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U.S. Department of Justice

Civil Division

Domestic Policy Council
Deliberative Document

Office of the Assistant Attorney General

Washington, D.C. 20530

SEP 4 1986

TO: Carlton E. Turner
Chairman, Drug Use Prevention Working Group
Domestic Policy Council

FROM: *RKW* Richard K. Willard
Chairman
Legislative Review Task Force

RE: Latest Revisions of the Executive Order and Legislation

Attached for your review are the most recent drafts of Title I of the legislative package and the Executive Order redrafted to take into account the comments of the White House Counsel's Office and others.

The most significant of the revisions are as follows: (1) certain aspects of the Executive Order have been reworded to eliminate ambiguities; (2) Section 6(b) has been modified to require "consultation" with the Attorney General rather than "approval" of all drug testing guidelines; (3) Section 3 authorizes applicant testing for sensitive positions only and is silent on applicant testing for non-sensitive positions; (4) Section 5(g) contains new language to indicate that testing cannot be initiated for criminal investigative purposes; and finally, Section 5(c) now permits, but does not require, an agency head to return an employee to duty in a sensitive position as part of a treatment program.

We recommend that the attached Executive Order and Title I legislation be presented for consideration to the Domestic Policy Council on Monday, September 8. We also recommend that Titles II through VI be forwarded to OMB for expedited clearance despite the fact that Title I is not yet ready for OMB review.

September 3, 1986 6:45 p.m.

A BILL

To prevent the use of, and reduce the demand for, illegal drugs in workplaces by identifying users and holding them accountable for their use of illegal drugs through non-criminal sanctions; to ensure that federal law does not prohibit state and local governments, educational institutions, and private employers from conducting drug testing; and for other purposes.

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

SHORT TITLE

SEC. 101. This Act may be cited as the "Illegal Drug Use Prevention Act of 1986."

FINDINGS

SEC. 102. The Congress finds and declares that --

(a) Drug use is having alarming and tragic effects upon a significant proportion of the national workforce and results in billions of dollars of lost productivity each year.

(b) The Federal Government, as an employer, is concerned with the well being of its employees, the successful accomplishment of agency missions and the need to maintain employee productivity.

(c) The Federal Government as the largest employer in the nation can, and should show the way towards achieving drug free workplaces through a program designed to offer drug users a helping hand and, at the same time, getting the message to drug users that drug use will not be tolerated in the federal workplace.

(d) The use of illegal drugs by federal employees on or off duty is inconsistent not only with the law-abiding behavior expected of all citizens, but also with the special public trust given to such employees as servants of the public.

- (e) An individual who uses illegal drugs on or off the job is less productive, less reliable, prone to greater absenteeism, than those who do not use illegal drugs.
- (f) The use of illegal drugs, on or off duty, by federal employees can pose a serious health or safety threat to members of the public and to other employees.
- (g) The use of illegal drugs by federal employees on or off duty impairs the efficiency of federal departments and agencies by undermining public confidence in them, and thereby making it more difficult for other employees who do not use illegal drugs to perform their jobs effectively.
- (h) The use of illegal drugs on or off duty by federal or private employees in certain positions evidences an unreliability, an instability, and a lack of judgment that is inconsistent with access to sensitive information, and renders such employees susceptible to coercion, influence, and irresponsible action under pressure so as to pose a serious risk to national security, public safety, and the effective enforcement of the law.
- (i) The demand for illegal drugs encourages and supports the interstate trafficking in illegal drugs, and generates a range of serious criminal activity that threatens public peace and order and can corrupt public officials.
- (j) Considered in the aggregate, the use of illegal drugs by employees reduces the productivity of the economy, undermining the ability of American industry to compete internationally, and causing the loss of jobs and productive capital.
- (k) Individuals who use illegal drugs must themselves be primarily responsible for changing their behavior and, if necessary, begin the process of rehabilitating themselves. Such individuals will only take such steps if made accountable for their irresponsible and illegal use of drugs.
- (l) Reducing the demand for illegal drugs will discourage interstate and foreign commerce in illegal drugs.
- (m) Employers should establish clear policies to ensure that illegal drug users will be held accountable for their actions.
- (n) Drug testing in appropriate circumstances is a diagnostic tool designed to create a healthier work environment, increase productivity, improve public safety, and protect national security.

(o) Experience with drug testing has shown that it can significantly contribute to reducing the demand for illegal drugs while protecting non drug-using coemployees and the public from the harms caused by illegal drug users.

DEFINITIONS

SEC. 103. As used in this Act --

(a) "federal employee" includes all members of the Civil Service, the Armed Forces, the Uniformed Services, and other employees as defined by sections 2101, 2105, and 2107 of title 5, United States Code;

(b) "illegal drugs" means controlled substances, as defined by Schedules I and II, section 802(6) of title 21, United States Code, the possession of which is unlawful under chapter 13 of title 21, United States Code. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law;

(c) "drug testing" means any drug testing conducted in accordance with scientific and technical guidelines promulgated by the Secretary of Health and Human Services

DRUG PROGRAM

SEC. 104. Drug Free Federal Workforce

(a) All federal employees are required to refrain from the use of illegal drugs.

(b) Drug testing may be conducted of applicants for employment and current employees to determine if they use illegal drugs:

(1) when they have been or may be granted access to classified information;

(2) when they perform tasks relating to, or that may have an effect on, the national security, public safety, the protection of life or property, or the investigation of possible violations of federal law;

(3) serving under Presidential appointments, appointed to the Senior Executive Service as defined in Subchapter II of Chapter 31 of Title 5, United States Code, or appointed to Schedule C positions in the excepted service under the authority of section 213.3301 of Title 5, Code of Federal Regulations and Executive Order 10577; and

(4) in any other position determined by the head of the federal agency or by the appointing authority within the legislative or judicial branches to promote the efficiency of the service or position.

In addition to (b)
(c) Federal employers are authorized to conduct drug testing of any federal employee to determine if that employee uses illegal drugs:

(1) whenever there is a reasonable suspicion that any employee uses illegal drugs;

(2) following an accident in which a federal employee was involved, or in the course of a safety investigation that relates to tasks or responsibilities of a federal employee;

(3) As part of or as a follow-up to an agency approved counseling or rehabilitation program.

(d) Federal employment shall be refused to all applicants who are found to be using illegal drugs.

(e) If it is determined that any federal employee uses illegal drugs the federal employer shall propose discipline for the employee, including, if appropriate, removal from federal service.

(f) The Office of Personnel Management may promulgate government wide regulations to guide agencies in the implementation of these provisions.

SEC. 105. Drug Free Private Workforce

(a) It shall not be unlawful under federal law for an employer to require as a condition of hiring or continued employment that employees refrain from the use of illegal drugs.

(b) It shall not be unlawful under federal law for any employer to conduct drug testing of its employees or applicants to determine if they use illegal drugs.

(c) It shall not be unlawful under federal law for an employer to refuse employment to applicants who use illegal drugs.

(d) It shall not be unlawful under federal law for an employer to take disciplinary action against an employee, including removal from employment, who use illegal drugs on or off the job.

SEC. 106. Disqualification From Federal Employment Upon Conviction For Drug Offenses

Revised

(a) Any officer or employee of the United States in the executive, legislative or judicial branch of the government, or in any agency of the United States, who violates any provision of section 401 of the Controlled Substances Act, 21 U.S.C. § 841 shall, in addition to any other punishment provided by law, be disqualified from ever holding any office of honor, trust or profit under the United States. Such disqualification shall commence at the time a conviction under section 401 becomes final.

DPC

(b) Any officer or employee of the United States in the executive, legislative or judicial branch of the government, or in any agency of the United States, who violates any provision of section 404 of the Controlled Substances Act, 21 U.S.C. § 844 during the course of his or her employment or on or in any property, building or conveyance owned or leased by the government of the United States, shall, in addition to any other punishment provided by law, be disqualified from ever holding any office of honor, trust or profit under the United States. Such disqualification shall commence at the time a conviction under section 404 becomes final.

SEC. 107. Drug Free Federal Contractor Workplace

DPC

(a) Federal agencies are authorized to require government contractors to institute programs to achieve drug-free workplaces, including drug testing of contractor employees and applicants whose duties involve access to classified information or tasks that may have an effect on national security, public safety or the protection of life and property.

SEC. 108. Judicial Review

(a) The promulgation of scientific and technical guidelines by the Secretary of Health and Human Services pursuant to section 3(d) of this Act is committed to the exclusive discretion of the

Secretary and shall not be subject to judicial review except for constitutional questions.

