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Assistant Attorney General

Washington, D.C. 20530

SEP 12 1986

TO: Alfred H. Kingon
Ralph Bledsoe
Joseph R. Wright, Jr.
Carlton E. Turner

FROM: *RK* Richard K. Willard

Attached are some draft Qs & As on the proposed Executive Order. These will be revised to reflect changes in the Order and your comments, if any.

DRAFT: Sept. 12, 1986
4:00 p.m.

EXECUTIVE ORDER ON THE DRUG FREE FEDERAL WORKPLACE

QUESTIONS AND ANSWERS

I. DRUGS IN THE WORKFORCE - BACKGROUND

Q: How many employees actually use drugs while on the job?

-It is estimated that between 10 to 23 percent of all workers in this country use illegal drugs on the job; these figures are misleading, however, because it has been widely recognized that even weekend or "recreational" drug users impose a continuing cost to the employer. (National Institute on Drug Abuse National Household Survey.)

-Moreover, young adults aged 18-25, representing those now coming into the workforce, are the segment in our society using illegal drugs most extensively. (Charles R. Schuster, Ph.D., Director of National Institute on Drug Abuse, Statement on Drug Abuse In The Workplace Before The House Select Committee on Narcotics Abuse and Control, May 7, 1986 based on national NIDA Study.)

-Of this group of young adults, 65 percent have used illegal drugs, 44 percent within the past year. (Id.)

Q: Do you think there is a drug problem among federal employees?

-We know there is a drug problem in the private sector and there is no reason that the federal workforce would be insulated from this problem. (National Institute on Drug Abuse.)

Q: By focusing on reducing illegal drug use by requiring a drug-free federal workforce, is the President moving away from his earlier focus on the supply side of the control equation?

-Absolutely not; this Administration will continue its strenuous efforts to reduce the supply of illegal drugs in this country by reducing overseas production in drug-producing countries, intercepting drug imports through stepped-up enforcement procedures and increased personnel at major border areas and cracking down on organized crime connections with the drug trade.

-The drug-free federal workforce requirement simply augments the President's continuing efforts to reduce illegal drug use by striking at the demand, as well as the supply of illegal drugs.

II. DRUG-FREE FEDERAL WORKFORCE - THE POLICY

Q: Why has the President chosen to fight illegal drug use in the context of requiring a drug-free federal workforce?

-While the legal system and social service agencies have long been struggling with the major problems of illegal drug use, they have been able to attack only part of the problem; law enforcement has focused on traffickers, not users.

-As long as sanctions for drug use appear to be unlikely, there will be a continuing demand for drugs that produces a financial incentive for people to smuggle and deal in drugs.

-One of the most effective places where this problem can be addressed is the workplace; the prospect of being fired for illegal drug use is a realistic sanction that can cause workers to "say no" to "recreational" drug use.

-The workplace is a logical environment for society to make it clear that illegal drug use is not acceptable; users can endanger their fellow workers and the public; the debilitating effects of drugs prevents a user from doing the same honest day's work as his or her co-workers.

-A careful balance of disciplinary action and rehabilitation at the institutional level, combined with the disapproval of drug use, yet personal support and encouragement, of employers and co-workers, helps create the most effective incentive for an individual to stop using drugs.

-As the nation's single largest employer, the federal government should provide an example to all employers to require that their employees refrain from the illegal use of drugs.

Q: How does an employee's use of drugs off duty effect performance on the job?

-It is a serious myth that only on-the-job drug use effects an employee's performance on the job; a study by the Alcohol, Drug Abuse and Mental Health Administration estimates that such substance abuse costs employers nearly \$100 billion in lost productivity each year.

-The impact of illegal drug use is also reflected by unnecessary accidents in the workplace, employee absenteeism, higher job turnover rates, deteriorating performance, increased health costs and other costs to employers.

- For example, employees who use illegal drugs are only two-thirds as productive as employees who do not use illegal drugs. (Carlton E. Turner, Director, White House Drug Abuse Policy Office, "Tests For Drugs On All Workers Needed in U.S.," Newsday, April 2, 1986.)
- Employees who use illegal drugs have 3 times as many accidents on the job as employees who do not use drugs. (Id.; Peter Bensinger, "Drugs In The Workplace: Employer's Rights and Responsibilities," The Washington Legal Foundation, 1984; The Conference Board Research Report, "Corporate Strategies for Controlling Substance Abuse" 1986.)
- Employees who use illegal drugs have an absenteeism rate from sickness or injury 3 times greater than employees who do not use illegal drugs. (Id.)
- Employees who use illegal drugs cost 3 times as much in medical benefits as employees who do not use drugs. (Id.)
- Employees who use illegal drugs file 5 times as many workmen's compensation claims as employees who do not use drugs. (Id.)
- Employees who use illegal drugs have 7 times as high a rate of garnishment of wages as employees who are drug free. (Id.)
- Employees who use illegal drugs have been found to have "cut" or skipped work approximately 3 times as often as employees who are drug free. (National Institute On Drug Abuse National Survey.)

Q: Are there any special considerations that make federal employees different from employees in the private sector?

-Drug use is illegal; all citizens are expected to obey the law; government employees who use drugs, in addition, violate the special trust they have as servants of the public.

-Large numbers of government employees regularly work with, or handle, dangerous equipment or weaponry; an employee who uses drugs poses a unique health or safety threat to fellow employees and the public generally.

-Thousands of government employees must exercise judgment and make decisions every day that affect the nation's well-being

and security in innumerable ways, whether that employee is an FDA scientist approving new medicines, an FBI agent investigating organized crime, or an Air Force pilot flying combat aircraft; drug use in such important contexts has unforeseeable consequences.

-Federal employees have access to a range of classified or otherwise sensitive information; illegal drug use simply is inconsistent with the reliability and good judgment needed for such access; it creates the possibility of coercion, improper influence, and irresponsible action under pressure, posing a serious risk to national security, public safety, and law enforcement.

-In addition to the problems of individual impaired performance, illegal drug use impairs group morale; awareness of significant drug use even among a minority of employees in a group can lead to schisms that substantially diminish employee performance.

