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Step D: Agencies would stimulate development of innovative community-based prevention programs, including:

- (1) Determining and pursuing opportunities to increase drug abuse prevention activities by the constituency groups of each agency through workshops, meetings, special events and material distribution; and
- (2) Developing and distributing training and educational materials specifically geared toward targeted groups, e.g., ethnic groups, physicians, parents, teachers, etc.

Step C: The Administration would sponsor an annual drug abuse prevention symposium for community affairs/public affairs representatives and their foundation counterparts to share materials, films, goals and objectives.

4. Propose legislative or regulatory changes to remove certain restrictions concerning solicitation of funds, private sector donations, and use of materials developed for foreign audiences.

Existing regulations restrict the use of certain materials and the formation of public-private partnerships in which the unique resources of business and government are brought together for community-based programs.

Step A: The Administration would prepare and issue appropriate guidelines which facilitate seeking corporate support and funding for various drug abuse programs.

Step B: The Administration would re-evaluate the Competition and Contracting Act of 1984 to provide appropriate exceptions to full and open competition, and request any necessary legislative changes to allow private companies to donate services, e.g., communications, technical advice, film production, etc. for government-funded drug abuse programs with reduced administrative burden.

Step C: The Administration would re-examine the restrictions for limited use of materials developed for foreign consumption by the Department of Defense and the United States Information Agency and propose any necessary legislative changes or exemptions.

5. Reduce the level of illegal drug activity in Public Housing Authorities.

In response to the President's announcement of his national crusade to lead us to a drug-free America, the Department of Housing and Urban Development wrote to the 3,100 independent Public Housing Authorities in the United States and asked them what they were doing to combat drugs. Many Public Housing Authorities responded that they were actively involved in getting rid of the drug dealers and stopping illegal drug use -- they were providing information and treatment for their employees and residents, and generally working toward the goal of providing a drug-free environment. Other Public Housing Authorities, however, told of housing developments overrun and controlled by drug dealers and users.

Step A: The President would send a memorandum to the Secretary of Housing and Urban Development, declaring that drug-free public housing is expected and that, within the limits of regulations and resources, the Federal Government will work with those Public Housing Authorities where illegal drugs are a problem to stop drug trafficking and use. The memorandum will provide the basis for the Secretary of Housing and Urban Development to seek changes in regulations to provide incentives for achieving drug-free public housing.

Step B: The Secretary of Housing and Urban Development would form a partnership with the Attorney General, the Secretary of Health and Human Services, and the Secretary of Labor to work with local Public Housing Authorities, state and Federal law enforcement officials, and appropriate local agencies to achieve drug-free public housing.

Step C: The Secretary of Housing and Urban Development and the Attorney General would work with local authorities to identify public housing developments with major drug problems, and:

- (1) Target selected housing developments for increased law enforcement to eliminate illegal drug activity; and
- (2) Cooperatively prepare training materials for dealing with drug trafficking in public housing.

Step D: The Secretary of Housing and Urban Development would inform all Public Housing Authorities of local agencies affiliated with the Departments of Labor and of Health and Human Services for drug education, drug testing, treatment, job training, and employment opportunities.

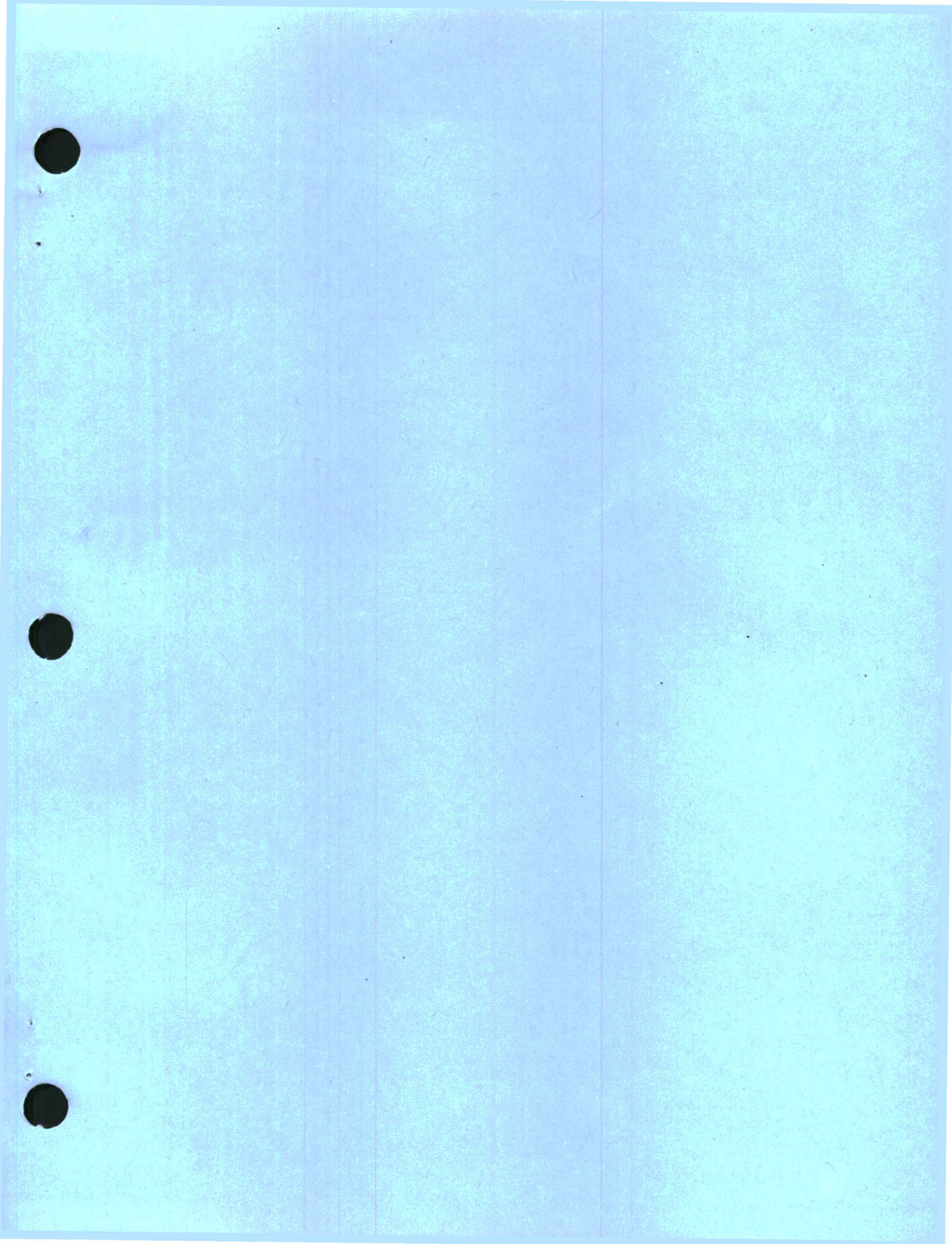
Step E: The Secretary of Health and Human Services would assist in the development of drug abuse prevention materials and programs to benefit the employees and tenants of Public Housing Authorities.

Step F: The Secretary of Housing and Urban Development and the Secretary of Labor would ensure that Public Housing Authorities are aware of the availability of Job Training Partnership Act funds to ensure that the housing development does not witness a resurgence of illegal drug activities.