(b) The decision to require drug testing of federal employees pursuant to sections 4(b) or (c) of this Act shall not be subject to judicial review except for constitutional questions.

SEC. 109. Severability

If any provision of this Act or the application of any provision to any person or circumstance is held invalid, the remainder of this Act and the application of the provision to any other person or circumstance shall not be affected by such invalidation.

SEC. 110. Technical and Conforming Amendments

(a)(1) Subsection (c) of section 290ee-1 of title 42, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

A person who formerly used, or was addicted to, illegal drugs, but who, has not, in the last five years used such drugs, may not be denied or deprived of Federal civilian employment or a Federal professional license or right solely on the ground of that prior drug addiction or use.

(2) Subsection (c)(2) of section 290ee-1 of title 42, United States Code, is amended by inserting between "apply" and "to employment" the following: "to persons who use illegal drugs, or".

(b) Subsection (7)(B) of section 706 of title 29, United States Code, is amended:

(i) by striking out "Subject to the second sentence of this subparagraph, the" in the first sentence and inserting in lieu thereof "The", and

(ii) by striking out the second sentence and inserting in lieu thereof the following:

"The term 'handicapped individual' does not include any individual who uses, or is addicted to, illegal drugs. For purposes of sections 793 and 794 of this title as such sections relate to employment, the term 'handicapped individual' does not include any individual who is an alcoholic whose current use of

alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others."

(c) Section 706 of title 29, United State Code, is further amended by adding the following new subsection to the end thereof:

"(16) The term 'illegal drugs' means controlled substances, as defined by section 802(6) of title 21, United State Code, the possession or distribution of which is unlawful under chapter 13 of title 21, United States Code."

(d) The provisions of this Act shall supersede any inconsistent federal law, rule or regulation.

SEC. 111. Effective Date

This Act shall become effective on its date of enactment and shall apply to any pending litigation.

This document was created in the DPC deliberative process and may not be circulated, disseminated or released without the approval of the DPC.

9-3-86 7:00 p.m.

Executive Order No. _____ of September __, 1986

Drug Free Federal Workplace

WHEREAS drug use is having serious adverse effects upon a significant proportion of the national workforce and results in billions of dollars of lost productivity each year;

WHEREAS the Federal Government, as an employer, is concerned with the well being of its employees, the successful accomplishment of agency missions and the need to maintain employee productivity;

WHEREAS the Federal Government as the largest employer in the nation can, and should show the way towards achieving drug free workplaces through a program designed to offer drug users a helping hand and, at the same time, getting the message to drug users and potential drug users that drug use will not be tolerated in the federal workplace;

WHEREAS the profits from illegal drugs provide the single greatest source of income for organized crime, fuel violent street crime and otherwise contribute to the breakdown of our society and otherwise increase criminal activity;

WHEREAS the use of illegal drugs, on or off duty, by federal employees is inconsistent not only with the law-abiding behavior expected of all citizens, but also with the special trust given to such employees as servants of the public;

WHEREAS federal employees who use illegal drugs, on or off duty, are less productive, less reliable, and prone to greater absenteeism than their fellow employees who do not use illegal drugs;

WHEREAS the use of illegal drugs, on or off duty, by federal employees impairs the efficiency of federal departments and agencies by undermining public confidence in them, and thereby making it more difficult for other employees who do not use illegal drugs to perform their jobs effectively;

WHEREAS the use of illegal drugs, on or off duty, by federal employees can pose a serious health or safety threat to members of the public and to other federal employees;

WHEREAS the use of illegal drugs, on or off duty, by federal employees in certain positions evidences less than the complete reliability, stability and good judgment that is consistent with access to sensitive information, and creates the possibility of coercion, influence, and irresponsible action under pressure which may pose a serious risk to national security, the public safety, and the effective enforcement of the law;

WHEREAS federal employees who use illegal drugs must themselves be primarily responsible for changing their behavior and, if necessary, begin the process of rehabilitating themselves; and

WHEREAS standards and procedures should be put in place to ensure fairness in achieving a drug-free federal workplace, and to protect the privacy of federal employees:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, including Section 3301(2) of Title 5 of the United States Code; Section 7301 of Title 5 of the United States Code, Section 290ee-1 of Title 42 United States Code; and as President of the United States, and deeming such action in the best interests of national security, public health and safety, law enforcement and the efficiency of the federal service, it is hereby ordered as follows:

Section 1: *Drug Free Workplace*

- (a) Federal employees are required to refrain from the use of illegal drugs.
- (b) The use of illegal drugs by federal employees, whether on duty or off duty, is contrary to the efficiency of the service.
- (c) Persons who use illegal drugs are not suitable for federal employment.

Section 2: *Agency Responsibilities*

- (a) The head of each agency shall develop a plan for achieving the objective of a drug-free workplace with due consideration of the rights of the Government, the employee and the general public.
- (b) The plan shall include:
 - (i) a statement of policy setting forth the agency's expectations regarding drug use and the action to be anticipated in response to identified drug use;

- (ii) employee assistance programs emphasizing high level direction, education, counseling, referral to rehabilitation and coordination with available community resources;
- (iii) supervisory training to assist in identifying and addressing drug abuse in the workplace;
- (iv) provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;
- (v) provision for identifying users in the workplace, including testing on a controlled and carefully monitored basis in accordance with this order.

Section 3: *Drug Testing Programs*

- (a) The head of each agency shall establish and conduct a program to test for the use of illegal drugs by any employee in or applicant to a sensitive position. The extent and criteria for such testing shall be determined by the agency head, based upon the degree of sensitivity of the agency's mission and its employees' duties, the efficient use of agency resources, and a determination by the agency head that the failure of an employee to discharge adequately his or her position might reasonably be deemed likely to endanger public safety or national security.
- (b) The head of each agency shall establish a program for voluntary employee drug testing.
- (c) The head of each agency is authorized to test an employee for illegal drug use under the following circumstances:
 - (i) When there is a reasonable suspicion that any employee uses illegal drugs;
 - (ii) In an examination authorized by the agency regarding an accident or unsafe practice; or
 - (iii) As part of or as a follow-up to counseling or rehabilitation for illegal drug use through an Employee Assistance Program.

Section 4: *Drug Testing Procedures*

- (a) Agencies shall notify employees 60 days prior to the implementation of a drug testing program pursuant to this order that testing for use of illegal drugs is to be conducted and that they may seek counseling and rehabilitation and the procedures for obtaining such assistance. Drug testing programs already ongoing in agencies are exempted from the 60 day notice requirement. Agencies may take action under Section 3(a) of this order without reference to the 60 day notice period.
- (b) Before conducting a drug test, the agency shall inform the employee to be tested of the opportunity to submit medical documentation that may support a legitimate use for a specific drug.
- (c) Drug testing programs shall contain procedures for timely submission of requests for retention of records and specimens; procedures for retesting; and procedures consistent with applicable law, to protect the confidentiality of test results and related medical and rehabilitation records.
- (d) The Secretary of Health and Human Services is authorized to promulgate scientific and technical guidelines for drug testing programs, and once promulgated, agencies shall conduct drug testing programs in accordance with these guidelines.

Section 5. Personnel Actions

- (a) Agencies shall refer all employees who are found to use illegal drugs to their Employee Assistance Program for assessment, counseling, and referral for treatment or rehabilitation as appropriate.
- (b) Agencies shall initiate action to discipline any employee who is found to use illegal drugs, *provided that* such action is not required for an employee who:
 - (i) voluntarily identifies himself as a user of illegal drugs or who volunteers for drug testing pursuant to section 3(b) of this Order prior to being identified through other means;
 - (ii) obtains counseling or rehabilitation through an Employee Assistance Program; and
 - (iii) thereafter refrains from using illegal drugs.

- (c) Agencies must not allow any employee to remain on duty in a sensitive position who is found to use illegal drugs, prior to successful completion of rehabilitation through an Employee Assistance Program. However, as part of a rehabilitation or counseling program, an agency head may, in his discretion, allow an employee to return to duty in a sensitive position if it is determined that such would not pose a danger to public health or safety or the national security.
- (d) Agencies shall initiate action to remove from the service or transfer to a non-sensitive position any employee in a sensitive position who is found to use illegal drugs and:
 - (i) refuses to obtain counseling or rehabilitation through an Employee Assistance Program; or
 - (ii) does not thereafter refrain from using illegal drugs.
- (e) The results of a drug test and information developed by the agency in the course of the drug testing of the employee may be considered in processing the adverse action against the employee or for other administrative purposes. Preliminary test results may not be used in an administrative proceeding 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.
- (f) The determination of an agency that an employee uses illegal drugs can be made on the basis of any appropriate evidence, including direct observation, conviction of a criminal offense, administrative inquiry, or the results of an authorized testing program. Positive drug test results may be rebutted by other evidence that an employee has not used illegal drugs.
- (g) Any action to discipline an employee who is using illegal drugs, (including removal from the service, if appropriate), shall be taken in compliance with otherwise applicable procedures, including the Civil Service Reform Act.
- (h) Drug testing shall not be conducted pursuant to this order for the purpose of gathering evidence for use in criminal proceedings. Agencies are not required to report to the Attorney General for investigation or prosecution any information, allegation, or evidence

relating to violations of title 21, United States Code, received as a result of the operation of drug testing programs established pursuant to this order.

