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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.--This Act may be cited as the ``International Narcotics Control Act of 1986''.

(b) TABLE OF CONTENTS.--The table of contents for this Act is as follows:

SEC. 2. STATEMENT OF POLICY.

The Congress finds that--

(1) inadequate enforcement and eradication efforts have contributed to the rampant production of and trafficking in illicit narcotic drugs;

(2) such drug production and trafficking constitutes a clear and present danger to the international

community;

(3) illegal narcotics production and trafficking operations seriously threaten national and regional political stability;

(4) it should be United States policy to assist the major drug producing and trafficking countries effectively to carry out their own enforcement and eradication efforts; and

(5) United States narcotics control assistance should be designed to facilitate the formation of regional solutions for combatting the threats posed by illegal cultivation, production, and trafficking of narcotic drugs.

SEC. 3. STATEMENT OF PURPOSE.

(a) PURPOSE.--The purpose of this Act is to promote, through international and regional cooperation, the eventual elimination of narcotics production and trafficking (with assistance from the United States where appropriate) in order that all countries meet their international obligations with respect to narcotics control efforts.

(b) RELATION OF UNITED STATES ASSISTANCE PROGRAMS TO IMPLEMENTATION OF NARCOTICS CONTROL EFFORTS.--In recognition of the threat posed by the international narcotics trade, the Congress declares that frustration of the purpose of this Act by lack of cooperation from another country would provide a basis for promptly implementing section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h); relating to suspension of United States assistance).

TITLE I--INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM

SEC. 101. ADDITIONAL FUNDING FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE AND REGIONAL COOPERATION.

Section 482(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291a(a)(1); authorizing appropriations for assistance for international narcotics control) is amended--

(1) by striking out ``$57,529,000 for the fiscal year 1987'' and inserting in lieu thereof ``$65,445,000 for the fiscal year 1987''; and

(2) by adding at the end the following: ``In addition to the amounts authorized by the preceding sentence, there are authorized to be appropriated to the President $35,000,000 for the fiscal year 1987 to carry out the purposes of section 481, except that funds may be appropriated pursuant to this additional authorization only if the President has submitted to the Congress (A) a budget request for the appropriation of those funds, and (B) a plan showing how the requested funds will be used, including a description of how regional cooperation on narcotics control matters would be promoted by the use of those funds.''.

SEC. 102. ADDITIONAL AIRCRAFT FOR DRUG CONTROL ERADICATION

AND INTERDICTIONS EFFORTS BY FOREIGN COUNTRIES.

(a) AUTHORIZATION OF ADDITIONAL FUNDS.--Not less than $10,000,000 of the funds available for fiscal year 1987 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et seq.; relating to grant military assistance) shall be available only to provide helicopters or other aircraft to countries receiving assistance for fiscal year 1987 under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control). These aircraft shall be used solely for the purpose of and solely in narcotics control eradication and interdiction efforts.

(b) EARMARKING FOR AIRCRAFT FOR REGIONAL USE.--Not less than half of the funds used pursuant to subsection (a) shall be used for aircraft which will be based in Latin America and will be available for eradication and interdiction efforts throughout the region.

(c) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.--The aircraft made available pursuant to subsection (a) are in addition to any aircraft made available under chapter 8 of part I of the Foreign Assistance Act of 1961. Assistance pursuant to subsection (a) shall be administered and provided in accordance with the authorities of that chapter, rather than the authorities of chapter 2 of part II of that Act.

SEC. 103. RETENTION OF TITLE TO AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program) is amended by adding at the end the following new section:

``SEC. 484. RETENTION OF TITLE TO AIRCRAFT.

``Any aircraft made available to a foreign country under this chapter at any time after the enactment of this section (including aircraft made available pursuant to section 102 of the International Narcotics Control Act of 1986) shall be provided only on a lease or loan basis.''.

SEC. 104. RECORDS OF AIRCRAFT USE.

Chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to the international narcotics control assistance program), as amended by the preceding section of this Act, is further amended by adding at the end the following new section:

``SEC. 485. RECORDS OF AIRCRAFT USE.

``(a) REQUIREMENT TO MAINTAIN RECORDS.--The Secretary of State shall maintain detailed records on the use of any aircraft made available to a foreign country under this chapter, including aircraft made available pursuant to section 102 of the International Narcotics Control Act of 1986 and aircraft made available under this chapter before the enactment of this section.

``(b) CONGRESSIONAL ACCESS TO RECORDS.--The Secretary of State shall make the records maintained pursuant to subsection (a) available to the Congress upon a request of the Chairman of the Committee on Foreign Affairs of the House of Representatives or the Chairman of the Committee on Foreign Relations of the Senate.''.

SEC. 105. PILOT AND AIRCRAFT MAINTENANCE TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.--Not less than $2,000,000 of the funds made available for fiscal year 1987 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training) shall be available only for education and training in the operation and maintenance of aircraft used in narcotics control interdiction and eradication efforts.

(b) RELATIONSHIP TO INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.--Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of that Act (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(c) WAIVER OF SECTION 660.--Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of

1961 (22 U.S.C. 2420; relating to police training).

SEC. 106. DEVELOPMENT OF HERBICIDES FOR AERIAL COCA ERADICATION.

