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Fiscal and Manpower Impact

In FY 1985 the total costs (\$M) of DoD drug and alcohol abuse programs were:

	<u>Treatment & Rehab</u>	<u>Urinalysis Testing</u>	<u>Total</u>
Army	24.9	11.2	36.1
Navy/Marines	34.2	33.9	68.1
Air Force	52.2	2.7	54.9
Total	111.3	47.8	159.1

In FY 1985 the following numbers of enlistees were discharged for drug and alcohol related problems:

	<u>First Term</u>	<u>Career</u>
Army	3698	1948
Navy	4608	1079
Air Force	2361	1657
Marines	1329	9
Total	11,996	4693

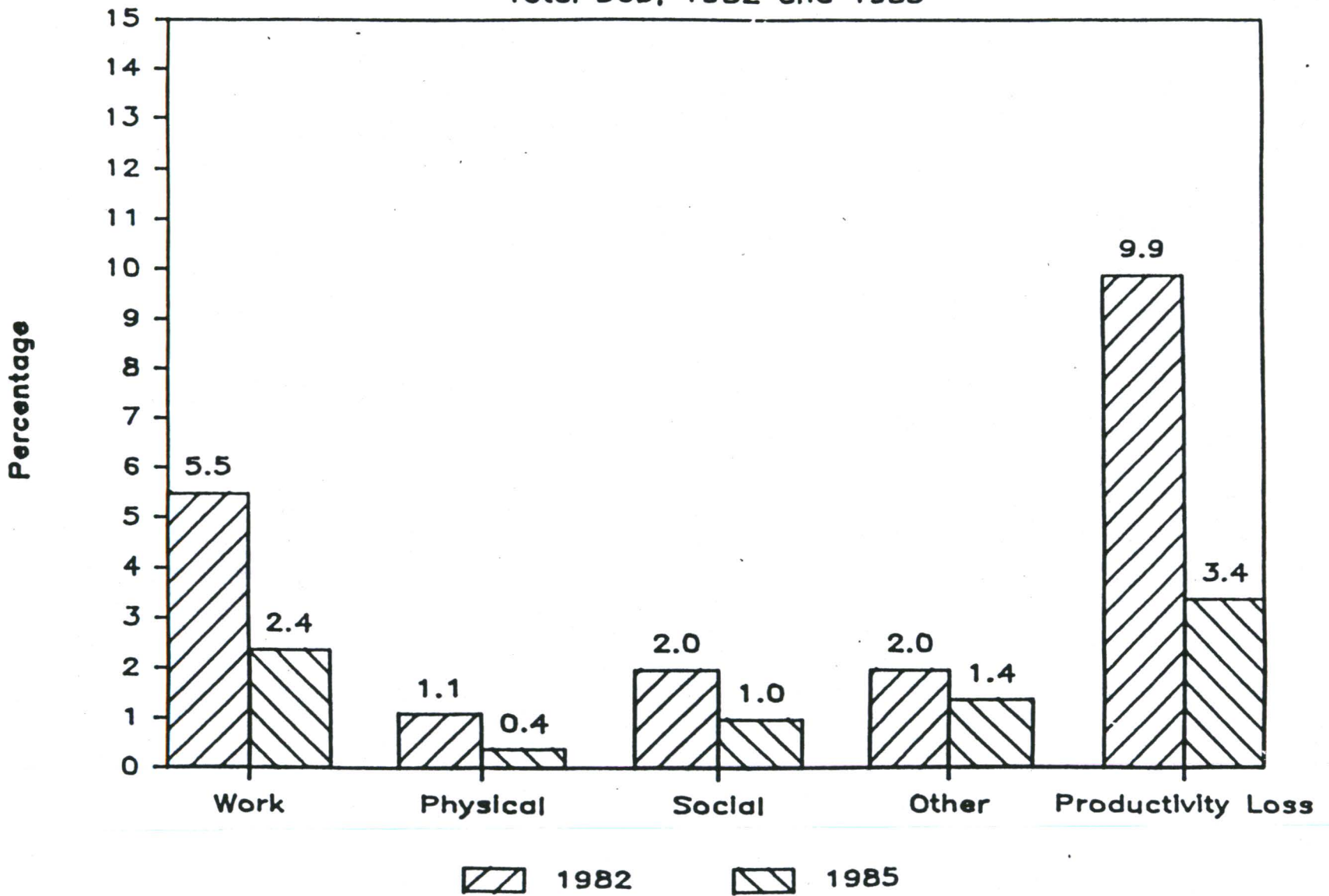
Total Discharges

11,996
 4693

 16,689

Drug Use-Negative Effects

Total DoD, 1982 and 1985



HEALTH-RELATED DRUG ABUSE PROGRAMS

FEDERAL DRUG ABUSE BUDGET CROSSCUT--FY 1982 through FY 1987

AGENCY--Department of Defense

Date Prepared: 12 MAY 86

--VERIFY ACTUAL --REVISE BUDGET --INSERT NEW BUDGET

Function	FY 1982		FY 1983		FY 1984		FY 1985		FY 1986		FY 1987	
	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
Treatment/ Rehabilitation	21.40	21.40	23.30	23.30	24.11	24.11	28.53	18.45 28.53	19.58 28.97	26.97	20.94	
Education/ Prevention	2.30	2.30	6.10	6.10	6.39	6.39	7.65	7.58 7.65	7.20 7.97	7.97	7.15	
Training	1.10	1.10	1.50	1.50	1.39	1.39	1.65	2.43 1.65	2.48 2.08	2.08	2.48	
Research	0.10	0.10	0.10	0.10	0.08	0.08	0.09	0.16 0.09	0.23 0.09	0.09	0.22	
Planning/Direction/ Support/Evaluation	4.90	4.90	5.90	5.90	7.54	7.54	8.10	5.17 8.10	4.83 8.52	8.52	4.76	
Identification (Testing)	27.80	27.80	32.80	32.80	34.39	34.39	48.17	47.68 48.17	50.70 45.80	45.80	55.34	
TOTAL	57.60	57.60	69.70	69.70	73.90	73.90	94.19	81.47 94.19	85.02 93.43	93.43	90.89	

Notes:

NOTE: Does not include
FY86 G-R-H reductions of:
(if any)

CONTROL OF DRUG AND ALCOHOL ABUSE
IN THE ARMED FORCES

Record of Drug Use Reduction

At the beginning of the Administration we conducted independent studies to determine the existing level of drug use in the Armed Forces. These studies indicated 27% of all military personnel used drugs; in some units the rate of enlisted usage was almost 50%. This situation had severe detrimental impact on readiness and retention, and caused a poor public image which hampered recruiting. We instituted an aggressive program of detection, prevention, rehabilitation and education to reduce the use of drugs by military personnel. Recent statistics indicate these efforts are successful. Independent studies in 1985 indicated 8.9% of military personnel used drugs, a dramatic two thirds reduction, but with improvement still possible.

Drug Urinalysis Testing (Military)

Key to this success was the development and implementation of compulsory urinalysis testing in all Services. All inductees are tested and random tests of Service members in all grades and at all stations occur regularly. This program has matured and is in place as a standard personnel management system in each of the Services.

The Department conducted urinalysis testing on more than 2.3 million specimens using nine military drug testing laboratories and two contract laboratories during FY 85. In addition, approximately 400,000 specimens were field tested by the Army and Navy prior to submitting presumptive positives to a drug testing laboratory for further analysis.

During FY 85 the Army tested all specimens for at least two drugs (marijuana and cocaine), the Navy tested each specimen for six drugs (marijuana, cocaine, amphetamines, barbiturates, phencyclidine, opiates), and the Air Force tested all specimens for at least one drug (marijuana) and additional drugs on a request basis.

Based on the urinalysis data reported by the Services, marijuana continues to be the most abused drug followed by cocaine. The positive rate for marijuana per 1000 specimens tested was 16 for random specimens.

Drug Urinalysis Testing (Civilian)

The Department of Defense took the lead in authorizing a program of drug urinalysis testing of incumbents in, and applicants for, critical jobs. These jobs include those related to national security, physical protection of personnel and property, and others requiring a high degree of trust. The full implementation of this policy is pending the outcome of litigation. However, each of the Military Departments has proposed a comprehensive program to be instituted as soon as the litigation is resolved.

