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THE WHITE HOUSE

WASHINGTON

January 30, 1987

MEMORANDUM FOR THE DPC WORKING GROUP ON DRUG ABUSE POLICY

FROM: RALPH BLEDSOE, CHAIRMAN *Ralph Bledsoe*

SUBJECT: Working Group Meeting, February 3, 1987

Enclosed is the agenda for the Working Group meeting at 10:30 a.m. on Tuesday, February 3, 1987. I have also enclosed the implementation status reports received to date for your review prior to the meeting.

Please note that the location of the meeting has been changed to Room 248 of the Old Executive Office Building.

Enclosures

*Mary Beth*  
I have a set  
for RCB for the  
mtg Tues.  
*Fran*

DOMESTIC POLICY COUNCIL  
WORKING GROUP ON DRUG ABUSE POLICY

10:30 a.m.

Tuesday, February 3, 1987

Old Executive Office Building Room 248

AGENDA

1. Domestic Policy Council Briefing
2. Contractor Workplaces
3. Letter from Representative Patricia Schroeder concerning Drug Testing (see attached OPM response)
4. The White House Conference for a Drug-Free America
5. Summary Status - Implementation of Presidential Initiatives/ Anti-Drug Abuse Act of 1986
  - Goal #1 - Drug-Free Workplaces (3 minutes each)
    - OPM
    - DOJ
    - Labor
    - Transportation
  - Goal #2 - Drug-Free Schools (3 minutes)
    - Education
  - Goal #3 - Expanded Treatment and Research (3 minutes)
    - HHS
  - Goal #6 - Increased Public Awareness/Prevention (3 minutes each)
    - ACTION
    - HHS
  - Other National Initiatives (3 minutes each)
    - HUD
    - Interior
6. Other Business



Office of the Director

UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, D.C. 20415

January 9, 1987

The Honorable Patricia Schroeder  
Chairwoman, Subcommittee on Civil Service  
Committee on Post Office and Civil Service  
U.S. House of Representatives  
122 Cannon House Office Building  
Washington, D.C. 20515

Dear Representative Schroeder:

This responds to your letter dated December 8, 1986, concerning the guidance issued by the Office of Personnel Management (OPM) on the implementation of President Reagan's Executive Order on a Drug-Free Federal Workplace.

Your letter suggests that agencies ignore the guidelines issued to implement the Executive Order on the grounds that the guidelines are contrary to the intent of the Executive Order. To the contrary, the guidelines are consistent with the Executive Order the President issued in September. That Executive Order directs OPM to issue government-wide guidelines for the implementation of the President's initiative. OPM worked closely with both the Department of Justice (DOJ) and the Department of Health and Human Services (HHS) to ensure that our guidelines are legally acceptable and complement the scientific and technical guidelines to be issued by HHS. In summary, the guidelines are correct implementing guidance of the Executive Order, and therefore there is no legal or policy reason which justifies ignoring them.

You have raised five objections to the guidelines. I will respond to them in order. First, you state that the Executive Order does not authorize random testing. You also state that OPM has ignored the constitutional issues raised by random drug testing programs. As you have noted, the Executive Order requires agency heads to establish programs to test for the use of illegal drugs by employees in sensitive positions. That requirement mandates the testing of employees in those sensitive positions designated by their agency head for testing. The guidelines provide agencies with alternatives for meeting the President's requirement that employees in those testing designated positions be tested for illegal drug use. One of those alternatives is random testing.

Noting the option of random testing of employees in sensitive positions in the guidelines does not demonstrate that OPM has ignored the constitutional issues that have

been raised by Federal employee unions. Indeed, many of the provisions of the guidelines, notably those on general and specific notice, privacy during drug testing, confidentiality of records, designation of sensitive positions for testing, and reasonable suspicion of illegal drug use as a basis for drug testing, were intended to address questions about the constitutionality of drug testing programs. See National Treasury Employees Union v. Von Raab, Civ No. 86-3522, slip op. (E.D. La. Nov. 14, 1986); Penny, et al. v. City of Chattanooga, No. CIV-1-86-417, slip op. (E.D. Tenn. Nov. 13, 1986); Lovvorn, et al. v. City of Chattanooga, No. CIV-1-86-389, slip op. (E.D. Tenn. Nov. 13, 1986); Shoemaker v. Handel, 795 F.2d 1136 (3d Cir. 1986); Capua v. City of Plainfield, Civ. No. 86-2992, slip op. (D.N.J. Sept. 18, 1986). I believe that we have addressed many of those questions in ways that will allow the President's initiative to withstand constitutional challenge. More importantly, I believe these programs will responsibly balance the undeniable public interest in a drug-free Federal workforce and the privacy interests of individual Federal employees.

Second, you assert that two forms of employee consent required under the guidelines are impermissible. As you note, the guidelines provide that an agency will take disciplinary action against those employees who refuse to take the drug test. In addition, the guidelines provide for consent to the limited release of drug test results and that failure to give that consent is tantamount to a refusal to take the drug test. You state that these provisions are impermissible because they condition Federal employment on the taking of a drug test. You assert that that precondition requires the waiver of a constitutional right against an unreasonable search and could make both the agency and agency officials liable for the violation of an employee's constitutional rights.

The provisions of the guidelines at issue are a necessary adjunct to the President's directives on drug testing. Without them, the program would be ineffectual. The provision requiring agencies to discipline employees for refusing to take a drug test allows agencies a broad latitude to take disciplinary action, not necessarily removal action, against an employee for that refusal.

In addition, the Executive Order and the guidelines require consent to testing in the same manner as any employee may be required to submit to testing for fitness for duty as a condition of employment. The requirement that

an employee submit to testing as a condition of employment - whether the consent is implied or express - raises no greater Fourth Amendment issue than that raised by such other fitness for duty testing as physical examinations that some Federal employees are routinely required to consent to as conditions of employment. In any event, as you are aware, Federal employees may be required to consent to reasonable requirements or limitations on their conduct.

In addition, refusal to give consent to limited release of drug test results does not destroy the confidentiality of drug test results required in the Executive Order. The limited release contemplated in the guidelines is required for agencies to use the drug test results as the President directed. Failure to consent to that limited release would constitute refusal to take the drug test and would be treated accordingly. You make reference to the confidentiality of patient records required under 42 U.S.C. 290ee-3 in support of your assertion that requiring consent to release of drug test results is inappropriate. The guidelines require, as did the Executive Order, that agency drug testing programs should include confidentiality requirements for drug test results consistent with the requirements for the confidentiality of patient records.

Employment is not conditioned upon consent to drug testing. Even if provisions of the Executive Order or the guidelines were to be found unconstitutional, neither agencies nor their officials would be held liable for violation of their employee's constitutional rights. As Judge Edenfield of the United States District Court for the Southern District of Georgia stated in his recent decision enjoining the Army from conducting its drug testing program at Fort Stewart, officials administering the drug testing program will surely be entitled to qualified immunity from liability for the violation of their employee's constitutional rights because the constitutionality of the testing program has not yet been decided. AFGE v. Weinberger, No. CV486-353 (S.D. GA. December 2, 1986), slip op. at 26.

Third, you state that the Executive Order stresses employee assistance, counseling, and rehabilitation and that the guidelines improperly require disciplinary action be taken against employees who test positive for illegal drug use. You also state that the requirement for mandatory removal after a second confirmed positive test result is inappropriate because mandatory penalties are "counterproductive and bad management" and because drug tests are inaccurate. You add that the guidelines fail to

mention the requirements of current law on nexus and the Rehabilitation Act.

I believe that OPM's guidelines address the President's strongly held and publicly expressed conviction that rehabilitation is an extremely important part of the overall drug-free workplace initiative. However, the President issued Executive Order 12564 on September 15, 1986 which further outlined his publicly announced plans. Chief among the several aspects of the program as enunciated in the Executive Order and as discussed in the OPM guidelines is the opportunity afforded Federal employees for counseling and referral for treatment or rehabilitation. Federal agencies are instructed to strengthen their Employee Assistance Programs to meet this need. In addition, the Executive Order requires additional drug awareness programs and supervisory training on drug abuse. The OPM guidelines reflect these approaches to the drug abuse problem with a major emphasis on treatment and rehabilitation. Attached to the guidelines is a Model Employee Assistance Program, a list of current operating drug abuse treatment consortia, and a list of treatment facility directories for agencies to use.