The Secretary of State shall use not less than $1,000,000 of the funds made available for fiscal year 1987 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control) to finance research on and the development and testing of safe and effective herbicides for use in the aerial eradication of coca.

SEC. 107. REVIEW OF EFFECTIVENESS OF INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.

(a) REQUIREMENT FOR INVESTIGATION.--The Comptroller General shall conduct a thorough and complete investigation to determine the effectiveness of the assistance provided pursuant to chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control).

(b) REPORTS TO CONGRESS.--

(1) PERIODIC REPORTS.--The Comptroller General shall report to the Congress periodically as the various portions of the investigation conducted pursuant to subsection (a) are completed.

(2) FINAL REPORT.--Upon completion of the investigation, the Comptroller General shall submit a

final report to the Congress on the results of the investigation. This report shall include such recommendations for administrative or legislative action as the Comptroller General finds appropriate based on the investigation.

TITLE II—IMPROVING LAW ENFORCEMENT AND OTHER NARCOTICS CONTROL ACTIVITIES ABROAD

SEC. 201. EXTRADITION TO THE UNITED STATES FOR NARCOTICS-RELATED OFFENSES.

Section 481(e)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(3); relating to the annual international narcotics control report) is amended by inserting after subparagraph (C) the following new subparagraph:

``(D) A discussion of the extent to which such country has cooperated with the United States narcotics control efforts through the extradition or prosecution of drug traffickers, and a description of the status of negotiations with such country to negotiate a new or updated extradition treaty relating to narcotics offenses.''.

SEC. 202. ISSUANCE OF DIPLOMATIC PASSPORTS FOR DRUG ENFORCEMENT ADMINISTRATION AGENTS ABROAD.

The Congress commends the decision of the Secretary of State to issue diplomatic passports, rather than official passports, to officials and employees of the Drug Enforcement

Administration who are assigned abroad. The Secretary shall report to the Congress before making any change in this policy.

SEC. 203. RESTRICTIONS ON PARTICIPATION OF UNITED STATES PERSONNEL IN ARREST ACTIONS IN NARCOTICS CONTROL EFFORTS ABROAD.

Section 481(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(c); commonly known as the Mansfield amendment) is amended to read as follows:

``(c)(1) Notwithstanding any other provision of law, no officer or employee of the United States may engage or participate in any direct police arrest action in any foreign country with respect to narcotics control efforts, except that this paragraph does not apply in the case of a foreign country with respect to which the Secretary of State has made the determinations described in paragraph (2).

``(2) Paragraph (1) shall not apply, and paragraph (3) shall apply, with respect to a foreign country if the Secretary of State determines that the application of the prohibition in paragraph (3) rather than the prohibition in paragraph (1) with respect to that country--

``(A) would be in the United States national interest, and

``(B) would not harm United States relations with that country.

The Secretary shall keep the Congress fully informed of determinations made under this paragraph and of the activities carried out by officers and employees of the United States pursuant to those determinations.

``(3) In the case of a foreign country with respect to which the Secretary of State has made the determinations described in paragraph (2), an officer or employee of the United States may not directly effect an arrest in that country as part of any foreign police action with respect to narcotics control efforts, notwithstanding any other provision of law. This paragraph does not prohibit an officer or employee from assisting foreign officers who are effecting an arrest.

``(4) Paragraphs (1) and (3) do not prohibit an officer or employee from taking direct action to protect life or safety if exigent circumstances arise which are unanticipated and which pose an immediate threat to United States officers or employees, officers or employees of a foreign government, or members of the public.

``(5) No officer or employee of the United States may interrogate or be present during the interrogation of any United States person arrested in any foreign country with respect to narcotics control efforts without the written consent of such person.

``(6) This subsection shall not apply to the activities of the United States Armed Forces in carrying out their responsibilities under applicable Status of Forces arrangements.''.

SEC. 204. INFORMATION-SHARING SO THAT VISAS ARE DENIED TO DRUG TRAFFICKERS.

(a) NEED FOR COMPREHENSIVE INFORMATION SYSTEM.--The Congress is concerned that the executive branch has not established a comprehensive information system on all drug arrests of foreign nationals in the United States so that information may be communicated to the appropriate United States embassies, even though the establishment of such a system is required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987.

(b) ESTABLISHMENT OF SYSTEM.--The executive branch shall act expeditiously to establish the comprehensive information system required by section 132 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and submit to the Congress a report that the system has been established.

SEC. 205. INFORMATION RELATING TO ILLICIT NARCOTICS ACTIVITIES ABROAD.

(a) NEED FOR INCREASED PRIORITY.--The Congress urges the President to direct the appropriate Federal officials to give greater priority to the collection and sharing of information concerning narcotics-related activities abroad, including information relevant to estimating illicit drug production and information relevant to narcotics-related money laundering.

(b) ASSESSMENT OF NARCOTICS TRAFFICKING FROM AFRICA.--In particular, the President shall direct that an updated threat assessment of narcotics trafficking from Africa be prepared. If it is determined that an increased threat exists, the assessment shall examine the need for the United States to provide increased narcotics control training for African countries.

SEC. 206. COMBATING NARCOTERRORISM.