Section 6: Coordination of Agency Programs

- (a) The Director of the Office of Personnel Management shall:
- (i) Issue government-wide guidance to agencies on the implementation of the terms of this order.
 - (ii) Ensure that appropriate coverage for drug abuse is maintained for employees and their families under the Federal Employees Health Benefits Program.
 - (iii) Develop a model Employee Assistance Program for Federal agencies and assist them in putting strong programs in place.
 - (iv) In consultation with the Secretary of Health and Human Services develop and improve training programs for Federal supervisors and managers on illegal drug use.
 - (v) In cooperation with the Secretary of Health and Human Services and agency heads, mount an intensive drug awareness campaign throughout the Federal workforce.
- (b) The Attorney General shall render legal advice regarding the implementation of this order and must be consulted with regard to all guidelines, regulations and policies proposed to be adopted pursuant to this order.

Section 7: Definitions

- (a) This order applies to all agencies of the Executive Branch.
- (b) For the purposes of this order, the term "agency" means an Executive agency, as defined in 5 U.S.C. § 105; the Uniformed Services as defined in 5 U.S.C. § 2101(3); the United States Postal Service; or any employing unit or authority of the Federal government, other than those of the judicial and legislative branches.
- (c) For the purpose of this order, the term "illegal drugs" means a controlled substance included in Schedule I or II, as defined by section 802(6) of Title 21, United States Code, the possession of which is unlawful under chapter 13 of title 21, United States Code. The term

"illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

- (d) For the purpose of this order, the term "employee in a sensitive position" refers to:
- (i) an employee in a position which an agency has designated Special Sensitive, Critical-Sensitive or Noncritical-sensitive under Chapter 731 of the Federal Personnel Manual or an employee in a position which an agency head has designated or in the future designates as sensitive in accordance with Executive Order 10450 of April 27, 1953 as amended;
 - (ii) an employee who has been granted access to classified information or may be granted access to classified information pursuant to a determination of trustworthiness by an agency head under Section 4 of Executive Order 12356 of April 2, 1982;
 - (iii) individuals serving under Presidential appointments;
 - (iv) members of the Senior Executive Service as defined in Subchapter II of Chapter 31 of Title 5, United States Code;
 - (v) law enforcement officers as defined in 5 U.S.C. § 8331(20);
 - (vi) individuals employed under Schedule C in the excepted service under the authority of section 213.3301 of Title 5, Code of Federal Regulations and Executive Order 10577;
 - (vii) members of the uniformed services as defined in 5 U.S.C. § 2101(3);
 - (viii) air traffic controllers as defined in 5 U.S.C. § 2109; and
 - (ix) other positions that the agency head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

- (e) For the purpose of this order the term "employee" means all persons described in 5 U.S.C. § 2105. Additionally, employees of the United States Postal Service and the Postal Rate Commission are employees for the purpose of this order.
- (f) For the purposes of this order, the term "Employee Assistance Program" means agency-based counseling programs which offer assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health programs which affect employee job performance. Employee Assistance Programs are responsible for referring drug-using employees for rehabilitation and for monitoring employees' progress while in treatment.

Section 8: *Effective Date*

This Order shall become effective on the date of its issuance.

RONALD REAGAN

THE WHITE HOUSE

September __, 1986



September 2, 1986

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

MEMORANDUM TO: Carlton Turner, Chairman
Drug Use Prevention Working Group
Domestic Policy Council

FROM: J. Michael Dorsey, Chairman
Drug-Free Public Housing Task Force

SUBJECT: Drug-Free Public Housing Task Force Report

I. INTRODUCTION

In response to the President's announcement of his national strategy to lead us to a drug-free America, the Department of Housing and Urban Development (HUD) wrote to the 3100 Public Housing Authorities (PHAs) in the country and asked them to tell what they are doing to combat drugs. The Department has received numerous responses which show that many are actively involved in getting rid of drug dealers and users, in providing information and treatment for their employees and residents, and generally working toward the goal of providing a drug-free environment. Other PHAs, however, told of developments overrun and controlled by dealers and users.

The Drug-Free Public Housing Task Force was established to develop inter-agency strategies which can be used to eliminate drugs from public housing. We recommend the following to accomplish this objective.

- * Reduce the level of drug activity in selected PHA developments by fifty percent over the next two years.
- * Conduct training programs for PHAs and local law enforcement officials to enable them to replicate the process developed for the accomplishment of the first objective.
- * Inform all PHAs of the availability of services of local agencies affiliated with ADAMHA and the Department of Labor for drug education and drug testing, job training and employment opportunities.

II. TASK FORCE PLAN

A. Mission Statement:

To attain drug-free public housing through a partnership of the Departments of HUD, Justice, Labor, Education and HHS (the Alcohol, Drug Abuse and Mental Health Administration) and local PHAs, state and federal law enforcement officials, and other relevant local agencies.

B. Presidential Decision:

We propose that President Reagan issue the attached Executive Order declaring that drug-free public housing is expected and that within the limits of the regulations and resources, the Federal government will work with those PHAs where drugs are a problem to help them eliminate pushers and users and create and maintain drug-free public housing. The Executive Order will provide the necessary block upon which the Task Force can build support for the accomplishment of the goals.

C. Specific Goals Within the Overall Mission:

1. Reduce the level of drug activity in selected PHA developments by fifty percent over the next two years.

Justice and HUD will form a partnership which will identify public housing developments across the country known to have major drug problems and, in some cases, involve organized crime. Working with PHAs and state and local law enforcement officials the partnership will target these developments for increased law enforcement activity.

HUD and Justice will each identify resources which can be utilized to assist PHAs. Justice has determined its available resources to include (1) the Law Enforcement Coordinating Committee (LECC) programs administered by the United States Attorneys in each of the 94 judicial districts, and (2) the 34 formal and 13 semi-formal state and local Task Forces of the Drug Enforcement Agency (DEA) (additional information attached). HUD has identified its resources as (1) information from the OASIS Technique implemented in the Ft. Lauderdale and Houston PHAs (additional information attached); (2) information gathered from local PHAs concerning their experiences with combatting illegal drugs in their developments (additional information attached); and (3) knowledge of local circumstances within which individual PHAs operate and, accordingly, their appropriateness as sites for accomplishing the goal.

The specific tasks to be undertaken in support of this goal are as follows:

- a. Justice and HUD will define the scope of drug problems in public housing and assess enforcement needs.
- b. Justice will identify eight to ten districts with especially severe drug-related crime problems in public housing and evaluate existing enforcement and reduction efforts, if any, in a district including PHA, LECC, and DEA Task Force, Organized Crime Drug Enforcement Task Force, state, and local resources, etc.
- c. HUD will identify specific PHA developments with severe drug-related crime problems.

- d. Justice and HUD will select two to four PHA developments as pilot project sites.
- e. Justice will initiate planning of specialized enhanced law enforcement coordination and demand reduction activities as appropriate to meet specific district needs using the LECC mechanism and consulting with state and local officials to develop law enforcement plans and allocate resources.
- f. The partnership will implement drug-free public housing plans in pilot districts, regularly reporting achievements and problems to the Justice project coordinator for ongoing evaluation;
- g. Following initial pilot tests, guidance and strategies will be revised as required and additional PHA developments phased-in on an approximate bi-monthly basis until all severely impacted PHAs have programs.
- h. Targeted districts will be evaluated at regular intervals to assess accomplishments.

Expected Results:

To eliminate or significantly reduce drug activity in the selected PHA developments.

2. Conduct training programs for PHAs and local law enforcement officials to enable them to replicate the process developed for the accomplishment of Goal 1.

The process developed and implemented under the first goal will be analyzed for the purpose of detailing the specific steps that can be taken locally to deal effectively with public housing drug activity.

Justice and HUD will prepare materials for both training programs and general dissemination. For its part, HUD will acquire the service of public housing industry interest groups in both materials preparation and training to make sure that any advice and instructions are appropriate to the target audience.