Step G: All Public Housing Authorities would be encouraged to facilitate access to treatment services for tenants and to do everything possible to initiate the formation of parent groups and "Just Say No Clubs" on the premises.

WHAT ARE THE EXPECTED RESULTS?

Drug abuse prevention -- through awareness, education and action -- is the key to long term success in stopping illegal drug use and drug-related crime. Prevention must begin with public awareness of the problem, an understanding of what can be done to improve the situation and a willingness to do something about it. Today, individuals from every segment of our society want to know what they can do to end drug abuse. The initiatives under this goal will provide the national leadership to build on the current awareness and get people actively involved in removing illegal drugs from their communities.



THE WHITE HOUSE

Office of the Press Secretary
(Santa Barbara, California)

For Immediate Release

September 4, 1986

STATEMENT BY THE PRINCIPAL DEPUTY PRESS SECRETARY

On Sunday, September 14 at 8:00 Eastern time, the President and Mrs. Reagan will address the Nation from their living quarters at the White House on the subject of what we, the American family, can do to win the war on illegal drug use. This is an unprecedented event - the Reagans have never before participated in a joint television address and I am not aware of any other President and First Lady TV address, either. They wanted to do it together - from their home to our homes - as parents and friends as well as "the First Couple", to stress the importance of all segments of our society pulling together in a common, determined effort to get rid of drugs.

Throughout her campaign against drug abuse, Mrs. Reagan has stressed the need for every American to take a stand and do their part in this war. She has travelled the country from coast to coast and has even brought her message overseas. On Sunday night, the President and Mrs. Reagan will bring that message into every home, every school, every college campus, every locker-room, every corporate board room, every office, every studio. The Reagans will make it clear that their commitment to making ours a drug free society is not some passing fancy - it is something which they take as seriously as anything on the national agenda and one which they are determined to win. But they know they cannot do it alone and Sunday night they will appeal for the help of every citizen: young and old, rich and poor, mothers and fathers, coaches and athletes, actors and producers, corporate board chairmen and mailroom clerks. The Reagans seek to mobilize this country as it has never been mobilized before. They want everyone to join in the effort to help their fellow citizen give up or stay away from drugs.

Our most powerful weapon in the war on drugs is a determined campaign of public education to warn Americans and particularly our youth of the dangers of illegal drug use. This is what Mrs. Reagan has been doing over the past few years and this is what the Reagans' speech Sunday night will be. They hope it will be the day when people everywhere decide to make illegal drug use a thing of the past. When the chapter on how America won the war on drugs is written, the Reagans' speech is sure to be viewed as the turning point.

The Reagans are making this address because there is a crisis - nothing less - in our country today and it disturbs them deeply to see so many lives - especially young lives - ruined by drugs. The six point Reagan program against illegal drug abuse is one which we believe can succeed and one which must succeed.

1) Drugs have no place in the workplace. The office cannot be the place where one goes to use drugs. Productivity suffers. Relationships suffer. Peoples' lives suffer. The Federal government must and will set the example in terms of being sure those in sensitive positions are not using drugs and in developing a compassionate, effective way to help those who are.

2) Our nation's schools - from grade schools to colleges - must maintain their place as the center for what is good and right. The best lesson a school can teach is: drugs are bad.

-more-

3) We need more information on drugs, drug treatment and drug testing. We know a lot now, but we need to know more. What we know about drugs is frightening, but every day brings more information and we must keep our research going strong. Drug treatment centers have made important and encouraging strides toward putting back together the shattered lives of drug users and their families and friends. And there is encouraging developments in the drug testing field - better ways for quicker and confidential testing.

4) International cooperation is a key element of the program. Drug abuse is not just an American problem. It is a world problem and while the Reagans are taking the lead, they need to be joined by world leaders and world law enforcement agencies in shutting down drug smugglers. Drug smugglers must know that nowhere on this planet will their murderous activities be tolerated.

5) In this country, too, our law enforcement personnel have a key role to play. Policemen and judges are central figures who must act in a manner which makes every potential pusher think long and hard about what he is about to do. Wrist slapping for pushing must end.

6) Together, the public and private sectors must expand public awareness of the dangers of illegal drugs. We must work with the private sector to create the attitude that any illegal substance use is wrong. The anti-drug abuse campaign does not belong exclusively to the government. It is a campaign of which all segments of our society must become a part. We must stand together as one in the war against drugs.

The Reagans are writing this speech together - in fact, they've already started. It will be a message which strikes at the very essence of what we as a society are all about. It will be candid and it will be hopeful. It will be a message of concern and compassion. Sunday September 14th will truly be a special night for this country.

#

Ralph Bledsoe

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:

RR 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

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
↓ *which this is what was 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 ○ 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

Ralph Bledsoe

THE WHITE HOUSE
WASHINGTON

DATE: 9/12/86

NOTE FOR: ALFRED H. KINGON
PETER J. WALLISON

The President has

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David L. Chew
Staff Secretary
(x-2702)

cc: The Vice President
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Original to Files

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September 11, 1986

MEMORANDUM FOR THE PRESIDENT

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

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- OK-
- 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.
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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.

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.
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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

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: Sept. 10, 1986

TO: Rusty Brashear, John Tuck, Carleton Turner,
Ralph Bledsoe, Bob Sweet

FROM: **ASSOCIATE DIRECTOR FOR HUMAN
RESOURCES, VETERANS AND LABOR**

Our most recent table reflecting costs
associated with Administration bill.
All amounts that reflect additional
spending in the drug initiatives will
be offset in other programs.

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

September 10, 1986

	FY81 BA (Actual)	FY87 Pres. Budget	Administration Initiatives				Total, Admin. Proposals	
			Non-legislative Proposals		Administration Drug Bill		FY87 Amount /1/	FY88 Amount /2/
			FY87 Amount	FY88 Amount	FY87 Amount	FY88 Amount		
Drug Free Workplace (*Title I)	28 /6/	50 /6/	0	0	50	50	100	100
Drug Free Schools (*Title II)	3	3	0	0	97	100	100	100
Substance Abuse Services (*Title III)	373	318	100 /5/ 121 /5/ 3 /3/	0	0	0	542	318
International Cooperation and Law Enforcement (*Titles IV and V)	736	1,808	380 /3/ 100 /4/	12 /3/ 20 /4/	0	185 /7/	2,288	2,081 /7/
Private Sector Initiatives (*Title VI)	3	9	5 /3/	5 /3/	1	1	15	15
TOTAL	1,143	2,188	709	37	148	336	3,045 /1/	2,614 /2/

Footnotes:

- /1/ Sum of President's FY87 Budget request plus new legislative and non-legislative proposals.
- /2/ Sum of FY88 level assumed in the President's FY87 Budget request plus new legislative and non-legislative proposals.
- /3/ In June 18, 1986 Southwest Border Initiative letter; formal budget requests have not been submitted to the Congress.
- /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).

6:45 PM

BUDGET SUMMARY OF ANTI-DRUG ABUSE INITIATIVES
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- /2/ Sum of FY88 level assumed in the President's FY87 Budget request plus new budget and legislative proposals.
- /3/ In June 18, 1986 Southwest Border Initiative letter; formal budget requests have not been submitted to the Congress.
- /4/ Additional amounts for a Southeast Border Initiative under consideration have not yet been determined.
- /5/ Drug Abuse Working Group Report to the DPC.
- /6/ Testing conducted primarily in DOD for FY81-87.
- ~~/7/ Examiners' best guess of amounts included in appropriations totals.~~
- /8/ Includes additional prison costs which may arise from enhanced enforcement penalties.