(a) FINDING.--The Congress finds that the increased cooperation and collaboration between narcotics traffickers and terrorist groups constitutes a serious threat to United States national security interests and to the political stability of numerous other countries, particularly in Latin America.

(b) IMPROVED CAPABILITY FOR RESPONDING TO NARCOTERRORISM.--The President shall take concrete steps to improve the capability of the executive branch--

(1) to collect information concerning the links between narcotics traffickers and acts of terrorism abroad, and

(2) to develop an effective and coordinated means for responding to the threat which those links pose.

Not later than 90 days after the date of enactment of this

Act, the President shall report to the Congress on the steps taken pursuant to this subsection.

(c) ADMINISTRATION OF JUSTICE PROGRAM.--Of the amounts made available for fiscal year 1987 to carry out section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program), up to $2,000,000 is authorized to be used to provide to Colombia or other countries in the region such assistance as they may request for protection of judicial or other officials who are targets of narcoterrorist attacks. Such assistance may include assistance to increase the investigative, judicial, or prosecutorial capabilities of those countries with respect to narcoterrorist attacks.

SEC. 207. INTERDICTION PROCEDURES FOR VESSELS OF FOREIGN REGISTRY.

(a) FINDINGS.--The Congress finds that--

(1) the interdiction by the United States Coast Guard of vessels suspected of carrying illicit narcotics can be a difficult procedure when the vessel is of foreign registry and is located beyond the customs waters of the United States;

(2) before boarding and inspecting such a vessel, the Coast Guard must obtain consent from either the master of the vessel or the country of registry; and

(3) this process, and obtaining the consent of the

(2) in subparagraph (B) by striking out ``and the Attorney General'' and insert in lieu thereof ``, the Attorney General, and the Secretary of State''.

TITLE III--DEVELOPMENT AND NARCOTICS PRODUCTION AND TRAFFICKING

SEC. 301. FINDINGS.

The Congress finds that--

(1) increased narcotics cultivation and trafficking in developing countries is associated with declining economic opportunities in those countries, and particularly with decreasing youth employment opportunities and migration of small farmers to narcotics-producing areas to take advantage of economic opportunities that are not available in legitimate agriculture; and

(2) priority in United States development assistance policy should be given to employment-generation and to increasing the incentives for people to remain engaged in legitimate agriculture by increasing the resources available to them and enhancing their ability to make an adequate living.

SEC. 302. ANNUAL REPORTS ON DEVELOPMENT EFFORTS TO REDUCE NARCOTICS PRODUCTION AND TRAFFICKING.

Section 634(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394(a); relating to the annual report on foreign assistance programs) is amended--

(1) by redesignating paragraphs (11) and (12) as paragraph (12) and (13), respectively; and

(2) by inserting the following new paragraph (11) after paragraph (10):

''(11) a detailed description of the programs and activities carried out under part I (other than chapter 8) with respect to illicit narcotics production (such as crop substitution programs), and an assessment of the effectiveness of those programs and activities in reducing illicit narcotics production;''.

TITLE IV--DRUG EDUCATION PROGRAMS ABROAD

SEC. 401. INCREASED FUNDING FOR USIA DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there is authorized to be appropriated for the United States Information Agency for fiscal year 1987 $2,000,000 which shall be available only for increasing drug education programs abroad. These programs may include--

(1) the distribution of films and publications which demonstrate the impact of drugs on crime and health; and

(2) exchange of persons programs and international visitor programs involving students, educators, and scientists.

SEC. 402. INCREASED FUNDING FOR AID DRUG EDUCATION PROGRAMS.

In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated to the President for fiscal year 1987 $3,000,000 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, which amount shall be used pursuant to section 126(b)(2) of that Act for additional activities aimed at increasing awareness of the effects of production and trafficking of illicit narcotics on source and transit countries.

SEC. 403. REPORTS TO CONGRESS ON DRUG EDUCATION PROGRAMS ABROAD.

The Director of the United States Information Agency and the Administrator of the Agency for International Development shall include in their annual reports to the Congress a description of the drug education programs carried out by their respective agencies.

TITLE V--UNITED NATIONS ACTIVITIES RELATING TO DRUG NARCOTICS CONTROL

SEC. 501. FINDINGS.

The Congress finds that--

(1) in response to the growing narcotics threat to the international community--

(A) the Single Convention on Narcotic Drugs, 1961, the 1972 Protocol amending that Convention, and the Convention on Psychotropic Substances were adopted under United Nations auspices, and

(B) the United Nations has created various entities to deal with drug abuse control and prevention; and

(2) a greater international effort is required to address this threat, such as additional or increased contributions by other countries to the United Nations Fund for Drug Abuse and Control and greater coordination of enforcement and eradication efforts.

SEC. 502. INTERNATIONAL CONFERENCE ON DRUG ABUSE AND ILLICIT TRAFFICKING.

(a) CONGRESSIONAL SUPPORT.--The Congress hereby declares its support for United Nations General Assembly Resolution 40/122 adopted on December 13, 1985, in which the General Assembly decided to convene in 1987 an International Conference on Drug Abuse and Illicit Trafficking in order to generate universal action to combat the drug problem in all its forms at the national, regional, and international levels, and to adopt a comprehensive outline of future activities.