Drug and Alcohol Abuse Education

Each of the Services has an aggressive education program during basic enlisted and officer training regarding the problems, dangers, and consequences of drug and alcohol abuse. These programs include lectures, pamphlets and films on drugs, alcohol and smoking.

The American Forces Radio and Television Service (AFRTS), which broadcasts to our forces overseas, has produced numerous radio and television spot announcements on the dangers of alcohol and drug abuse, including spots on intoxicated driving. In addition, AFRTS routinely uses public service spots produced by other Federal agencies.

A DOD Education and Training committee meets on a monthly basis to review print and audiovisual materials commercially available for consideration for joint-interest purchase requests. A total of 175 drug and alcohol and 15 smoking audiovisuals are available for use within the Services and DOD covering all audiovisual media such as films, videotapes, and slide sets.

The most recent initiative in this area is a comprehensive Department Directive establishing a training program on the adverse health and readiness impacts of smoking.

Drug and Alcohol Abuse Treatment

In FY 85 the Services treated almost 9900 personnel in 52 residential treatment facilities. Approximately 46,000 personnel were treated in 400 non-residential treatment facilities. In addition to those personnel requiring treatment, over 61,000 personnel entered into awareness/education classes.

DoD Instruction 1010.6 "Rehabilitation and Referral Services for Alcohol and Drug Abusers" provides alcohol and drug abuse rehabilitation and referral guidance for DoD military and civilian personnel. It requires standardized criteria for the selection and certification of personnel who serve in clinical roles as alcohol and drug abuse counselors; and it prescribes criteria for staffing, programs, and quality assurance in residential and non-residential treatment.

TABLE 1. FY 1985 DRUG AND ALCOHOL ABUSE PROGRAMS

DRAFT

FINANCIAL DATA (Dollars in Thousands)

	<u>ARMY</u>		<u>NAVY</u>		<u>AIR FORCE</u>	
	<u>Drug</u>	<u>Alcohol</u>	<u>Drug</u>	<u>Alcohol</u>	<u>Drug</u>	<u>Alcohol</u>
Biochem. Testing	11,149	313	33,856	1,145	2,670	0
Education	1,787	2,262	3,885	7,865	1,908	2,067
Treatment	4,605	14,328	8,458	15,857	5,383	36,276
Training	1,144	1,333	700	1,778	584	636
Evaluation	1,873	3,021	2,567	1,776	732	1,430
Research	160	170	0	12	0	0
Total	20,718	21,427	49,466	28,433	11,277	40,409

MANPOWER ALLOCATIONS (Manyears)

	<u>ARMY</u>		<u>NAVY</u>		<u>AIR FORCE</u>	
	<u>Drug</u>	<u>Alcohol</u>	<u>Drug</u>	<u>Alcohol</u>	<u>Drug</u>	<u>Alcohol</u>
Military	298	366	769	589	204	503
Civilian	460	688	424	203	86	47
Total	758	1,054	1,193	792	290	550

Note: Navy figures include the Marine Corps

20+

TABLE 2. FY 1985 DRUG URINALYSIS TESTING DATA

DRAFT

Total Number of Specimens Tested

<u>Service</u>	<u>Random</u>	<u>PC/CD/M</u>	<u>Total</u>
Army	591,421	100,728	692,149
Navy	1,313,620	149,860	1,463,480
AF	139,268	44,716	183,984

RANDOM TESTING

Laboratory Positives (Number)

<u>Service</u>	<u>THC</u>	<u>Cocaine</u>	<u>Opiates</u>	<u>Amp</u>	<u>Barb</u>	<u>PCP</u>
Army	13191	581		22		2
Navy	15494	2045	1212	499	367	94
AF	3305	33	2	1		

PC/CD/M TESTING

Laboratory Positives (Number)

<u>Service</u>	<u>THC</u>	<u>Cocaine</u>	<u>Opiates</u>	<u>Amp</u>	<u>Barb</u>	<u>PCP</u>
Army	12776	178	1	633		
Navy	8624	768	160	332	56	44
AF	5487	89	1	21	4	

Notes: PC is Probable Cause
 CD is Command-Directed
 M is Medical
 Navy figures include the Marine Corps

TABLE 3. FY 1985 ALCOHOL AND DRUG TREATMENT DATA

DRAFT

NEW CASES IDENTIFIED

ALCOHOL TREATMENT PROGRAMS

<u>Service</u>	<u>Awareness Education</u>	<u>Treatment Nonresidential</u>	<u>Residential</u>
Army	8,719	18,743	906
Navy	39,931	4,214	6,586
AF	NR	8,004	1,162

DRUG TREATMENT PROGRAMS

Army	6,271	8,267	48
Navy	6,110	1,035	1,175
AF	NR	5,315	0

RETURNED TO DUTY

ALCOHOL TREATMENT PROGRAMS

Army	All	9,372	607
Navy	All	2,847	4,811
AF	NR	3,154	NR

DRUG TREATMENT PROGRAMS

Army	All	3,527	26
Navy	All	605	765
AF	NR	NR	N/A

Treatment Facilities

<u>Service</u>	<u>Nonresidential</u>	<u>Residential</u>
Army	190	10
Navy	81	31
AF	129	11

Notes: NR = Not Reported
 N/A = Not Applicable
 Returned to Duty figures are based on the total cases in
 each program
 Navy figures include the Marine Corps

DRAFT

Table 4. FY 1985 BUDGET ANALYSIS

DRUG URINALYSIS TESTING

	<u>ARMY</u>	<u>NAVY</u>	<u>AIR FORCE</u>
Biochem Testing (\$M)	11,149	33,856	2,670
Specimens Tested	692,149	1,463,480	183,984
Cost/specimen	\$16.11	\$23.13	\$14.51
Cost/specimen /drug	\$8.06	\$3.86	\$14.51
Percent of Total Service Dollars	26.4%	43.5%	5.2%

DRUG TREATMENT

	<u>ARMY</u>	<u>NAVY</u>	<u>AIR FORCE</u>
Cost (\$M)	4,605	8,458	5,383
New Cases	8,315	2,210	5,315
Cost/Case	\$554	\$3,827	\$1,013
Percent of Total Service Dollars	10.9%	10.8%	10.4%

ALCOHOL TREATMENT

	<u>ARMY</u>	<u>NAVY</u>	<u>AIR FORCE</u>
Cost (\$M)	14,328	15,857	36,276
New Cases	19,649	10,800	9,166
Cost/Case	\$729	\$1,468	\$3,958
Percent of Total Service Dollars	34.0%	20.4%	70.2%

Note: Navy figures include the Marine Corps

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NORTHSIDE HIGH SCHOOL, ATLANTA, GEORGIA

Northside High School enrolls 1,400 students from 52 different neighborhoods. In 1977, drug use was so prevalent that the school was known as "Fantasy Island." Students smoked marijuana openly at school and police were called to the school regularly.

The combined efforts of a highly committed group of parents and an effective new principal succeeded in solving Northside's drug problem. Determined to stop drug use both in and out of school, parents organized and took the following actions:

- o Formed parent-peer groups to learn about the drug problem and agreed to set curfews, chaperone parties, and monitor their children's whereabouts. They held community meetings, discussing teenage drug use with law enforcement agents, judges, clergy, and physicians.
- o Established a coalition that lobbied successfully for state anti-drug and anti-paraphernalia laws.
- o Offered assistance to the schools. The school acted upon the parents' recommendations to provide drug prevention education to teachers, update its prevention curriculum, establish a new behavior code, and close the campus to outsiders. Parents also helped design a system for monitoring tardiness and provided volunteer help to teachers.

The new principal, Bill Rudolph, also committed his energy and expertise to fighting the drug problem. Rudolph established a tough policy for students caught possessing or dealing drugs. When students were caught, he immediately called the police and then notified their parents. "Illegal drug offenses do not lead to detention hall but to court," he stated. Families were required to complete a program in drug education and the offender had to have drug-free urine and blood samples for a probationary period.

