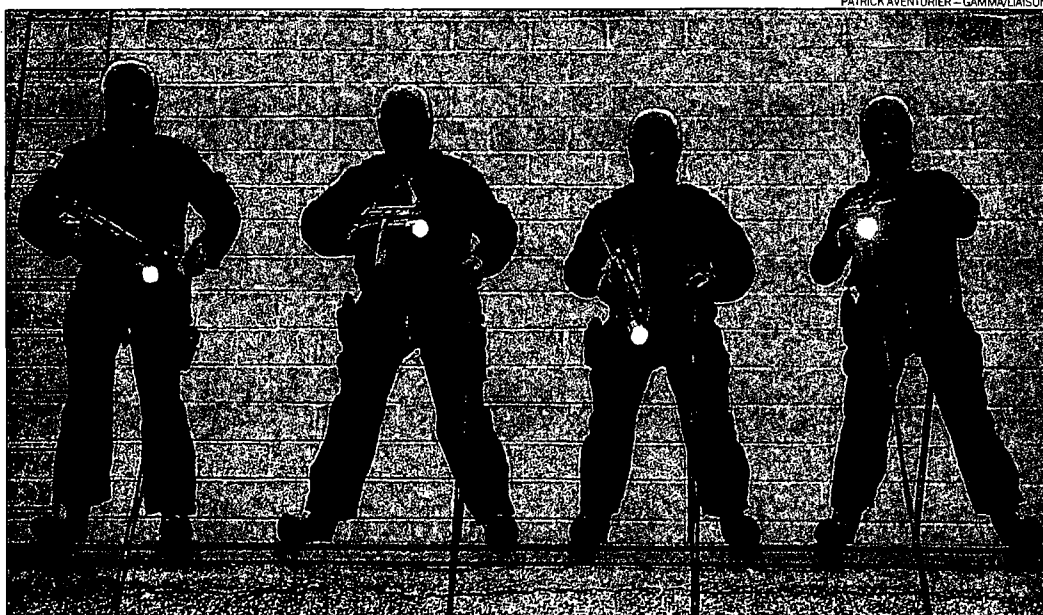
The result, many believe, is that the FBI has lost its focus. "We're overtaxing them," says a former federal prose-

cutor. "They're getting into too many things." Adds Oliver Revell, a veteran bureau official now in charge of the FBI's Dallas field office: "What we need is to be in a position to say, 'No más.'"

There are two critical questions: What kind of law-enforcement organization is the FBI, and what jobs is it best equipped for? Many law-enforcement professionals believe that the bureau, with its far-

the bureau is participating with local police in some 71 task forces nationwide that target fugitives and violent gangs. While 69 percent of those questioned in the *U.S. News* poll believe the FBI should expand its role in helping local police combat street crime, many law-enforcement experts believe the time has finally come to re-evaluate that strategy.

Similar questions arise about the



Training. Members of the FBI Hostage Rescue Team detailed to Waco

flung network of college-degreed agents, accountants, scientists and lawyers, is best suited to complex, long-term investigations of mafia networks, terrorism, espionage and complicated white-collar frauds. In recent years, however, the FBI has devoted increasing resources to attacking street crime. Director Sessions declared violent crime a national priority for the FBI in the summer of 1989. Now

FBI's role in the war against drugs. In 1982, the bureau received jurisdiction to join the Drug Enforcement Administration in investigating drug cases. Since then, the number of FBI agents assigned to tackle narcotics investigations has grown to more than 1,500. The FBI says its drug strategy is to attack the most sophisticated organizations, just as it did with organized-crime families. But many outsiders say the bureau culture doesn't fit well with the dirty undercover work of drugs. The results, these critics say, speak for themselves: In the past couple of years, the blockbuster cases have come from DEA, not the bureau. Indeed, some say it may be time to revisit the much-debated question of whether the FBI and the Drug Enforcement Administration should both be involved in the drug war.

Grand merger? One memo percolating up through the Clinton transition team last year recommended simply folding the FBI's drug agents into DEA; other experts have suggested the opposite tack, merging the DEA into the FBI. Cooperation between the two agencies has improved, but rivalries still cause flare-ups, like a current tussle over who will take the lead in cases

Bean counters' ball

The FBI received big budget and personnel increases in the 1980s, but it was given tough new investigative tasks.