(b) UNITED STATES PARTICIPATION.--With respect to United States participation in the International Conference on Drug Abuse and Illicit Trafficking, the Congress calls on the President--

(1) to appoint the head of the United States delegation well in advance of the conference; and

(2) to ensure that necessary resources are available

for United States preparation and participation.

(c) REPORT TO CONGRESS.--Not later than April 30, 1987, the President shall report to the Congress on the status of United States preparations for the International Conference on Drug Abuse and Illicit Trafficking, including the status of naming the delegation, the issues expected to arise, and United States policy initiatives to be taken at the conference.

SEC. 503. EFFECTIVENESS OF INTERNATIONAL DRUG PREVENTION AND CONTROL SYSTEM.

(a) STUDY.--The United States should seek to improve the program and budget effectiveness of United Nations entities related to narcotics prevention and control by studying the capability of existing United Nations drug-related declarations, conventions, and entities to heighten international awareness and promote the necessary strategies for international action, to strengthen international cooperation, and to make effective use of available United Nations funds.

(b) REPORT TO CONGRESS.--Not later than April 30, 1987, the President shall report to the Congress any recommendations that may result from this study, including the possibility of consolidating existing United Nations entities which engage in narcotics-related activities.

SEC. 504. NARCOTICS CONTROL CONVENTIONS.

The Congress--

(1) urges that the United Nations Commission on Narcotic Drugs complete work as quickly as possible, consistent with the objective of obtaining an effective agreement, on a new draft convention against illicit traffic in narcotic drugs and psychotropic substances, in accordance with the mandate given the Commission by United Nations General Assembly Resolution 39/141; and

(2) calls for more effective implementation of existing conventions relating to narcotics.

TITLE VI--PROVISIONS RELATING TO SPECIFIC COUNTRIES

SEC. 601. NARCOTICS CONTROL EFFORTS IN MEXICO.

(a) PROSECUTION OF THOSE RESPONSIBLE FOR THE MURDER OF DEA AGENT CAMARENA.--Of the funds allocated for assistance for Mexico for fiscal year 1987 under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.; relating to international narcotics control), $1;000,000 shall be withheld from expenditure until the President reports to the Congress that the Government of Mexico--

(1) has fully investigated the 1985 murders of Drug Enforcement Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar, and

(2) has brought to trial and is effectively prosecuting those responsible for those murders.

(b) REPORTS ON ERADICATION EFFORTS.--The Secretary of

State shall report to the Congress on a monthly basis with respect to the illicit drug eradication program in Mexico.

SEC. 602. MEXICO-UNITED STATES INTERGOVERNMENTAL COMMISSION.

(a) NEGOTIATIONS TO ESTABLISH.--In accordance with the resolution adopted by the 26th Mexico-United Interparliamentary Conference which recommended that the Government of Mexico and Government of the United States establish a Mexico-United States Intergovernmental Commission on Narcotics and Psychotropic Drug Abuse and Control, the President should direct the Secretary of State to enter into negotiations with the Government of Mexico to create such a joint intergovernmental commission.

(b) MEMBERSHIP.--The commission, which should meet semiannually, should include members of the Mexican Senate and Chamber of Deputies and the United States House of Representatives and Senate, together with members of the executive departments of each government responsible for drug abuse, education, prevention, treatment, and law enforcement.

(c) REPORT TO CONGRESS.--Not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Congress on the progress being made in establishing a commission in accordance with subsection (a).

SEC. 603. OPIUM PRODUCTION IN PAKISTAN.

(a) FINDINGS.--The Congress finds that--

(1) the production of opium in Pakistan is expected

to triple in the 1985-1986 growing season, posing an increased threat to the health and welfare of the people of Pakistan and the people of the United States; and

(2) the current eradication program in Pakistan, which employs manual eradication of opium poppies, has faltered.

(b) NEED FOR MORE EFFECTIVE DRUG CONTROL PROGRAM.--The Congress urges that the Government of Pakistan adopt and implement a comprehensive narcotics control program which would provide for more effective prosecution of drug traffickers, increased interdiction, and aerial eradication of opium poppies.

(c) REPORT TO CONGRESS.--The Secretary of State shall report to the Congress not later than 60 days after the date of enactment of this Act with respect to the adoption and implementation by the Government of Pakistan of a comprehensive narcotics control program in accordance with subsection (b).

SEC. 604. OPIUM PRODUCTION IN IRAN, AFGHANISTAN, AND LAOS.

The Congress calls on the President to instruct the United States Ambassador to the United Nations to request that the United Nations Secretary General raise with delegations to the International Conference on Drug Abuse and Illicit Trafficking the problem of illicit drug production in Iran, Afghanistan, and Laos, the largest opium poppy producing countries which do not have narcotics control programs.