Today, Northside is a different school. In 1984-85, only three drug-related incidents were reported. Academic achievement has improved dramatically with student test scores rising above the national average.

ANNE ARUNDEL COUNTY SCHOOL DISTRICT, ANNAPOLIS, MARYLAND

In response to evidence of a serious drug problem in 1979-80, the school district of Anne Arundel County implemented a strict new policy covering both elementary and secondary students. It features notification of police, involvement of parents, and use of alternative education programs for offenders. School officials take the following steps when students are found using or in possession of drugs:

- o The school notifies the police, calls the parents, and suspends students for 1-5 school days.
- o The Special Assistant to the Superintendent meets with the students and parents. In order to return to school, students are required to state where and how they obtained the drugs. The students must also agree to participate in either the district's Alternative Drug Program at night, while attending school during the day, or enroll in either the district's Learning Center (grades 7-8) or evening high school (grades 9-12). Students must also take at least 5 hours of counseling, accompanied by their parents. Parents are also required to sign a Drug/Alcohol Reinstatement Form.
- o If students fail to complete the Alternative Drug Program, they are transferred to either the Learning Center or evening high school.
- o Students are expelled if caught using or possessing drugs a second time.

Students caught distributing or selling drugs are expelled immediately and are ineligible to participate in the Alternative Drug Program.

As a result, the number of drug offenses has declined by 60 percent, from 507 in 1979-80 to 211 in 1984-85.

EASTSIDE HIGH SCHOOL, PATERSON, NEW JERSEY

Eastside High School is located in an inner-city neighborhood and enrolls 3,200 students.

Before 1982, drug dealing was rampant at Eastside. Intruders had easy access to the school and sold drugs on the school premises. Drugs were used in school stairwells and bathrooms. Gangs roamed the hallways, armed with razors and knives.

A new principal, Joe Clark, was instrumental in ridding the school of drugs and violence. Hired in 1982, Clark established order, involved police officers in drug prevention education, and raised academic standards. Among the actions he took were:

- o Establishing and enforcing strict penalties for breaking the discipline code. In reference to drugs, he stated emphatically, "If you're smoking or dealing, you're out." He acted on his warning, recommending the expulsion of 300 students in his first year.
- o Increasing the involvement of local police officers known as the "Brothers in Blue" who visited the school regularly to speak to students about the importance of resisting drugs.
- o Raising academic standards and morale by emphasizing the importance of doing well, requiring a "C" average for participation in athletics, and honoring student achievements.

As a result of actions such as these, Eastside has been transformed. Today, there is no evidence of drug use in the school. Intruders no longer have access to the school; hallways and stairwells are safe. Academic performance has improved substantially: in 1981-82, only 56 percent of the 9th graders passed the state's basic skills test in math, in 1984-85, 87 percent passed. In reading, the percent of 9th graders passing the state basic skills test rose from 40 percent in 1981-82 to 67 percent in 1984-85.

SAMUEL GOMPERS VOCATIONAL-TECHNICAL HIGH SCHOOL, NEW YORK CITY

Samuel Gompers Vocational-Technical High School is located in the South Bronx in New York City. Enrollment is 1,500 students; 95 percent are from low-income families.

In June 1977, an article in The New York Times likened Gompers to a "war zone." Students smoked marijuana and sold drugs both inside the school and on the school grounds; the police had to be called in daily.

In 1979, the School Board hired a new principal, Victor Herbert, who succeeded in turning the school around. Herbert established order, implemented a drug awareness program, involved the private sector, and instilled pride in the school and its students. Among the actions he took were the following:

- o In cooperation with the police captain, Herbert arranged for the same two police officers to respond to all calls from Gompers. These officers came to know the Gompers students; eventually, students confided in the police about drug sales occurring near the school. Police also assisted the school staff in patrolling the school grounds and were stationed at a nearby park known for drug trafficking.

Herbert stationed security guards and faculty outside each bathroom. "Hall sweeps" were organized in the middle of class periods and students were no longer allowed to leave the premises at lunch time.

- o He established a drug program for teachers, students, and parents that focused on recognizing the signs of drug use. Other drug awareness programs were implemented that involved the police and community organizations.
- o He persuaded private companies, such as IBM, to hire students for after school and summer work. Students had to be drug-free to participate. This requirement demonstrated to students that private employers would not tolerate drug use.

The results of Herbert's actions were remarkable. In 1985, there were no known incidents of students using alcohol or drugs in the school or on school grounds and only one reported incident of violence. The percent of students reading at or above grade level increased from 45 percent in 1979-80 to 67 percent in 1984-85.

GREENWAY MIDDLE SCHOOL, PHOENIX, ARIZONA

Greenway Middle School is in a rapid growth area of Phoenix. The student population of 950 is highly transient.

Greenway developed a comprehensive drug prevention program in the 1979-80 school year. The program provides strict sanctions for students caught with drugs, but its main emphasis is on prevention. Features include:

- o Teaching students about drugs in science classes; mini-units on why people use drugs and what treatment resources are available to drug users; distribution and discussion of current literature on drugs; sponsorship of a one-day Prevention Fair in which community experts talk to students about drug prevention;
- o Enrolling students and staff in the "All Star" training program, where they learn how to resist peer pressure, make decisions, and develop plans for personal and school improvement;
- o Peer counselor training for specially selected students; drug counseling for students who are using drugs.

Under Greenway's drug policy, first-time offenders who are caught using or possessing drugs are suspended for six to ten days. First-time offenders who are caught selling drugs are subject to expulsion. The policy is enforced in close cooperation with the local police department.

As a result of the Greenway program, drug use and disciplinary referrals declined dramatically between 1980 and 1985. The number of drug-related referrals to the school's main office decreased by 78 percent; the number of total discipline-related referrals decreased by 62 percent.

SUMMARIES

- o Clay Shaw Amendment

An amendment to existing bill to withhold Federal monies from any educational institution (elementary through university) that does not have a "no drugs" policy. This essentially ties up FY '87 appropriation. Was passed by voice vote.

- o Schoolyard Law (see Congress - "Six Possible Areas")

Under Omnibus Bill, passed in November, this law allows for double the penalty to be awarded to anyone caught trafficking drugs on school property or within 1,000 feet of school property.

This applies to elementary and secondary schools, public and private.

NOTE: Proposal to extend to colleges and universities.

SIX POSSIBLE AREAS FOR LEGISLATION

1. Health - I.V. Drug Users (see concept wording from HHS)
2. OPM - Constance Horner's Proposals
3. Death penalty for repeat drug trafficking dealers and pushers
4. Second degree murder for those who sell drugs such as heroine or cocaine and the user dies
5. Paraphenalia law - Getting states to outlaw the sale of drug paraphenalia (a list of states that have done so is attached)
6. Under Omnibus Crime Bill of 1984 (845a) there is a sentencing provision for selling drugs on or near school yards. This needs to be extended to colleges and universities.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES PROPOSES TWO OPTIONS TO IMPLEMENT STRONGER DRUG ABUSE TREATMENT EFFORTS IN THE UNITED STATES.

1. RESTRUCTURING THE EXISTING TITLE III OF THE NARCOTICS ADDICT REHABILITATION ACT (NARA) TO INCLUDE ALL CONTROLLED SUBSTANCE ABUSERS AND TO STREAMLINE THE CUMBERSOME REGULATORY AND REPORTING REQUIREMENTS OF THE ORIGINAL LAW;
2. DRAFTING A MODEL STATUTE TO PROVIDE STATES WITH THE BASIS FOR BROADER TREATMENT AUTHORITY FOR CONTROLLED SUBSTANCE ABUSERS IN THEIR JURISDICTIONS.

Proposed Initiatives

Subject:

Description:

Enhanced Drug
Penalties

A legislative package submitted by the by the Department of Justice to (a) reduce the weights of drugs required to trigger the maximum sentences, e.g. from one kilo to 100 grams of cocaine or 25 grams of "crack", (b) increase the maximum sentences for large-scale trafficking from 20 to 40 years; (c) provide mandatory prison terms of five years for a first offender and ten years for a second offender; (d) provide a mandatory minimum fine for simple possession; and provide a mandatory minimum prison term of 20 years (maximum life imprisonment) for drug trafficking death results.