Training programs will be conducted for PHAs with the assistance of public housing industry interest groups.

Expected Results:

The general availability of a workable process for dealing with drug activity in public housing, and a reasonably large number of PHAs trained in, or otherwise acquainted with implementation of that process.

3. Inform all PHAs of the availability of services of local agencies affiliated with ADAMHA and the Department of Labor for drug education and drug testing, job training and employment opportunities.

The HHS Department will assist with the development of drug abuse prevention programs to benefit the employees and tenants of PHAs in a number of ways. Examples of the kind of assistance available are listed below:

- 1) Staff consultation for HUD and local housing authorities: ADAMHA may provide consultation in designing programs which may be implemented nationally and/or by local PHAs.
- 2) Material resources: HHS is prepared to provide informational resources in the form of printed material to assist in understanding the nature of the drug problem and in developing programs in response to the problem.
- 3) HHS will provide information about state and Federal resources which are available to link public housing officials with others across the Nation concerned about the drug problem and who are working to reduce the demand for drugs among the Nation's youth.
- 4) HHS will provide available information about prevention program development in low-income communities which may have special application in public housing settings.
- 5) HHS will provide expert consultants in training housing managers and health care providers, and in designing parent-effective training programs for public housing residents.

The Department of Housing and Urban Development and the Department of Labor will form an active working partnership to ensure the awareness of the PHAs of the availability of Job Training Partnership Act (JTPA) funds. Because the eligible recipients are primarily economically disadvantaged individuals and youths, a training program for a development's residents would play a vital role in helping to ensure the development does not witness a resurgence of the drug activity.

The partnership may develop a series of training workshops in conjunction with existing public housing interest groups to further explain how JTPA can be used in their developments and also the possibility of using HUD's Comprehensive Improvement Assistance Program (CIAP) funds.

In addition to identifying available funds, the partnership can also encourage local businesses which have an interest in the residents of a development to contribute jobs to this effort.

President Reagan's Executive Order will give HUD the authority to alter certain regulations and standards to provide incentives to PHAs to achieve drug-free public housing. HUD will also examine the possibility of debarment of PHA employees who deal illegal drugs and the eviction of tenants dealing illegal drugs. HUD will look at the CIAP regulations and handbooks to see if changes are necessary in order to require a PHA to clean up a drug problem as a condition to the receipt of modernization funding or to require that resolution of the drug problem be a part of the PHA's modernization program.

HUD will also conduct training programs at NAHRO and other relevant conferences to explain to PHAs how this program could be implemented.

Expected Results:

PHA awareness of the availability of materials and resources in their local community to assist with drug information and drug testing.

III. COMMUNICATIONS

The Drug-Free Public Housing Task Force's proposal is tailor-made for the best possible showing of the successful implementation of President Reagan's policies.

1. It is a major domestic and inner-city thrust to eradicate large-scale illegal drug activity in those targeted developments. It can be used as an example when the question is raised of what we are doing within our own shores about drugs.
2. It actively involves the ongoing cooperation of four Cabinet-level departments.
3. No additional funding is required. The proposal makes use of the existing resources of Justice, HUD, HHS, and Labor.
4. New Federalism is the cornerstone to the success of the plan. State and local police, social service agencies, state and local governments, public housing authorities, and private businesses will become involved.

Of course, the White House Office of Communications is the expert on the best ways to utilize the President's public contacts. Following the successful reduction of drug activity, a visit by President Reagan would lend itself to favorable publicity.

Because the initial step is a law enforcement activity which will be enhanced by surprise, a Presidential visit before the cleanup would be inappropriate. The proposed Executive Order does not include reference to selection of specific Public Housing Authority developments for concentrated law enforcement activity. This aspect of the plan should be kept quiet at the signing ceremony to ensure the project's success. After one or two successful clean-ups, the President might then announce, "We couldn't tell you before, but this is part of the plan. This will occur again and again in various developments across the country. I won't tell you when and I won't tell you where. But, if you are engaged in illegal drug activity in a public housing development you'd better stop because we will get you."

Mrs. Reagan could also visit those developments which have a "Just Say No" club and/or which have a treatment program on the premises. As she has done with her "mother to mother" campaign with the wives of leaders of other countries, she could hold similar talks with the mothers living in each development.

DRUG-FREE PUBLIC HOUSING TASK FORCE

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

J. Michael Dorsey
Assistant Secretary for Public and Indian Housing

Jim Stimpson
Deputy Assistant Secretary for Policy Development

Kay R. Kinney
Special Assistant to the Assistant Secretary for PD&R

Stuart Sloame
Deputy General Counsel

Thomas Sherman
Director of Public Housing

Janice Rattley
Director Project Management Division

Nancy Goetschius
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Grace Mastalli
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Justice Department

OTHER AGENCIES

Elaine Johnson

Deputy Director-National Institute on Drug Abuse - Alcohol,
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Patrick Cleary

Executive Assistant to Assistant Secretary of Labor for Policy

1: EXECUTIVE ORDER

DRUG-FREE PUBLIC HOUSING
DRAFT EXECUTIVE ORDER

WHEREAS, in response to the President's announcement of a national strategy to lead the United States to a drug-free America, the Department of Housing and Urban Development asked the 3100 Public Housing Authorities in the country for a report on their efforts to combat illegal drugs and found in the responses many successes but also many places where illegal drugs are a continuing problem; and

WHEREAS, the presence and use of illegal drugs in public housing is inconsistent with the law-abiding behavior expected of all citizens and is also contrary to a purpose of the United States Housing Act of 1937 which is to promote the general welfare; and

WHEREAS, the presence and use of illegal drugs in the public housing environment is inconsistent with the statutory mandate for the provision of decent, safe and sanitary dwellings and a wholesome living environment; and

WHEREAS, it is the policy of the United States to vest in Public Housing Authorities the maximum amount of responsibility in the administration and operation of their lower-income housing programs utilizing federal funds; and

WHEREAS, Public Housing Authorities charged with responsibility for the maintenance and operation of public housing as decent, safe and sanitary housing providing a wholesome living environment for lower-income families have a duty to assure that the presence and use of illegal drugs not be permitted;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States and as President of the United States, and deeming such action in the best interests of national security, public health and safety, law enforcement and provision of decent, safe and sanitary housing in a suitable living environment for persons of lower-income living in public housing assisted under the United States Housing Act of 1937, it is hereby ordered as follows:

Drug-Free Environment

I hereby Direct the Secretary of Housing and Urban Development to take such actions necessary to obtain and assure the cooperation of Public Housing Authorities funded under the United States Housing Act of 1937 in achieving the goal of providing lower-income families living in public housing a drug-free environment.

I further Direct that all departments and agencies in the executive branch of the Federal Government, insofar as their functions relate to the provision, rehabilitation, or operation of lower-income housing and provision of services or support to the needs of families of lower income, take all actions necessary to assure that the tenants of such housing be afforded the opportunity to live in a drug free environment.

In addition to the general mandate that departments and agencies of the executive branch of the Federal Government support the efforts of the Secretary of Housing and Urban Development to rid public housing of drugs, I specifically direct that the Attorney General enter into a partnership with the Secretary of Housing and Urban Development to lend its support to this goal.

I further Direct the Attorney General to expand the Department of Justice drug enforcement strategy to focus efforts on the eradication of illegal drug activity in federally assisted public housing.

The Attorney General should direct U.S. Attorneys to initiate Law Enforcement Coordinating Committee activities to marshal appropriate law enforcement attention as necessary to identify needs and priorities in each district to deal most effectively with this serious national problem.

Each district's law enforcement plan should include an assessment of drug trafficking and abuse in public housing projects and include plans to address this problem.

END OF DRAFT EXECUTIVE ORDER

2: PHA SAMPLES

PHA RESPONSE SAMPLES

The Housing Authority of the City of Las Vegas, Nevada

Their private security force works with the local police to deter illegal drug activity. The Authority requires drug and alcohol testing of their employees as a condition of employment and "for cause." When current employees are tested for cause they are suspended with pay pending test results. The employee who tests positive can stay on the job while receiving treatment if the job and the employee's condition do not pose a hazard to himself, his co-workers or the tenants. If either or both does pose such a hazard, and no other assignment is possible, the employee is terminated. For security personnel, random, periodic, and "fitness for duty" testing is required.

Housing Authority of the City of Bloomington, Illinois

This Authority conducts "Summer Youth Employment Program" which involves seminars on finding a job as well as information about drug and alcohol abuse. The Authority has seen an increase in illegal drug activity but does not have a program in place to combat it at this time.