TAB B

Memorandum

Subject	Date
Comprehensive Drug Initiatives	6 AUG 1986
	SST:JK:RAP:RCA:rca

To

John R. Bolton
Assistant Attorney General
Office of Legislative Affairs

From /s/ Stephen S. Trott by James Knapp

Stephen S. Trott
Assistant Attorney General
Criminal Division

Attached is a multi-titled bill making numerous changes in the Controlled Substance statutes. In a nutshell, the bill would do the following:

Title I, the Drug Penalties Enhancement Act, amends 21 U.S.C., the basic controlled substance sentencing provision, to raise from 20 to 40 years the maximum period of imprisonment authorized for large-scale drug trafficking. It also provides for mandatory minimum terms of five years for a first conviction and ten for a second, lowers the amounts of drugs involved to trigger the maximum sentences, and adds "crack" and fentanyl to the list of drugs for which the the maximum sentence is authorized. Title one also has a "Len Bias" provision mandating imprisonment for not less than twenty years and up to life without parole for drug traffickers in cases where someone dies from using the drugs they manufactured or distributed. Finally, title one raises fines for many drug trafficking offenses beyond the levels authorized by the 1984 Criminal Fine Enforcement Act (for example to $2,000,000 for a major trafficker's first offense) and restates all fines to mesh the concept in the Fine Enforcement Act that fines can extend to double the defendant's gain with the concept in the Controlled Substances Act that fines are doubled for a second conviction. This clarifies that for repeat drug offenders the fine could extend to the greater of a stated amount or four times the defendant's gain.

Title II, the Drug Possession Penalty Act, increases the penalty for simple possession of controlled substances in 21 U.S.C. 844. It provides for the imposition of a mandatory fine of between $1,000 and $5,000 for a first offense and removes the provision in current law where a first time offender can be given pretrial diversion with no permanent criminal record. For a second offense a mandatory prison term of 15 days to two years and a mandatory fine of between $2,500 and $5,000 are set out. For a third offense the mandatory punishment would extend to a prison term of 90 days to three years and a fine of between

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$5,000 and $25,000. The imposition or execution of any of the fines or prison terms for a first or any other offense could not be suspended or deferred.

Title III, the Continuing Drug Enterprise Penalty Act, amends the Continuing Criminal Enterprise statute (21 U.S.C. 848) to increase fines to a level comparable to those in title one ($2,000,000 for a first offense and $4,000,000 for a second). Title III also adds a death penalty for principal administrators, organizers, or leaders of very large drug enterprises, defined as those grossing at least $10,000,000 in a twelve-month period or where the violation involved trafficking in 300 times the amount of controlled substances that would justify the maximum punishment under 21 U.S.C. 841. For example the penalty would apply to a leader in a CCE convicted of trafficking in 150,000 grams -- over 330 pounds -- of cocaine. The death penalty provisions are taken from S. 239, the Administration's death penalty bill with the addition of several aggravating factors tailored to drug trafficking.

Title IV, the International Forfeiture Enabling Act, implements a recent treaty between the United States and Italy. However, it goes beyond just our obligations to Italy under the treaty and would allow federal authorities to seize and civilly forfeit property located in the United States that was either derived from the commission of a violation of a foreign drug law or intended to be used in the commission of such a violation.

Title V repeals the "Mansfield Amendment" (22 U.S.C. 2291(c). The amendment prohibits federal officers or employees from participating in narcotics arrests in foreign countries and from being present during the interrogation of a United States person arrested in a foreign country for a narcotics offense.

Title VI, the Juvenile Drug Trafficking Act, provides for enhanced penalties for anyone over 21 years of age who employs or otherwise acts in concert with anyone under 21 in controlled substance trafficking. Such a person could get up to twice the normal drug trafficking fines and prison term authorized for the type and amount of drug involved for a first conviction and three times the normal punishment for a second conviction. Title VI also amends 21 U.S.C. 845a which currently prohibits (and provides additional penalties beyond those for routine drug trafficking for) distribution of a controlled substance within 1,000 feet of an elementary or secondary school. The amendment would extend the provisions of 21 U.S.C. 845a to the manufacture of controlled substances -- thus reaching "crack houses" -- and to distribution within 1,000 feet of a college or university building or campus.

Title VII, the Controlled Substances Import and Export Penalties Enhancement Act, amends the penalties for drug importation and exportation in 21 U.S.C. 960(b) to conform to drug trafficking penalties established by Title I of the bill. Title VII also conforms the specific quantities of controlled substances which trigger the maximum penalties to those in Title I and contains a "Len Bias" provision providing for mandatory imprisonment of from 20 years to life when death results from the use of a substance involved in a violation.

Title VIII, the Narcotic Traffickers Deportation Act, makes a change in the Immigration and Nationality Act to allow deportation of aliens involved in all types of drug trafficking. The Immigration and Nationality Act presently allows a sentencing judge to make a binding recommendation that aliens convicted of a variety of offenses, except certain narcotics offenses, not be deported. The exception, however, is phrased in antiquated language and may not include such things as LSD, PCP and various drug analogs. Title VIII broadens the exception by referencing current federal statutes, and by allowing the deportation of aliens convicted of state and foreign, as well as federal, laws relating to controlled substances.

Title IX, the Federal Employees Drug Abuse Act, provides for the firing of and a ban on future federal employment for federal employees convicted federally of drug trafficking whether on or off the job. It also provides for the firing of and a ban on future federal employment for federal employees convicted federally of simple possession during working hours or on government property.

Attachment

TITLE I

DRUG PENALTIES ENHANCEMENT ACT OF 1986

Sec. 1. This title may be cited as the Drug Penalties Enhancement Act of 1986.