Controls on Drug
Precursors and
Essential Chemicals/
Chemical Diversion
Trafficking Act
1986

Establishes an entirely new system of controls over certain sales of selected precursor and essential chemicals by requiring a new system of record keeping, reporting, and proper identification designed to keep the key precursors and essential chemicals out of the hands of drug traffickers and identify suspicious purchasers of these chemicals.

Immunity for Dis-
closure of Inform-
ation

Seeks to amend 21 U.S.C. 885 (e) to idemnify from civil redress persons or employees who provide information to duly authorized agents, officers, or employees of the Attorney General.

Pretrial Sampling and
Destruction of Bulk
Evidence

Seeks authority to destroy bulk quantities of drug evidence after specified time.

A draft bill proposal entitled the "Customs Enforcement Act of 1985", seeks to (1) improve the effectiveness of enforcement programs of the U.S. Customs Service, (2) provide through legislation solutions to various law enforcement problems encountered by officers of the United States Customs Service because of deficiencies in existing law, and (3) reduce costs and time delays caused by the storage of forfeited and abandoned articles.

The bill would: (1) require all vessels arriving in the United States to report immediately to Customs; (2) require persons entering the United States and its land borders to enter only at authorized border-crossing points and require passengers to report for Customs inspection and remain in the Customs area until cleared by a Customs officer; (3) increase penalties for non-compliance with Customs reporting requirements; (4) grant increased authority to gather evidence of violations of laws and regulations enforced by the Customs Service; (5) tighten exemptions for common carriers; (6) provide penalties for falso or fraudulent drawback and similar claims; (7) clarify forfeifutre provisions for prohibited or restricted merchandise; (8) clarify the Secretary of the Treasury²s authority (consistent with 22 CF, Part 181) to exchange information with foreign law enforcement authorities; and (9) tighten laws governing the operation or sale of aircraft in connection with drug activities.

To the extent that the bill cncerns drug law enforcement, it is, like section 320 of P.L. 98-473 and section 213 (a) (17) of P.L.

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98-573 intended to strengthen the ability of the Customs Service to carry out its existing drug enforcement functions in its assigned geographic areas of responsibility. The division of domestic and foreign drug enforcement jurisdiction among the various federal agencies is set out in Executive Order 11727 and Reorganization Plan No. 2 of 1973 and nothing herein is intended to alter these allocations of responsibility.

Legislative Initiatives
of Significance to Enforcement

Legislation Pending:

Subject:	Legislation:	Description:	Status:	Funding Required:	Administration's position:
The Drug Dependent Offenders Amdt. of 1986	H.R. 5076	Federal offenders placed on probation or parole who have drug dependency problems may be required to undergo drug testing, counseling, and other treatment programs as a condition of probation or parole.	Pending in House Crime Subcommittee		
The Designer Drug Enforcement Act of 1986	H.R. 5246 S. 1437	Makes designer drugs illegal and subjects traffickers of controlled substance analogs to the stiffest drug penalties	Pending in House Crime Subcommittee		
Career Criminal Amendments of 1986	H.R. 4885	Expands the Armed Career Criminal Act to include violent crimes and drug crimes.	Pending in House Crime Subcommittee		
The Money Laundering Control Act of 1986	H.R. 5217 S. 2683	Creates a new crime of money laundering; improves investigatory tools and reduces restrictions on law enforcement in the banking area.	Pending in House Crime Subcommittee		
Providing for a White House Conference on Drug Abuse and Control	H.J. Res 631	The resolution calls for the President to convene a White House Conference on Drug Abuse and Control by April 1987	Pending in House Crime Subcommittee		
Technical Amendments to Comprehensive Crime Control Act	H.R. 2774	Eliminates technical problems with and clarifies many new provisions of the Comprehensive Crime Control Act of 1984. Reinstates the deputation authority sought by Drug Enforcement Administration for state and local officers serving in Task Forces which was inadvertently cut from original bill.	Passed Senate Pending in House Judiciary Committee		

Legislation Pending:

Subject:	Legislation:	Description:	Status:	Funding Required:	Administration's Position:
Judiciary and Judicial Procedure Title 28 U.S.C., Amendment	H.R. 1193	A bill to amend Section 524 of Title 28, United States Code, to provide amounts from the Department of Justice assets forfeiture fund for drug abuse prevention, treatment, and rehabilitation programs.	Committee Schedules Pending		
Readiness Enhancement of Air Force Reserve Special Operation Act of 1985	H.R. 1307	A bill to authorize the appropriation of funds for the operation and maintenance of a Special Operations Wing of the Air Force Reserve, to authorize the appropriation of funds for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Law Enforcement, and to require certain reports.	Committee Schedules Pending		
Controlled Sub- stances Importation, Increased Enforce- ment by Coast Guard Act, Amendment	H.R. 2132	A bill to amend Public Law 96-350 to further define the Customs waters for the purposes of certain drug offenses.	Committee Schedules Pending		
Crimes and Criminal Procedure, Title 18, U.S.C., Amendment	H.R. 2774	A bill to amend Title 18 of the United States Code and other laws to make minor technical amendments of provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes.	Committee Schedules Pending		
Anti-Smuggling Act of 1985	H.R. 3479	A bill to amend the Tariff Act of 1930 to increase measures to combat smuggling by vessels, vehicles, and aircraft, and for other purposes.	Referred to House Committee on Ways and Means		
Omnibus Diplomatic Security and and Anti-Terrorism Act of 1986; Terrorism Prosecut- ion Act of 1985	H.R. 4151	A bill to provide enhanced diplomatic security and combat international terrorism and for other purposes.	Received in the Senate, after passage in the House Referred to Senate Committee on Foreign Relations Pending		

Legislation Pending:

Subject:	Legislation:	Description:	Status:	Funding Required:	Administration's Position:
Readiness Enhancement of Air Force Reserve Special Operations Act of 1985	S. 531	A bill to authorized the appropriation of funds for the operation and maintenance of Special Operations Wing of the Air Force Reserve. To authorize the appropriation of funds for the operation and maintenance of the Directorate of the Department of Defense Task Force on Drug Enforcement, and to require certain reports.	Referred to Senate Committee on Armed Services Remarks in "Congressional Record" (CR Page S-2274)		
Drug Money Seizure Act	S. 571	A bill to amend Subchapter II of Chapter 53, Title 31, United States Code, relating to currency reports.	Committee Schedules Pending		
Mail Order Drug Paraphernalia Control Act	S. 713	A bill to prohibit the interstate sale and transportation of drug paraphernalia.	Referred to Senate Committee on the Judiciary		
Comprehensive Crime Control Act of 1984, Amendment	S. 1236	A bill to amend Title 18 of the United States Code and other laws to make minor or technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes.	Measure passed (Voice Vote) as amended Full text of measure printed in "Congressional Record" Received in the House, after passage in the Senate Referred to House Committee on the Judiciary		
Controlled Substance Analogs' Enforcement Act of 1985	S. 1437	A bill to amend the Controlled Substances Act to create new penalties for the manufacture with intent to distribute, the possession with intent to distribute, the possession or or the distribution of 'controlled substance analogs', and for other purposes (title amended 12/18/85).	Measure passed (Voice Vote) as amended 5/1/86 -- In the House Public Hearing held by Crime Subcommittee		

Legislation Pending:

Subject:	Legislation:	Description:	Status:	Funding Required:	Administration's Position:
Anti-Smuggling Act of 1985	S. 1694	A bill to amend the Tariff Act of 1930 to increase measures to combat smuggling by vessels, vehicles, and aircraft, and for other purposes.	Referred to Senate Committee on Finance Remarks on "Congressional Record" by DeConcini (D-AZ) (CR Page S-12036) Full text of measure printed in "Congressional Record" (CR Page S-12036)		

REMARKS

OF

STEPHEN S. TROTT
ASSISTANT ATTORNEY GENERAL
OF THE CRIMINAL DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE

HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

ON

JULY 24, 1986

ON

H.J. RES. 631

Mr. Chairman, you have invited me to appear today for the purpose of presenting the position of the Department of Justice on H. J. Res. 631, Chairman Peter Rodino's bill to provide for a White House Conference on Narcotics Abuse and Control, some six months following the date of enactment. It is our view that, while the concept of bringing together policymakers from all levels of government, as well as experts in the drug field, to discuss drug abuse and trafficking certainly has merit, convening a White House Conference to accomplish this task does not appear to be necessary at this time.