Although the President has extended his hand of compassion, he has made it clear that illegal drug use is unacceptable. Americans and Federal employees expect a safe, drug-free workplace. Therefore, the Executive Order also includes a discussion of the disciplinary aspects of the initiative. Sections 5(b) and 5(d) of that Executive Order make available disciplinary actions, already available under existing law and regulation, to the agencies for use in certain situations involving employees found to use illegal drugs. Section 5(b) of the Executive Order requires agencies to initiate disciplinary action upon an initial confirmed positive test result. Section 5(d) of the Executive Order requires agencies to initiate removal action against employees who are found to use illegal drugs once and thereafter refuse to obtain counseling or rehabilitation or do not refrain from using illegal drugs. The efficiency of the civil service is not promoted by retaining illegal drug users on the Federal payroll once they have been given the opportunity but have failed to rehabilitate themselves.

The guidelines follow the President's Executive Order in their provisions allowing agencies a broad range of disciplinary options for illegal drug use based on one confirmed positive test result. While the guidelines' overall intent and expression is for Federal managers to provide a helping hand to Federal employees with a drug abuse problem, agencies' inherent discretion to take action against employees who engage in misconduct was recognized by

the President in the Executive Order and is further explained in the OPM guidelines.

In some instances, a removal action (one of the possible disciplinary actions available to a Federal manager) based upon a first confirmed positive test result may be warranted. Some agencies in unique circumstances (for instance, the FBI or Secret Service) may be faced with no realistic alternative for some of their employees but to remove them for misconduct, no matter whether that misconduct involves illegal drugs, violence, or other activities. We do not expect this situation to arise often, nor do we expect such discretion to be unfairly applied. Moreover, an employee will, as always, have available the protections of the Civil Service Reform Act for the review of any possible abuse of such discretion by an agency.

One important aspect of both the Executive Order and the guidelines is their emphasis upon voluntary self-referral. For those employees who avail themselves of the opportunity to step forward and get help, the guidelines and the Executive Order extend a helping hand. Both the Executive Order and the guidelines provide that agencies are not required to take disciplinary action with regard to employees who voluntarily identify themselves as illegal drug users, obtain counseling or rehabilitation, and thereafter refrain from using illegal drugs.

You state that the guidelines ignore the allegedly inherent flaws in mass drug-testing. You also suggest that penalties should not be imposed for a positive drug test because of the alleged inaccuracy of drug testing. Of course, neither the Executive Order nor the guidelines provide that penalties are to be imposed solely because of a positive drug test; it is illegal drug use that triggers and warrants disciplinary action. More to the point, however, there should be no concern regarding the reliability of the drug testing required by the Executive Order. In testimony before the Human Resources Subcommittee for the Committee on Post Office and Civil Service, the Office of Technology Assessment supported the proposition that a two-tier testing procedure using an initial screening test followed by a specific confirming test like gas chromatography/mass spectrometry provides highly reliable results that are difficult to dispute.

The OPM guidelines clearly contemplate the use of such a confirming test in a two-tiered testing procedure. Throughout the guidelines confirmed test results are discussed. For example, see Sections 3f(4), 4a(6), 4f(6), 4f(7), 5a, 5d, and 5d(7). We anticipate that the scientific



and technical guidelines to be issued by the Department of Health and Human Services will set out the preferred test procedures, including a confirming test, and laboratory quality control in detail. It is also important to note that both the Executive Order and the guidelines emphasize that agencies are required to conduct their drug testing programs in accordance with those scientific and technical guidelines.

You also assert that the guidelines ignore existing law. In both the Executive Order, at section 5(g), and in the guidelines, at section 5(d), it is noted that the requirements of the Civil Service Reform Act and other pertinent statutes must be met when disciplinary action is taken. As you have noted in your letter, the mandates of existing law with regard to taking disciplinary actions have not changed. Agencies must operate within those constraints when taking disciplinary actions for illegal drug use.

Fourth, you state that the costs of the implementation of the drug testing guidelines will improperly reduce the resources otherwise available for achieving the mission of an agency. The President has stated that the drug abuse problem in our society is of grave national importance. In support of that undeniable fact, he has directed agencies to establish drug testing programs for Federal employees. I believe that it is a highly appropriate use of agency resources to provide their workforce with the assistance necessary to thwart a tremendous long term threat to the health and safety of the Federal workforce. The importance of expending adequate resources to fund agency drug-testing programs is twofold. Each agency wants to have the most reliable testing available to ensure the validity of a positive test before disciplining an employee. At the same time, the reliability of the testing is essential to defend any challenges to positive drug test results.

Finally, you assert that the drug testing program is demeaning to human dignity and is improper for the Government. Such an assertion ignores the drastic impact of illegal drug use on the dignity of millions of addicted Americans.

I believe that the guidelines require agencies to conduct their drug testing programs with maximum respect for human dignity. The scientific and technical guidelines soon to be issued by the Department of Health and Human Services will further elaborate upon privacy protections to be afforded employees during the testing process.

In conclusion, I must reiterate that I believe that the

guidelines are fully consistent with the President's expressed intentions for establishing a drug-free Federal workplace. Both the Executive Order and the guidelines address the President's comprehensive education and assistance effort in a complementary fashion. However, the President also recognized that illegal drug use by Federal employees is contrary to the efficiency of the service. The guidelines set out the options available to Federal managers and supervisors in assisting employees who need help and in disciplining those who are unwilling or unable to respond to that assistance.

I hope that the foregoing responses to the objections that you have raised to the program will prove helpful as you formulate your position on the President's program and that you will acknowledge the importance of supporting the President's important and valuable initiative for a drug-free Federal workplace.

Sincerely yours,

A handwritten signature in cursive script that reads "Constance Horner".

Constance Horner  
Director



Office of the Director

UNITED STATES  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON D C 20415  
January 28, 1987

MEMORANDUM FOR MR. RALPH BLEDSOE  
CHAIRMAN, DPC WORKING GROUP ON  
DRUG ABUSE POLICY

FROM: ANN C. AGNEW *Ann Agnew*  
EXECUTIVE ASSISTANT/DIRECTOR OF  
POLICY DEVELOPMENT

Subject: Updated Implementation Status Report

Attached is an updated version of OPM's input for the DPC Working Group's Report on progress on Executive Order 12564.

I hope you will be able to incorporate these changes. Changes from original report are highlighted.

## GOAL #1 - DRUG-FREE WORKPLACES

### **1. Accelerate development of a drug-free Federal Workplace.**

- A. Establish a strong policy against illegal drug use by Federal employees and direct the head of each Executive agency to establish programs to increase drug abuse awareness and prevention, identify and rehabilitate illegal drug users, and improve the quality and accessibility of treatment services for employees.**

Administration Action: Executive Order 12564 was signed by the President on 09/15/86. Presidential letters issued on 10/04/86 to the head of each Executive department and agency, with the President's personal communication to each and every Executive Branch employee, calling upon them to take a leading role in eliminating the use of illegal drugs.

Related Legislation: The Anti-Drug Abuse Act of 1986 (ADAA), Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6004, requires the head of each Executive agency to establish appropriate prevention, treatment and rehabilitation programs and services for drug abuse and alcohol abuse for the employees of such agency.

Status: OPM issued its Government-wide guidelines on implementation of Executive Order 12564 on November 28, 1986, in Federal Personnel Manual (FPM) Letter 792-16. OPM is developing its own internal program, but is awaiting HHS's issuance of the scientific and technical guidelines for drug testing before implementation. OPM has also reviewed its **Employee Counseling Services Program (Employee Assistance Program)** and has determined that it is prepared to fulfill its functions as set out in the Executive Order. In addition, OPM's Administration Group will sponsor a **Drug-Free America Program** to be held in the OPM auditorium on January 29, 1987. The theme of the program is, "Bringing the Drug Problem to the Forefront in the Conscience and Consciousness of All Americans." To the best of OPM's knowledge, the other Federal agencies are drafting their internal programs but are progressing at varying rates.

- B. Federal agency heads to expand drug abuse awareness and prevention programs among the Federal workforce. HHS and OPM to ensure that Federal drug abuse prevention programs are using the most accurate and effective strategies and materials available.**

Administration Action: Directive included in Executive Order 12564 of 09/15/86 and Presidential letters of 10/04/86.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6003 requires OPM, in consultation with HHS, to establish a Government-wide alcohol and drug abuse education program.