-Drug use by public employees undermines the confidence of the public in their government, and makes it more difficult for government employees who do not use drugs to perform their jobs effectively.

Q: What are the legal constraints on requiring federal employees to refrain from using illegal drugs?

-The law now requires all persons, including federal employees, to refrain from using illegal drugs; neither the Constitution nor any statute bars the government, as an employer, from requiring its employees to obey the law.

-While the Civil Service laws and provisions of the Civil Service Reform Act generally prohibit any adverse action to be taken against a federal employee on the basis of conduct unrelated to the performance of his or her duties, the President has determined that illegal drug use, whether on or off the job, has a substantial adverse impact on employee performance and productivity.

-The statistics cited above on employee productivity and reliability not only support the President's finding but also conclusively establish the nexus between illegal drug use and employee performance required by Civil Service laws.

III. THE DRUG-FREE WORKFORCE - ENFORCING THE STANDARD

Q: How will this Order be enforced?

-Under the Executive Order, the head of each agency must develop a plan for achieving a drug-free workplace.

-Each agency plan must not only be molded to the specific needs of each agency, but also take into account the rights of employees and the general public.

Q: What must be in an agency's plan?

-There are five general elements required:

- 1) a statement of agency policy concerning drug use and of the action to be taken against users;
- 2) employee assistance programs for counseling and rehabilitation, coordinated with available community resources;
- 3) training for supervisors concerning identifying and addressing illegal drug use by employees;
- 4) procedures for individual employees to voluntarily seek counseling or rehabilitation services and for supervisors to make such referrals which protect personal privacy, consistent with safety and security concerns; and
- 5) procedures for identifying illegal drug users.

Q: How will agencies determine which employees are illegal drug users?

-Determinations that an employee is an illegal drug user may be made on the basis of any appropriate evidence, including direct observation of drug use, conviction of a criminal offense involving drugs, the results of an administrative inquiry, or the results of an authorized testing program.

-If a drug test is involved, positive drug test results may be rebutted by other evidence that an employee has not used illegal drugs.

Q: What measures will be taken against an employee who is determined to be using illegal drugs?

-All employees who are found to use illegal drugs will be referred to the Employee Assistance Program in their agency for counseling and appropriate treatment or rehabilitation, regardless of any disciplinary action that may also be taken.

-First-time drug users will also be subject to appropriate discipline (such as reprimand or suspension) unless they voluntarily come forward and seek assistance before being caught.

-Employees who use illegal drugs and who refuse to obtain counseling or rehabilitation and who don't stay clean after a

rehabilitation effort will be removed from the federal service. (This is the "two strikes and you're out" rule.)

-Employees in sensitive positions who are found to use illegal drugs will not be permitted to remain on duty in that sensitive position prior to their successful completion of rehabilitation unless the head of the agency decides a return to duty during the rehabilitation program will not pose a danger to national security or safety.

Q: How does the Executive Order affect applicants for federal jobs?

-No current drug user can be hired.

-Any applicant may be tested for drug use, at the discretion of the hiring agency.

IV. DRUG TESTING

Q: Why is drug testing necessary?

-Drug testing is one of the most effective devices we have to enforce the drug-free policy. It provides an objective, ready and largely uncontestable means of identifying the illegal drug abuser. Its deterrent capacity in the federal sector already has a proven track record. Since drug testing was introduced in the military in 1980, drug abuse has dropped from 27% to 9%.

-Employee drug testing already is being legally, accurately and safely conducted in the private sector. 25% of the Fortune 500 companies today are testing for illegal drug use. There is no reason why the federal government must represent a safe harbor for illegal drug use, and should not be following the lead of the private sector in utilizing an efficient test to weed out illegal drug abuse.

Q: When will federal employees be subjected to drug testing?

-The head of an agency can order the testing of any employee (1) when there is a reasonable suspicion that an employee uses drugs, (2) as part of an investigation of an accident or unsafe practice, and (3) as part of follow-up counseling or rehabilitation through an employee assistance program.

-The head of an agency must establish a testing program for employees in sensitive positions based on the agency's mission, the employees' duties, available resources, and the potential consequences of employee drug use to public health and safety or to national security.

-Voluntary testing programs will be set up for nonsensitive employees.

Q: Will agency drug testing programs vary from agency to agency?

-While the Executive Order imposes a government-wide standard of a drug-free workforce, agencies have been given a great deal of flexibility in establishing effective programs to ensure compliance with the drug-free requirement.

Q: In general, how will the testing programs work?

-In the case of a new testing program, an agency must notify employees of the program, its procedures, and the availability of counseling or rehabilitation 60 days before the program begins.

-Employees who are legitimately using drugs will be given an opportunity to submit documentation to support their use of such medication.

-Production of urine specimens will be done in private, unless there is a reason to believe that an individual may alter the specimen, or substitute a "clean" sample.

-Test results and related medical and rehabilitation records will be kept confidential.

-Specimens and records will be retained for future re-analysis.

-HHS will promulgate scientific and technical guidelines for testing that all agencies must follow.

Q: Other than taking an adverse personnel action against an employee found to be using illegal drugs, what use will be made of an employee's positive drug test results?

-Drug testing will only be conducted for administrative purposes.

-Testing pursuant to the Order cannot be done to gather criminal evidence, and agencies are not required to report any such evidence, found as result of a testing program, to the Attorney General for criminal action.

Q: Are there any safeguards to protect an employee from being disciplined as the result of a "false positive"?

-Preliminary positive test results will not be used as a basis to discipline any employee unless they are confirmed by a second analysis of the same sample or unless the employee confirms the accuracy of the initial test by admitting the use of illegal drugs.

-Any disciplinary action taken against an employee found to use illegal drugs will be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act; an employee will be able to challenge any finding that he uses drugs, including the results of any underlying drug test.

Q: Isn't drug testing too unreliable to use?