■ **Money.** The FBI's budget grew from \$622 million in 1980 to \$2 billion now.

■ **Bodies.** The number of FBI special agents grew from 7,857 in 1980 to 10,366 today.

■ **Assignments.** The types of crime in its jurisdiction grew from 229 in 1982 to 281 today. Some new jobs:

carjackings, deadbeat dads, hate crimes and health care fraud

*U.S. News poll of 1,000 registered voters conducted by Celinda Lake and Ed Goetz April 20. Margin of error: plus or minus 3.1 percent.

■ U.S. NEWS

overseas. Former Attorney General Barr says a merger would be too disruptive, but new Attorney General Reno is said to be studying the issue.

The soul-searching isn't limited to drugs or street crime. With the demise of the Soviet threat, the FBI's counterintelligence role is in a confusing state of flux. Last year, the FBI adopted a counterintelligence concept known as the National Security Threat List, designed to counter economic and industrial espionage from a variety of countries, including some traditional allies.

But up on Capitol Hill, says one close observer, "a lot of people don't think it's a coherent concept." Over the past year, more than 350 agents previously assigned to counterintelligence have been moved to tasks like violent crime and health care fraud. Yet in New York, the locus of the FBI's most intense counterintelligence efforts, agents say they still see plenty of espionage. "It's still going," says James Fox, director of the FBI's New York field office. "They're out there, and they're active." Earlier this month, a foreign national working as a double agent for the bureau's New York office was paid thousands of dollars in exchange for classified U.S. government information. Further reductions in counterintelligence agents may be possible, says the FBI's Oliver Revell, "but it's got to be done carefully, particularly in light of the terrorist threat." The recent World Trade Center bombing makes that all too clear.

The bureau's organized-crime program is also facing a moving target. After years of hard work, many believe, the bureau now has the Cosa Nostra on the run; since 1981, 28 mob bosses and 14 underbosses have been convicted. But dealing with the Italian crime families, warns Barr, "was just a warm-up for a much more difficult effort against much more effective organized crime groups." Chief among the emerging threats are Asian organizations, which are increasingly targeting the United States. Ethnic Chinese now dominate the U.S. heroin trade; mobile Vietnamese street gangs are conducting a rash

of home-invasion robberies, and Japanese mobsters are thought to be laundering money and buying real estate on American shores.

Infiltrating the secretive, tightknit Asian groups presents daunting language and cultural problems for the FBI. Only 1.5 percent of the bureau's agents are Asian. There are only seven agents with sufficient fluency in Japanese to monitor a wiretap, and fewer than 35 with similar fluency in any Chi-

rather than a law-enforcement agency, to right the wrongs of affirmative action and race relations," says a former FBI executive.

The agency also is struggling to cope with the challenge of widespread retirements. Improved pay has slowed the parade of departures over the past couple of years, but the spike is coming; more than 2,700 agents and supervisory personnel are eligible to retire between now and 1997, and they repre-



GARY STEWART - AP



J. SCOTT APPLEWHITE - AP



PATRICK FRILET - SIPA

Mixed bag. Already, the FBI handles investigations of drugs (above) and gangs. Soon, the White House may ask the bureau to protect abortion clinics as well.

nese dialect, according to the Senate Permanent Subcommittee on Investigations. "We're hurting," admits veteran Bill Doran, the bureau's chief of criminal investigations in New York.

Bruising process. Recruiting Asian agents has proved to be an uphill battle. And it is hardly the bureau's only personnel challenge. Trying to make the FBI look like America has been a bruising process. In 1988, Hispanic agents won a suit charging that the FBI had discriminated against them in awarding promotions and setting working conditions. Last January, the bureau agreed to settle race-discrimination claims raised by several hundred black agents.

Most bureau watchers give the agency, and Sessions in particular, credit for improving the FBI's promotion and hiring practices. Clearly, however, there is still a way to go. Today, only 5 percent of the FBI's special agents are black. Just 6 percent are Hispanic. Furthermore, the effort to recruit more women and minorities has caused tension among the mostly white, male ranks. "Many on board believe the bureau has been turned into a social,

sent an invaluable reservoir of talent and expertise for the agency. "So a lot of younger people aren't getting the training they need to get," says a former federal prosecutor.