Status: OPM's FED-INFO drug information hotline for Federal employees is ready to begin operation pending receipt of the HHS scientific and technical guidelines. A poster promoting the hotline, which was prepared in cooperation with Federal employee unions and employee groups, has been printed and is awaiting distribution. A series of radio and television public

service announcements (PSAs) directed toward civil servants is being prepared in cooperation with HHS and the Federal Aviation Administration. A companion poster and brochure are being prepared and await the completion of the PSAs and the HHS guidelines. Additional printed informational materials such as press releases and articles will be distributed.

- C. OPM, in conjunction with DOJ and HHS, to develop guidelines for implementation of the Federal programs for drug testing, supervisory training and employee assistance programs.

Administration Action: Directive included in Executive Order 12564 of 09/15/86 and Presidential letters of 10/04/86. OPM guidelines issued 11/28/86. HHS Scientific and Technical Guidelines for Drug Testing Programs in final clearance.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6004, requires OPM to provide guidelines for Executive agency prevention, treatment and rehabilitation programs and services for drug and alcohol abuse for agency employees; HHS is to provide technical assistance upon request.

Status: The OPM guidelines, set out in Federal Personnel Manual (FPM) Letter 792-16, included a Model Employee Assistance Program for agencies to use in implementing the Executive Order. OPM has developed a supervisory training course. The pilot session of that course is scheduled for January 27-28, 1987 in Washington. The course will be offered in OPM's ten regions by early March, 1987. During the preparation of the course, OPM consulted with the Department of Defense, the Department of Health and Human Services, the Department of Justice, the Federal Bureau of Investigation, and the Drug Enforcement Agency. The course emphasizes the use of Employee Assistance Programs as the primary resource for supervisors of employees with alcohol or drug abuse problems. OPM has established a drug testing answer group which meets on a daily basis to discuss inquiries received about the program and to prepare responses to those inquiries. Since the issuance of FPM Letter 792-16, the group has provided information on the drug testing program in writing to 41 Members of Congress and 9 inquiries from Federal agencies, Federal employees, and members of the public. In addition, OPM has responded orally to numerous inquiries from Federal agency officials.

- D. Improve the adequacy of sources of payment for drug and alcohol abuse rehabilitation.

Administration Action: OPM negotiated improved Federal Employee Health Benefits Program (FEHBP) benefits covering drug and alcohol abuse rehabilitation with each of the FEHBP carriers last summer. The brochures summarizing each carrier's benefits included a new summary of drug and alcohol abuse rehabilitation afforded by each carrier. Those updated brochures were made available to all Federal employees in the most recent open season for changing FEHBP carriers.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6005, requires HHS, with the National Academy of Sciences, to conduct a study concerning the adequacy of

sources of payment for drug and alcohol abuse rehabilitation and report to Congress withing one year.

**Status:** OPM will continue to monitor and improve, when the opportunity exists to do so, the use of FEHBP to cover the expense of drug and alcohol abuse rehabilitation.

**E. Requirement for annual report to Congress on Federal program.**

**Related Legislation:** The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6002, requires OPM in cooperation with the President, the Secretary of HHS and other agencies (a) to develop appropriate prevention, treatment and rehabilitation programs and services for drug and alcohol abuse among employees and (b) to report to Congress on the above programs and services within six months and annually thereafter.

**Status:** OPM has started work on the report that is due to Congress by April 27, 1987. The report will be based on agencies' FY 86 Annual Reports to OPM on their Federal Employee Counseling Programs as well as additional information required under the ADAA which agencies are now being asked to provide.

**F. Initiate programs to prevent illegal drug users from entering Federal employment.**

**Adminstration Action:** Title I of the Drug-Free America Act forwarded to Congress on 09/15/86 to propose legislative changes to Title V of the Rehabilitation Act making current illegal drug use a disqualifier for entry into Federal employment and a basis for removal.

**Related Legislation:** Legislative change not included in Anti-Drug Abuse Act of 1986.

**Status:** OPM issued Government-wide guidelines implementing the Executive Order in FPM Letter 792-16 that include the agency option of testing applicants for Federal employment for illegal drug use.

**G. Initiate programs to prevent illegal drug users from entering Federal employment.**

**Adminstration Action:** OPM to revise SF-85 and SF-86 to include illegal drug use questions for applicants.

**Status:** Illegal drug use questions are included on the revised forms, now in final clearance within OPM. External clearance process will begin within the next few weeks.

**2. Work with government contractors to establish a policy of drug-free work environments.**

\* \* \*

- 3. Encourage state and local governments and their contractors to develop drug-free workplaces.**

\* \* \*

- B. Send letters from appropriate Cabinet members and agency heads to the heads of their counterpart organizations in state and local governments.**

Administration Action: Required in Presidential memorandum dated 10/04/86.

Status: OPM's Office of Public Affairs has provided copies of OPM's Government-wide guidelines to state governments. OPM will prepare letters to counterpart organizations in state and local governments outlining the activities being undertaken by OPM in support of the President's initiative.

- 4. Mobilize management and labor leaders in the private sector to fight drug abuse in the workplace.**

\* \* \*

- 5. Communicate accurate and credible information about how drug abuse in the workplace can be eliminated.**

\* \* \*

- 6. Ensure drug-free public transportation.**

\* \* \*



**U.S. Department of  
Transportation**

Office of the Secretary  
of Transportation

Office of Assistant Secretary

400 Seventh St., S.W.  
Washington, D.C. 20590

JAN 27 1987

MEMORANDUM TO: Ralph Bledsoe  
Chairman, Working Group on Drug Abuse Policy  
Domestic Policy Council

SUBJECT: Implementation Status Report

Attached per your request of January 9, 1987, is the Department of Transportation's anti-drug abuse activities status report. We have responded to those sections of the Checklist of Initiatives that we believe are relevant to the role of the Department of Transportation. As you can see, the Secretary has made a strong commitment to carrying out the President's anti-drug abuse initiatives in the transportation sector.

A handwritten signature in black ink, appearing to read "Matt Scocozza".

Matthew V. Scocozza  
Assistant Secretary for Policy  
and International Affairs

Attachment



January 21, 1987

DEPARTMENT OF TRANSPORTATION  
CHECKLIST OF DRUG ABUSE INITIATIVES

DOMESTIC POLICY COUNCIL  
WORKING GROUP ON DRUG ABUSE POLICY

and

THE ANTI-DRUG ABUSE ACT OF 1986

GOAL #1 - DRUG-FREE WORK PLACES

1. Accelerate development of a drug-free Federal work place.
  - A. Establish a strong policy against illegal drug use by Federal employees and direct the head of each Executive agency to establish programs to increase drug abuse awareness and prevention, identify and rehabilitate illegal drug users, and improve the quality and accessibility of treatment services for employees.

Administration Action: Executive Order 12564 was signed by the President on 09/15/86. Presidential letters issued on 10/04/86 to the head of each Executive department and agency, with the President's personal communication to each and every Executive Branch employee, calling upon them to take a leading role in eliminating the use of illegal drugs.

Related Legislation: The Anti-Drug Abuse Act of 1986 (ADAA), Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6004, requires the head of each Executive agency to establish appropriate prevention, treatment and rehabilitation programs and services for drug abuse and alcohol abuse for the employees of such agency.

Status: The Department of Transportation has developed a comprehensive policy document which establishes an extensive drug awareness and education program, a drug testing program for Departmental employees, and a rehabilitation and abatement program including employee assistance services.

The policy statement informs all employees of the purpose of the document, i.e., to establish a drug-free Federal work place as intended by Executive Order 12564 and the President's memorandum of October 4, 1986 to the head of each Executive department and agency. Seven

different types of drug testing are provided for by the directive, and the safety and security related positions which will be covered by the program are identified. The directive also provides for the testing of applicants for these positions and employee self-referral for assistance.

The directive emphasizes the importance of creating an awareness on the part of our employees of the problems associated with drug abuse including a requirement that all employees be informed of the adverse health, family and community implications inherent in illegal drug use, the impact on the work place, the availability of the Employee Assistance Program and rehabilitation and abatement resources.

Extensive requirements are included in the document regarding Employee Assistance Programs. Strict standards for these programs are established and procedures set forth which Departmental elements must follow in providing these services. There is also a requirement that intensive training be provided to supervisors and managers in the operation of the program to ensure accomplishment of its objectives.