Watervliet, New York Housing Authority

The local Headstart group is used by this Authority to contact families suspected of drug abuse. The Authority also provides the temporary use of empty apartments for police surveillance of drug activity.

Housing Authority of Richmond, Virginia

In cooperation with the City Manager and the police, the Selected Neighborhood Action Patrol (SNAP) program has been started to get the dealers out of the Creighton Court development. Because of SNAP, residents feel more safe and drug dealing has significantly dropped. As the program has just started, it is impossible to tell what long-term results will be.

Housing Authority of North Little Rock, Arkansas

This Authority works closely with the local police department and has a police representative attend monthly staff and tenant meetings. It also has a crime watch program for turning in drug dealers. The Arkansas State Department of Health sponsors a health, teenage pregnancy, and drug abuse clinic in one of the public housing developments. The local boys club offers a series on drug abuse which may include famous athletes talking about drugs. There is also a successful tenant training program and a day care center for children of working parents.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

August 11, 1986

OFFICE OF THE ASSISTANT SECRETARY
FOR PUBLIC AND INDIAN HOUSING

Re: Drug Abuse Policy - Public Housing

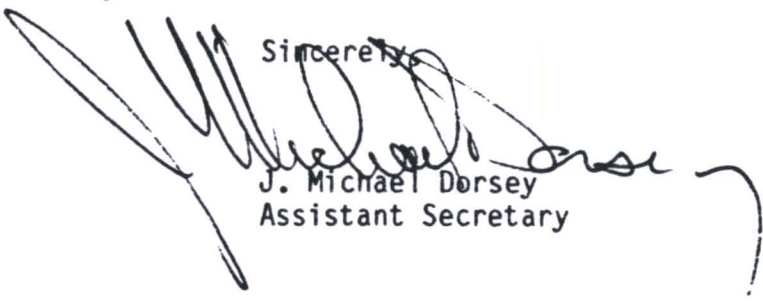
Dear Executive Director:

President Reagan has announced a major new initiative to combat drug use in our country. I am pleased that my first official act following confirmation as Assistant Secretary for Public and Indian Housing is to invite your participation in this effort. As a former Chairman of the Housing Authority Board in Kansas City, Missouri, I know that the Kansas City Authority has a program for counseling on substance abuse for tenants and employees. I am sure there are many other housing authorities in the country involved in similar efforts, as well as tenant groups with ongoing programs for combatting drugs in individual projects.

We would like to be able to describe your efforts to President Reagan and make details available to other authorities and tenants who are not yet involved. Please write, or even call, if yours is a program that has been effective against drug use or sales in public housing. Nancy Goetschius is serving as my main staff person on this effort; any questions or comments you might have before responding to this invitation should be directed to Ms. Goetschius on 202/755-7970.

I look forward to hearing from you and to working with you on this and other major public housing initiatives.

Sincerely,



J. Michael Dorsey
Assistant Secretary

3: OASIS DESCRIPTION

The Oasis Technique

The Oasis Technique was developed in Florida by the Fort Lauderdale Housing Authority. It focuses on reversing deterioration and rising crime rates in troubled neighborhoods and creating oases of safe, decent housing in areas of neighborhood blight. This is accomplished through a careful analysis of a community's strengths and weaknesses and involvement of the residents, community groups, law enforcement and social service agencies, and private businesses. The first step is the eradication of the crime elements in the development (emphasizing particularly the drug dealers) so the area can be returned to the decent residents. The Oasis Technique has also been demonstrated in Houston and in California. The demonstrations were funded by the Department of Housing and Urban Development.

4: JUSTICE DEPARTMENT'S
PROPOSAL

**A PROPOSAL FOR ACHIEVING DRUG FREE
FEDERAL PUBLIC HOUSING PROJECTS USING
LAW ENFORCEMENT COORDINATION AND
DEMAND REDUCTION STRATEGIES**

INTRODUCTION

The Drug Free Federal Housing Initiative is a proposal to utilize existing law enforcement coordination structures to leverage and focus the efforts of state and local law enforcement officials to effectively attack illegal drug activity in federal housing projects, with a targeted investment of federal resources. This proposal is an effective additional step to compliment the major law enforcement efforts already undertaken by the Administration.

The proposal outlines the framework to implement an effective multi-faceted campaign of drug abuse deterrence and law enforcement coordination strategies intended to eliminate illegal narcotics and associated crime from Federal Public Housing Projects. The Drug Free Public Housing Initiative would combine:

1. Conduct of carefully coordinated investigations and prosecutions targeting drug trafficking and related criminal acts in order to neutralize illegal production and distribution activities in and around federally assisted public housing; and
2. Demand reduction strategies of drug abuse prevention, education and deterrence programs aimed at the low income residents of public housing.

STATEMENT OF PRINCIPLES

The primary responsibility for providing a drug free environment in federal public housing projects rests with state and local law enforcement officials and public housing authorities. Therefore, the federal role in this area must be limited, cost-effective, and consistent both with the Constitutional limits on federal action and fiscal constraints. This can best be accomplished by utilizing existing structures for increasing federal-state-local law enforcement cooperation to attack the drug problem in public housing projects.

THE EXISTING STRUCTURES

At the present time there are two primary law enforcement coordination mechanisms operative in the field and appropriate for this undertaking:

1. The Law Enforcement and Coordinating Committee (LECC) programs administered by the United States Attorneys in each of the 94 judicial districts, and
2. The 34 formal (and 13 semi-formal) State and Local Task Forces of the Drug Enforcement Agency (DEA).

Both the LECC and DEA Task Force Programs are very flexible mechanisms amenable to addressing the drug problem in public housing projects.

LECCs

Each of the 93 United States Attorneys has a Law Enforcement Coordinating Committee in place, consisting of federal, state, and local agencies involved in district law enforcement. The goal of these committees is to improve cooperation and coordination among law enforcement groups and thereby enhance the effectiveness of the criminal justice system. Districts also have LECC Subcommittees which consist of relevant agency officials working on specialized tasks, such as drug enforcement, white collar crime, etc.

In addition to the establishment of subcommittees, the United States Attorneys developed comprehensive district law enforcement strategies in their respective jurisdictions. The plans are coordinated within the Department and with the major federal law enforcement agencies. The plans have been approved by the Attorney General and may be periodically updated.

The Attorney General strongly supports the LECC program. (See Attachment A.) LECCs are a cornerstone of joint federal, state, and local law enforcement efforts.

LECC members represent a broad range of multilevel government law enforcement agencies. In some of the larger districts, the full LECC may consist of several hundred individuals. Federal agency members include the FBI, DEA, IRS, INS, BATF, the U.S.

Customs Service, Postal Inspection Service, U.S. Marshals Service, Fish and Wildlife Service, Park Service, federal agency inspectors general, and the military. State agencies generally include state police; State Attorneys General and Inspectors; the National Guard; tax, banking, and insurance regulators; conservation officers; and, state criminal justice planning agencies. Local government agencies provide members from district or prosecuting attorneys' offices, city and rural police departments, sheriffs' departments, county inspectors, and town constables. In some districts, state and local education and social service agencies may be represented on special interest subcommittees such as those on Drug Abuse Prevention. Subcommittees serve as the operational core of most Law Enforcement Coordinating Committee activity. They address specialized areas of district law enforcement need and are made up of personnel with the appropriate interest and expertise. The United States Attorney, Assistant United States Attorney or other high level federal or nonfederal official may head the subcommittee.

The subcommittees exchange information and resources and engage in joint investigation and projects, such as drug education programs. One of the most successful developments has been the sponsoring of training seminars in various areas of law enforcement. Many of these seminars are intended to assist line level officials.

DEA's State and Local Task Forces

The DEA Agent's Manual states that "Effective control of the illicit drug traffic depends to a large extent on close cooperation among agencies at all levels of government. Collectively, state and local law enforcement agencies dedicate more resources to drug enforcement than does the Federal Government. It is, therefore, of major interest to DEA that state and local agencies be encouraged to expend their resources in line with national objectives and that there be close interagency cooperation at all levels." The specific objectives of the task forces therefore, are to:

1. Disrupt the illicit drug traffic in specified geographic areas by immobilizing targeted violators and trafficking organizations.
2. Increase the effectiveness of participating agencies by providing extended on-the-job training to assigned officers and exposing them to the benefits of selective targeting.
3. Improve operational interaction among all agencies participating in the task force.
4. Encourage participating agencies to establish investigative priorities which emphasize those drugs and violators posing the greater danger to society.
(emphasis added.)