-We will be building into the system safeguards to ensure reliability. The first and most important safeguard is that confirmatory testing will be required. Because one test alone will produce a small percentage of "false positives," we are requiring that there always be a second test to confirm a positive result. This should take care of general concerns regarding reliability which are predicated upon testing that does not employ two different tests to determine illegal drug use.

-The second safeguard is that all testing will be done in accordance with technical and scientific guidelines issued by the Department of Health and Human Services. Secretary Bowen will be monitoring any testing to ensure the integrity and reliability of the results.

Q: What drug tests are in use, and what are their scientific bases?

-There are four basic methods of testing. Two methods, EMIT and RIA, are generally used as initial screening tests. They are not completely reliable used alone, but, because they are inexpensive and convenient to use, can serve as a screening device to identify what samples should be subject to more expensive and more precise confirmatory testing.

- EMIT is used by the Bureau of Prisons and the Navy, and is the most widely used test today. It is an enzyme immunoassay test in which urine is combined with antibodies that cause a "clump" to be seen if there are traces of illegal drugs. It has a 95% confidence level, meaning that at least 95% of the time, it will properly detect drug use at the lowest levels for which the test is designed to detect. In practice, under proper testing conditions, 97% to 99% reliability is expected (Center for Disease Control).
- RIA is a similar screening test in which antibodies are introduced to produce a physical reaction which is measured for its radioactivity. This is the screening test of the uniformed services with the exception of the Navy. Properly administered, it has the same expected reliability as EMIT.
- A third test that is used is thin layer

chromatography (TLC). Urine is mixed with solvent on a glass plate and the extent of the reaction if drug traces are present can then be seen. Studies (1/1/85 Journal of Analytical Toxicology) report the procedure to be completely reliable. However, this assumes a fully trained technician, and thus, it is almost always used in combination with a second test.

The fourth test which is recognized as completely reliable is gas chromatography and mass spectrometry (GC/MS), which is, in fact, two separate tests. GS reveals the presence of drugs by measuring their rate of movement, and MS sorts out chemicals by their molecular weight.

-We know that there are reports of much higher error rates. The key is not only to require two tests, but to maintain quality controls. Proper testing conditions, proper handling of samples, proper training of technicians, and proper controls to continually monitor the testing are required and will be required. That is one reason why HHS will be closely involved in setting up this program. Our strong committment to drug testing requires a similarly strong committment to quality control.

-The military learned to remove the bugs from their system; we are building on their experience. In the past three years, the Navy has not reported a single false positive. Each week, each lab receives 36 samples used as controls (24 negative, 12 spiked) mixed with other samples. With 20,000 samples, the Navy reports not one false positive.

BUDGET SUMMARY OF ANTI-DRUG ABUSE INITIATIVES
(Budget Authority in Millions of Dollars)

September 12, 1986

	FY81 BA (Actual)	FY86 BA (Actual)	FY87 President's Budget Request	Administration Initiatives				Total, Admin. Proposals	
				Budget Amendments		Administration Drug Bill		FY87 Amount /1/	FY88 Amount /2/
				FY87 Amount	FY88 Amount	FY87 Amount	FY88 Amount		
Drug Free Workplace (*Title I)	28 /6/	62 /6/	62 /6/	56	56	0	0	118	118
Drug Free Schools (*Title II)	3	3	3	0	0	100	100	100	100
Substance Abuse Services (*Title III)	373	292	318	230 /5/ 3 /3/	0	0	0	551	318
International Cooperation and Law Enforcement (*Titles IV and V)	736	1,656	1,850	408 /3/ 100 /4/	12 20 /4/	0	185 /7/	2,358	2,081 /7/
Private Sector Initiatives (*Title VI)	3	10	10	5 /3/	5	0	0	15	15
TOTAL	1,143	2,023	2,243	802	93	100	285	3,142 /1/	2,632 /2/

Footnotes:

/1/ Sum of President's FY87 Budget request plus new budget and legislative proposals.

/2/ Sum of FY88 level assumed in the President's FY87 Budget request plus new budget and legislative proposals.

/3/ Southwest Border Initiative; formal budget requests to be submitted to the Congress on September 15, 1986.

/4/ Preliminary estimates of Southeast Border Initiative.

/5/ Drug Abuse Working Group Report to the DPC.

/6/ Testing conducted primarily in DOD for FY81-87.

/7/ Includes additional prison costs which may arise from enhanced enforcement penalties (preliminary estimates only).

THE WHITE HOUSE
WASHINGTON

DATE: 9/12/86

NOTE FOR: ALFRED H. KINGON
PETER J. WALLISON ✓

The President has

seen
acted upon
commented upon

the attached; and it is forwarded to you for your:

information
action

David L. Chew
Staff Secretary
(x-2702)

cc: The Vice President
Donald T. Regan
Original to Files

THE WHITE HOUSE

WASHINGTON

September 11, 1986

MEMORANDUM FOR THE PRESIDENT

FROM: THE DOMESTIC POLICY COUNCIL
SUBJECT: Drug Abuse Policy Initiatives

Issue: What initiatives should be in the Administration's Drug Abuse Policy package?

Background: On August 4, 1986, you announced six new goals to build upon past accomplishments to curb drug abuse, and to lead Americans toward a drug-free society. Your six goals are:

- o Drug-Free Workplaces
- o Drug-Free Schools
- o Expand Drug Treatment and Research
- o Improve International Cooperation
- o Strengthen Law Enforcement
- o Increase Public Awareness and Prevention

The Domestic Policy Council established a Working Group on Drug Abuse Policy to develop legislation and other action steps to implement initiatives in support of the goals. The Working Group, in conjunction with the National Drug Enforcement Policy Board (NDEPB), has recommended comprehensive legislative proposals, an Executive Order for a drug-free Federal workforce, and other specific actions. These were reviewed by the Domestic Policy Council, and are described in the Working Group report.

Legislation - The Administration's legislative initiative is a comprehensive proposal with a separate title keyed to each of your six goals. It was discussed by the Domestic Policy Council, and is a coordinated, balanced package supporting the attack on both drug supply and demand. The proposed legislation would redirect FY 87 outlays by approximately \$300 million, and bring total annual spending on drug abuse programs to about \$2.8 billion. Senate Republicans are waiting for details of our proposal before proceeding with a bill of their own.