The document also provides for the assessment of discipline where appropriate to employees who use or abuse drugs.

Pursuant to the President's Executive Order and statutory authorities, the Secretary has proposed a comprehensive program for Department of Transportation employees, which includes extensive drug awareness and education campaigns, drug testing of certain Departmental employees, and rehabilitation assistance. The program provides for testing of employees in critical safety and security positions whose functions have a direct impact on public health and safety, the protection of life and property, or national security, including such positions as railroad, truck, aviation and highway inspectors, and air traffic controllers. These positions require the highest degree of trust and confidence. Employees in these positions will be subject to pre-employment, random, reasonable suspicion, and accident or unsafe practice testing. In addition, employees whose jobs require periodic medical examinations will be routinely tested as part of that procedure. All other DOT employees will be subject to post-accident testing and will continue to be subject to reasonable suspicion testing.

Implementation of the Department of Transportation Program to establish a drug-free work place is awaiting final clearance of the above-mentioned policy document.

In August 1985, the Federal Aviation Administration initiated its efforts toward a drug-free workplace by issuing an Agency Policy on Substance Abuse. The policy directed the Federal Air Surgeon to develop a substance abuse urinalysis program for those employees who are engaged in safety-related activities. This screening program is currently scheduled to begin in mid-February and will be conducted in conjunction with employees' annual physical examinations. For those employees who have substance abuse-related problems, the agency has in place an Employee Assistance Program which will provide counseling and direct employees to an appropriate drug rehabilitation center or alcohol abuse treatment program. In support of these efforts, the agency has embarked upon an extensive educational program to increase drug awareness by providing drug-related educational materials and briefings to all employees. These awareness programs have been quite successful and will continue in the future.

The Justice Department is currently reviewing the FAA program, and the actual implementation will commence when approval is received. The FAA program will be superseded by the Department's program when implemented.

- B. Federal agency heads to expand drug abuse awareness and prevention programs among the Federal work force. HHS and OPM to ensure that Federal drug abuse prevention programs are using the most accurate and effective strategies and materials available.

Administration Action: Directive included in Executive Order 12564 of 09/15/86 and Presidential letters of 10/04/86.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6003 requires OPM, in consultation with HHS, to establish a Government-wide alcohol and drug abuse education program.

Status: In addition to Department-wide efforts described under A above, certain components of the Department have additional activities attuned to their specific circumstances. In November 1986, the FAA began a series of briefings to explain to agency employees the nature and extent of its drug testing program. The briefings were also designed to examine some of the more commonly raised myths regarding drug testing and to increase the level of drug awareness among our employees. Further, the FAA contracted with CompuChem laboratories -- one of the world's most comprehensive laboratories specializing in testing for drug abuse -- to provide technical support and to assist the agency

in the development and implementation of the program. Employees were given detailed information on laboratory cutoff levels, specimen collection, and laboratory procedures. Further, over 40,000 booklets and pamphlets have been disseminated to employees covering practically all aspects of substance abuse in the workplace. The agency is also developing training courses to assist our supervisors and managers in dealing with drug-related problems.

The Coast Guard will implement the civilian personnel drug testing program in concert with and administered similarly to the program planned for OST.

- C. OPM, in conjunction with DOJ and HHS, to develop guidelines for implementation of the Federal programs for drug testing, supervisory training and employee assistance programs.

Administration Action: Directive included in Executive Order 12464 of 09/15/86 and Presidential letters of 10/04/86. OPM guidelines issued 11/28/86. HHS Scientific and Technical Guidelines for Drug Testing Programs in final clearance.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6004, requires OPM to provide guidelines for Executive agency prevention, treatment and rehabilitation programs and services for drug and alcohol abuse for agency employees; HHS is to provide technical assistance upon request.

Status: See A above. The Department's program was brought into conformance with the OPM guidance issued on November 28, 1986 (OPM FPM Letter 792-16). It will be reviewed when the HHS guidelines are issued and modified where appropriate.

With respect to the specifics of the FAA program, the agency is in the process of issuing procedural guidelines for the agency's Substance Abuse Program. They will be disseminated prior to beginning the agency's drug testing program in mid-February. Also, in October 1986, an agency directive on employee assistance was issued. This order formalized the agency's efforts to promote the physical and mental fitness of employees through counseling and provides for a professional referral program to assist employees whose personal or drug-related problems may serve as a barrier to job performance. An active EAP program is currently functioning in each employing jurisdiction, and they are playing a major role in identifying and resolving employee substance abuse problems. The FAA's drug testing program is currently being reviewed by DOJ for consistency with OPM and HHS guidelines.

2. **Work with government contractors to establish a policy of drug-free work environments.**
  - A. Establish requirement for selected contractors, particularly those in positions involving public safety and national security, to meet the drug-free requirements established for the Federal work force.
 

Administrative Action: Legislative Review Task Force issued report and recommendations on 12/22/86. Issue will be considered at next Working Group meeting.

Status: LEGISLATIVE REVIEW. Being reviewed at DOT.
3. **Encourage state and local government and their contractors to develop drug-free work places.**
  - B. Send letters from appropriate Cabinet members and agency heads to the heads of their counterpart organizations in state and local governments.
 

Administration Action: Required in Presidential memorandum dated 10/04/86.

Status: Letter to State DOT executives is being drafted. The Urban Mass Transportation Administrator has sent a similar letter to the heads of the public transportation agencies as part of DOT's anti-drug abuse program.
4. **Mobilize management and labor leaders in the private sector to fight drug abuse in the work place.**

No DOT action required.
5. **Communicate accurate and credible information about how drug abuse in the work place can be eliminated.**

No DOT action required.
6. **Ensure drug-free public transportation.**
  - A. The Secretary of Transportation to take lead in an effort to ensure safe transportation of people and goods and work with the Secretary of Health and Human Services, the Secretary of Education, and the Attorney General to promote regulatory changes, drug-testing, prevention, and education leading to a drug-free transportation system.
 

Administration Action: Directive included in Presidential memorandum dated 10/04/86.

**Status:** Through regulation, the Department will require pre-employment, post-accident and random testing for commercial airline pilots and crew, and other employees directly responsible for the safety of flight operations. In addition, periodic testing will be required as part of the annual physicals for those who are required by DOT regulations to have such physicals. In rail transportation, last year the Department implemented the first rule in American history to deal with alcohol and drug abuse by railroad employees. Stronger measures are still necessary. For example, the Department does not have the statutory authority necessary to penalize railroad employees who tamper with safety devices such as cab warning whistles. The Secretary has called upon Congress to act immediately to give the Department authority to regulate directly the conduct of railroad employees who have safety-related responsibilities. In addition to these key actions to ensure drug-free public transportation, the Department has a number of other current or proposed actions which are summarized below.

#### STATUS OF DEPARTMENTAL ANTI-DRUG ABUSE ACTIVITIES

<u>Employee Category</u>	<u>Current or Proposed Action</u>	<u>Status</u>
<b>TRANSPORTATION INDUSTRY PERSONNEL</b>		
<b>Aviation:</b>		
Air Carriers Commuters and General Aviation	-Use of drugs prohibited for airmen certificate holders. -Drug testing program for safety-related industry personnel.	Program in effect.  ANPRM issued 12/9/86. Comments close 1/23/87. Extension pending.
<b>Water Transportation:</b>		
Commercial Marine Operating Personnel	-Drug screening for mariners at physicals. -Optional post-casualty testing; "intoxication" defined. -Mandatory post-casualty drug testing.	NPRM in DOT coordination shortly. Final Rule expected within few months.  NPRM in coordination shortly.
Recreational Boaters	-Establish Federal standards for intoxication and enforcement.	NPRM sent to OMB 12/2/86.