Sec. 2. Sections 401(b)(1)(A) and (B) of the Controlled Substances Act (21 U.S.C. 841 (b)(1)(A)) are amended to read as follows:

"(1)(A) In the case of a violation of subsection (a) of this section involving--

"(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

"(ii) 500 grams or more of a mixture or substance containing a detectable amount of--

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substance referred to in subclauses (I) through (III);";

"(iii) 25 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

"(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

"(v) 1 gram or more of a mixture or substance containing lysergic acid diethylamide (LSD); or

"(vi) 40 grams or more of a mixture or substance containing fentanyl or 10 grams or more of a mixture or substance containing any analog of fentanyl;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death results from the use of such substance shall be not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marijuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph nor shall the term of imprisonment imposed under this subparagraph run concurrently with any other term of imprisonment under this subparagraph or under any other provision of law. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein. Provided, however, that upon the motion of the United States Attorney, the sentencing court may reduce or suspend the sentence of any person sentenced under this subparagraph who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, co-conspirators, or principals, or who otherwise provides substantial assistance leading to the identification, arrest, or conviction of any other offenders under this section. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance."

"(B) In the case of a controlled substance in schedule I or II except as provided in subparagraphs (A) and (C), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $1,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after one or more prior convictions for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $2,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 6 years in addition to such term of imprisonment. Notwithstanding the prior sentence, and notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which provide for a mandatory term of imprisonment if death results, nor shall such a term of imprisonment run concurrently with any other term of imprisonment under this subparagraph or under any other provision of law, nor shall a person so sentenced be eligible for parole during the term of such a sentence. Provided however, that upon the motion of the United States Attorney, the sentencing court may reduce or suspend the sentence of any person sentenced under the provisions of this subparagraph which require a mandatory term of imprisonment if death results who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, co-conspirators, or principals, or who otherwise provides substantial assistance leading to the identification, arrest, of conviction of any other person under this section. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance.".

Sec. 3. Section 401 of the Controlled Substances Act (21 U.S.C. 841) is further amended as follows:

(a) In subsection (b), paragraph (1)(C) is amended by striking out the phrase "a fine of not more than $50,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is and individual or $1,000,000 if the defendant is other than an individual", and by striking out the phrase "a fine of not more than $100,000" and inserting in lieu thereof the phrase "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual";

(b) In subsection (b), paragraph (2) is amended by striking out the phrase "a fine of not more than $25,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual", and by striking out the phrase "a fine of not more than $50,000" and inserting in lieu thereof " a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18 or $500,000 if the defendant is an individual or $2,000,000 if the defendant is other than an individual";

(c) In subsection (b), paragraph (3) is amended by striking out the phrase "a fine of not more than $10,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $100,000 if the defendant is an individual or $250,000 if the defendant is other than an individual", and by striking out the phrase a fine of not more than $20,000" and inserting in lieu thereof "a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code or $200,000 if the defendant is an individual or $500,000 if the defendant is other than an individual";

(d) In subsection (b), paragraph (5) is amended to read as follows:

"(5) Any person who violates subsection (a) of this section by cultivating a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed

"(A) the amount authorized in accordance with this section,

"(B) the amount authorized in accordance with the provisions of title 18,

"(C) $500,000 if the defendant is an individual; or

"(D) $1,000,000 if the defendant is other than an individual,

or both."; and

(e) subsection (d) is amended by striking out the phrase "a fine of not more than $15,000" and inserting in lieu thereof "a fine not to exceed the greater of that authorized in accordance with the provisions of title 18 or $250,000 if the defendant is an individual or $1,000,000 if the defendant is other than an individual".

Analysis

This title contains a series of amendments to the provision in Title 21 (21 U.S.C. 841) that sets out penalties for large-scale domestic drug trafficking.

Section two amends 21 U.S.C. 841(b)(1)(A) to lower the amounts of drugs required to trigger the maximum sentences. It also increases the maximum term of imprisonment authorized for large scale drug trafficking from 20 to 40 years. Moreover, it provides mandatory mimimum terms of five years for first offenses and ten years for second offenses. Fines are also increased to $2,000,000 for first offenders who are individuals ($5,000,000 for defendants other than individuals) and to $4,000,000 and $10,000,000 for repeat offenders. The fine provisions also cross-reference the Criminal Fine Enforcement Act of 1984 in title 18 to clarify that that Act's provisions, which can increase fines even beyond these levels to double the amount of the defendant's gain, are applicable.

Section two also contains mandatory terms of imprisonment for large scale drug traffickers in cases where death results from someone using their drugs. This provision was inspired by the death of basketball player Len Bias. Imprisonment in such a case would be not less than twenty years and could extend to life imprisonment. In a case where death resulted and the defendant already had another drug trafficking conviction (whether or not death had resulted from the events that gave rise to the earlier conviction) the defendant would have to be sentenced to life imprisonment.

Finally, section two's amendment of 21 U.S.C. 841(b)(1)(A) adds two new types of particularly dangerous controlled substances to those already listed in 21 U.S.C. 841(b)(1)(A) that require the most severe penalties. It would extend those penalties to persons trafficking in 25 grams or more of "crack" or a gram of fentanyl or any analog of this frequently deadly substance.