There is some disagreement among Council members on the tone of Title I, Drug-Free Workplaces, of the proposed legislation. A few feel it is too harsh and that it may draw negative publicity. Other Council members feel that it and the Executive Order will strengthen our ability and that of government contractors and private industry to make workplaces drug-free, and that we can make your intent quite clear in transmittal documents.

Two other issues require your clarification. First, whether our legislation should include Justice's recommendation for repeal of the Mansfield Amendment, which prohibits Federal officers from participating in drug arrests in foreign countries; or, State's recommendation to modify it to lift restrictions only in countries with special treaties.

Mansfield Amendment:

RR

Seek to Repeal

and as modified in the meeting.

Seek to Modify

(As you may recall, in the discussion it was agreed by all that we do not want unilateral action, but should work with other countries to allow our law enforcement officers to assist in making arrests. It was also agreed this is a tactical legislative question. You can direct that we "do what is needed to allow our officers to work with other countries, and leave the rest to legislation".)

Second, the proposed legislation does not prescribe the death penalty for major traffickers. While you have previously opposed this under certain conditions, some Council members feel a stronger position may now be needed because of Congressional proposals calling for the death penalty.

Death Penalty for Major Drug Traffickers:

Include

Do Not Include

RR

Allow Justice Department to support Gekas Amendment

(The Gekas Amendment, passed by the House on 9/11/86, calls for the death penalty if there is a drug related death from continuing criminal enterprise and from knowingly causing death.)

Executive Order - The Council also discussed a draft Executive Order which focuses on achieving a drug-free Federal workplace, and complements Title I of the proposed Administration legislation. Our legislative proposal amends appropriate laws to make it clear that there is no Federal statutory bar to drug testing in the workplace or in educational institutions. The draft Executive Order sets an example by balancing intolerance of illegal drug use with fair treatment of individual employees. It stresses voluntary compliance and treatment for employees seeking help. Drug screening guidelines are established for the Executive Branch, allowing flexibility by department and agency heads. The Order authorizes testing of Federal employees holding sensitive positions that affect safety and security, and permits corrective administrative action if employees do not accept a "helping hand."

Two issues require your clarification. First, the proposed Executive Order authorizes mandatory testing of applicants for sensitive jobs. While you have previously indicated a preference

- RR ○ Encourage all schools to establish a policy of being drug free through grants administered under the proposed Zero Tolerance Act, and through anti-drug activities developed by communities and student leaders.
- RR ○ Ensure that Federal laws against distributing drugs in or near schools are extended and enforced in cooperation with local authorities.

RR Goal #3 - Expand Drug Abuse Treatment and Research

- Encourage States and communities to develop programs to treat specific drug-related health problems through new demonstration grants and elimination of unnecessary restrictions imposed under current block grant programs.
- Expand drug abuse research in health-related areas, including drug testing.
- Strengthen medical and health programs aimed at drug abuse prevention by establishing a Center for Substance Abuse Prevention within HHS.
- Support efforts to achieve a drug-free Federal workplace.

RR Goal #4 - Improve International Cooperation

- Convene a conference for U.S. Ambassadors in October to convey an international sense of urgency and to discuss increased regional cooperation.
- Repeal the Mansfield Amendment to allow Federal officers to participate in drug arrests in foreign countries, seek authorization to confiscate U.S. property of drug dealers who violate foreign laws, and amend immigration requirements to allow deportation of alien drug traffickers.

RR Goal #5 - Strengthen Law Enforcement

- Continue to execute Operation Alliance to increase cooperative drug law enforcement along the United States - Mexican border.
- Seek legislation addressing such areas as penalties for large-scale domestic drug trafficking, punishments for possession of controlled substances, increased penalties for leaders of major drug rings, import/export violations, juvenile drug trafficking, and clandestine drug manufacturing.
- Strengthen money laundering enforcement and penalties.
- Seek to restore appropriate level of FY 1987 funding for law enforcement agents, prosecutors, and prison facilities.

RR Goal #6 - Increase Public Awareness and Prevention

- o Encourage all Americans to join the First Lady's drug abuse awareness and prevention campaign through a nationally televised address, letters soliciting fortune 500 support, a series of White House briefings, a "presidential Honor Role" for significant contributors, national drug prevention poster and essay contests, and major media campaigns to reinforce positive peer pressure and to make drug use socially unacceptable.
- o Encourage corporations, service organizations, and the media to develop drug prevention programs.
- o Ensure that every American has access to accurate and effective information about drug abuse and strategies for eliminating drugs from our society.
- o Propose legislation to facilitate private sector support and use of drug abuse material developed for foreign audiences.
- o Reduce illegal drug activity in Public Housing Authorities.

Data collected by HHS indicates that your drug abuse policy goals are right on target. An estimated 67 percent of all cocaine users have only minimal demand and will respond to social unacceptance, awareness and prevention efforts, and strict no-drug use policies in schools and workplaces, including drug testing where appropriate. Polls indicate that the public will also respond favorably to strong leadership from the Federal government, and will accept a firm, yet fair, drug prevention program which attacks both supply and demand in our workplaces, in our schools, and throughout our society.

Recommendations: The Domestic Policy Council recommends that you approve the following initiatives for inclusion in your Drug Abuse Policy package: 1) the proposed six-part legislative package, 2) the Executive Order supporting a drug-free Federal workforce, and 3) action steps supporting the major policy initiatives in the Drug Abuse Policy Working Group report.

Decisions:

I. Submit the proposed legislative package consistent with the above direction, to support the Administration's six drug abuse policy goals.

RR Approve _____ Disapprove _____ Further Discussion

II. Develop and implement an Executive Order consistent with the above features and direction, to achieve a drug-free Federal workforce.

JR Approve _____ Disapprove _____ Further Discussion

III. Implement the action steps recommended by the Working Group on Drug Abuse Policy and the National Drug Enforcement Policy Board, consistent with the major initiatives listed above.