September 11, 1986

A SUMMARY OF THE ADMINISTRATION'S LEGISLATIVE PROPOSAL

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

- o Drug-Free Workplaces
- o Drug-Free Schools
- o Expanding Drug Treatment and Research
- o Improving International Cooperation
- o Strengthening Law Enforcement
- o Increasing Public Awareness and Prevention

The Administration's proposed legislation includes a separate title supporting each of the six goals.

Title I. Drug-Free Workplaces

- o The proposed bill emphasizes the unacceptability of drug use in the workplace. It states that it shall not be unlawful under Federal law for any employer, including the Federal government, to use drug screening to curb drug abuse in their workforce.

Title II. Drug-Free Schools

- o The proposed legislation requests an FY 1987 budget authorization of \$100 million for grants to State and local educational agencies to establish drug-free learning environments within elementary and secondary schools.
- o Funding is proposed through offsets in the Department of Education FY 1987 appropriation.
- o Demonstrated success is required as a condition for continued funding.
- o The proposed bill will also state that it is not unlawful under Federal law for schools to conduct drug tests, and thus remove potential Federal statutory obstacles to drug screening by the States and local school districts.

Title III. Expanding Drug Treatment and Research

- o The proposed legislation requests budget authorization of \$170 million for demonstration grants to encourage states and communities to develop programs to treat specific drug-related health problems, and eliminates unnecessary restrictions imposed under current block grant programs.

- o (Note: ^{FY-87} A Separate budget amendment of \$34 million will be sought to improve research in health-related areas, including drug testing, and a \$15 million budget amendment will be sought to establish a Center for Substance Abuse Prevention within HHS.)

to devote more resources to prevention and education.

Title IV. Improving International Cooperation

- o The legislation proposes repeal of the Mansfield Amendment, which prohibits Federal officers from participating in drug arrests in foreign countries.
- o Rules on forfeiture of property in the United States derived from violation of foreign drug laws are amended to permit confiscation of drug dealer assets.
- o Immigration requirements are amended to allow deportation of aliens involved in drug trafficking.
- o Money laundering enforcement and penalties are strengthened.

Title V. Strengthening Law Enforcement

- o The proposed legislation includes eight subtitles clarifying and strengthening penalties for drug dealing.
- o It addresses 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 and export violations, juvenile drug trafficking, and clandestine drug manufacturing.

Title VI. Increasing Public Awareness and Prevention

- o The legislation proposes a narrow, two year exemption from Federal procurement statutes which mandate competition even when a substantial portion of the services are donated. This exemption will apply only to services donated to the government to aid in the campaign against drug abuse.
- o Authorization is included to make United States Information Agency films on the dangers of drug abuse available for domestic audiences.

File III

From JUSTICE

Adequate funding for law enforcement is an essential component of our strategy to fight drug trafficking. We can not fight drug traffickers unless we have the investigators to apprehend them, the prosecutors to prosecute them, and the prison space to incarcerate them. Earlier this year, the House cut the Administration's 1987 budget for drug law enforcement in several respects including \$31,000,000 for needed additional prosecutors to handle the increasingly large caseload generated by drug traffickers and \$30,000,000 for construction of new prison facilities. The House Omnibus Drug Bill includes increased authorizations which, if appropriated, would compensate for these cuts and in some respects, go well beyond them, but at this time the bill provides simply just that - authorizations. Our prison population has already reached a level (41,000) which is almost 4,000 over the population estimate on which the current House 1987 budget is based.

Restoration of cuts made in the Administration's 1987 budget is a first step if we are to secure adequate funding for law enforcement. Provision of additional funds, beyond those originally called for in the 1987 budget, is something that can then be considered but only to the extent that such an increase could be utilized effectively in 1987 and only to the extent we can compensate for any such increase elsewhere in the budget. Areas where additional funding for FY 1987 would be helpful include prison construction (for two to three additional facilities beyond those already planned for 1987); the U.S. Marshal's Service, which provides prisoner security; prosecutors and border guards to handle the additional caseload along the Southwest Border created by the new border initiative; and some additional investigators for the F.B.I. and D.E.A.

From: SHARON
LUMPKINS
SEPT 9, 1986

POSSIBLE DECISIONS FOR THE DOMESTIC POLICY COUNCIL:

1. Should the military and DOD civilians be included in the drug-free Federal workplace initiative?

General Olmstead (695-7804) requested on 9/2/86 that the armed forces not be included in the drug-free Federal workplace Executive Order/legislative proposal because he believed it would weaken the current DOD program.

Tom Barba (633-3045) stated that the Legislative Review Task Force had added language specifically at the request of the DOD representative so that the current DOD program would be covered without weakening. In fact, the information available on the current DOD policy does not reveal any obvious discrepancies.

One potential problem is the President's decision on August 1, 1986 that Federal contractors would not be required to initiate drug screening and rehabilitation programs, but would be encouraged with the rest of the private sector to work for a drug-free workplace. DOD is initiating requirements for Federal contractors to initiate drug screening. Any problem might be avoided simply by not mentioning Federal contractors in the E.O./legislation.



U.S. Department of Justice
Civil Division

Washington, D.C. 20530

9/5/86

Bob,

These are Jim Knapp's comments
on the summary. Knapp is a Deputy Assistant
Attorney General in The Criminal Division.

Dan Bensing

September 4, 1986

DRUG ABUSE LEGISLATION

A Summary of the House Democratic Proposal

The House Democratic leadership is sponsoring an Omnibus Drug Package. It includes twelve titles representing smaller packages from each of the committees that had previously considered some aspect of the drug abuse problem. The proposed legislation authorizes funds in excess of \$2.9 billion over the next three years.

The following analysis ^{reflects our understanding of the bill as of September} is based on a snapshot taken at the end of August, and includes preliminary Administration positions where available. Cost figures represent best estimates of new authorizations through FY 1989. Several Amendments are anticipated prior to consideration by the House in early September.

Title I (Foreign Affairs Committee) - \$48 Million

- o The International Narcotics Control Act - attempts to eradicate the foreign supply of narcotics; focuses on regional cooperation, additional aircraft, and incentive programs for other nations.