Finally, there is the 800-pound gorilla of white-collar crime, which is eating an ever growing amount of bureau resources. Today, investigations of financial crimes like savings-and-loan fraud and health care scams comprise the FBI's biggest investigative program. In 38 of the FBI's 56 field offices, white-collar crime is the top criminal investigative priority, occupying the time of 2,100 agents nationwide. While financial-institution fraud may have faded from the headlines, the bureau is still investigating some 5,000 cases. Investigations into alleged health-care fraud have grown from 418 to 673 in just the past 12 months. Bureau officials are also increasingly alarmed about environmental crime, computer fraud, bankruptcy fraud, insurance-insolvency fraud, securities fraud and telemarketing fraud. With budgets now static, something may have to give. "It is extremely difficult," admits white-collar-

■ U.S. NEWS

crime chief Thomas Kubic, "to keep this many balls up in the air."

Is any help on the way? Perhaps. Clinton administration officials may be close to removing Sessions and naming their own director. In a recent speech, Attorney General Reno called for a "more principled approach" to deciding

what crimes should be handled by federal agents, a study that could result in shifting responsibility for many violent-crime probes back to local authorities.

Senior Clinton aides have been alarmed at what one calls "disarray" among federal law-enforcement agencies. They promise a comprehensive look at the problem, with an eye toward eliminating duplication, especially be-

tween the Justice Department and Treasury Department units like ATF and the Customs Service. Such a process might yield clearer choices and priorities for the FBI. Absent that, the bureau's efforts to do good by doing everything may leave it doing well at less and less.

BY GORDON WITKIN WITH TED GEST

GUNPLAY

How much is too much?

In the 1930s, it was a wave of organized-crime killings and shots fired at Franklin Roosevelt. In 1968, it was the assassinations of Martin Luther King Jr. and Robert Kennedy. Those shootings led to the two most extensive federal gun-control statutes ever. Now 1993 is shaping up as the next milestone in gun-law annals, thanks to a confluence of three circumstances: the raid that set the stage for last week's tragic conflagration in Waco, a spate of gun violence nationwide and the election of the first president in more than a decade sympathetic to gun control.

Even before Waco, antigun activists were confident that the Brady bill to require background checks on handgun purchasers finally would clear Congress this year. In addition, a dozen other gun-control bills have been introduced, including measures to tighten requirements for issuing \$30 federal licenses for firearms dealers and to impose a national limit of one handgun purchase per month.

Replacement parts. The Branch Davidian siege brings the issue of assault weapons back to the fore. Federal agents charged that cult leader David Koresh and his flock had amassed nearly \$200,000 worth of weapons, including more than 100 illegally assembled machine guns and possibly antitank guns.

It may never be established exactly how much of the arsenal was obtained legally, but

police organizations and gun-control leaders on Capitol Hill called last week for new measures to stem the flow of firearms they contend are designed only for crime, not hunting or self-defense. Waco puts the spotlight on a little-noticed segment of the gun

trade: firms that sell replacement parts that allow owners illegally to convert semiautomatic weapons to machine guns. "It's the underside of the gun industry," charges Josh Sugarmann of the Washington-based Violence Policy Center, which urges a crack-down on such sales.

Gun defenders, led by the National Rifle Association, will fight hard against curbs they believe would violate the

rights of those who use guns for self-defense and hunting. The NRA virtually concedes passage of the Brady bill but says it will do little to stop crime. At their annual convention last week in Nashville, NRA leaders outlined plans to go beyond attacks on gun-control legislation to focus on more positive-sounding programs like expanded courses for women on defending themselves with guns against criminals and a new "Crime Strike" campaign to toughen the criminal-justice system.

While the NRA and antigun groups dispute fundamental strategies, some surprising areas of agreement are emerging on the need to upgrade instruction for children about firearm safety and to lobby against excessive violence in the entertainment media. The Clinton administration recently weighed in with its own plan for a \$75 million "safe schools" fund to help educators develop violence-prevention programs. And both the NRA and Handgun Control Inc. are lobbying executives and shareholders of major film and pop-music companies to end the glorification of guns. Just as fewer performers are lighting up cigarettes on screen, says Handgun Control president Richard Aborn, "the same thing is starting to happen with gun violence." Yet with 200 million firearms saturating a nation steeped in gun culture, a few more laws and prevention programs will not slash the death and injury toll anytime soon.