Many of the purposes and specific considerations of the Conference, outlined in H.J. Res. 631, are already responsibilities that Congress gave to the National Drug Enforcement Policy Board less than two years ago. Indeed, creating a conference to assume this function would not only be duplicative, but also cumbersome. It is highly unlikely that a conference of the size proposed by the bill could consider all the issues outlined in a relatively short period of time.

A meeting of the size contemplated by the bill would also have the unfortunate effect of diverting resources and energies away from our present efforts.

Energies and resources expended with regard to a White House Conference would be substantial, involving not only preparation

for the meeting itself, but also pre-meeting briefings in preparation, meeting set-up, post-meeting clarifications, and, as required in the resolution itself, the preparation and submission to Congress by the President of a post-conference report followed by at least three annual reports concerning the status and implementation of the findings and recommendations of the Conference. This is unnecessary, and it would have the unintended effect of slowing our national effort to control drug abuse.

The bill cites a "lack of coordination" within the federal drug effort and calls for a White House Conference "to develop recommendations for further action to control the illicit production, trafficking, and distribution of narcotics internationally and in the United States . . ." [(section 2)]. The bill also states that the purpose of the conference is "to increase public awareness" of the drug problem, "to pool information," and "to assist in formulating a national strategy" [(section 3a)]. These objectives are already being pursued according to Congressional design.

The purpose of increasing public awareness is already being addressed at all levels of government and in the private sector (especially by parent groups and civic organizations). The second can be handled more effectively at the intra-disciplinary level, just as the Department of Justice has done with its drug conferences. The third, and perhaps most important, purpose is now being handled, as I have indicated, by the National Drug

Enforcement Policy Board.

The coordination of a conference, composed of Cabinet officials, governors, mayors of major cities, and "individuals distinguished in medicine, law, sociology, education, and law enforcement" would be an enormous undertaking, with the meeting to occur over an unspecified period of time and with little likelihood of results sufficient to justify the expenses associated with the conference, both in dollars and particularly in terms of critical drug enforcement responsibilities which would have to be neglected in order to prepare.

In creating the Policy Board, with the Attorney General as Chairman and the Secretaries of State, Treasury, Defense, Transportation, and Health and Human Services as members, Congress ensured that the drug problem would receive attention "at the highest level of government", as urged by Chairman Rodino's bill. High-level attention also is given to the demand side of the drug problem through the White House Drug Abuse Policy Office, headed by a Deputy Assistant to the President.

The National Narcotics Act, which created the Policy Board, and which was enacted by Congress on October 12, 1984, specifically authorizes the Board to perform the following functions. According to section 1304(a), the Board is given responsibility to -

- 1) review, evaluate and develop United States government policy, strategy and resources with respect to illegal drug law enforcement efforts, including budgetary priorities and a National and International Drug Law Enforcement Strategy;
- 2) facilitate coordination of all United States Government efforts to halt national and international trafficking in illegal drugs; and
- 3) coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement.

It is fundamental that the fight against drugs become a national one, and that federal officials work alongside their state and local counterparts, the Congress, and the private sector. Although a White House Conference would provide a mechanism for such an exchange, the Policy Board and Drug Abuse Policy Office can and does already provide for these kinds of discussions.

This Administration is proud of its record with respect to raising public awareness of the problem of drug abuse, and the President and First Lady have been especially visible with respect to this very important national problem. We are, even now, in the final stages of presenting our legislative recommendations in this

area, and we would hope that Congress will act quickly to take action.

DRUG ENFORCEMENT STRATEGY

ACCOMPLISHMENTS

Investigation and Prosecution

- Federal investigative and prosecutorial activities focus on four major objectives: arresting drug traffickers; seizing their contraband; forfeiting their drug-derived assets; and charging them with all related offenses.
- To achieve these objectives, the Government targets high-level organizations and employs sophisticated investigative techniques including court-ordered electronic surveillance and complete financial investigations.
- Interagency coordination is a key ingredient in conducting thorough investigations leading to successful prosecutions. Over 20 Federal agencies, joined by many State and Local law enforcement agencies, contribute to the fight against drug trafficking. These agencies work together to destroy the organizations that traffic in drugs and to investigate, prosecute and incarcerate their members. The Organized Crime Drug Enforcement Task Force Program illustrates this interagency coordination. Since the inception of the Task Force Program in October 1982, the following have been achieved:
 - 1,386 Task Force cases have been initiated.
 - Indictments have been returned in 870 cases.
 - 2,574 indictments have been returned with a total of 9,453 individuals indicted.
 - 564 defendants have been charged with Racketeer Influenced Corrupt Organizations (RICO) violations.
 - 448 defendants have been charged with Continuing Criminal Enterprise (CCE) violations.

- 612 defendants have been charged with Title 26 violations and 346 with Title 31 violations.
- As of May 31, 1986, 3,669 individuals have been convicted of one or more charges.
- Specific drug indictments include 1,101 for cocaine; 234 for heroin; 601 for marijuana; 434 for other drug violations and 623 for money laundering and other financial offenses.
- State and local investigators have participated in approximately 60% of the Task Force investigations and 18% of the prosecutions involved State and local prosecutors.
- 32% of all indictments returned involved international organizations.
- 89% of all defendants adjudicated were found guilty or pleaded guilty to at least one charge.
- Assets seized included approximately \$175 million in cash and \$270 million in property.
- Forfeitures totalled over \$57 million in cash and \$98 million in property.

- Total drug arrests and convictions have increased over the past few years. In FY 1985, DEA drug arrests increased approximately 20% over FY 1984; major violator arrests increased about 40%. Convictions resulting from IRS investigations show steady increases from FY 1981 to FY 1985, with a total increase of 46% in convictions from FY 1984 to FY 1985. United States Attorneys filed more controlled substance cases with more defendants and obtained more convictions in FY 1985 than in previous years. Convictions, as a percentage of all defendants whose cases were terminated, increased 5% from FY 1984 to FY 1985.
- DEA and FBI domestic cocaine removals, which include seizures and purchases, increased by 57% from FY 1984 to FY 1985. This increase reflects both increased law enforcement emphasis on, and increased availability of, cocaine. Domestic marijuana removals decreased due to successful investigations, eradication, and interdiction efforts, along with a decrease in marijuana consumption. Clandestine laboratory seizures of dangerous drugs increased 45% from FY 1984 to FY 1985.
- DEA, FBI, and United States Customs Service drug-derived asset seizures and forfeitures have increased from FY 1984 to FY 1985. This increase reflects intensified law enforcement emphasis on and expertise in financial investigations as well as changes enacted by the Comprehensive Crime Control Act of 1984.
- The United States Marshals Service maintains seized property from the time of seizure until disposition following forfeiture. At the end of FY 1985, the Marshals had \$321 million in seized properties in their custody.

Nearly every measure of the Organized Crime Drug Enforcement Task Force Program, the principal Federal interagency investigative and prosecutorial program, shows steady improvement since its inception. The number of defendants charged in OCDEF investigations increased 22% from 1984 to 1985, and 90% of all defendants charged in adjudicated cases either pleaded or were found guilty. The value of non-drug assets forfeited in OCDEF cases increased 44% from 1984 to 1985.