Title II (Armed Forces Committee) - \$228 Million

- o The Defense Narcotics Act of 1986 - Authorizes funds for the Army, Navy, and Air Force; continues funding for Navy deployment of Coast Guard law enforcement teams. ^{the National} Also provides

Title III (Ways and Means Committee) - \$239 Million

- o The International Drug Traffic Enforcement Act - Strengthens Customs' drug enforcement capability, including increased criminal and civil penalties and investigatory powers; certain trade benefits are denied to countries failing to cooperate in drug enforcement. ^{we should support most provisions, but oppose latter}

Title IV (Merchant Marine Committee) - \$256 Million

- o Proposes an at-sea drug interdiction and maritime air surveillance program for the Coast Guard. ^{we should oppose this pending a study by the Drug Policy Board of the role of Customs and Coast Guard in air interdiction.}

Title V (Banking Committee) - No Funding Required

- B The Drug Interdiction Act of 1986 - proposes using the U.S. vote in multilateral development banks to promote drug eradication programs in foreign countries; *but it also places attractive restrictions on ability to support loans which State opposes*
- A The Comprehensive Money Laundering Prevention Act - similar *in major respects* to the ~~Republican bill~~ incorporated in the Administration's legislative package. *Deals with regulatory aspects of money laundering.*
 - The Administration could support with qualifications; language should be modified to conform with S.2683

a Treasury proposal

Title VI (Judiciary Committee) - \$1,581 Million

- A *Money Laundering - makes money laundering an offense*
The White House Conference on Narcotics Abuse and Control Resolution of 1986.
--The Administration should oppose this unnecessary resolution. *Conference.*
- B *Controlled Substance Analog*
The Designer Drug Enforcement Act of 1986.
--The Administration could support with reservations; the definition of "controlled substance analog" should be modified. *Senate bill better. Based on Administration proposal*
- F The Drug and Alcohol Dependent Offenders Treatment Act of 1986.
--The Administration should not oppose this new authority, but should not support excessive costs.
- E The Career Criminal Amendments Act of 1986.
--The Administration could support this Act, *which provides long sentences for career users with 3 prior drug dealing as well crime of violence convictions*
- C The Narcotics Penalty and Enforcement Act of 1986.
--The Administration could support with reservations; minimum sentence requirements should be modified *and minimum sentence raised*
- G The Drug Enforcement Enhancement Act of 1986 - includes block grants to States for drug enforcement with a 50/50 match requirement; includes prison construction with a 3-year cost of over \$1 billion. *We should oppose grant provisions. But this Bill is only an authorization bill which in some respects barely compensates for funds already cut by the House*

insert language

Title VII (Public Works Committee) - No Funding Required

- O Authorizes States to establish criminal penalties for the use of fraudulent aircraft registrations, establishes criminal penalties for transporting drugs, and calls for a study of drug use and highway safety. *We should support with minor reservations*

Title VIII (Education Committee) - \$1,053 Million

- o The Drug Abuse Education and Prevention Act of 1986 - emphasizes federally funded drug education programs.
--The Administration could support the concept of this Act, but major changes are required, including funding level.

Title IX (Energy and Commerce Committee) - \$181 Million

- o The Drug Abuse Prevention and Treatment Act of 1986 - provides Federal funds for State and local drug treatment and prevention programs; establishes an Agency for Substance Abuse Prevention; includes Designer Drugs in the Controlled Substances Act; establishes a demo project for Indian drug abuse rehabilitation; establishes an Advisory Commission on Intercollegiate Athletics.
--The Administration should oppose this Act; its "core" solution offers only more bureaucracy and its designer drug provisions conflict with the Judiciary Committee Title.

Title X (Post Office Committee) - Funding Undetermined

- o Requires OPM to establish employee assistance and education programs to combat drug abuse and to report the anticipated costs to Congress within six months.
--The Administration should oppose this Title based on its potentially excessive cost.
- o Classifies controlled substances as non-mailable matter.

Title ~~XI~~ (Government Operations Committee) - No Funding Required

- o Requires the President to propose legislation to reorganize the Executive Branch to coordinate efforts to combat drug abuse *within six months*
-- The Administration should oppose ^{any} this unnecessary reorganization, *however, tactically, ~~the~~ alternative drug control proposals may make this alternative tolerable.*

Title ~~XII~~ (Interior Committee) - \$69 Million

- o The Indian Alcohol and Substance Abuse Prevention Act - provides assistance to Indians to improve law enforcement and to organize a drug treatment and prevention program.
- o Provides funding for equipment for Puerto Rico and the Virgin Islands.

--The Administration should oppose this unnecessary and restrictive Title.

Title I

The International Narcotics Control Act - ^{Among other things,} provides for increased funds for assistance for foreign eradication efforts, modification of the Mansfield Amendment which restricts U.S. law enforcement agencies' activities abroad, but also withholds \$1 million from Mexico pending conclusion of the Camarena investigation. Some provisions we should support, but others oppose.

Title IV A

Comprehensive Money Laundering Act - makes money laundering a criminal offense. Based on original Administration proposal. Is basically acceptable but Senate version is broader and better.

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I. General Government Bills

1. Reorganization of Executive Branch, H.R. 5266

The Administration opposes H.R. 5266, which would require the President to submit to the Congress not later than six months after the date of enactment recommendations for legislation to reorganize the Executive branch allegedly "to more effectively combat drug trafficking and drug abuse."

The Administration opposes this bill because the National Drug Enforcement Policy Board, chaired by the Attorney General, and the White House Office of Drug Abuse Policy currently coordinate activities among the various federal agencies involved in combatting drug trafficking and abuse. While it is true that numerous agencies are engaged in this endeavor, this result is necessitated by the complexity of the drug problem facing this nation and the many diverse responsibilities set forth in the laws in effect. To require the Administration to conduct a study of, and to make recommendations for, reorganization of the Executive branch would divert valuable resources and personnel from the important task of enforcement of current laws and the analysis and preparation of proposals for new substantive legislation. Moreover, reorganization itself would be disruptive of current enforcement efforts in the Executive branch.

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I. 2. White House Conference, H.J. Res. 631

The Administration opposes this resolution which would require a White House Conference composed of Cabinet officials, governors, mayors, and individuals from several private callings to discuss drug abuse and trafficking. The Conference would be required to take place nine months after the resolution's enactment and would last for an unspecified length of time. Following the Conference the President would be required to submit a report to the Congress followed by at least three annual reports on how the findings and recommendations of the Conference were implemented.

The Administration opposes the Conference because its responsibilities are already being carried out by the National Drug Enforcement Policy Board, created as part of the Comprehensive Crime Control Act of 1984, which the Attorney General chairs, and by the White House Office of Drug Abuse Policy. The Conference contemplated by H.R. 631 would be of such size and scope that it would divert resources and attention away from present efforts. The Conference's function of increasing public awareness about the menace posed by illegal drugs would, we believe, be duplicative of a number of other efforts in the public and private sector, efforts which have been aided considerably by the unprecedented media attention given to the drug problem following the drug deaths of celebrity athletes and the influx of "crack." Its function of sharing information is already being handled by drug conferences sponsored by the government. In sum, the costs of the Conference in terms of dollars and in terms of diverting the attention of those already heavily involved in combatting the drug menace outweigh any possible benefits.

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II. Criminal Penalty Bills

1. Controlled Substance Analogs, H.R. 5246

The Administration supports H.R. 5246 but with reservations. H.R. 5246 would amend the Controlled Substances Act by defining the term controlled substance analog and providing that such a substance shall be treated, to the extent intended for human consumption, as a controlled substance in schedule I for purposes of the Controlled Substances Act and the Controlled Substances Import and Export Act. The bill excludes from its coverage substances for which there is an approved new drug application under the Federal Food, Drug, and Cosmetic Act or with respect to which an exemption for investigational use under this Act is in effect.

The definition of the term controlled substance analog in H.R. 5246 is problematic. The bill defines this term to mean a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in schedule I or II, if one of the following two tests is satisfied: 1) the substance must have a stimulant, depressant, or hallucinogenic effect on the central nervous system; or 2) with respect to a particular person, such person must represent or intend that the substance have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance. Thus, the definition requires proof relating to both chemical structure and actual or intended effect, unlike the preferable provisions of S. 1437, developed by the Administration and adopted by the Senate, which would allow prosecution under either the chemical structure or effects prong of the definition. While understandable in theory, the House language in practice could result in unnecessary proof problems in trials of these cases. Jurors would have to predicate guilty findings on a unanimous finding of both "similar structure" and "similar actual or intended effect" under circumstances where conflicting "expert" testimony on either issue can reasonably be anticipated, despite the obvious illegal intention of the defendant.