Section two also amends 21 U.S.C. 841(b)(1)(B) to raise the term of imprisonment for trafficking in smaller amounts of controlled substances from fifteen to twenty years. Fines are also increased for trafficking in smaller amounts. The fine would be the greater of $1,000,000 or twice the gain for an individual and to $5,000,000 or twice the gain for an entity other than an individual. For an individual sentenced under 841(b)(1)(B) who had a previous drug conviction, the fine would be the greater of $2,000,000 or four times the gain, and the fine for an entity other than an individual that had a previous drug conviction would be the greater of four times the gain or $10,000,000.

Section three makes a series of amendments to the fine provisions in 21 U.S.C. 841 that apply to trafficking in small amounts of drugs generally believed not to be quite as harmful as cocaine, heroin, and LSD.

Subsection 3(a) amends 21 U.S.C. 841(b)(1)(C). That provision presently authorizes a fine of up to the greater of $50,000 ($100,000 for a second offense) or that authorized in the Fine Enforcement Act. The amendment would raise the fine to the greater of $250,000 or twice the gain for an individual and to $1,000,000 or twice the gain for an entity other than an individual. For an individual sentenced under 841(b)(1)(C) who had a previous drug conviction, the fine would be the greater of $500,000 or four times the gain, and the fine for an entity other than an individual that had a previous drug conviction would be the greater of four times the gain or $2,000,000.

Subsection 3(b) amends 21 U.S.C. 841(b)(2) which sets out fines for trafficking in schedule IV controlled substances. The present authorized fine is the greater of $25,000 ($50,000 for a second offense) or that authorized in the Fine Enforcement Act. The amendment would raise the fine to the greater of $250,000 or twice the gain for an individual and to $1,000,000 or twice the gain for an entity other than an individual. For an individual sentenced under 841(b)(2) who had a previous drug conviction, the fine would be the greater of $500,000 or four times the gain, and the fine for an entity other than an individual that had a previous drug conviction would be the greater of four times the gain or $2,000,000.

Subsection 3(c) amends 21 U.S.C. 841(b)(3) which sets out fines for trafficking in schedule V controlled substances. The present authorized fine is the greater of $10,000 ($20,000 for a second offense) or that authorized in the Fine Enforcement Act. The amendment would raise the fine to the greater of $100,000 or twice the gain for an individual and to $250,000 or twice the gain for an entity other than an individual. For an individual sentenced under 841(b)(3) who had a previous drug conviction, the fine would be the greater of $200,000 or four times the gain, and the fine for an entity other than an individual that had a previous drug conviction would be the greater of four times the gain or $500,000.

Subsection 3(d) amends 21 U.S.C. 841(b)(5) which sets out fines for persons convicted of cultivating controlled substances on federal land. The fine is $500,000 for individuals and $1,000,000 for entities other than individuals. Unlike most other parts of section 841, 841(b)(5) does not provide for enhanced fines for a second conviction. The amendment rewrites 841(b)(5) to clarify that persons who commit such an offense can be imprisoned as well as fined and to set out the maximum fine as that authorized in section 841 (which is now in excess of $500,000 or $1,000,000 for many offenses), that authorized pursuant to the Fine Enforcement Act in Title 18, or $500,000 for individuals or $1,000,000 for entities other than individuals.

Subsection 3(e) amends 21 U.S.C. 841(d) which sets out a fine of $15,000 for possession of piperdine with intent to manufacture PCP. Of course the fine is actually that authorized by the Criminal Fine Enforcement Act, the greater of $250,000 for individuals ($500,000 for organizations) or double the defendant's gain. The effect of the amendment is to leave the fine for an individual at the greater of $250,000 or twice the gain but to raise the fine authorized to the greater of $1,000,000 or twice the gain for a defendant other than an individual.

TITLE II

DRUG POSSESSION PENALTY ACT OF 1986

Sec. 1. This title may be cited as the Drug Possession Penalty Act of 1986.

Sec. 2. Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended to read as follows:

§ 844. Penalty for simple possession

"(a) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner, while acting in the course of his professional practice, or except as otherwise authorized by this subchapter or subchapter II of this chapter. Any person who violates this subsection shall be sentenced to a term of imprisonment of not more than one year, and shall be fined a minimum of $1,000 but not more than $5,000, or both, except that if he commits such offense after a prior conviction under this subsection, or a prior conviction for any drug or narcotic offense chargeable under the law of any state, has become final, he shall be sentenced to a term of imprisonment for not less than 15 days but not more than two years, and shall be fined a minimum of $2,500 but not more than $10,000, except, further, that if he commits such offense after two or more prior convictions under this subsection, or two or more prior convictions for any drug or narcotic offense chargeable under the law of any state or a combination of two or more such offenses have become final, he shall be sentenced to a term of imprisonment for not less than ninety days but not more than three years, and shall be fined a minimum of $5,000 but not more than $25,000. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred. Further, upon conviction, a person who violates this subsection shall be taxed the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in 28 U.S.C. §§1918, 1920§, except that this sentence shall not apply and a fine under this section need not be imposed if the court determines under the provisions of title 18 that the defendant lacks the ability to pay.