RR Approve _____ Disapprove _____ Approve as Modified

1200 2000 1000 400 2000 51 1200 2000 15 00 20 51

THE WHITE HOUSE
WASHINGTON

DATE: 9/12/86

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PETER J. WALLISON ✓

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1986 SEP 12 PM 5:21
1986 SEP 12 PM 5:10

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Mansfield Amendment:

RR Seek to Repeal *and as modified in the meeting.* _____ Seek to Modify

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Two issues require your clarification. First, the proposed Executive Order authorizes mandatory testing of applicants for sensitive jobs. While you have previously indicated a preference

for testing only applicants for sensitive positions, some departments, including Defense, have asked for reconsideration to allow them the flexibility to test all job applicants.

Authorize Agencies the discretion to test applicants for:

RR All Positions Sensitive Positions Only
I think this is what we resolved in the meeting.

Second, Justice proposes that the Executive Order list nine categories of sensitive positions to support legal defense of mandatory testing. Other Council members argue that we could reduce political resistance by not specifying categories of employees such as Senior Executives, Schedule C employees, the uniformed services, and air traffic controllers; or, by only making a general reference to positions involving safety and security, or which require a high degree of trust and confidence.

Options for definition of sensitive positions:

- Include specific categories
- ? RR Fewer, more general categories, accompanied by OPM guidelines on who is sensitive, allowing agency heads to make final decisions as to who is to be tested within these guidelines.
- ? RR General description, accompanied by OPM guidelines on who is sensitive, allowing agency heads to make final decisions as to who is to be tested within these guidelines.

Other Initiatives - Additional drug policy initiatives for each goal are outlined below, and are presented in detail in the Working Group report.

Goal #1 - Drug-Free Workplaces

- o Accelerate development of a drug-free Federal workplace.
- o Work with government contractors, and private sector management and labor leaders to fight drug abuse in the workplace.
- o Encourage States and local governments and their contractors to pursue drug-free workplaces.
- o Communicate accurate and credible information about elimination of drug abuse in the workplace.

Goal #2 - Drug-Free Schools

- o Issue Schools Without Drugs to communicate accurate and credible information on how to achieve drug-free schools.

- RR
- o Encourage all schools to establish a policy of being drug free through grants administered under the proposed Zero Tolerance Act, and through anti-drug activities developed by communities and student leaders.
 - o Ensure that Federal laws against distributing drugs in or near schools are extended and enforced in cooperation with local authorities.

RR

Goal #3 - Expand Drug Abuse Treatment and Research

- o Encourage States and communities to develop programs to treat specific drug-related health problems through new demonstration grants and elimination of unnecessary restrictions imposed under current block grant programs.
- o Expand drug abuse research in health-related areas, including drug testing.
- o Strengthen medical and health programs aimed at drug abuse prevention by establishing a Center for Substance Abuse Prevention within HHS.
- o Support efforts to achieve a drug-free Federal workplace.

RR

Goal #4 - Improve International Cooperation

- o Convene a conference for U.S. Ambassadors in October to convey an international sense of urgency and to discuss increased regional cooperation.
- o Repeal the Mansfield Amendment to allow Federal officers to participate in drug arrests in foreign countries, seek authorization to confiscate U.S. property of drug dealers who violate foreign laws, and amend immigration requirements to allow deportation of alien drug traffickers.

RR

Goal #5 - Strengthen Law Enforcement

- o Continue to execute Operation Alliance to increase cooperative drug law enforcement along the United States - Mexican border.
- o Seek legislation addressing such areas as penalties for large-scale domestic drug trafficking, punishments for possession of controlled substances, increased penalties for leaders of major drug rings, import/export violations, juvenile drug trafficking, and clandestine drug manufacturing.
- o Strengthen money laundering enforcement and penalties.
- o Seek to restore appropriate level of FY 1987 funding for law enforcement agents, prosecutors, and prison facilities.

RR Goal #6 - Increase Public Awareness and Prevention

- o Encourage all Americans to join the First Lady's drug abuse awareness and prevention campaign through a nationally televised address, letters soliciting fortune 500 support, a series of White House briefings, a "presidential Honor Role" for significant contributors, national drug prevention poster and essay contests, and major media campaigns to reinforce positive peer pressure and to make drug use socially unacceptable.
- o Encourage corporations, service organizations, and the media to develop drug prevention programs.
- o Ensure that every American has access to accurate and effective information about drug abuse and strategies for eliminating drugs from our society.
- o Propose legislation to facilitate private sector support and use of drug abuse material developed for foreign audiences.
- o Reduce illegal drug activity in Public Housing Authorities.

Data collected by HHS indicates that your drug abuse policy goals are right on target. An estimated 67 percent of all cocaine users have only minimal demand and will respond to social unacceptance, awareness and prevention efforts, and strict no-drug use policies in schools and workplaces, including drug testing where appropriate. Polls indicate that the public will also respond favorably to strong leadership from the Federal government, and will accept a firm, yet fair, drug prevention program which attacks both supply and demand in our workplaces, in our schools, and throughout our society.

Recommendations: The Domestic Policy Council recommends that you approve the following initiatives for inclusion in your Drug Abuse Policy package: 1) the proposed six-part legislative package, 2) the Executive Order supporting a drug-free Federal workforce, and 3) action steps supporting the major policy initiatives in the Drug Abuse Policy Working Group report.

Decisions:

I. Submit the proposed legislative package consistent with the above direction, to support the Administration's six drug abuse policy goals.

RR Approve _____ Disapprove _____ Further Discussion

II. Develop and implement an Executive Order consistent with the above features and direction, to achieve a drug-free Federal workforce.

JPR Approve _____ Disapprove _____ Further Discussion

III. Implement the action steps recommended by the Working Group on Drug Abuse Policy and the National Drug Enforcement Policy Board, consistent with the major initiatives listed above.