Interdiction

- Unprecedented efforts in the area of interdiction have resulted in massive drug seizures and the disruption of established trafficking routes. The military has been used regularly under this Administration. Radar surveillance planes, Navy and Coast Guard ships, Army and Air Force helicopters and ground based radar have been employed by the military over the last five years. The current operations in Bolivia and the Bahamas are further examples of this support.
- Marijuana traffickers have reduced the size of individual shipments from approximately 19,000 pounds in FY 1981-82 to 10,000 pounds in FY 1985, making their operations more costly.
- Traffickers have also been forced to stockpile marijuana, reflected in a decline in marijuana seizure statistics. The NNBIS-coordinated interdiction effort, Hat Trick I, forced stockpiling of marijuana in Colombia. Colombian officials were then able to seize much of this marijuana in FY 1984.
- Meanwhile, cocaine seizures have increased steadily, reflecting both the increased volume of cocaine trafficking and increased enforcement against cocaine traffickers. Traffickers have increased the use of vessels to transport cocaine. The amount of cocaine seized by the Coast Guard increased 200% between FY 1984 and FY 1985.

- In FY 1985, the Coast Guard seized a total of 5,890 pounds of cocaine and 1,951,511 pounds of marijuana. The Customs Service seized 49,297 pounds of cocaine, 2,388,502 pounds of marijuana, and 784 pounds of heroin.
- Operation Blue Lightning, coordinated by the Vice President's National Narcotics Border Interdiction System with the United States Customs Service as the lead agency, targeted the flow of drugs through the Bahamas in April 1985. The operation resulted in the seizure of 5,500 pounds of cocaine, 36,000 pounds of marijuana, and 26 vessels during the two-week operation.
- The success of Operation Blue Lightning has led to the creation of the Blue Lightning Operations Center in Florida, a multi-agency command and control facility directing participating marine resources.
- Operation BAT is a cooperative effort between the DEA and the Governments of the Turks and Caicos Islands, begun in 1982, to disrupt the flow of drugs transiting the area. Between March 1983 and December 1985, Operation BAT resulted in 261 arrests, the seizure of more than 18,000 pounds of cocaine, 360,000 pounds of marijuana, and more than 100 vessels and aircraft.
- Operation Buckstop was initiated by Customs in 1985 to intercept drug-related currency. A total of \$25 million has been seized during this operation.
- The acquisition of high technology has improved interdiction efforts. For example, the Department of Defense has loaned eight Blackhawk helicopters and four P-3 aircraft to Customs.
- As a result of Executive Order 12333, the intelligence community has provided increasing support to the Federal interdiction effort.

Licit Drug Control

- Controlling the diversion of legitimately produced drugs into the illegal marketplace, preventing the illegal production and distribution of synthetic drugs, and halting the illegal distribution of drug precursors are vital components of the drug enforcement Strategy.
- DEA plays a significant role in controlling diversion activities through the registration of all handlers of controlled substances, inspections of drug manufacturers and wholesalers, and special investigations. In FY 1984 and FY 1985, DEA investigated over 550 registrants, resulting in 360 arrests and fines and civil penalties of almost \$5 million. During the two-year period, DEA conducted 1,250 scheduled inspections of registered drug wholesalers and manufacturers.
- The United States is a significant source country for dangerous drugs as well as marijuana. DEA coordinates the seizure of clandestine drug laboratories to remove these sources of supply. Clandestine lab seizures of nearly every drug have increased since FY 1981. Methamphetamine and amphetamine lab seizures increased from 103 in FY 1981 to 324 in FY 1985. Cocaine lab seizures increased from 5 to 29 during the same period. International efforts to control ether, an essential chemical in the processing of cocaine, contributed to the increase in domestic cocaine production.
- The use of controlled substance analogs (so-called designer drugs) is potentially a serious drug problem because of the drugs' potency and huge profit margin.
- The Comprehensive Crime Control Act of 1984 provides for the emergency scheduling of specific analogs, making their production, distribution, and possession illegal. DEA has used this emergency authority to control ten fentanyl analogs, two meperidine analogs (linked to the development of Parkinson's Disease in its abusers), and the hallucinogen/stimulant MDMA.

Domestic Cannabis Eradication

- Marijuana is the most widely abused illicit drug in the United States. An estimated 12% of the marijuana consumed here in 1984 was produced domestically.
- To combat this problem, the United States has mounted an extensive domestic eradication campaign, which began with two States in 1979, and which now includes all fifty States. DEA is the lead agency in this program which also includes the United States Forest Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and National Guard.
- The DEA Administrator signed a record of decision in September 1985, based on the Domestic Cannabis Eradication Environmental Impact Statement, which calls for use of the full range of eradication methods on Federal lands: manual, mechanical, and herbicidal.
- The number of cannabis plots eradicated increased 100% between 1984 and 1985. The number of weapons seized also increased, reflecting the violence that is often associated with cannabis cultivation.
- Operation Delta-9, which took place in August 1985 in all 50 States, was the largest initiative against domestic cannabis cultivation in United States history. This operation, under the leadership of the Attorney General, resulted in 225 arrests, the eradication of 3,010 cannabis plots, and the seizure of 78 weapons.
- The Attorney General's leadership in the domestic cannabis eradication program, the Environmental Impact Statement, and the 50 State campaign demonstrate the United States resolve to employ the resources necessary to fight this problem.

International Drug Control

- The global nature of drug abuse has resulted in the internationalization of drug control efforts, uniting different countries against a common enemy.
- Extradition and mutual legal assistance treaties have been ratified or implemented in several countries, extending the rule of law and reducing the opportunities for drug traffickers to escape justice.
- Fourteen countries conducted eradication programs against cannabis, coca, or opium poppies in FY 1985, compared with only two countries in FY 1981.
- Multilateral cooperation has expanded through such groups as the International Drug Enforcement Conference, the Customs Cooperation Council, the Association of Southeast Asian Nations, and the United Nations Fund for Drug Abuse Control. The United Nations is considering a new international drug convention, and a world conference on drug abuse will be held in 1987.
- Regional drug control efforts have expanded. The Governments of Colombia and Ecuador, with DEA assistance, completed a successful enforcement effort in late 1985, known as Oriente II. This effort resulted in the eradication of 192 hectares of coca and the seizure and destruction of many cocaine laboratories.
- Some international investigations have focused on the problem of corruption, a common feature of drug trafficking. For example, one such investigation resulted in the conviction of the Chief Minister of the Turks and Caicos Islands, Norman Saunders, the highest ranking foreign official ever convicted on drug charges.

PROPOSAL

Wheeler

Proposal for consideration by Republican Staff Task Force
on Bipartisan legislative initiative:

Republican members should actively speak out on the drug problem (both enforcement (supply side) and use reduction (demand side)) and in support of the new initiative, but with the following four points reiterated loudly and often:

1. Republicans have been working hard and consistently on the drug problem; it has been a priority of this Administration since 1981. Whatever it took to get the Democrats interested in 1986 is ok with us, we need all the help we can get, so lets welcome the Democrats aboard in 1986;
2. Bills in the pipeline and ready for floor action in early August (designer drugs and money laundering bills (both Banking and Judiciary)) should not be held back until the September package;
3. We have made a commitment to the American public regarding federal government spending. We can't just throw that commitment to the wind. We have also learned that throwing money at crime problems provides very disappointing results. If we are going to authorize new expenditures, then we must do so carefully and wisely. A bipartisan bill cannot be based on a pre-election spending frenzy (an easy, but unhelpful reaction); and
4. We recognize the seriousness of the problem, but we also recognize the tremendous improvements this Administration has made in its response to the supply aspect of the problem. From first effort in South Florida (The South Florida Task Force) to the Current Bolivian operation (Operation Blast Furnace) a consistently dedicated evolution has occurred in the cooperation, coordination and efficiency of the federal response. Although the problem is not solved, these efforts do make a tremendous difference. We are reluctant to support an effort that simply provides a forum for partisan Administration bashing with regard to programs for which we feel a personal pride. The tone of rhetoric on the part of our colleagues from the other side of the isle must be altered to reflect their assurances of the bipartisan nature of this proposal.

TALKING POINTS FOR REPUBLICANS
THE REAGAN ADMINISTRATION EFFORTS ON ILLICIT DRUG
DEMAND AND SUPPLY

The controlled substance abuse problem in the United States must be affected by reducing both the supply and demand of these drugs. This Administration has every reason to be very proud of its supply reduction (law enforcement efforts). Federal demand reduction efforts (drug abuse education, punishment, and treatment) are now being organized and orchestrated based on the tremendous success this Administration has had with its enforcement efforts. Recent news articles and discussions with administration officials indicate that in the coming months this administration will be announcing its demand reduction effort, which will include the personal input of President Reagan. Ongoing efforts indicate that this program will be more comprehensive, more organized, more indepth, and more coordinated than any federal drug demand reduction program in the past.