<u>Employee Category</u>	<u>Current or Proposed Action</u>	<u>Status</u>
<b>Rail Transportation:</b>		
Certain safety-related rail crew	-Post-accident and pre-employment toxicological testing. Breath and urine testing for reasonable cause.	Rule in effect. Undergoing judicial challenge.
AMTRAK	-Testing of safety-sensitive employees at physicals, also covered by FRA testing program.	In effect.
<b>Motor Carrier Transportation:</b>		
Interstate Truck & Bus	-Pre-employment disqualification for alcoholism or use of certain drugs. -Pre-employment and regular drug testing. -Post-accident testing.	In effect. ANPRM published 5/13/86. SANPRM in DOT coord.
Hazardous Materials Drivers	-Mandate or recommend drug testing requirement. -Random drug testing.	NPRM published 5/13/86. SNPRM in DOT coord.
<b>Urban Public Transportation:</b>		
Transit Bus Drivers Urban Rail Motormen, Conductors	-Encourage development of local drug and alcohol abuse programs.	"Dear Colleague" letter sent to operators.
<b>Other:</b>		
School Bus Operators	-NHTSA working with Dept of Education to develop educational material on drug abuse.	NHTSA is drafting and expects to complete pamphlet by third quarter of 1987.
Highway Vehicle Operators	Anti-drugged driving activities.	Report due to Congress by 10/27/87.
State DOTs	Send letter from the Secretary encouraging development of drug and alcohol abuse programs.	Being drafted by Governmental Affairs.

<u>Employee Category</u>	<u>Current or Proposed Action</u>	<u>Status</u>
<b>DOT PERSONNEL</b>		
All Employees	-Drug awareness and education program.	Expect implementation by May.
Safety and Security-Related Employees	-Random drug testing.	Expect implementation by May.
FAA Safety and Security-Related Employees	-Periodic drug testing.	Awaiting Dept. of Justice clearance -- planned implementation 2/15/87.
	-Random drug testing.	Expect implementation by May.
U.S. Coast Guard Military Personnel	Random drug testing	In effect since January, 1983.

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**FAA:** Federal Aviation Administration  
**FHWA:** Federal Highway Administration  
**FRA:** Federal Railroad Administration  
**NHTSA:** National Highway Traffic Safety Administration  
**UMTA:** Urban Mass Transportation Administration  
**USCG:** U.S. Coast Guard

**ANPRM:** Advance notice of proposed rulemaking.  
**NPRM:** Notice of proposed rulemaking.  
**FR:** Final rule.  
**SANPRM:** Supplemental advance notice of proposed rulemaking.  
**SNPRM:** Supplemental notice of proposed rulemaking.

NHTSA is working with the Department of Education to develop and distribute education material to state and local public transportation officials. A pamphlet has been drafted, "Anti-Substance Abuse and the School Bus Driver," with plans to distribute it in the third quarter of 1987.

- B. Establish mechanisms to ensure that common carrier operators are not under the influence of alcohol or drugs.

Related Legislation: The ADAA, Title I, Subtitle T (common carrier operation under the influence of alcohol or drugs) establishes penalties of not more than five years imprisonment or not more than \$10,000 fine, or



both, for an individual who operates or directs the operation of a common carrier while under the influence of alcohol or drugs.

Status: See answer to 6A. In addition, Federal Railroad Administration regulations of the Control of Alcohol and Drug Use have been in effect since February 10, 1986. Those regulations prohibit employees who are directly involved in train operations from using, possessing, being under the influence of, or being impaired by alcohol or drugs while on the job. The regulations require blood and urine testing of employees involved in major accidents. For example, the toxicological tests performed on employees involved in the fatal Amtrak/Conrail crash in Maryland on January 4 were done under authority of FRA's rule. The regulations also permit urine and breath testing where reasonable cause exists, and require (i) adoption of railroad policies to identify and treat employees with alcohol or drug problems, (ii) re-employment drug screening, and (iii) improved reporting of the role of alcohol and drugs in accidents.

FRA will hold a hearing on February 18, 1987, to obtain information to assist in evaluating its regulations. Should that information indicate a need for revisions, a notice of proposed rulemaking would be issued at a later date.

FRA's regulations are being challenged in court by rail labor organizations, which allege that the testing provisions violate the Fourth Amendment. The parties are awaiting decision by the United States Court of appeals for the Ninth Circuit.

In addition to the regulatory and enforcement action FRA has taken to ensure drug-free rail transportation, FRA provides leadership for a national voluntary alcohol/drug prevention program known as "Operation Red Block." A joint effort uniting labor, management and FRA, this program stresses peer intervention, as well as general prevention and training activities.

As soon as Congress gives the Department authority to regulate directly the conduct of railroad employees who have safety-related responsibilities, the Department will set requirements similar to those planned for aviation.

- C. Improve highway safety by implementing programs to prevent drugged driving.

Related Legislation: The ADAA, Title III, Subtitle G (Transportation Safety), Section 3402 requires the Secretary of Transportation to conduct a study, with a

report submitted to Congress within one year, on the relationship between the use of controlled substances and highway safety.

Status: See answer to Section 6A. In addition to the information in A, NHTSA is undertaking the study required by Congress. The Report will contain a review of what is known about the effects of drugs on simulated driver behavior, and the incidence of drugs in fatally injured drivers. It will also contain a description of on-going research designed to provide more definitive information on the drug/highway safety hazard. The report will be submitted by October 27, 1987, as required by Congress.

- D. Prevent the operation of commercial motor vehicles while under the influence of drugs or alcohol.

Related Legislation: Section 12008 of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of the ADAA -- Public Law 99-590; October 27, 1986) requires the FHWA to contract with the National Academy of Sciences (NAS) to conduct a study to determine the appropriate blood alcohol concentration (BAC) level (0.10 to 0.04 percent) by which a person operating a commercial motor vehicle would be deemed to be driving under the influence of alcohol. The Secretary of Transportation, guided by the study's results and rulemaking comments, will then promulgate a commercial motor vehicle driver BAC standard. Drivers who operate commercial motor vehicles in violation of this standard will be subject to disqualification and possible civil or criminal penalties. States would be required to enact similar laws providing that any driver who operates a commercial motor vehicle at or above the Federal level is deemed to be driving under the influence of alcohol. States not enacting a BAC level law mandating licensing suspension for violators risk the loss of Federal-aid highway funds. Failure by the Secretary to establish a BAC standard under section 12008 by October 27, 1988, will result in the adoption of a 0.04 percent standard as the applicable Federal standard. The final report is due October 27, 1987. The cost of the contract is \$275,000. A rulemaking action establishing a commercial motor vehicle driver BAC standard will follow the final report.

Administration Action: The FHWA has contracted with NAS for the study. The contract with NAS was awarded on January 12, 1987.

Status: Currently, the NAS is assembling a committee of alcohol and safety experts to study and research the contract's objective.

GOAL #2 - DRUG-FREE SCHOOLS

No DOT action required. However, the U.S. Coast Guard is planning to adopt the First Lady's "Just Say No" program on five selected large installations which will allow us to expose the program to the greatest number of elementary school age children possible. The U.S. Coast Guard has obligated \$250,000 to this program and plan to hire a civilian at the GS-11 level to administer the program. Their Military and Family Social Actions Staff has already contacted the national JUST SAY NO program administrators in California for the requisite materials and training aids. They should have this program operating by the end of this fiscal year.

GOAL #3 - EXPANDED DRUG TREATMENT AND RESEARCH

No DOT action required.

GOAL #6 - INCREASED PUBLIC AWARENESS AND PREVENTION

3. **Ensure that Americans have access to accurate and effective information about illegal drugs and strategies for getting drugs out of their homes, schools, work places, communities, and Nation.**
  - C. All agencies to stimulate development of innovative community-based prevention programs.

Administration Action: Directive included in Presidential memorandum dated 10/04/86.

Status: This type of activity is carried out by the Operating Administrations in their dealings with the public and the transportation industry - the USCG, for example, in boating safety efforts; FAA in carrying out its safety and inspection responsibilities with pilots and airmen, etc. Also see DOT response to GOAL #1, item 6.



DEPARTMENT OF THE TREASURY  
WASHINGTON

ASSISTANT SECRETARY

JAN 28 1987

MEMORANDUM TO: Ralph Bledsoe  
Chairman, Domestic Policy Council  
Working Group on Drug Abuse Policy

FROM: Francis A. Keating, II  
Assistant Secretary  
(Enforcement)

SUBJECT: Implementation Status Report

The following is a status report for Goal #1, Drug-Free Workplace, Accelerate Development of a Drug-Free Federal Workplace.