RR Approve _____ Disapprove _____ Approve as Modified

CLOSE HOLD

Document No. _____

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WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/11/86 ACTION/CONCURRENCE/COMMENT DUE BY: ----

SUBJECT: PRESIDENT AND MRS. REAGAN: TELEVISED DRUG SPEECH

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MILLER - ADMIN.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
REGAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	POINDEXTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MILLER - OMB	<input type="checkbox"/>	<input type="checkbox"/>	RYAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BALL	<input type="checkbox"/>	<input type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BARBOUR	<input type="checkbox"/>	<input type="checkbox"/>	SPRINKEL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
BUCHANAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SVAHN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CHEW	<input type="checkbox"/>	<input checked="" type="checkbox"/>	THOMAS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DANIELS	<input type="checkbox"/>	<input type="checkbox"/>	TUTTLE	<input type="checkbox"/>	<input type="checkbox"/>
HENKEL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WALLISON	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
KING	<input type="checkbox"/>	<input type="checkbox"/>	<u>DOLAN</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KINGON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>TURNER</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MASENG	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>COURTEMANCHE</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

REMARKS: The attached has been forwarded to the President.

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RESPONSE:

CLOSE HOLD

David L. Chew
Staff Secretary
Ext. 2702

(Khachigian)
September 10, 1986
6:30 p.m.

PRESIDENT AND MRS. REAGAN: NATIONAL TELEVISION ADDRESS
ON DRUG ABUSE AND PREVENTION
SUNDAY, SEPTEMBER 14, 1986

Good evening.

Usually, I talk with you from my office in the West Wing of the White House. But tonight, there is something special to talk about, and I've asked someone very special to join me.

Nancy and I are here in the West Hall of the White House, and around us are the rooms in which we live. It is the home you have provided for us, of which we merely have temporary custody.

Nancy is joining me because the message this evening is not my message, but ours. And we speak to you not simply as fellow citizens -- but as fellow parents and grandparents and as concerned neighbors.

It's back to school time for America's children, and while drug and alcohol abuse cuts across all generations, it is especially damaging to the young people on whom our future depends. So tonight, from our family to yours -- from our home to yours, we hope you can join us.

America has accomplished so much in these last few years, whether it has been rebuilding our economy or serving the cause of freedom in the world. What we've been able to achieve has been done with your help -- with us working together as a Nation united.

Now, we need your support again. Drugs are menacing our society. They're threatening our values and undercutting our institutions. They're killing our children.

From the beginning of our Administration, we have taken strong steps to do something about this horror.

Tonight, I can report to you that we've made much progress. Thirty-seven Federal agencies are working together in a vigorous national effort, and by next year our spending for drug law enforcement will have nearly tripled from its 1981 levels -- from \$700 million to \$2.1 billion.

We have increased seizures of illegal drugs. Shortages of marijuana are now being reported. Last year alone, over 10,000 drug criminals were convicted, and nearly \$250 million of their assets were seized by the DEA.

And in the most important area -- individual use -- we see progress. In 4 years, the number of high school seniors using marijuana on a daily basis has dropped from 1 in 14 to 1 in 20.

The U.S. military has cut the use of illegal drugs among its personnel by 67 percent since 1980.

These are a measure of our commitment and emerging signs that we can defeat this enemy.

But we still have much to do.

Despite our best efforts, illegal cocaine is coming into our country at alarming levels, and 4-to-5 million people regularly use it. Five hundred thousand Americans are hooked on heroin. One in twelve persons smokes marijuana regularly.

Regular drug use is even higher among the age group 18-to-25 -- most likely just entering the work force.

Today, there is a new epidemic -- smokable cocaine -- otherwise known as "crack." It is an explosively destructive and

often lethal substance which is crushing its users. It is an uncontrolled fire.

And drug abuse is not a so-called "victimless crime." Everyone's safety is at stake when drugs and excessive alcohol are used by people on the highways or by those transporting our citizens or operating industrial equipment. Drug abuse costs you and your fellow Americans at least \$60 billion a year.

From the early days of our Administration, Nancy has been intensely involved in the effort to fight drug abuse. She has since traveled over 100,000 miles to 55 cities in 28 States and 6 foreign countries to fight school-age drug and alcohol abuse. She's given dozens of speeches and scores of interviews and has participated in 24 special radio and TV tapings to create greater awareness of this crisis.

Her personal observations and efforts have given her such dramatic insights that I wanted her to share them with you this evening. Nancy

MRS. REAGAN:

Thank you.

As a mother, I've always thought of September as a special month -- a time when we bundled our children off to school, to the warmth of an environment in which they could fulfill the promise and hope in those restless minds.

But so much has happened over these years -- so much to shake the foundations of all that we know and all that we believed in.

Today, there is a drug and alcohol abuse epidemic in this country, and no one is safe from it -- not you, not me, and certainly not our children, because this epidemic has their names written on it.

Many of you may be thinking: "Well, drugs don't concern me." It does concern you -- it concerns us all because of the way it tears at our lives and because it is aimed at destroying the brightness and life of the sons and daughters of the United States.

For 5 years, I've been traveling across the country -- learning and listening. One of the most hopeful signs I've seen is the building of an essential new awareness of how terrible and threatening drug abuse is to our society.

Each time I meet with someone new or receive another letter from a troubled person on drugs, I yearn to find a way to help share the message that cries out from them.

As a parent, I'm especially concerned about what drugs are doing to young mothers and their newborn children. Listen to this news account from a hospital in Florida of a child born to a mother with a cocaine habit.

"Nearby, a baby named Paul lies motionless in an incubator, feeding tubes riddling his tiny body. He needs a respirator to breathe and a daily spinal tap to relieve fluid buildup on his brain. Only one month old, he has already suffered two strokes."

Now you can see why drug abuse concerns every one of us -- all the American family. Drugs steal away so much. They take

and take, until finally every time a drug goes into a child, something else is forced out -- like love and hope and trust and confidence. Drugs take away the dream from every child's heart and replace it with a nightmare. And it's time we in America stand up and replace those dreams.

Each of us has to put our principles and consciences on the line -- whether in social settings or in the work place -- to set forth firm standards and stick to them.