We are not surprised by the recent well-orchestrated democratic claims that this Administration isn't doing anything about drugs. Not only is this claim ridiculous, but it is becoming a rather predictable, worn out pre-election tune, and an out of tune one at that. We believe the six black hawk helicopters in Bolivia say a lot more about this Administration's efforts than its pre-November critics on Capitol Hill.

THE FEDERAL SUPPLY REDUCTION EFFORT

This Administration has made dramatic strides in drug enforcement since its initial efforts beginning in 1981. These changes occur on three fronts: increased funding, increased coordination (resulting in increased efficiency and effectiveness of existing resources), and improved legal tools. To suggest that the Administration is doing nothing because the problem remains large is illogical, unfounded, and dishonest. The progress made in supply reduction is unprecedented. A large supply remains, but without current efforts the problem would be much, much worse.

I INCREASED FUNDING

Government wide resources devoted to drug enforcement have increased 96% since President Reagan took office in 1981, using constant 1981 dollars. (1981 base year = \$735.6 million, FY 1987 = just under \$2 billion in constant dollars, \$1,443.3 in real dollars). These figures were prepared by OMB in January, 1986 and may need to be adjusted slightly to reflect changes in

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the FY 1987 funding over the last six months. These figures do not include: Department of Defense (DoD) equipment on loan to law enforcement agencies valued at \$111.5 million, U.S. Coast Guard (Coast Guard) capitol expenditures on law enforcement estimated at \$100 million annually, or Agency for International Development (AID) funding for crop eradication and other source country crop substitution programs.

Funding for the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) (which actually decreased under the Carter Administration) have not only been restored, but dramatically increased under the Reagan Administration, using constant dollars. According to the graphs in attachment A prepared by the Department of Justice (DoJ) using constant 1981 dollars to determine real growth, funding for the DEA dropped from \$225 million in FY 1975 to \$216 million in FY 1981 and up to \$281 million in FY 1986 (a 30% increase over 1981)! FBI funding measured in constant 1981 dollars used to measure real growth dropped from \$750 million in FY 1985 down to \$680.7 million in FY 1981 and up to \$1,187.7 million in FY 1986 (an increase of 74.2% over FY 1981)! Funding for these agencies was increased again in funding requests for FY 1987.

The impact of the Comprehensive Crime Control Act is limited by the refusal of Judiciary Committee Democrats to adequately fund Assistant United States Attorneys, who prosecute violations of that Act and all federal criminal law violations. For FY 1986 DoJ requested an additional 560 positions (\$7.810 million) to enable the U.S. Attorneys to respond to the increase in federal judges under the Bankruptcy Amendments and Federal Judicial Act and the increased responsibility under the CCCA. The Judiciary Committee refused the entire request. Partly in response to the seriousness of this funding problem, the Senate increased its request dramatically, and the House and Senate conference compromised at 432 positions (\$6.965 million). Again this year, Judiciary Committee Democrats prohibited adequate funding of prosecutorial resources. Due only to yeoman's work by Congressman Lungren, the Committee was convinced to at least maintain existing resources adjusted for uncontrollable increases in expenses (\$11.664 below the Administration request). All of the dramatic improvements in federal law created in the CCCA (which the Judiciary Committee held hostage during the 98th Congress) are being muted by this Committee's continued attempt to prevent proper prosecutorial resources necessary for its enforcement.

These are but a few of the examples of how Republicans and Democrats differ on funding for federal drug enforcement efforts.

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II IMPROVED LAW ENFORCEMENT LEGISLATION

The creme de la creme of crime legislation was adopted over the objection of Judiciary Committee Democrats in the 98th Congress. The CCCA was bottled up in this Committee for over a year before Congressman Lungren took advantage of a little used floor procedure to force of vote of this 64 part legislation - the most comprehensive reform of the federal criminal code in this century. The CCCA passed the House of Representatives, and attachment B will tell you how members of Congress voted on this fundamental reform. President Reagan's administration built the CCCA, made it a priority, and spoke in its favor across this nation. For these hearty efforts, it has been able to implement this legislation which:

- totally rewrites bail and sentencing laws;
- expands and improves drug and organized crime forfeiture;
- limits the insanity defense
- permits federal land grants to states for prison construction;
- toughens laws against foreign money laundering;
- creates new laws against murder for hire, solicitation to commit crimes of violence, armor piercing bullets, kidnaping federal officials, crimes against family members of federal officials, maiming, involuntary sodomy, destruction of motor vehicles, destruction of energy facilities, assaults upon federal officials, escape from civil commitment, arson, and other violent crimes;
- creates new laws against warning the subject of a search, federal social program fraud and bribery, counterfeiting state and corporate securities, receipt of stolen bank property, bank bribery, bank fraud, possession of contraband in prison, livestock fraud, public officials acting as agents of foreign principals, and more;
- improves prosecution of certain juveniles as adults, use of wiretaps, expansion of venue for threat and importation offenses, injunctions against fraud, government appeal of post conviction new trial orders, witness protection, and many other procedures;
- creates the Drug Enforcement Policy Board (discussed Below);

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- creates victim compensation and assistance
- outlaws trademark counterfeiting, credit card fraud, computer crime, hostage taking, and aircraft sabotage;
- creates enhances penalties for career criminals;
- and makes many other criminal law improvements.

The length of this list, as well as its depth, speaks for itself and the commitment Republicans place on effective criminal law. Also in the 98th Congress, amendments to the Posse Comitatus laws enabled the military to assist in the drug enforcement effort.

In the 99th Congress, the Subcommittee on Crime marked up only one bill in 1985 (the armor piercing bullet issue left over from previous years). In 1986 the Subcommittee has marked up amendments to computer crime, career criminals, contract services for drug dependent offenders and gun control laws. Not until July, 1986 did the Subcommittee mark up either money laundering or designer drug legislation - the two major drug enforcement legislative initiatives. The Subcommittee still has done nothing about the technical corrections to the CCCA modifications in the federal drug laws. One of these technical corrections is a provision protecting state police assisting the federal drug effort. It was passed by both Houses of Congress, but accidentally deleted from the CCCA before the President signed the new law. The Subcommittee on Crime has held no oversight authorization hearings for DEA either in 1985 or 1986. There have been no oversight hearings of the new Drug Enforcement Policy Board.

III IMPROVED EFFICIENCY AND EFFECTIVENESS OF EXISTING RESOURCES

Dramatic changes in the way drug trafficking is approached by this administration heralds the most significant improvements and commitment of the federal effort. These changes are revolutionary and evolutionary; the organizational changes made thus far are designed to breed more cooperation and efficiency with experience.

One great strength of the federal drug enforcement effort is the differing point of view and vision of the many agencies that have drug enforcement as a part of their missions. For example, the Coast Guard secures our shores, the Immigration and Naturalization Service (INS) attempts to stop aliens who smuggle drugs across the border. The United States Customs Service (Customs) is responsible for drug smuggling across the borders in general. The Internal Revenue Service (IRS) investigates

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traffickers for failure to pay taxes on their ill gotten gains. The FBI investigates high level organized crime drug traffickers. DEA is the only agency with the sole mission of drug enforcement. The DoD assists all of these agencies and state and local police in their anti-drug efforts.

Because each agency sees the problem from a different perspective, a wholesome divergency in approaches is the result. This divergency is both a strength and weakness. The Reagan Administration has reduced the impact of the weaknesses, which were lack of coordination, competition that hindered cooperation, inconsistent policies and budgets, and the relatively low priority of the drug problem in relation to the important primary mission (often the namesake) of the various agencies.