5. Increase the effectiveness of drug law enforcement agencies in the local area who are not participating in the task force, by providing direct assistance, intelligence information and other support.
6. Provide for the development and maximum use of intelligence information through enhanced coordination. (emphasis added.)
7. Provide access to the federal judicial system for investigations and cases that could not be effectively tried in state and local courts

While the task forces share these objectives and are similar in concept, they are very different and distinct in composition, responsibility and methods of response to local needs. Their differences are rooted in the diversity of the states and cities of the United States and the varied drug trafficking patterns. (See Tab B for Task Force locations and staff allocations.)

INITIATIVE IMPLEMENTATION

In order to initiate the employment of the LECC and DEA Task Force mechanisms to address drugs in federally assisted housing projects the Attorney General could direct both the United States Attorneys and the DEA in target districts to take steps necessary to assess the severity of the problem in targeted districts and develop an amended Law Enforcement action plan to address it.

This could be directed by Executive Order language such as:

"I hereby direct the Attorney General to expand the Department of Justice drug enforcement strategy to focus efforts on the eradication of illegal drug activity in federally assisted public housing.

The Attorney General should direct U.S. Attorneys to initiate LECC activities to marshal appropriate law enforcement attention as necessary to identify needs and priorities in each district to most effectively deal with this serious national problem.

Each district's law enforcement plan should include an assessment of drug trafficking and abuse in public housing projects and include plans to address this problem."

However, such Executive Order language is not required to implement these activities, the Attorney General may do so under his existing authority.

The Law Enforcement Initiative for Drug Free Public Housing might also include:

- Legislation (similar to the schoolyard law) with higher mandatory penalties for the production, distribution and sale of controlled substances in or near federally assisted public housing (See Tab C);

- Attorney General directive to all United States Attorneys requiring prosecution guidelines be revised to include a priority for all federal drug-related violations in federal public housing projects;
- Attorney General coordination at the national headquarters level with all related federal law enforcement agencies, including at least: United States Attorneys, DEA, FBI, INS, BATF, and the U.S. Marshals Service, to ensure cooperation at the field level for implementation of Drug Free Public Housing strategies jointly with state and local agencies.
- Attorney General direction to United States Attorneys to increase use of cross-designation of Assistant United States Attorneys and appointment of state and/or local prosecutors as Special Assistant United States Attorneys as appropriate to facilitate effective and efficient prosecution of Public Housing-related narcotics violations.

Examples of other possible steps include:

- The establishment of a Public Housing Authority (PHA) drug enforcement and education LECC subcommittees;
- Training and technical assistance tailored to Housing Authority or other Police, e.g. on analysis of evidence, use of computer services, intelligence development, clandestine laboratories, etc. (establish priority category for both DEA on-site training and other federal programs such as Glyngo, AGAI, etc).

- Designation of one day per week or month for federal prosecution of housing project related federal crimes (cf. NYC's Operation Pressure Point at Tab C);
- Priority treatment of PHA-related requests for technical services from federal agencies.
- Establish Community Crime Prevention activities to involve citizens of housing project in efforts to stop drug abuse in housing projects, possibly utilizing National Institute of Justice's proposed ten demonstration demand reduction projects or in cooperation with the National Institute on Drug Abuse.
- FBI-DEA initiative to identify problem at local level, in order to attack drug sources and drug trade across jurisdictional boundaries.

OUTLINE OF GENERAL TASKS FOR DRUG FREE FEDERAL
HOUSING PROJECT INITIATIVE

Regardless of the specific mode of initiation chosen, the proposal for achieving Drug Free Federal Housing Project using law enforcement coordination and demand reduction strategies will involve the following tasks:

1. Define scope of drug problems in public housing, assess enforcement needs;

2. Identify eight to ten districts with especially severe drug-related crime problems in federal public housing and evaluate existing enforcement and reduction efforts if any in district including PHA, LECC, and DEA Task Force, Organized Crime Drug Enforcement Task Force, state, and local resources, etc.;
3. Select two to four districts as pilot project sites;
4. Initiate planning of specialized enhanced law enforcement coordination and demand reduction activities as appropriate to meet specific district needs using the LECC mechanism and consulting with state and local officials to develop law enforcement plans and allocate resources;
5. Implement Drug Free Public Housing Plans in pilot districts and regularly report achievements and problems to Justice project coordinator for ongoing evaluation;
6. Following initial pilot tests revise guidance and strategies as required and phase in additional districts on approximate bi-monthly basis until ten districts or all severely impacted PHAs have programs.
7. Evaluate targeted districts at regular intervals to assess accomplishments.



Office of the Attorney General

Washington, D. C. 20530

12 July 1985

MEMORANDUM TO: All United States Attorneys

FROM: Edwin Meese III *EM*
Attorney General

**SUBJECT: Law Enforcement Coordinating Committee (LECC)
Program**

As you are aware, the Attorney General's Task Force on Violent Crime specifically recommended that United States Attorneys establish Law Enforcement Coordinating Committees (LECCs). On July 21, 1981, Attorney General William French Smith issued Department of Justice Order 951-81 creating an LECC in each judicial district throughout the country. The broad objective in instituting the LECC program was to enhance coordination of local, state, and federal resources in order to produce more effective law enforcement. Since becoming operational, the LECCs have been instrumental in providing forums for the joint exchange of information and many successful law enforcement strategies and operations can be attributed to them.

A primary responsibility of the Department of Justice is to work closely with prosecutors, police, and other criminal justice agencies to insure that all levels of government are more effective in protecting citizens against serious and violent crime. The LECC program, which stresses cooperation with and assistance to state and local law enforcement agencies, is one of the Department's highest priorities. You should continue to vigorously implement the LECC initiative, schedule regular meetings with State, local, and Federal law enforcement agencies, and establish and utilize specific subcommittees where appropriate. The Department will continue its efforts to institutionalize the LECC concept and it is my intention to participate in as many LECC meetings as possible so as to work with all of you to insure that this important program continues to achieve its law enforcement objectives.

Memorandum



Subject Law Enforcement Coordinating Committees and District Federal Law Enforcement Plans	Date January 6, 1982
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To
All United States Attorneys

From
Rudolph W. Giuliani
Associate Attorney General

This memorandum discusses two subjects. One is the formation of a district Law Enforcement Coordinating Committee. The other is the preparation of a district federal law enforcement plan. It consolidates my memorandum dated October 6, 1981, and subsequent communications to you on the same subject.

I. LAW ENFORCEMENT COORDINATING COMMITTEES

As the Attorney General directed in his memorandum to you of July 21, 1981, each United States Attorney is to form a Law Enforcement Coordinating Committee (hereinafter LECC) consisting of representatives of federal law enforcement agencies and appropriate state and local law enforcement officials. Attached as Enclosure No. 1 is a copy of Attorney General Order Number 951-81, dated July 21, 1981, assigning responsibility for directing United States Attorneys in the formation and operation of the committees to the Associate Attorney General. This memorandum provides additional instructions regarding the operation of these committees and the formats for reporting on them.

A. Committee Formation

1. Preliminary Meeting of Federal Law Enforcement Officials

Prior to the first meeting of each committee, the United States Attorney is to meet with the district head of the Federal Bureau of Investigation; the Drug Enforcement Administration; the United States Marshals Service; the Bureau of Alcohol, Tobacco, and Firearms; the Postal Service Inspection Department; the Internal Revenue Service, and other federal agencies that have significant criminal law enforcement jurisdiction in the district, such as the Immigration and Naturalization Service, the Secret Service, and the United States Customs Service. All of the federal agencies attending this preliminary meeting also should be represented on the LECC. At this meeting, each federal agency should present its assessment of the crime situation in the district, the resources that it has available in

3. First Meeting Date

The first full LECC meeting should be held within two months of the date a United States Attorney assumes office. It is important that these committees be established promptly. However, there may be districts in which, because of exceptional circumstances, the LECC program would be significantly harmed by strict adherence to this timetable. If, in the opinion of the United States Attorney, a longer implementation time period is necessary, the Director of the Executive Office should be notified in advance and provided with the schedule adopted.

4. Notification of Executive Office for United States Attorneys Prior to First Meeting

The United States Attorney is to notify the Executive Office by telex at least two weeks before the initial LECC meeting is to be held. The Attorney General or other Department officials may attend the initial meeting of a number of the LECCs. Timely notice of meeting dates is necessary in order to make scheduling arrangements.

5. Applicability of Federal Advisory Committee Act

The United States Attorney should advise all LECC members that the purpose of the LECC is to provide a forum for the joint exchange of information and for the improvement of operational law enforcement activities involving intergovernmental cooperation. The LECC is not intended to serve as a forum in which state or local law enforcement officials provide advice to federal officials regarding matters of federal policy or operations. Therefore, it should not come within the coverage of the Federal Advisory Committee Act. Additional discussion of the coverage of that Act is provided in an opinion from the Office of Legal Counsel attached to this memorandum as Enclosure No. 2. This opinion should be borne in mind throughout the course of each committee's operation.