H.R. 5246 is very similar to the controlled substance analog proposal in the Drug-Abuse Prevention and Treatment Act of 1986, Representative Dingel's proposal contained elsewhere in the House Democratic drug package. However, because of differences between the two proposals, they could not logically coexist if enacted.

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II. 2. Money Laundering Act

a. Judiciary Committee Bill (H.R. 5217)

The Administration supports this proposal, with some qualifications. The Administration introduced comprehensive money laundering legislation over a year ago. This bill adopts most of the essential features of the original legislation in language which is generally acceptable.

The bill creates a new money laundering offense with a maximum twenty year sentence and the possibility of large fines and forfeiture. The bill includes a useful amendment to the Bank Secrecy Act that would permit the use of administrative subpoenas in securing compliance with that Act. It includes a series of helpful amendments to the Right to Financial Privacy Act (RFPA) and other statutes which will facilitate money laundering investigations. The bill permits forfeiture in the United States of the proceeds of a foreign controlled substance offense where money laundering has occurred. We recommend that this latter provision be modified to cover all foreign drug proceeds, and to provide for the sharing of such proceeds with foreign governments under limited circumstances as provided in the Senate Money Laundering Bill, S. 2683. The bill should also be amended to include other provisions found in S. 2683 like amendments to the Bank Secrecy Act penalties and a provision permitting confidential sharing of information between enforcement agencies.

b. Banking Committee Bill (H.R. 5176)

The Administration supports this bill, which is in the process of being combined with H.R. 5217, but believes it can be improved. H.R. 5176 contains some features that supplement H.R. 5217 including proposals made by the Department of the Treasury in consultation with the Department of Justice earlier this year (and introduced originally as H.R. 4573.) This bill does contain other provisions that are not as helpful to law enforcement as those contained in H.R. 5217 as originally reported by the Judiciary Committee.

On the positive side, H.R. 5176 adds a provision to the Bank Secrecy Act subjecting a person who causes or attempts to cause a financial institution to fail to file a required report or to file such a report containing false information to civil liability and to criminal prosecution. It also clarifies that a person who structures transactions to avoid the reporting requirements of the Bank Secrecy Act is subject to the sanctions of the Act. The bill also provides necessary enhancements to Treasury's Bank Secrecy Act enforcement authority, including administrative subpoena power, civil forfeiture for domestic currency reporting violations, and extension of the statute of limitations for civil penalties. Finally, unlike H.R. 5217, it provides an exception to the Right to Financial Privacy Act (RFPA) (12 U.S.C. 3401 et

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seq.) for the provision of bank records which are relevant to a crime against the bank or its supervisory agencies.

However, this bill also amends the RFPFA (12 U.S.C. 3403(c)) in a manner that is not as helpful as the way the provision is amended in H.R. 5217. The section presently provides that nothing in the RFPFA shall preclude a financial institution from notifying a government agency that it "has information which may be relevant to a possible violation of any statute or regulation." An important part of the Administration's money laundering bill was to clarify this provision to ensure that it would allow banks to provide enough specific information about the nature of the violation and the parties involved to allow authorities to obtain a summons, subpoena, or search warrant for more information. H.R. 5217 does this by amending the section to state that: "Such notification may include the furnishing of details (including name, account number, and description of possible violation) sufficient [to allow the government to obtain compulsory process.]"

By contrast, H.R. 5176 amends the section to state that the information which may be provided "shall be limited to the names, addresses, and account numbers of persons, information concerning the persons and acts involved in any possible violation, and the nature and a description of the possible violation. No information provided under this subsection may include financial records or, except to the extent provided in the preceding sentence, information identified with, or identifiable as being derived from, the financial records of any particular customer." This phraseology may cause banks to withhold information clearly showing a violation of law on the grounds that it may ultimately be ruled as identifiable as being derived from a particular financial record. The language used, to wit, "nature and description of the violation," may not be clear enough to convince banks that they may lawfully supply sufficient information to warrant the government's seeking the necessary search warrant or subpoena. This concern is particularly valid because the Banking Committee bill, unlike H.R. 5217, does not contain a provision stating that a bank that provides such information to the government in good faith is exempt from the RFPFA's civil liability provisions. In general, the language in H.R. 5217 is more compatible with the new criminal reporting form recently adopted by bank supervisory agencies at the urging of the Attorney General's Bank Fraud Enforcement Working Group.

The bill adds a new section to the Bank Secrecy Act, 31 U.S.C. § 5325, requiring certain record keeping and reporting for transactions in excess of \$3,000. Included in that section is a record keeping requirement for the purchase of cashier's checks and traveler's checks with over \$3,000 in cash. This was a proposal Treasury was considering implementing by regulation for some time before this bill was introduced. A proposed Treasury regulation with this provision was published on August 25, 1986.

We believe that inclusion of this provision in H.R. 5176 is unnecessary, and that there is adequate existing authority to accomplish these ends in the Bank Secrecy Act. Moreover, the inclusion of the provision with its \$3,000 amount may constrain the Government's ability to respond to changing law enforcement needs.

H.R. 5176 also requires that the bank regulatory agencies to which responsibility for Bank Secrecy Act examination has been delegated by the Secretary of the Treasury promulgate Bank Secrecy Act compliance procedures and examine for compliance with those procedures. We believe it is imperative that, if this provision becomes law, these compliance procedures be subject to the approval of the Secretary of the Treasury who is the official responsible for Bank Secrecy Act enforcement and policy.

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II. 3. Narcotics Penalties Enhancements, H.R. 5394

The Administration supports H.R. 5394 with reservations. The bill significantly increases the penalties available for many Controlled Substances Act and Controlled Substances Import and Export Act violations, creates a new offense of using children to manufacture or distribute controlled substances unlawfully, calls for a study by the Attorney General of the need for legislation or regulations to control the diversion of legitimate precursor and essential chemicals to the illegal production of controlled substances, and includes technical amendments to the drug laws. The Administration has been in the process of drafting similar legislation including the precursor and essential chemicals legislation for some time.

One of the most significant features of the bill is its creation of two levels of enhanced penalties with mandatory minimum prison terms for unlawfully dealing in or importing enumerated quantities of specified substances, proposed 21 U.S.C. §§841(b)(1)(A) and (B) and 960(b)(1) and (2). In addition, the bill provides that if death or serious bodily injury results from an offense involving any of the drugs specified in these provisions or any schedule I or II substance or an amphetamine, the penalty shall be imprisonment for not less than 20 years or for life. This new provision expressly includes death or serious bodily injury resulting from the use of a substance involved in such an offense. These provisions will be a valuable prosecutive tool if enacted. However, a single tier of mandatory minimum sentences, along with greater maximum sentences, for sections 841(b)(1)(A) and 960(b)(1) is more consistent with the new sentencing guidelines system which will be in effect by the end of next year. The sentencing guidelines can treat in a comprehensive and consistent manner all the factors, including the weight of the controlled substance involved, that are relevant to a proper sentence in a particular case. Consequently, the applicable statutory scheme should be simple but sufficiently broad in range to permit both consistent and adequate sentencing of drug traffickers. An unduly complex statutory scheme may make the development of comprehensive and consistent guidelines more difficult.