The Treasury Department is actively engaged in the development of policies and procedures to implement the Executive Order for a drug-free federal workplace. The Office of Enforcement has received input from all of the heads of offices and bureaus within the Department to assist in establishing a Departmental program. Responses have been received with a resulting informational base on the following issues:

1. Which positions are critical/sensitive.
2. The number of employees in sensitive positions; now and for the next two years.
3. Which positions should require applicants to be tested and how many tests are involved over the next two years.
4. The number of employees who might volunteer to be tested.
5. The nature of all employee assistance programs in the Department.

A Treasury working group is processing this survey data and collating it with the recently received Office of Personnel Management Guidelines as well as the Executive Order. We are awaiting a third set of guidelines from the Department of Health and Human Services.

The Working Group has formulated a directive for implementation which involves delegation by the Secretary of the Treasury to the Assistant Secretary (Management), who in turn may delegate to the Director of Personnel. The final delegation of authority for the program is to the heads of the respective bureaus and offices.

The offices and bureaus should be able to make their modifications and have their respective programs operational by March, 1987 with the only major obstacle which could delay this forecast being the suit against the U.S. Customs Service Drug Testing Program. We are watching that situation very closely.



U.S. Department of Justice

Civil Division

Office of the Assistant Attorney General

Washington, D.C. 20530

JAN 20 1987

MEMORANDUM

TO: Ralph Bledsoe  
Chairman  
DPC Working Group on Drug Abuse Policy

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

SUBJECT: Implementation Status Reports  
Draft Working Paper  
DPC Working Group on Drug Abuse Policy

As requested in your memorandum dated January 9, 1987, I have attached implementation status reports for inclusion in the draft report for the DPC Working Group on Drug Abuse Policy. I have included responses to questions designated for the Legislative Review Task Force and for the Department of Justice and used the format provided in the Drug-Free Public Housing portion of the draft working paper as suggested in your memorandum.

Attachment

1/20/87

**IMPLEMENTATION STATUS REPORTS**  
DRAFT WORKING PAPER  
DPC WORKING GROUP ON DRUG ABUSE POLICY

**GOAL #1 - DRUG-FREE WORKPLACES**

**1. Accelerate development of a drug-free Federal Workplace.**

- A. Establish a strong policy against illegal drug use by Federal employees and direct the head of each Executive agency to establish programs to increase drug abuse awareness and prevention, identify and rehabilitate illegal drug users, and improve the quality and accessibility of treatment services for employees.

Administration Action: Executive Order 12564 was signed by the President on 09/15/86. Presidential letters issued on 10/04/86 to the head of each Executive department and agency, with the President's personal communication to each and every Executive Branch employee, calling upon them to take a leading role in eliminating the use of illegal drugs.

Related Legislation: The Anti-Drug Abuse Act of 1986 (ADAA), Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6004, requires the head of each Executive agency to establish appropriate prevention, treatment and rehabilitation programs and services for drug abuse and alcohol abuse for the employees of such agency.

Status: LEGISLATIVE REVIEW TF to provide overall status report.

ALL WORKING GROUP MEMBERS to provide status of programs in their departments.

**STATUS REPORT:**

*The Department of Justice (DOJ) has provided assistance to the Office of Personnel Management and the Department of Health and Human Services in preparing the drug testing guidelines called for by the Executive Order. DOJ will also provide guidance and comments to agencies who are implementing drug testing programs under the Executive Order. Although agencies are working on orders and other implementing directives for the establishment of prevention, treatment and rehabilitation programs, the Department of Justice*

(DOJ) has received only one such directive for review at this time. The Department of Transportation, Federal Aviation Administration (FAA), submitted the FAA Drug Testing Program for DOJ review in December 1986. Other agencies, such as the Department of Defense (DOD), are amending ongoing programs for compliance with the Executive Order.

Department of Justice has prepared a DOJ Order establishing the Department's Drug-Free Workplace Program. Comments on this order have been received from DOJ components and we expect the order to be sent to the AFGE for consultation within the week. This order includes prevention programs, drug testing programs and treatment and rehabilitation referral programs as called for in Executive Order 12564. The Department has ongoing Employee Assistance Programs to meet employee counseling, treatment and rehabilitation referral needs.

- B. Federal agency heads to expand drug abuse awareness and prevention programs among the Federal workforce. HHS and OPM to ensure that Federal drug abuse prevention programs are using the most accurate and effective strategies and materials available.

Administrative Action: Directive included in Executive Order 12564 of 09/15/86 and Presidential letters of 10/04/86.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6003 requires OPM, in consultation with HHS, to establish a Government-wide alcohol and drug abuse education program.

Status: OPM/HHS (ALL for department programs)

STATUS REPORT:

Drug education is included as part of the proposed DOJ order.

- C. OPM, in conjunction with DOJ and HHS, to develop guidelines for implementation of the Federal programs for drug testing, supervisory training and employee assistance programs.

Administrative Action: Directive included in Executive Order 12464 [sic, should be 12564] of 09/15/86 and



Presidential letters of 10/04/86. OPM guidelines issued 11/28/86. HHS Scientific and Technical Guidelines for Drug Testing Programs in final clearance.

Related Legislation: The ADAA, Title VI (Federal Employee Substance Abuse Education and Treatment), Section 6004, requires OPM to provide guidelines for Executive agency prevention, treatment and rehabilitation programs and services for drug and alcohol abuse for agency employees; HHS is to provide technical assistance upon request.

Status: OPM/HHS (ALL for department programs)

STATUS REPORT:

*DOJ order specifically references and follows the draft guidelines provided by HHS and the guidelines distributed by OPM on November 28, 1986 (FPM-792- ) as these guidelines relate to drug testing, supervisory training and employee assistance programs. As stated in item 1A above, the Department has ongoing Employee Assistance Programs.*

2. **Work with government contractors to establish a policy of drug-free work environments.**
  - A. Establish requirement for selected contractors, particularly those in positions involving public safety and national security, to meet the drug-free requirements established for the Federal workforce.

Administrative Action: Legislative Review Task Force issued report and recommendations on 12/22/86. Issue will be considered at next Working Group meeting.

Status: LEGISLATIVE REVIEW

STATUS REPORT:

*The Legislative Review Task Force submitted a report to the DPC Working Group on Drug Abuse Policy on December 22, 1986. With the exception of the Department of Defense and the Department of Energy, most agencies are not interested in imposing a government-wide requirement for government contractors. Other practical and legal considerations lead the Task Force to recommend that no such requirements be imposed at this time.*

These practical and legal considerations included the significant diversity among the sizes, responsibilities and missions of government contractors; the potential damage to the ability of an agency to work with small contractors and public and private-sector groups or groups who may wish to donate a portion of their services; the potential amendments to the federal acquisition regulations and complexity of drafting a requirement which would meet the needs of all agencies and the varied agency contractors; and the availability of laboratories to perform the resulting volume of drug tests, as well as state action considerations. These difficulties generated any government-mandated drug testing seem all the more unnecessary in light of the fact that a number of government contractors have already adopted drug testing programs on their own initiative and more may be expected to adopt such programs as employers' experience with employee drug testing continues to grow.

The recommendation does not preclude individual agencies from working with contractors to have specific contractors conduct employee drug testing or establish drug-free workplace policies. It also does not preclude agency encouragement of individual contractors to set up such policies and programs as they see fit.

- B. Develop and promulgate guidance to all government contractors concerning the philosophy, importance and procedures for achieving a drug-free workplace.

Status: LEGISLATIVE REVIEW/HHS

STATUS REPORT:

Drug-Free Workplace issues as they relate to the contractors' workplace will be discussed at the next meeting of the DPC Working Group on Drug Abuse Policy. This meeting is scheduled for Tuesday, February 3, 1987. Based on discussions at that meeting and on the consequent Working Group recommendations, the Legislative Review Task Force, in conjunction with HHS, could prepare a package that agencies may send to all or some of its contractors.

- 3. Encourage state and local governments and their contractors to develop drug-free workplaces.
  - B. Send letters from appropriate Cabinet members and

agency heads to the heads of their counterpart organizations in state and local governments.

Administrative Action: Required in Presidential memorandum dated 10/04/86.

Status: ALL

STATUS REPORT:

*The White House Intergovernmental Affairs Office will prepare appropriate correspondence after full implementation of the Federal program. DOJ will participate in the subsequent sending of this correspondence to counterpart organizations in state and local governments. We assume that this effort will continue to be coordinated by the White House Intergovernmental Affairs Office.*

GOAL #2 - DRUG-FREE SCHOOLS

3. **Increase penalties for distributing drugs to students and for using juveniles for the distribution and/or manufacture of illegal drugs.**
  - A. Attorney General and Secretary of Education to work together to ensure that Federal laws against distributing drugs in or near schools are known and enforced in cooperation with local authorities.