"(b) As used in this section, the term "drug or narcotic offense" means any offense chargeable under the law of any state which proscribes the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under this chapter."

<u>Analysis</u>

This title rewrites the provisions of 21 U.S.C. 844 setting out the punishment for simple possession of controlled substances. It provides for the imposition of a mandatory fine of between $1,000 and $5,000 for a first offense, for a mandatory fine of between $2,500 and $5,000 if the defendant already has been convicted of one other state or federal narcotics offense, and for a mandatory fine of between $5,000 and $25,000 if the defendant has previously been convicted of two other such offenses.

Moreover, the section would provide for a mandatory term of imprisonment of at least fifteen days and up to two years for persons guilty of simple possession who have a previous state or federal drug conviction. It provides for a mandatory term of imprisonment of between ninety days and three years for persons guilty of simple possession who have two or more previous state or federal drug convictions. The imposition or execution of mandatory minimum sentences under the section could not be suspended or deferred.

The revised section 844 would eliminate the provision in the current section whereby a first offender can be given pretrial diversion and for all practical purposes the offense does not appear as part of the person's criminal record.

The revisions to section 844 are designed to demonstrate the seriousness with which the federal government views drug use. In short, it sets the federal government squarely on record as opposing any notion that "social" or "recreational" use of drugs is acceptable behavior. While normally simple possession cases are prosecuted by the States, except in cases arising on federal enclaves, such a federal law would be helpful in certain cases and would set a good precedent which could be emulated by the States and municipalities.

TITLE III

CONTINUING DRUG ENTERPRISE PENALTY ACT OF 1986

Sec. 1. This title may be cited as the Continuing Drug Enterprise Penalty Act of 1986.

Sec. 2. Subsection 408(a) of the Controlled Substances Act (21 U.S.C.848(a) is amended as follows:

(a) by striking out the phrase "to a fine of not more than $100,000," and inserting in lieu thereof "to a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code or $2,000,000 if the defendant is an individual or $5,000,000 if the defendant is other than an individual,"; and

(b) by striking out the phrase "to a fine of not more than $200,000," and inserting in lieu thereof "to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of title 18, United States Code, or $4,000,000 if the defendant is an individual or $10,000,000 if the defendant is other than an individual".

Sec. 3. Section 408 of the Controlled Substances Act (21 U.S.C. 848) is further amended--

(a) by redesignating subsections (b) and (c) as (c) and (d), respectively;

(b) by inserting the following new subsection after subsection (a):

"(b) Any person who engages in a continuing criminal enterprise shall be imprisoned for life or sentenced to death, and fined in accordance with subsection (a), if--

"(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

"(2) (A) the violation referred to in subsection (c)(1) involved at least 300 times the quantity of a substance described in section 401(b)(1)(A) of this Act, or

"(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 401(b)(1)(A) of this Act."; and

(c) by adding at the end thereof the following:

"(e) A person who has been found guilty of an offense under this section shall be sentenced to death if, after consideration of the factors set forth in subsection (f) in the course of a hearing held pursuant to subsection (g), it is determined that imposition of a sentence of death is justified.

"(f) Factors to be considered in determining whether a sentence of death is justified

"(1) Mitigating Factors. -- In determining whether a sentence of death is justified, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(A) the defendant was less than eighteen years of age at the time of the offense;

"(B) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution; and

"(C) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution.

The jury, or if there is no jury, the court, may consider whether any other mitigating factor exists.

"(2) Aggravating Factors. -- In determining whether a sentence of death is justified, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any exist:

"(A) the defendant has previously been convicted of an offense under this subchapter, or of an offense under State law or under the law of a foreign country or political subdivision thereof, involving the manufacture, distribution, sale, or possession with intent to sell of a controlled substance as defined in this subchapter, for which a sentence of death or life imprisonment was authorized;

"(B) in the commission of the offense the defendant knowingly caused the death of, or created a grave risk of death to, another person;

"(C) in the commission of the offense a person or persons with respect to whom the defendant occupies a position of organizer, a supervisory position, or any other position of management knowingly caused the death of another person and the defendant was aware of a substantial risk that such a death might occur;

"(D) the defendant, or any person with respect to whom the defendant occupies a position of organizer, a supervisory position, or any other position of management, engaged in any conduct and thereby caused bodily injury to another person or damaged the tangible property of another person with intent to retaliate against any person for providing information concerning the offense at any official proceeding or to a law enforcement officer."

"(E) the defendant knew or intended that the offense would result in the unlawful obtaining of controlled substances by persons under 21 years of age; and

"(F) in the course of the offense the defendant employed or made use of one or more persons under 21 years of age;

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(g) Special hearing to determine whether a sentence of death is justified

"(1) Notice by the Government. -- If, in a case involving an offense described in this section, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this section, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice--

"(A) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this section; and

"(B) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(2) Hearing Before a Court or Jury. -- If the attorney for the government has filed a notice as required under paragraph (1) and the defendant is found guilty of an offense described in this section, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of Rule 32(e) of the Federal Rules of Criminal Procedure. The hearing shall be conducted--

"(A) before the jury that determined the defendant's guilty;

"(B) before a jury impaneled for the purpose of the hearing if--

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury that determined the defendant's guilt was discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or