Our major concern involving the bill is that it does not consistently or completely address the sentencing issues that arise in connection with mandatory minimum terms of imprisonment. For example, in the provision establishing enhanced penalties where death or serious bodily injury results, there is no language providing that probation and parole are not available. This is also true with respect to several of the provisions establishing mandatory minimum prison terms in the Controlled Substances Import and Export Act. Moreover, in none of the affected provisions is there a proscription against the running of such a term of imprisonment concurrently with any other term of imprisonment. Finally, it is imperative that wherever a provision establishes mandatory minimum prison terms the court

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should retain the power to impose a term below the prescribed minimum if the defendant provides substantial assistance in investigating and prosecuting others. Without such express authority provided to the court, defendants will be unlikely to cooperate with prosecutors, particularly after indictment or trial. In addition, the bill contains some technical errors which will cause confusion if not corrected.

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II. 4. Career Criminal Act Expansion, H.R. 4885

The Administration supports this bill which amends the Armed Career Criminal Act. The Act is presently set out as 18 U.S.C. App. II Sec. 1202, but it will be moved to 18 U.S.C. 924(e) when the Volkmer-McClure firearms bill takes effect in November. The Armed Career Criminal Act provides for mandatory imprisonment of at least 15 years, without probation, parole, or a suspended sentence, for persons who have three or more federal or state convictions for burglary or robbery and who possess a firearm. H.R. 4885 would amend the Act to make it applicable to anyone who possesses a firearm and who has any combination of three or more violent felonies or "serious drug offenses," a term defined to include any drug trafficking offense under federal or state law for which punishment of ten years or more is prescribed.

The Administration testified in support of this bill earlier this year. Amendments broadening the original proposal, suggested by the Department of Justice, have been incorporated in this version.

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V.A. DRUG ABUSE EDUCATION AND PREVENTION ACT OF 1986 (H.R. 5378)

This legislation (1) mandates that the Secretary of Education establish federal programs of drug-abuse education and prevention in elementary and secondary schools and institutions of higher education; (2) establishes a National Advisory Council on Drug Abuse Education and Prevention; (3) sets forth criteria for state and local use of funds made available under this Act, with certain percentages allotted to federal and state programs involving named locations or programs; (4) mandates that the Secretary of Education, in conjunction with the Secretary of Health and Human Services, establish a national public education and prevention program on drug abuse, as detailed; and (5) authorizes that not to exceed \$10 million may be taken from the FOJ Assets Forfeiture Fund and not more than \$10 million from the Customs Forfeiture Fund to fund the provisions of this Act, while extending the life of the two funds through 1989.

The Administration supports efforts to eliminate drug use among students through drug prevention programs in our schools. A temporary and focused national program is a logical next step to assist school districts to establish the needed drug prevention programs. The approach of H.R. 5378 has many positive features, such as:

- o programs are school based;
- o focus is on early intervention;
- o programs are founded on a partnership of all levels of government;
- o participating schools are required to have a drug abuse program;
- o the importance of law enforcement is recognized;
- o state administrative costs are limited to five percent; and,
- o funding is provided on a matching basis with the States.

However, the federal government must ensure that the funds it provides are used for effective drug education and prevention programs. H.R. 5378 fails to provide sufficient safeguards that assure federal funds will be spent on effective well-conceived programs. Specifically, the bill should add provisions for school districts to:

- o specify their no-drug policy, including the student conduct codes and procedures they will employ to eliminate the sale or use of drugs on school premises;

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provide funds to develop and implement only curriculum materials and counseling programs that present a clear and consistent message that drugs are wrong and harmful;

- o permit the use of funds to involve parents in drug prevention activities, as well as in drug education programs;
- o permit use of funds to support enhanced security measures in schools;
- o conduct and describe in their initial application for funds a candid assessment of the extent and nature of the school's drug problem. In applying for third year funding, the school district should demonstrate progress in achieving and maintaining a drug-free school; and,
- o match from local funds one-third of total program costs in the second and third year and plan for maintaining the program after expiration of the three-year federal grant.

In addition to such amendments, certain provisions of this proposed legislation should be eliminated or modified.

- o The postsecondary component distorts the focus of the bill by allocating monies to an area that requires a different approach. Postsecondary institutions need to establish policies and controls to enforce an anti-drug environment. While many postsecondary institutions recognize they have a drug problem on campus, they have not sought federal money. Moreover, the critical need is for education and prevention efforts among younger students.
- o The proposed clearinghouse would create unneeded new bureaucracy by duplicating existing national clearinghouses.
- o The requirement that the program include a national media campaign is an unnecessary aspect of the legislation. A substantial national media campaign is already underway and federal efforts may simply replace what is already being done.
- o It is unclear how the State would calculate the set-aside for programs for high school dropouts. Moreover, this program would be difficult to implement and little evidence exists of viable models of drug prevention programs aimed exclusively at the dropout population.

Finally, the integrity of a national program such as that proposed by this bill requires that certain functions reside at the national level. Functions such as research, surveys, demonstration and dissemination are clearly appropriate functions for the federal government. Therefore, sufficient funds available under this bill should be allocated for national improvement activities at the discretion of the Secretary of Education.

The Administration recommends that Section 16 of the proposed legislation be deleted. While the Administration agrees with the policy and purpose of providing Federal assistance for drug abuse education and prevention programs, the Administration feels that expenditures for such programs should be paid from appropriated funds rather than the Department of Justice Assets Forfeiture Fund and the Customs Forfeiture Fund.

The two funds were created for the purpose of paying expenses associated with forfeiture actions. In order to properly anticipate amounts needed for payment of forfeiture related expenses, and to accurately predict amounts available for funding the forfeiture effort, the Attorney General and the Secretary of the Treasury must have control over all expenditures from the respective funds. The proposed legislation would take this control from the Attorney General and the Secretary of the Treasury. This would hinder the use of forfeiture as a tool in combatting illegal drug activities.

The current law requires the return of all but \$5 million from the accumulated end of year balance of the Funds to the Treasury. There may be insufficient funds availability during the first quarter of the year and periodically throughout the year to satisfy a \$10 million transfer of funds to the Secretary for the purposes of the Act.

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It would be more appropriate for the Treasury to distribute proceeds returned to the general fund by the Department of Justice at the close of each fiscal year in or to the amount which may be available. The Congress must also consider the prioritization of competing uses for the Fund to support prison and jail construction or other law enforcement initiatives.

This proposed legislation (1) authorizes appropriation of \$180 million for FY'87, including \$30 million made available to the Agency for Substance Abuse Prevention (to be established in ADAMHA) and \$120 million to be allotted to the states for treatment and rehabilitation services pursuant to a formula prescribed by the Secretary of Health and Human Services; (2) establishes an unpaid advisory board of 15 members to advise the Director of ASAP; (3) mandates that the Secretary of HHS contract with the Institute of Medicine of the National Academy of Sciences to study the extent and adequacy of public, private, and other coverage for drug-abuse treatment; (4) mandates that the President call a White House Conference on Drug Abuse and Drug Trafficking Control to increase public awareness of the drug problem, pool information and experience, and assist in formulating a national strategy; (5) amends Title 21 to include provisions relating to controlled substance analogs; (6) specifically addresses the coordination of efforts to address substance abuse among Indians; (7) establishes an unpaid Advisory Commission on the Comprehensive Education of Intercollegiate Athletes to investigate and advise Congress on issues related to athletic programs at colleges and universities in the U.S., some of which relate to drug abuse; and (8) mandates that alkyl nitrites and their isomers be treated as a drug for the purposes of the Federal Food, Drug and Cosmetic Act.