Administrative Action: Directive included in Presidential memorandum dated 10/04/86.

Status: DOJ/EDUCATION

STATUS REPORT:

*The Attorney General has caused to be distributed to all United States Attorneys and Assistant United States Attorneys a prosecution manual which analyzes sections dealing with distributing drugs to students and for using juveniles for the distribution and/or manufacturing of illegal drugs. In addition, the FBI and DEA which have jurisdiction over drug matters have likewise distributed materials to their agents in the field to acquaint them with this new statute. Both agencies have been instructed to bring the statute to the attention of all local law enforcement agencies where they operate.*

- B. Expand "school yard rule" to college and university campuses.

Administrative Action: Included in Title V of Drug-Free America Act forwarded to Congress on 09/15/86.

Related Legislation: The ADAA, Title I, Subtitle C, Sections 1104-1105, extends "school yard rule" to colleges and universities and includes both manufacturing and distribution.

Status: DOJ

STATUS REPORT:

*The same response is made as in A above to expanding the "school yard rule" to college and university campuses concerning the manufacture and distribution of controlled substances. Additionally, DEA and the FBI will be speaking to college and university officials within respective geographic areas to discuss consistent enforcement of the statute.*

- C. Prevent the use of juveniles for the commission of drug violations.

Administrative Action: (DOJ)

Related Legislation: ADAA, Title I, Subtitle C (Juvenile Drug Trafficking Act of 1986), Sections 1101-1103, provide for additional penalties for individuals who hire or otherwise use a person under 18 years of age to commit drug violations.

Status: DOJ

STATUS REPORT:

*The same response is made as in A above in reference to providing additional penalties for individuals who hire or otherwise use a person under the age of 18 to commit drug offenses.*

GOAL #6 - INCREASED PUBLIC AWARENESS AND PREVENTION

2. Encourage corporations, service organizations and the media to develop prevention programs within their organizations, communities and our Nation.

- B. Encourage media to redouble efforts in all media forms to stop illegal drugs and make their use unacceptable in our society.

Related Legislation:

- o The Congress, in the ADAA, Title IV, Subtitle A, Section 4018, encourages the entertainment and written media industry (a) to refrain from producing material meant for general entertainment which in any way glamorizes or encourages the use of illegal drugs and alcohol and (b) to develop films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol.
- o The Congress, in Title IV, Subtitle A, Section 4019, recommends that the Motion Picture Association of America incorporate a new rating in its voluntary movie system to clearly identify films which depict alcohol abuse and drug use.

Status: ALL

STATUS REPORT:

*The Department's Office of Public Affairs is making every effort through its contacts with the media to encourage the development of films, television programs, records, videos, and advertising which discourage the use of illegal drugs and alcohol. The Office of Public Affairs has also produced a video, "It Can't Happen to Me," for general distribution and geared to high school students, which depicts the negative results of drug abuse and encourages students to "say no" to drugs. This video is described more completely in item 3C below.*

3. **Ensure that Americans have access to accurate and effective information about illegal drugs and strategies for getting drugs out of their homes, schools, workplaces, communities, and Nation.**
- C. All agencies to stimulate development of innovative community-based prevention programs.

*[this item is listed in the January 9, 1987, Draft Working Paper, as item C, it should be item D]*

Administrative Action: Directive included in Presidential memorandum dated 10/04/86.

Status: ALL

STATUS REPORT:

In addition to enforcement, the Department of Justice is using two other tools to free our schools of drugs: prevention and education. We believe that with all the facts about drugs in hand and with support from parent and student groups, young people will find it easier to say "no" to drugs. We are working hard to help America's students make the right choice. Our U.S. Attorneys, FBI and DEA agents and other department officials often visit with young people, spelling out the facts about drugs and drug use and explaining to them the law and its consequences. DOJ has produced a series of videos on the dangers of drug use which are available to schools and other community groups together with a brochure describing possible uses for the video program. The video and program are geared to the high school level student. The first video (10 minutes) features five drug addicts in Pittsburgh and shows, often in graphic detail, the dangers and disturbing aspects of drug abuse. This video was subsequently shown to two high school assemblies which also featured presentations by a U.S. Attorney, an undercover policeman and Dr. Mark Gold, the doctor who established the 800-COCAINE helpline, as well as a skit performed by RAP, Inc. (a local drug rehabilitation program). Excerpts from these assemblies were combined with the original video to make a new four minute video which was offered to all U.S. Attorneys, together with the descriptive brochure, for use with schools and community groups. Office of Public Affairs representatives also traveled to 20 judicial districts to meet with school superintendents, local principals and community groups. Film clips from the first two videos have now been combined with film messages from the President, the Attorney General and other individuals to make a new 22 minute video entitled "It Can't Happen to Me" for distribution to any interested parties. The Office of Public Affairs is currently trying to identify an appropriate distribution agency for this new video.

Department components are participating in a working group designed to share information between components involved in the demand-side efforts. With coordination from the Office of Public Affairs, management level employees are accepting speaking engagements defending

*the President's Executive Order and directly rebutting  
the criticisms of the ACLU and others.*



OFFICE OF  
THE DIRECTOR

**ACTION**  
WASHINGTON, D.C. 20525

January 21, 1987

Honorable Ralph Bledsoe  
Chairman  
Drug Use Prevention Working Group  
Domestic Policy Council  
The White House  
Washington, D.C. 20500

Dear Mr. Bledsoe:

Pursuant to your request for agency status reports on the implementation of Presidential initiatives under the 1986 Anti-Drug Abuse Act, I have enclosed a report on the ACTION agency's progress and plans in this important effort.

The development of a comprehensive strategy to strengthen and expand community-based volunteer efforts in drug prevention and education is one of the highest priorities for this agency. I am confident that the private sector is more than ready to shoulder this responsibility for a period well into the future.

I look forward to sharing some of the exciting developments in this area with you at the February 3 meeting and welcome any thoughts you may have on how we can insure that the Administration's commitments for a drug-free America are continued for years to come.

Best regards.

Sincerely,

Donna M. Alvarado

Enclosure



Goal #1 - Drug-Free Workplaces

STATUS: Implementing guidelines have been received from OPM and have been reviewed by agency General Counsel. Areas requiring agency policy for implementation have been identified and ACTION Orders are being drafted.

## Goal #2 - Drug-Free Schools

STATUS: ACTION is discussing possible joint efforts with Education whereby ACTION's 350,000 Retired Senior Volunteers can provide volunteer support to local PTA's and schools in promoting drug abuse awareness among parents and students.

ACTION has launched an ongoing review through the agency's state offices to identify the best models of community-based volunteer drug abuse prevention efforts directed at youth, including positive prevention models such as character-building, as well as "Just Say No Clubs" and others. The results, especially as they pertain to school-based programs, will be shared with Education.

In consultation with Education, ACTION will invite representatives from major school districts to participate in a series of regional conferences for community-based volunteer groups to identify mutual efforts in achieving drug-free communities.

ACTION will coordinate with Education in the development of a national drug abuse prevention essay, poster and video contest for the Nation's students, with underwriting by the major corporations.

## Goal #6 - Increased Public Awareness and Prevention

### 1. C. Promoting "Just Say No" Message

STATUS: In November, ACTION met with the Just Say No Foundation to discuss future initiatives. "Just Say No Clubs" are established in nearly 12,000 schools throughout the country, but that represents less than 20% of the public schools in the United States. Through grant assistance and technical assistance to community-based programs, ACTION is assisting in expansion of "Just Say No Clubs," particularly through increased volunteer and service group support.

ACTION obtained the talents of popular "rap" singer Kurtis Blow, who wrote and performed a new anti-drug song entitled "Ya Gotta Say No" as a potential hit single. Under sponsorship of ACTION, the recording will be premiered January 29, and in cooperation with the National Association of Broadcasters, will be released to top-40 stations throughout the nation in March 1987.

ACTION is insuring that all agency-prepared radio and TV public service announcements, printed media releases, and program materials pertaining to drug abuse prevention and education are specific in projecting the message of saying "No!" to drugs.