B. First Meeting

1. Agency Reporting

At the first meeting of each LECC, a representative of each agency should be asked to make a presentation providing information regarding the following topics:

- a. A description of the most serious crime problems in the district. This should be based upon the best available information concerning particular types of crime, including the incidence of such crimes, the numbers of such offenses reported to law enforcement

However, where any of the normally required subcommittees are not established, it is mandatory that their functions, as set forth below, be fulfilled by the full committee.

It is important to note that the Federal Advisory Committee Act may apply to a subcommittee as well as to a full committee. As long as subcommittee activities are limited to providing for the joint exchange of information or the improvement of operational law enforcement activities, they should not come within the coverage of that Act. However, the subcommittees themselves must conduct the exchanges of information or make the operational decisions. Although the subcommittees may not provide advice to the full committee on these matters for full committee action, they may present informational summaries of their own actions to the full committee.

With respect to subcommittee membership, all full committee members whose agencies are likely to be involved in implementing the decisions of a particular subcommittee should be included on it. Each LECC is to form the following subcommittees, unless the exception described above is invoked:

a. Interagency cooperation.

The purpose of this subcommittee is to improve law enforcement effectiveness through better cooperation among federal, state, and local law enforcement agencies. The members of this subcommittee are to enter into interagency operational agreements in three principal areas:

- i. To govern the referral of cases from one level of government to another;
- ii. To establish the circumstances in which investigative or prosecutorial assistance will be provided by one level of government to another (this includes the sharing of law enforcement facilities, intelligence information, and personnel); and
- iii. To conduct joint investigations or prosecutions (also see cross-designation subcommittee).
- iv. To establish the division of responsibilities for investigating and prosecuting offenses for which federal and state or local concurrent jurisdiction exists. Particular attention should be given to violent crime offenses,

crimes, joint training programs, or a public awareness campaign. The subcommittees should utilize as an aid to their work the discussion papers on areas of major emphasis that are being provided by the Criminal Division to all United States Attorneys.

3. Funding

At the first meeting, LECC funding should be discussed. Committee members are to be responsible for their own travel expenses. The United States Attorney, however, is responsible for ensuring that adequate facilities for the meetings are available. The United States Attorney first should ascertain whether satisfactory facilities are available in his offices or those of other committee members. If not, Government travel regulations allow reimbursement for the rental of a meeting room. Further information on meeting expenses is contained in the attachment to this memorandum on funding (Enclosure No. 4).

C. Report of First Meeting

Within one week of the first meeting, the United States Attorney is to prepare a report on the meeting and forward three copies to the Executive Office for United States Attorneys for review and submission to the Associate Attorney General. The Executive Office will review the report jointly with the Criminal Division prior to submission to the Associate Attorney General. The report, which also is to be sent to all LECC members as the minutes of the meeting, should record the committee membership and should identify the subcommittees formed and their membership. In addition, it should describe the information provided by each agency concerning (1) the serious crime problems in the district; (2) agency resources; (3) present law enforcement priorities; and (4) any law enforcement cooperation problems. Information provided on these topics by the agencies may be incorporated into the text of the report or appended to it. In preparing the meeting report, please follow the format attached (Enclosure No. 5).

D. Second and Subsequent LECC Meetings

The second LECC meeting should be scheduled at the end of the first meeting. Until further notice, LECC meetings should be held at least once every two months.

At the second meeting, the committee members should begin actively exchanging information and making operational decisions on particular law enforcement problems in the district. In

2. Law Enforcement Priorities

The second section of the district plan is to focus on the development of the district's federal law enforcement priorities. These priorities are to be established after consideration of the Department of Justice national prosecutorial priorities (violent crime, drug enforcement, organized crime, white collar crimes and public corruption), the priorities of the federal investigative agencies, and all other law enforcement information available to the United States Attorney regarding serious crime in the district. Based upon all of the foregoing, the United States Attorney is to formulate federal law enforcement priorities for the district. The priorities should identify the types of cases and investigations that will have the greatest impact on the most serious crime problems in the district. It also should identify the types of defendants who will be accorded the greatest priority. The section then should describe how federal law enforcement manpower and other resources will be allocated so as to implement the priorities. Following the initial drafting of the district priorities, they should be discussed with the district heads of the federal law enforcement agencies to obtain their views before being put in final form.

3. Tracking of Case Referrals

The third section of each plan is to contain the development or clarification of procedures for the referral of all federal cases which are declined for prosecution, but have prosecutive merit or potential, to state or local prosecutors or investigative agencies for their consideration for prosecution or further investigation. It is to address also the policies and practices of federal investigative agencies regarding the referral directly to state or local prosecutors of cases that have prosecutive merit, but which it is recognized will not be accepted by the United States Attorney.

4. Procedures for Interagency Assistance

The fourth section of each plan is to be a statement of operational procedures for interagency assistance. This particularly applies to federal agencies: (1) providing state and local agencies with technical assistance, such as laboratory services; (2) sharing law enforcement intelligence information; and (3) providing personnel assistance, where, for example, federal investigators have a particular expertise or have information on a case that they investigated prior to a

the District, if the United States Attorney wishes to delay completion of the plan until one or more subcommittees have met, or if similar considerations make additional time for preparation necessary, the United States Attorney should notify the Executive Office within one month of the first meeting of the date by which the plan is expected to be submitted.

The plan should be in the form of a memorandum from the United States Attorney to the Associate Attorney General through the Executive Office for United States Attorneys. It is to have the seven substantive sections described above. It is important that the substantive sections be specific in nature.


The plan should not be circulated in draft form to the state and local members of the LECC. Also, it should not be circulated to any members, federal or state, at an LECC meeting. The reasons for this restriction are discussed in the Office of Legal Counsel Opinion on the Federal Advisory Committee Act (Enclosure No. 2). After approval by the Associate Attorney General the plan may be given to all LECC members.

C. Review and Implementation of Plan

The plan will be reviewed jointly by the Executive Office for United States Attorneys and the Criminal Division, in coordination with appropriate federal agencies, prior to submission to the Associate Attorney General. Upon approval of the plan by the Associate Attorney General, all federal law enforcement agencies in the district will be expected to use the plan's priorities as guidance in formulating their district law enforcement strategies and in allocating resources. The United States Attorney will be expected to adhere closely to the plan's priorities, particularly in the selection of cases and other resource allocation decisions. In preparing the federal law enforcement plan, please follow the format set forth at Enclosure No. 6.

D. Amendment of Plan

United States Attorneys may wish to add to or change provisions of the plan over time. Amendments to the plan should be developed through the same procedure used for the original plan and similarly submitted for Associate Attorney General approval.



Office of the Attorney General
Washington, D. C. 20530

Order No. 951-81

Law Enforcement Coordinating Committees

By the authority vested in me as Attorney General by 28 U.S.C. §§509, 510 and 5 U.S.C. §301, it is hereby ordered that:

Each United States Attorney is to establish a Law Enforcement Coordinating Committee to improve cooperation and coordination among Federal, State, and local law enforcement. The Associate Attorney General is to direct and assist the United States Attorneys in the formation and operation of the Committees.

Date: July 21, 1981



William French Smith
Attorney General

Enclosure 1

Recommendation 6

The Attorney General should mandate the United States Attorneys to establish law enforcement coordinating committees in each federal district.

Commentary

Distinctions among federal, state, and local jurisdictions do not hamper criminals. Neither should jurisdictional divisions be allowed to impede unnecessarily criminal investigations and prosecutions. In each area of the country, federal, state, and local resources available for law enforcement are limited. Coordinating the use of these resources to the fullest extent possible will produce the most effective law enforcement at all levels of government. This especially is true regarding the federal response to violent crime. Because most violent crime prosecution is conducted by state and local authorities, it is important that federal officials be as supportive as possible of state and local police and prosecutors.

Our understanding of the present situation reveals that a satisfactory level of cooperation among federal, state, and local law enforcement officials does not now exist in every jurisdiction. Frequently there appears to be a lack of initiative on the part of all officials in opening the requisite channels of communication. We believe that this situation, in which federal, state, and local law enforcement officials often chart separate paths without consulting one another, is not in the best interest of the public.