The Administration opposes the core of this legislation which seeks to set up a new agency and various advisory boards to address the problem of the use of illegal drugs. Such proposals are based on the out-dated and discredited notion that the federal government needs to set up new structures and bureaucracy to deal with old problems. Illegal drug use is not a new problem, or an old problem which has been ignored, in spite of the renewed Congressional interest in it. Most of the governmental structures needed to address the problems of illegal drug use have been in place for quite some time. In addition, this Administration has committed unprecedented resources to, and developed innovative approaches in, both law enforcement and other disciplines to combat illegal drug use. Thus, the Administration opposes this effort to turn back the clock and propose expensive governmental actions as if the slate were

completely clean and no one had ever considered these issues before. Establishing an Agency for Substance Abuse Prevention, yet another White House Conference, and miscellaneous advisory boards are simply unnecessary expenditures of resources.

With respect to Title 7 of the bill, providing that alkyl nitrites and their isomers be treated as drugs for purposes of the Federal Food, Drug, and Cosmetic Act, the Administration believes that control of such substances would be more effectively accomplished by adding them to the schedules of controlled substances in the Control Substances Act. The change proposed in the bill would only put the substances within the jurisdiction of the Food and Drug Administration, a jurisdiction which concerns only the manufacture and shipment of drugs under the Food, Drug, and Cosmetic Act. It appears that treating the substances as controlled substances under the law enforcement jurisdiction of the Drug Enforcement Administration is the most practical approach this problem.

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V.C. DRUG AND ALCOHOL DEPENDENT OFFENDERS TREATMENT ACT OF 1986
(H.R. 5076)

This bill modifies the authority of the Director of the Administrative Office of the United States Courts to contract with any public or private agency or person for the detection of and care in the community of an offender who is an alcohol-dependent person or an addict or drug-dependent person.

Though contracting for treatment of persons convicted of alcohol abuse or the use of illegal drugs may be an unnecessarily expensive or useless course to follow, retaining the authority to enter into such contracts in appropriate circumstances may be useful. Accordingly, the Administration does not oppose this proposal.

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RECOMMENDATIONS OF THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

This proposal (1) mandates that OPM develop and maintain, in cooperation with programs for the prevention, treatment, and rehabilitation of federal employees who are alcohol or drug abusers; (2) provides that any records generated under these programs shall be confidential as provided in Section 523 of the Public Health Service Act; (3) mandates that OPM report as to the types of programs made available, the costs associated with these programs, training requirements, and suggestions for further needed legislation; (4) mandates that agency heads, OPM, and the Secretary of HHS coordinate the conveyance to federal workers of drug and alcohol abuse information, including information concerning the availability of programs for treatment and the administrative or criminal penalties associated with drug and alcohol abuse by federal workers; (5) mandates that OPM determine the feasibility of providing for federal health insurance coverage among federal workers for treatment of alcohol and drug abuse associated problems, including counseling and medical treatment, with a pilot program being instituted in at least one standard metropolitan area; (6) amends 18 U.S.C. 1716(a) to include controlled substances as nonmailable matter.

The Office of Personnel Management has submitted detailed comments on this legislation to the Office of Management and Budget. In sum, this proposal is unnecessary, burdensome, and potentially extremely costly.

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V.E. Indian Substance Abuse Prevention Act

The Administration opposes enactment of Subtitle A of this bill, which would require the Secretary of Health and Human Services and the Secretary of the Interior to enter into a Memorandum of Agreement to coordinate existing federal and tribal programs and to consider new or modified programs aimed at both the prevention and the treatment of alcohol and substance abuse among Indian peoples. Specifically, the bill would (i) amend the Indian Elementary and Secondary School Assistance Act to provide federally assisted educational programs aimed at preventing alcohol and substance abuse among Indian youths; (ii) provide for the construction, staffing and operation of 11 regional treatment facilities for Indians suffering from alcohol or substance abuse, as well as on-reservation treatment centers or halfway houses for the treatment and rehabilitation of youthful abusers or youths convicted of alcohol or drug offenses; and (iii) increase the maximum criminal penalties which may be imposed by tribal courts, provide training for BIA and tribal law enforcement and judicial personnel in the investigation and prosecution of narcotics offenses and in the prevention and treatment of alcohol or substance abuse, and provide assistance to the Papago Indians in investigating and apprehending illegal narcotics traffickers known to operate on that part of the Papago reservation directly adjacent to Mexico.

The Departments of Health and Human Services and Interior opposed enactment of similar legislation in testimony before the Interior and Insular Affairs Committee, and in the Senate before the Select Committee on Indian Affairs. (Testimony regarding H.R. 1156 and S. 1298.) While the Administration agrees that combatting alcoholism and drug abuse among American Indians and Alaska natives is an important goal in the nationwide battle against substance abuse, the Administration regards the proposed legislation as unnecessary because federal efforts in this regard have already been improved and better coordinated. Moreover, the Administration believes that the bill seeks to implement programs at the national level which are more suited to the local level, where they can be carried out more effectively and efficiently.

The proposal to increase the maximum penalty from six months to one year that a tribal court may mete out under 25 U.S.C. 1302 is strongly objectionable. Although assertedly motivated by the desire to "enhance the ability of tribal governments to prevent and penalize the traffic of illegal narcotics on Indian reservations," this proposal would apply to all offenses, not just narcotics offenses. Moreover, the proposal is somewhat pointless and irrational as an anti-drug measure, since even one year is a clearly insufficient penalty for most drug violations, and since federal law covers, generally at felony levels, virtually all drug offenses committed anywhere in the United States, including Indian reservations.

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Most fundamentally, the increased penalty is objectionable because of the uneven quality of justice administered by tribal courts. The various tribal court systems vary tremendously in sophistication, fairness, and approximation of the kind of justice available in federal and state courts. Accordingly, Congress made a considered judgment when it enacted 25 U.S.C. 1302 to limit the maximum punishment imposable by a tribal court to that of a petty offense, i.e., six months' imprisonment. We believe this judgment remains valid today and represents a fair balancing of the interests of tribal governments with those of Indian citizens in the enjoyment of their civil liberties. (Tribal courts have no jurisdiction over non-Indians.)

The Administration objects to certain parts of Subtitle C, which concerns drug enforcement activities in the "insular areas of the United States outside the customs area of the United States and states freely associated with the United States." It objects to Section 201 of that Subtitle, which requires the President to report annually concerning domestic and international drug interdiction efforts. Such reports constitute an unnecessary and duplicative burden considering the vast number of reports already required by Law.

The Administration also strongly objects to those parts of Section 202(b), (d), and (e) which require DEA and the FBI to assign specified numbers of agents to Puerto Rico and the Virgin Islands. The Administration feels that these requirements constitute an unprecedented, undue, and highly inadvisable restraint on the discretion of those agencies to determine where and how to allocate personnel and equipment in order to most effectively discharge their law enforcement responsibilities. DEA assigns its limited agent resources based on a detailed staffing review conducted each winter. The review is based on performance indicators, drug abuse trend data, drug priorities and the agency's overall strategy to place resources where they can reach the highest levels of the drug traffic. The staffing review provides for a systematic and analytical assessment of areas in greatest need of drug enforcement resources.