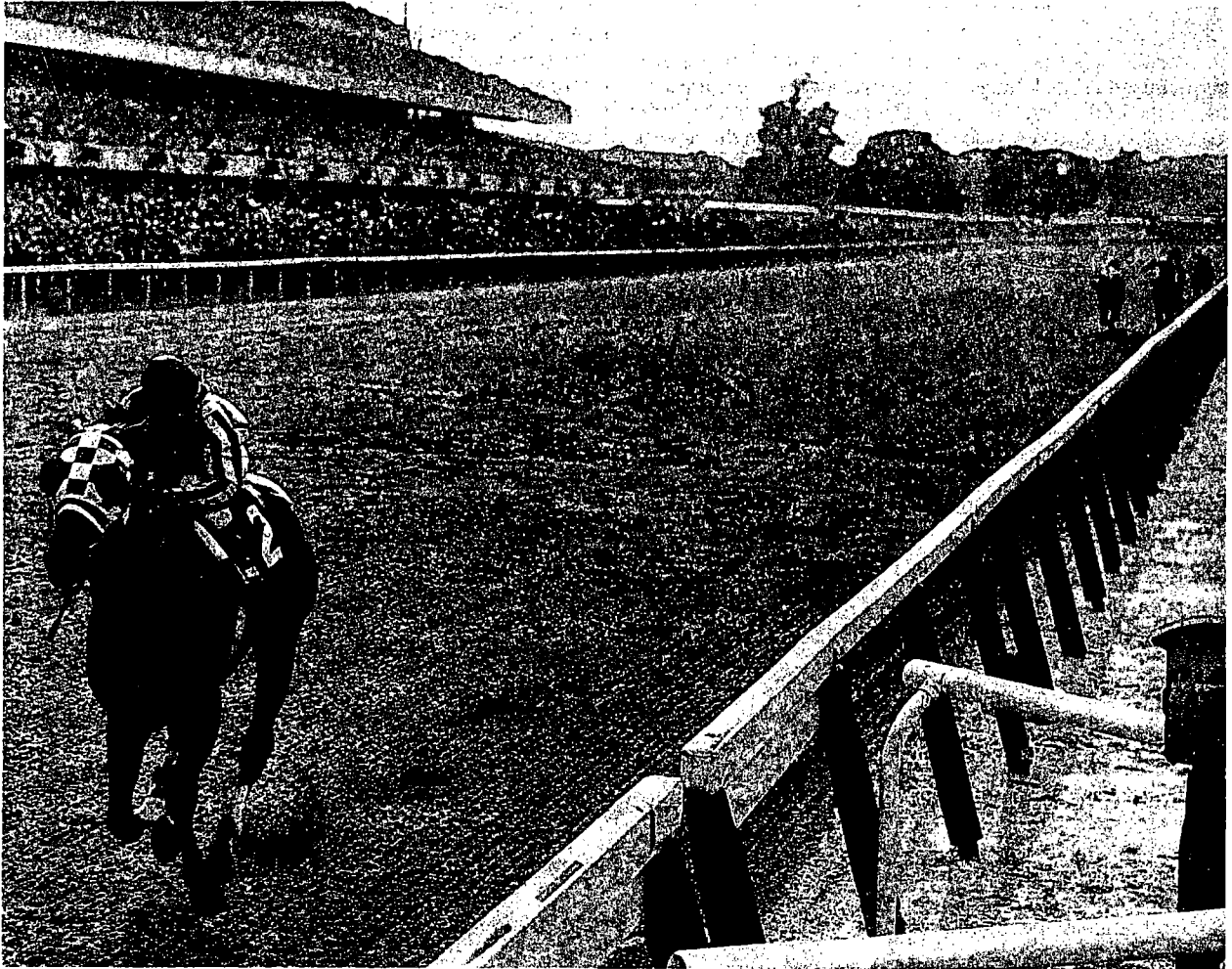
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Firepower. Gun-control advocate Sarah Brady with backers

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