Relations among federal, state, and local law enforcement also vary greatly in both form and effectiveness among the federal districts. In reviewing present practices, we found that the following mechanisms now are used to coordinate federal, state, and local law enforcement activities:

Federal-state-local law enforcement committees. It is not precisely known how many actively operating federal-state-local law enforcement committees there now are. What is evident, however, is that existing committees vary significantly in scope and effectiveness. Originally conceived as federal-state law enforcement committees headed by the State Attorney General, they have typically evolved into federal district organizations with the county prosecutor most often serving as the chief local official. There appears to be no uniformity in constitution or operation, and a committee's success

appears to depend largely on the individual personalities involved. Finally, the Department of Justice in recent years has not accorded high priority to promoting and supporting the committees.

Executive working group. The Executive Working Group for Federal-State-Local Prosecutorial Relations was formed in December 1979 to provide a vehicle for improving intergovernmental law enforcement relations. The members consist of six representatives of the National District Attorneys Association (NDAA), six from the National Association of Attorneys General (NAAG), and six from the Department of Justice (currently four Criminal Division officials and two U.S. Attorneys). Staff support is provided by the newly-formed Office of Law Enforcement Coordination in the Criminal Division. In April 1981, Department of Justice officials in the new Administration met with officers of NDAA and NAAG to reconstitute the Executive Working Group and elect new members. This group provides a national forum for law enforcement coordination efforts. The group's agenda contemplates participation in the effort to structure law enforcement coordination committees throughout the country.

Informal arrangements. In many areas of the country no active, formal arrangements exist for federal, state, and local law enforcement cooperation. Nevertheless, key law enforcement officials often have good working relationships. In such situations, however, communication among law enforcement officials at different levels of government occurs primarily in conjunction with particular problems in specific cases. Routine sharing of intelligence information, joint investigations and prosecutions, or planning for resource allocation or overall law enforcement strategy generally does not result. The success of such arrangements also is highly dependent upon the personalities of the officials involved.

To summarize, federal, state, and local law enforcement cooperation around the country ranges from very good to nonexistent. As a result, the response to crime by all levels of government is less effective than it could be with a coordinated system.

The Department of Justice has given U.S. Attorneys little direction in this area. This lapse is particularly significant because most state and local prosecutors, police, and corrections officials operate autonomously, both within their own jurisdictions and in dealing with the federal government. If substantial progress is to be made

As of January 1, 1986, 160 DEA Special Agents and 421 State and local officers were assigned to the 34 task forces included in DEA's official State and Local Task Force Program. These assignments were broken down as follows:

	<u>Special Agents</u>	<u>State and Local Officers</u>
<u>Atlanta Division</u>		
Savannah*	2	5
Wilmington, NC*	1	4
<u>Boston Division</u>		
Burlington	2	5
Portland	2	6
<u>Chicago Division</u>		
Chicago	8	36
Minneapolis	3	6
<u>Dallas Division</u>		
Fort Worth	4	12
Lubbock	5	4
<u>Denver Division</u>		
Denver	3	9
<u>Detroit Division</u>		
Cincinnati*	2	3
Detroit	7	13
Louisville	1	3
<u>Houston Division</u>		
San Antonio*	6	12
<u>Los Angeles Division</u>		
Guam 2	4	
Honolulu	3	6
Reno	1	4
<u>Miami Division</u>		
Orlando	8	12
San Juan	3	15

Newark Division

Newark 3 3

New Orleans Division

New Orleans 2 13

New York Division

New York 34 98

Buffalo 1 8

Long Island 3 10

Philadelphia Division

Philadelphia 4 14

Phoenix Division

Phoenix 3 7

Tucson 2 10

San Diego Division

San Diego 12 40

San Francisco Division

San Jose 5 5

Seattle Division

Seattle* 3 6

St. Louis Division

St. Louis 3 8

Wichita* 3 6

Washington Division

Washington	10	26
Baltimore	8	5
Charleston, W VA*	<u>1</u>	<u>2</u>
Totals	160	421

As of October 1, 1985, there were 13 semi-final State and local task forces to which 39 DEA Special Agents and 66 State and local officers have been assigned. These figures change and are approximate since there exists far greater flexibility in these task forces than in the task forces funded under the official State and Local Task Force Program. These task forces can be broken down as follows:

	<u>Special Agents</u>	<u>State and Local Officers</u>
<u>Atlanta</u>		
Atlanta Airport	2	3
Columbia, SC	1	2
Greensboro, NC	6	2
<u>Boston</u>		
Boston	3	1
Cape Cod	1	8
<u>Houston</u>		
Laredo	1	5
<u>Los Angeles</u>		
Los Angeles Airport	11	5
<u>Miami</u>		
Naples	6	7
Tampa	1	3
<u>New Orleans</u>		
Little Rock	2	4
Mobile	1	5
<u>San Francisco</u>		
San Francisco Airport	2	3
<u>Seattle</u>		
Eugene	<u>1</u>	<u>1</u>
Totals	39	66

✓ The Southern District of New York has had extensive experience in the use of this law as part of its ongoing "Federal Day" program. This project was undertaken in conjunction with the New York City Police Department's Operation Pressure Point and calls for federal prosecution of drug dealers one day a week in several sections of the city. The program began in the Lower East Side of New York where the lives of residents were dominated by organized drug dealers who lined up heroin addicts in the streets and kept "order" with baseball bats.

From December 1984 to February 1986, 274 people were charged in the district under §845a; 177 were convicted. United States Attorney personnel observed that federal judges were not, at least initially, imposing longer sentences when §845a counts were added to §841 charges. However, lengthier prison terms are anticipated, under the mandatory sentencing provisions of §845a, when this first round of offenders are freed, return to the streets, and commit a second violation of §845a. Because of the heavy penalties for repeat offenders, United States Attorney staff have noted that few defendants have pled guilty to a §845a charge, preferring instead to go to trial.

Because of its extensive use in the Southern District, there are a number of significant court decisions interpreting the statute, which should provide guidelines to other districts on its implementation.

These decisions hold that:

1. Section 845a is not unconstitutional in its presumption that drug trafficking in or near a school is harmful even if children are not present at the time of the transactions. U.S. vs. Nieves, 608 F.Supp. 1147 (S.D. N.Y. 1985); U.S. vs. Angilar, 612 F.Supp. 889 (S.D. N.Y. 1985); U.S. vs. Dixon, 619 F.Supp. 1399 (S.D. N.Y. 1985).
2. Section 845a is not unconstitutional because it may have an uneven impact on racial minorities living within urban areas. Nieves, Angilar, Dixon, supra.
3. Section 845a does not require the government to prove that a defendant had knowledge that a drug transaction occurred within a 1,000 feet of a school. U.S. vs. Cunningham, 615 F. Supp. 519 (S.D. N.Y. 1985); U.S. v. Falu, 776 F.2d 46 (2d Cir. 1985).

4. Section 845a can be applied to those who aid or abet a drug trafficker. Falu, supra.

For further information on the prosecutions in the Southern District, contact Chris Todd, Chief, General Crimes Unit, at (FTS) 662-1056 or (212) 791-1056; or Rhea Brecher, Chief, Narcotics Unit, at (FTS) 662-0066 or (212) 791-0066.

Two other districts have also recently announced §845a prosecutions. In the Southern District of Georgia, seven defendants arrested by local authorities for running a "drive-in" drug service in a park 300 feet from a school were also ^{charged} by the United States Attorney's office with violating §845a. These dealers often used elementary school children as lookouts and had taken over the park. Police plan to refer ^{all} other cases of individuals arrested in the park for §845a prosecution. For further information, contact Assistant United States Attorney William McAbee, Chief, Criminal Division, at FTS 248-4422 or (912) 232-3145. 610.

In the Western District of Texas, an LECC attack on drug dealers who sell to high school students resulted in 56 cases against 39 adults. Juvenile delinquency charges against 8 individuals were also filed. The arrests resulted from the work of an undercover investigator who infiltrated a San Antonio high school and was able to make purchases of heroin, methamphetamines, LSD, cocaine, hydromorphine, and marijuana. Four of the suspects were also charged with §845a violations. For further information, contact Assistant United States Attorney Mitchell L. Weidenbach or LECC Coordinator Beverly Cox, at FTS 730-6500 or (512) 229-6500. 610

21 U.S.C. §845a represents a powerful federal tool to be used in assisting local authorities to protect school children against the deleterious effects of drug trafficking. Because this statute involves concurrent jurisdiction and interagency cooperation, LECCs are encouraged to discuss how and when the law can most effectively be applied.

(EDITOR'S NOTE: Also see the September-October, 1985, issue of the Narcotics Newsletter, published by the Narcotic and Dangerous Drug Section of the Criminal Division, Department of Justice, FTS or (202) 724-7123, for another article on §845a.)