Unfortunately, the numerical allocation of agent resources to particular geographic areas or jurisdictions through legislation usurps the agency's ability to manage its resources in an efficient and most effective manner. While we can appreciate the desire to dedicate resources to Puerto Rico, Guam and the Virgin Islands, we cannot support this type of management intervention by the legislative branch and still meet our overall objectives and mission set forth by the Congress in our authorization and appropriation. Furthermore, to meet the pressing demands of the drug problem, we need to ensure that the agency retains sufficient flexibility to quickly and definitively reallocate its resources to areas of greatest need.

Nor do we support Section 202(e) which directs the Coast Guard to assign and maintain at least one patrol vessel in

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St. Thomas and St. John, and one patrol vessel in St. Croix, Virgin Islands. The Coast Guard already maintains one patrol vessel in St. Thomas and has just recently assigned four patrol vessels to Roosevelt Roads, Puerto Rico. We believe the extra patrol vessel specified for St. Croix would be redundant coverage as the squadron of four vessels in Puerto Rico are fully intended to patrol the areas near the U. S. Virgin Islands.

The Administration does not support Section 202(b) which directs the Coast Guard to assign and maintain at least four patrol vessels in Guam and the Northern Marianas Islands. We are not aware of any threat assessment or intelligence which indicates that any of these insular areas or freely associated areas constitute either a source of, or a transshipment point for, narcotics entering the United States. We also have no intelligence to indicate that large quantities enter these areas by vessel. The Coast Guard currently has a patrol vessel homeported in Guam that we consider sufficient for operational requirements in the area.

We understand that the above provisions mandating specific deployment of personnel will be changed to mere recommendations. While we greatly welcome this change, we still oppose these provisions as unwarranted by current conditions and regard them as an undue interference with management decisions within the Executive Branch.



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION

TO: Becky Campoverde *SC* August 14, 1986
FROM: Schelly Reid
RE: Comments to OGC on HR 5378, the "Drug Abuse Education and Prevention Act of 1986"

The "Drug Abuse Education and Prevention Act of 1986" is the bi-partisan product of the House Education and Labor Committee, slated for incorporation into an omnibus package, which is scheduled for consideration on the House floor on September 10. HR 5378 represents an amalgamation of several philosophies and approaches to curbing the drug abuse problem in our nation's schools. This legislation includes elements of the Department's plan; provisions of Chairman Rangel's directive for ED, HR 4155; and some concessions to Republicans on the Committee, most notably, Representative Tom Coleman (R-MO). Whereas, the bill was favorably reported by voice vote, with no audible dissensions, it was, nonetheless, apparent that the Committee was proceeding with some apprehension.

The \$350 million authorization for each of three succeeding years encountered no objections from either side of the political fence. Members are anxious to be perceived as lobbying for additional funds for their districts for an effort that has caught the attention of the President and which has been championed by the First Lady. Republicans apparently felt no compulsion to oppose the \$350 million figure.

The legislation embodies a number of provisions that would be particularly attractive to the Department:

- o a maintenance of effort requirement for state/local educational agencies in the form of public and private financial contributions or in-kind services;
- o a memorandum of understanding between law enforcement and school officials as a condition of receiving federal funds;
- o a 5% cap on administrative costs;
- o an annual evaluation of the effectiveness of programs receiving federal assistance under the Act;

H.R. 5378: DRUG ABUSE EDUCATION AND PREVENTION ACT OF 1986
(As reported by the Education and Labor Committee)

The Department of Education supports efforts to eliminate drug use among students through drug prevention programs in our schools. A temporary and focused national program is a logical next step to assist school districts to establish the needed drug prevention programs.

Recommended Amendments

The Federal government must ensure that the funds it provides are used for effective drug education and prevention programs. H.R. 5378 fails to provide sufficient safeguards that assure Federal funds will be spent on effective well-conceived programs. Specifically, the bill should add provisions for school districts to:

- o specify their no-drug policy, including the student conduct codes and procedures they will employ to eliminate the sale or use of drugs on school premises;
- o provide funds to develop and implement only curriculum materials and counseling programs that present a clear and consistent message that drugs are wrong and harmful;
- o permit the use of funds to involve parents in drug prevention activities, as well as in drug education programs;
- o permit use of funds to support enhanced security measures in schools;
- o conduct and describe in their initial application for funds a candid assessment of the extent and nature of the school's drug problem. In applying for third year funding, the school district should demonstrate progress in achieving and maintaining a drug-free school; and,
- o match from local funds one-third of total program costs in the second and third year and plan for maintaining the program after expiration of the three-year Federal grant.

Recommended Deletions or Modifications

In addition to these provisions to strengthen the bill, we recommend that certain provisions be eliminated or modified.

- o The postsecondary component distorts the focus of the bill by allocating monies to an area that requires a different approach. Postsecondary institutions need to establish policies and controls to enforce an anti-drug environment. While many postsecondary institutions recognize they have a drug problem on campus, they have not sought Federal money. Moreover, the critical need is for education and prevention efforts among younger students.

- o The proposed clearinghouse would create unneeded new bureaucracy by duplicating existing national clearinghouses.
- o The requirement that the program include a national media campaign is an unnecessary aspect of the legislation. A substantial national media campaign is already underway and Federal efforts may simply replace what is already being done.
- o It is unclear how the State would calculate the set-aside for programs for high school dropouts. Moreover, this program would be difficult to implement and little evidence exists of viable models of drug prevention programs aimed exclusively at the dropout population.

Recommended National Programs

In addition, we believe that the integrity of a national program requires that certain functions reside at the national level. Functions such as research, surveys, demonstrations and dissemination are clearly appropriate functions for the Federal government. Therefore, we recommend that sufficient funds available under this act be allocated for national improvement activities at the Secretary's discretion.

Positive Features

These criticisms of the bill do not negate the many positive features incorporated into H.R. 5378, such as:

- o programs are school based;
- o focus is on early intervention;
- o programs are founded on a partnership of all levels of government;
- o participating schools are required to have a drug abuse program;
- o the importance of law enforcement is recognized;
- o state administrative costs are limited to five percent; and,
- o funding is provided on a matching basis with the States.

- o assurances for program coordination among Federal, state, and local drug abuse education, prevention, treatment, and rehabilitation programs;
- o instruction that the federal funds shall be used to supplement, not supplant existing resources; and the
- o earmarking of funds for the Secretary of Education to develop a national program and clearinghouse.

The nature of floor amendments is dependent upon the decision of the Rules Committee. There has been speculation that the Democrats will push for suspension of the rules which would obviously limit the options.

There remains some dissatisfaction among both parties over the section providing grants to institutions of higher education for research and training purposes. Many Members are fearful that their state will be overlooked, or their institution will not enjoy the competitive advantage of a more renowned university or college. Others feel that this money could be better spent on prevention programs for children in the lower grades. This is an area which warrants a more thorough examination.

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HR5266 HR	HR5217	HR5246	HR5076
HJ Res 631	HR5176	HR5378	
VB (Drug Abuse Prevention & Treatment Act of 1986)	HR5394		
	HR4885		
V.D. Post Office & Civil Service			
V.E. Indian Sub. Abuse Prevention Act.			