Director of ACTION has met with the President of the Just Say No Foundation and they are working together to develop long-term private sector support and the involvement of major voluntary organizations in the continuation and expansion of "Just Say No Clubs" in local communities nationwide.

### 2. D. Expansion of ACTION Drug Abuse Prevention Program

#### STATUS: Public/Private Partnerships

The ACTION Drug Alliance Office is staffed with full-time personnel and will add several expert/consultants by January 30. During 1987, the ACTION Drug Alliance will provide the catalyst, through conferences and grants, for a lasting coalition of community-based volunteer drug abuse prevention groups; major community service and church organizations; youth organizations; media; state/local government; and the business/foundation sector. These public/private partnerships, with regional and local spin-offs, will ensure long-term financial and in-kind support for volunteer parent's groups and peer groups alike to prosper and expand without the need for Federal funding.

Negotiations are underway with a major non-profit positive prevention organization to develop the agenda and list of participants for a meeting of prospective coalition members, with an opportunity for community-based volunteer groups to articulate short-term and long-term needs. This conference will be held in April 1987.

Separate efforts are underway, in concert with the White House Office of Private Sector Initiatives, to develop unified support of corporate CEO's for nationwide drug abuse prevention and education programs. The ACTION Director will brief the PSI Board in February 1987, and plans for an honor roll of companies that contribute significant resources to drug abuse prevention will be finalized.

As a spin-off to the national efforts, ACTION, in conjunction with its regional offices and with the participation of its Presidentially-appointed National Volunteer Advisory Council members, will host a series of regional conferences during the third and fourth quarters of FY 87 to strengthen and build local coalitions with a sound basis of self-sustainment independent of the Federal sector in the future.

An annual drug abuse prevention symposium is planned for the end of the year in which senior representatives of the private sector will compile their respective accomplishments and future commitments for presentation to the President and the First Lady.

STATUS: Grants

ACTION plans to award discretionary grants and contracts by September 30, 1987. An ACTION Task Force with representatives from both headquarters and the field is assessing potential drug abuse prevention/education grant funding priorities and will present recommendations by March 1987. Among the activities the Director of ACTION will fund are: (a) additional state parents' networks; (b) demonstration models for high-school and college-based youth peer prevention groups; (c) technical assistance for replicating existing successful community-based approaches through publication and dissemination of materials on "What Works" in volunteer drug abuse prevention efforts. Other needs will be identified by community-based groups in the context of national and regional conferences.

ACTION has to date made the following drug prevention/education grants:

1. Parents Resource Institute for Drug Education (PRIDE), Atlanta, GA; \$151,000; Continuation of drug abuse information toll-free 800 line.
2. The Cottage Program International, Salt Lake City, UT; \$15,000; Provides drug/alcohol abuse education and other self-esteem development programs for prison inmates.

3. **Parents Communication Network of Minnesota, Apple Valley, MN; \$28,550; Training volunteer consultants to assist in drug abuse prevention/education.**
4. **Just Say No Foundation, Walnut Creek, CA; \$49,900; Development of informational booklets for service organizations providing guidance on sponsoring "Just Say No Clubs."**

STATUS: Regional/State ACTION Volunteer Network

ACTION has the unique advantage of extensive experience in successful community volunteer programs through its State and Regional program offices. Several of these programs deal with drug abuse prevention/education and many have become institutionalized without continued Federal support. ACTION's State and Regional staff are working with ACTION's Drug Alliance Office to address programming needs. These efforts include:

1. In November, 1986, the Director of ACTION announced that programming in volunteer drug prevention and education activities was a major priority for all programs currently funded by ACTION. Goals for increased drug prevention programming have been articulated at all levels of the Agency in the calendar year operating plans. Funding will be prioritized for those projects demonstrating the most promise for absorption by the private sector.
2. Collection of data on all current volunteer programs dealing with drug abuse, applicable to both youth and intergenerational populations.
3. Nationwide survey through ACTION State Program offices of successful projects dealing with drug abuse and involving the private sector, and an analysis of why they are successful.
4. Sharing of "what works" examples of self-sufficient, community-based models for replication by ACTION, by other Federal agencies, and by grassroots organizations seeking to develop effective volunteer programs.
5. ACTION has developed a new and innovative agency-wide training program to be launched in March 1987, which includes specific curricula on management and enhancement of drug abuse prevention and education projects using volunteers and private sector support. The training program will reach over 2,000 ACTION project directors and VISTA supervisors nationwide, as well as other interested community volunteer leaders.

6. **Sponsorship of a workshop on development and administration of successful community-based drug abuse projects at the annual Association of Volunteer Administration conference in Chicago, in the Fall of 1987.**
7. ACTION has initiated contact with major volunteer organizations such as United Way, VOLUNTEER, and The Independent Sector to enlist their active support in expanding the ACTION Drug Alliance of community-based volunteer drug abuse prevention and education programs, service support groups, and the business community.

STATUS: Major Media Campaign

ACTION's Public Affairs Office will organize 5 regional press seminars during April 1 through October 31, 1987, where television, radio and print media executives will be asked to speak on their organization's efforts to encourage or otherwise advocate local voluntarism initiatives. Drug prevention and education activities will be highlighted. Joining the news executives (managing editors, station managers, news directors, etc.) will be key community leaders from profit and non-profit enterprises. State/local government representatives will also be included. Each participant will develop a paper for seminar presentation. Upon conclusion of seminar series, ACTION will compile and publish appropriate abstracts and excerpts.

ACTION has initiated production of a series of television and radio public service announcements promoting public awareness in the area of drug abuse prevention and education. ACTION has developed a partnership with the National Association of Broadcasters to ensure widespread airing of these PSA's. The first such production will be premiered on January 29 and will feature popular "rap" star Kurtis Blow performing an anti-drug song entitled "Ya Gotta Say No" at the Duke Ellington School for Performing Arts. The song will be distributed to top-40 radio stations nationwide, and the video will be featured on local television during the week of March 11 as part of the youth-directed public service program "Operation Prom/ Graduation" encouraging safe planning of high school prom and graduation parties.

A Speaker's Bureau for centralized clearance of nationwide requests for speakers to address groups on the topic of drug abuse prevention, education, volunteer opportunities, and private sector support of community-based programs is being housed within ACTION's Office of Legislative and Public Affairs. The names of suggested speakers will be solicited from all members of the DPC Working Group on Drug Abuse Policy, the Office of the First Lady, as well as appropriate private sector leaders.

An ACTION video brochure to be released in May 1987 will highlight volunteer opportunities in drug abuse prevention/education, as well as the need for business and community support of these efforts. This video brochure will receive widespread dissemination through ACTION's state offices and projects.

STATUS: Inter-Agency Cooperation

An interagency agreement has been signed between ACTION and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) which defines our common goals and outlines a working relationship to include: exchange of information, development of ACTION's speakers bureau, and reimbursable funding to ACTION for youth drug abuse survey data developed by Parents Resource Institute for Drug Education (PRIDE).

ACTION also participates in the HHS/Department of Education working group and is a member of the Office of Juvenile Justice Delinquency Prevention Coordinating Council. A sample of mutual initiatives include:

1. Explore interagency agreement with Department of Education to support expansion of Retired Senior Volunteer Program (RSVP) projects that address drug abuse prevention in schools.
2. Use ACTION's Student Service Learning Program models to support the Department of Education Office of Post-Secondary Education grants that go to colleges and universities.
3. ACTION State Program offices will provide technical assistance for tying into community-based volunteer efforts to those Governor's offices receiving block grants from HHS, Department of Education, and Bureau of Justice Assistance.
4. Explore cooperative projects with the Bureau of Indian Affairs drug abuse prevention/education efforts on Indian reservations.
5. Review of all existing Agency drug abuse literature to assist HHS Office of Substance Abuse Policy in its legislative "Clearinghouse" mandate.

## Other National Initiatives

### 2. Programs Involving Indians and Alaska Natives

#### STATUS:

The Director of ACTION has initiated discussions with the Oglala Sioux Tribe in South Dakota as well as community leaders in Alaska on the optimal application of ACTION demonstration grant monies in meeting the special needs of Native Americans, with a focus on intergenerational volunteer efforts.

ACTION has also approached the W. Clement and Jessie V. Stone Foundation with a view toward providing volunteer training for developing positive prevention models within the Native American population.