There is no moral middle ground. Indifference is not an option. We want you to help us create an outspoken intolerance for drug use. For the sake of our children, I implore each of you to be unyielding and inflexible in your opposition to drugs.

Our young people are helping us lead the way. Not long ago, in Oakland, California, I was asked by a group of children what to do if they were offered drugs. I responded: "Just say no." Soon after that, those children in Oakland formed a "Just Say No" club, and now there are over 10,000 such clubs all over the country.

Well, their participation and their courage in saying "no" needs our encouragement. We can help by using every opportunity to force the issue of not using drugs to the point of making others uncomfortable -- even if it means making ourselves unpopular.

Our job is never easy because drug criminals are ingenious. They work every day to plot a new and better way to steal our children's lives -- just as they have done by developing this new drug, "crack." For every door we close, they open a new door to

death. They prosper on our unwillingness to act. So, we must be smarter and stronger and tougher than they are. It's up to us to change attitudes and just simply dry up their markets.

Finally, to young people watching or listening -- I have a very personal message for you:

There's a big, wonderful world out there for you. It belongs to you. It's exciting, stimulating, rewarding. Don't cheat yourselves out of this promise. Our country needs you. But it needs you to be clear-eyed and clear-minded.

I recently read one teenager's story -- she's now determined to stay clean, but was once strung out on several drugs. What she remembered most clearly about her recovery was that during the time she was on drugs, everything appeared to her in shades of black and gray. And after her treatment, she was able to see colors again.

To my young friends out there . . . life can be great -- but not when you can't see it. Open your eyes to life -- to see it in the vivid colors that God gave as a precious gift to His children -- to enjoy life to the fullest, and to make it count.

Say yes to your life. And when it comes to drugs and alcohol: Just say no.

THE PRESIDENT:

I think you can see why Nancy has been such a positive influence on all that we are trying to do.

The job ahead of us is very clear. Nancy's personal crusade -- like that of so many other wonderful individuals --

should become our national crusade. It must include a combination of government and private efforts which complement one another. Last month I announced six initiatives which we believe will do just that.

First, we seek a drug-free workplace -- at all levels of government and in the private sector.

Second, we'll work toward drug-free schools.

Third, we want to ensure that the public is protected and that treatment is available to substance abusers and the chemically dependent.

Our fourth goal is to expand international cooperation while treating drug trafficking as a threat to our national security. In October, I will be meeting with key U.S. Ambassadors to discuss what can be done to support our friends abroad.

Fifth, we must move to strengthen law enforcement activities.

Finally, we seek to expand public awareness and prevention.

In order to further implement these six goals, I will announce tomorrow a series of new proposals with the following elements:

As much financing as we commit, however, we would be fooling ourselves if we thought that massive new amounts of money alone will provide the solution. Let us not forget that in America, people solve problems and no national crusade has succeeded without human investment. Winning the war on drugs will not be achieved by declaring war on the American taxpayer.

Your government will continue to act aggressively, but nothing would be more effective than for Americans simply to quit using illegal drugs.

We seek to create a massive change in national attitudes which ultimately will separate the drugs from the customer . . . to take the user away from the supply. I believe, quite simply, that we can help them quit.

That's where you come in.

My generation will remember how America swung into action when we were attacked in World War II. The war was not just fought by the fellas flying the planes or driving the tanks. It was fought at home by a mobilized Nation -- men and women , alike -- building planes and ships; clothing sailors and soldiers; feeding Marines and airmen. And it was fought by children planting victory gardens and collecting cans.

Now we're in another war for our freedom, and it's time for all of us to pull together again. So, for example, if your friend or neighbor or a family member has a drug or alcohol problem, don't turn the other way. Go to his help or to hers. Get others involved with you -- clubs, service groups, and community organizations -- and provide support and strength.

And, of course, many of you have been cured through treatment and self-help. Well, you are the combat veterans, and you have a critical role to play. You can help others by telling your story and providing a willing hand to those in need.

Being friends to others is the best way of being friends to ourselves.

It's time -- as Nancy said -- for America to "just say no" to drugs.

Those of you in union halls and work places everywhere -- please make this challenge a part of your job every day. Help us preserve the health and dignity of all workers.

To businesses large and small -- we need the creativity of your enterprise applied directly to this national problem. Help us.

And those of you who are educators -- your wisdom and leadership are indispensable to this cause.

From the pulpits of this spirit-filled land -- we would welcome your reassuring message of redemption and forgiveness and of helping one another.

On the athletic fields -- you men and women are among the most beloved citizens of our country. A child's eyes fill with

your heroic achievements. Few of us can give youngsters something as special and strong to look up to as you. Please don't let them down.

And this camera in front of us -- it's a reminder that in Nancy's and my former profession, and in the newsrooms and production rooms of our media centers -- you have a special opportunity with your enormous influence to send alarm signals across the Nation.

To our friends in foreign countries, we know many of you are involved in this battle with us. We need your success as well as ours.

When we all come together, united -- striving for this cause -- then those who are killing America and terrorizing it with slow but sure chemical destruction will see that they are up against the mightiest force for good that we know. Then, they will have no dark alleyways to hide in.

In this crusade, let us not forget who we are. Drug abuse is a repudiation of everything America is. The destructiveness and human wreckage mock our heritage.

Think for a moment how special it is to be an American. Can we doubt that only a Divine Providence placed this land, this island of freedom, here as a refuge for all those people in the world who yearn to breathe free?

The revolution out of which our liberty was conceived signaled an historical call to an entire world seeking hope. Each new arrival of immigrants rode the crest of that hope. They came . . . millions seeking a safe harbor from the oppression of

cruel regimes. They came . . . to escape starvation and disease. They came . . . those surviving the Holocaust and the Soviet gulags. They came . . . the boat people, chancing death for even a glimmer of hope that they could have a new life. They all came to taste the air redolent and rich with the freedom that is ours.

What an insult it will be to what we are -- and whence we came -- if we do not rise up together in defiance against this cancer of drugs.

And there's one more thing. The freedom that so many seek in our land has not been preserved without a price. Nancy and I shared that remembrance 2 years ago at the Normandy American Cemetery in France.

In the still of that June afternoon, we walked together among the soldiers of freedom -- past the hundreds of white markers which are monuments to courage and memorials to sacrifice.

Too many of these and other such graves are the final resting places of teenagers -- children who became men in the roar of battle.

Look what they gave to us who live. Never would they see another sunlit day glistening off a lake or river back home . . . or miles of corn pushing up against the open sky of our plains. The pristine air of our mountains and the driving energy of our cities are theirs no more. Nor would they ever again be a son to their parents or a father to their own children.

They did this for you -- for me -- for a new generation to carry our democratic experiment proudly forward. Well, that's

something I think we're obliged to honor, because what they did for us means that we owe as a simple act of civic stewardship to use our freedom wisely for the common good.

As we mobilize for this national crusade -- I'm mindful that drugs are a constant temptation for millions. Please remember this when your courage is tested: You are Americans. You are the product of the freest society mankind has ever known. No one -- ever -- has the right to destroy your dreams and shatter your life.

Right down the end of this hall is the Lincoln Bedroom. But in the Civil War, that room was the one President Lincoln used as his office. Memory fills that room -- and more than anything, that memory drives us to see vividly what President Lincoln sought to save. Above all, it is that America must stand for something. And that our heritage lets us stand with a strength of character made more steely by each layer of challenge pressed upon the Nation.

We Americans have never been morally neutral against any form of tyranny. Tonight, we are asking no more than that we honor what we have been and what we are by standing together.

Won't you join us in this great new national crusade?

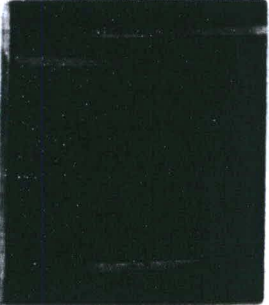
God bless you and good night.



THE WHITE HOUSE
WASHINGTON

September 11, 1986

Don -



I approved the Justice Department letter on the death penalty. My remarks at the staff meeting this morning were based on Will's statement that the death penalty was mandatory. It turns out, after reviewing the legislation, that it is only an option in egregious cases. Incidentally, the statute does not apply only to drug cases, but to murder in connection with any criminal enterprise.

Peter

THE WHITE HOUSE

WASHINGTON

September 11, 1986

MEMORANDUM FOR DONALD T. REGAN
CHIEF OF STAFF TO THE PRESIDENT

FROM: PETER J. WALLISON
COUNSEL TO THE PRESIDENT **ORIGINAL SIGNED BY PJW**

SUBJECT: Drug Initiative

The following comments are based on the latest drafts of the Executive Order and Title I of the draft legislation, as well as Al Kingon's report of what happened in the Cabinet meeting with the President.

The Executive Order

1. Section 3 of the EO authorizes agency heads to require mandatory testing of all employees in sensitive positions. Agency heads are given the authority to test some or all, on a random or comprehensive basis.

The EO provides for testing only of employees in sensitive positions because almost all the lawyers agreed that mandatory testing of employees in nonsensitive positions would be unconstitutional under the Fourth Amendment.

I understand that at the Cabinet meeting proposals were made for testing all employees. This should be resisted on constitutional grounds. (Constitutional restrictions do not apply to private employers, who may test all their employees if they wish.)

2. Section 3(d) of the EO now permits testing of applicants for all positions, not just those that are sensitive. This was added after yesterday's DPC meeting, but it was supposed to be an option for the President.

On July 29, the President determined that he wanted testing only of applicants for sensitive positions (copy attached), but the AG has been seeking to reverse this.

I have grave doubts that such testing is constitutional, but it is a closer question than testing all incumbent employees. It is certainly controversial and unnecessarily intrusive. The President gains nothing from this broad

testing authority except protest; any agency head who wants to spend his agency's money to test applicants should have a reason, and if he has a reason the position can probably be classified as sensitive.

I would reinstate the President's decision of July 29.

3. Section 7 of the EO provides a list of all positions that might be considered sensitive. This list is slightly pared down from an earlier list, which had included 1.2 million employees. The new list probably includes about one million employees.

The Justice Department argues that the President's publication of the list would be a help in defending mandatory testing in litigation. This may be true, but only marginally.

The major problem with the list is that it permits the media and the opponents of the program to say that the President has authorized the testing of close to 1 million employees.

In reality, only a relatively few employees will actually be tested. The rest will stop using drugs for fear of testing and discovery. The effect of the list is to hang us with a vast program of testing when a much smaller program will actually do the job.

Any list of jobs by category will allow the media to estimate a large number, especially if all those with access to classified information are included. A much better way to go is to have the EO give the agency heads authority to establish the categories of sensitive jobs in their agencies under guidelines from OPM. In this way, no one can accurately estimate a number until the OPM guidelines come out. The President need only say in the EO that sensitive positions would include those which involve national security, public health and safety, and law enforcement.

Title I of the Legislation

The defect of Title I is not a defect of "tone"; it is a conflict between its substance and what the President has said are his goals.

Title I does two things: it makes easier the dismissal of an employee whose drug use does not affect his work, and it removes the statutory right of employees who are addicted to drugs to treatment as "handicapped" under the Rehabilitation Act.

Obviously, this legislative initiative creates the appearance that the President is being disingenuous when he says his drug program is not intended to result in dismissals of Federal employees and that his aim is rehabilitation.

If the legislation is submitted, we can say that the Executive Order provides for counseling and rehabilitation and that the new statutory language only kicks in when that has failed -- but the mailed fist is there in the velvet glove.

In reality, Title I is not really necessary. Under current law, Federal employees can be dismissed for drug use if it affects their job performance, and Justice has argued that they can be dismissed even if it does not affect job performance. The Rehabilitation Act has been applied by the courts only to addicts -- so mere users were not protected anyway.

My question is whether the President wants to submit legislation that seems inconsistent with his non-punitive approach in public statements.