This Administration's impressive effort to eliminate the weaknesses associated with drug enforcement maintains the strengths of the many agency commitments. These unprecedented efforts include:

1982

1981 SOUTH FLORIDA TASK FORCE - Headed by Vice President George Bush. Federal law enforcement agents from DEA, Customs, FBI, Bureau of Alcohol, Tobacco and Firearms (BATF), were diverted from other parts of the country to Florida to work with local law enforcement agents to attack the saturation of drug trafficking in that state. This successful program was a learning experience that remains in existence today and has served up many lessons for new joint programs;

1982

1981 POSSE COMITATUS - Military personnel, equipment, and intelligence are permitted to support the law enforcement agencies drug enforcement effort. Coast Guard Tactical Law Enforcement Teams (TACLETs) are placed on board Navy vessels to search, seize, and arrest drug smugglers at sea;

1981 LAW ENFORCEMENT COORDINATING COMMITTEE (LECC) - In response to a recommendation in the Attorney General's Task Force on Violent Crime Report (1981), the Attorney General established an LECC in each of the 94 Judicial districts to coordinate efforts and exchange information between federal law enforcement groups and state and local law enforcement agencies. Each LECC is chaired by the United States Attorney and meets regularly;

1982
83

1981 DEA DOMESTIC CANNABIS ERADICATION & SUPPRESSION PROGRAM - All states now participate in this effort to reduce domestic cultivation of marijuana.

1982 FBI ENTERS DRUG ENFORCEMENT EFFORT - In 1982, the FBI was given jurisdiction to investigate drug trafficking. Over 45% of the FBI's organized crime investigations involve drug

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trafficking. The FBI expertise in investigations of organized crime figures has been invaluable in the efforts against drug kingpins;

1982 ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCES (OCDETF) -
The United States is divided into 13 regions, each protected by an OCDETF operated from a core city within the region, which is headed by a United States Attorney, and made up of representatives of FBI, DEA, IRS, Customs, and BATF as well as state and local law enforcement agencies. The purpose of the OCDETFs is to coordinate and implement investigations against high level drug traffickers with an eye towards the needs of a successful prosecution of these economically motivated murderers. These investigations are the most complex, difficult, comprehensive and lengthy investigations in the criminal sphere. The OCDETF marks a real milestone in the effort to get the drug kingpins who run drug trafficking operations, without ever touching the drugs themselves;

1983 NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM (NNBIS) -
Chaired by Vice President George Bush, DoD representatives meet regularly with federal, state and local law enforcement officials to plan coordinated drug enforcement missions at the borders in an effort to improve efficiency, cooperation, and to reduce costs (when the military benefits through training or otherwise, high operation costs are not passed on to the law enforcement agencies as is otherwise required by law). The coordination also makes meaningful joint border operations viable. NNBIS grew directly from the South Florida Task Force;

1985 1984 DRUG ENFORCEMENT POLICY BOARD (POLICY BOARD) - The CCCA created the Policy Board, which has been embraced and fully utilized by President Reagan's cabinet. The Policy Board is a cabinet level group, chaired by the Attorney General and charged with coordinating the federal effort. This highest level coordination has taken place quietly, and without fanfare, that has resulted in real, steady laborious progress. It may not be exciting, and getting agencies to work together will never be easy, but this work is getting lasting results. Within the month the Policy Board will issue the federal strategy on drug enforcement and we believe it will be the most comprehensive of its type. The progress report issued by the Policy Board in 1986 stands on its own as an excellent document. The only hinderance the Policy Board cannot control is the constant requests coming from Congress for reports on various aspects of the drug problem. These reporting requirements divert precious Policy Board staff resources from its main coordination goal.

All of these cooperative efforts have led to improved results. Here are just a few of the joint efforts that would

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not have been possible without the coordination efforts just listed:

- Operation Trampa II, a coordinated effort to stop drug smuggling in the Caribbean begun in 1982, has resulted in the seizure of 24,000 pounds of cocaine, over 6.5 million pounds of marijuana and 650 vessels. This operation involved the Coast Guard, Customs, DEA and DoD;

- Operation Blue Lightning, a multi-agency operation coordinated with the Bahamian government, resulted in the seizure in April 1985 of 5,500 pounds of cocaine and 36,000 pounds of marijuana;

- The Blue Lightning Strike Force, a permanent strike force developed out of Operation Blue Lightning, interdicted 103,755 pounds of marijuana and 6,710 pounds of cocaine between June and September 1985;

- Operation BAT, operating in the Caribbean, interdicted 18,103 pounds of cocaine and 360,000 pounds of marijuana between March 1983 and December 1985;

- In 1983, 27 metric tons of marijuana were seized at the Mexican border. In 1984, 78 metric tons were seized;

- In 1985, 440 kilos of cocaine were seized at the Mexican border, So far in 1986, 2,500 kilos have been seized;

- In the 1985-86 effort known as Operation Hat Trick II, NNBIS Organized the work of Customs, Coast Guard, DEA and other federal agencies with Latin American governments, resulting in the seizure of 11 tons of cocaine and the arrest of 1300 peoples. Operation Hat Trick has led to the destruction of much of the 1984 autumn marijuana crop in Columbia; and

- Operation Blast Furnace, the on going joint operation with the Bolivian government in which 100 troops, a C5A, and 6 Black Hawk helicopters are providing support for a Bolivian effort to destroy 60 cocaine labs in that country.

CONCLUSION

After reading this review, you must wonder as we do, how any rational person can claim that this Administration has not done anything in response to the drug problem.

PETER W. RODINO, JR., NEW JERSEY, CHAIRMAN

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July 28, 1986

MEMORANDUM

TO: Republican Members of the Judiciary Committee

FROM: Charlene Vanlier Heydinger
 Minority Counsel
 Subcommittee on Crime *CHA*

RE: Bills scheduled for consideration by the Committee on the Judiciary and previously reported by the Subcommittee on Crime

On Tuesday, July 29, 1986, at 9:30 a.m. The Committee on the Judiciary will consider five bills reported by the Subcommittee on Crime in room 2141 of the Rayburn Building. These bills include:

- H.R. 5076, the Drug Dependent Offenders Amendments of 1986;
- H.R. 5246, the Designer Drug Enforcement Act of 1986;
- H.R. 4885, the Career Criminal Amendments Act of 1986;
- H.R. 5217, the Money Laundering Control Act of 1986; and
- H.J.Res. 631, providing for a White House Drug Abuse and Control Conference.

H.R. 5076, THE DRUG DEPENDENT OFFENDERS AMENDMENTS OF 1986

Federal offenders placed on probation or parole who have drug dependency problems may be required to undergo drug testing, counseling and other treatment programs as a condition of probation or parole.

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H.R. 5076 expands the authorization for Contract Services for Drug Dependent Offenders to also include federal offenders with alcohol dependencies. H.R. 5076 reauthorizes the program in FY 1987 for \$12 million, FY 1988 for \$14 million and FY 1989 for \$16 million (the authorization for the program was inadvertently repealed by the Comprehensive Crime Control Act, PL 98-473). The Department of Justice does not object to the authorization levels or the inclusion of alcohol offenders in the program. The Subcommittee rejected the Administrative Office of the U.S. Courts (AO) requests for a permanent reauthorization for "such sums" as necessary to finance the program. On June 12, 1986, the AO testified before the Subcommittee on Crime regarding the expected costs of the contract services program. Projected costs for FY 1987 include \$8.2 million for drug dependent offenders. The AO conservative estimate on the cost of similar services for alcohol dependent offenders is \$3.1 million.

Background

Title II of the Narcotic Addict Rehabilitation Act of 1966 (18 U.S.C. 4251-55) established special sentencing procedures and supervisory aftercare treatment for drug dependent offenders.

During the 98th Congress representatives from the AO described its operation as successful in terms of cost efficiency and the violation rate of offenders on supervised release. The AO, however, acknowledged that insufficient data prohibited precise evaluation of the program's success. The AO believed that it had instituted careful contracting procedures, such as fixed price contracts, to minimize expenses. In Fiscal Year 1980, of the \$3,500,000 appropriated for the program, \$900,000 was not spent.

In 1978, the Judiciary Committee recommended and legislation was subsequently enacted (P.L. 95-573), to authorize appropriations for contract services for Fiscal Year 1980 (\$3,500,000), 1981, (\$3,645,000) and 1982 (\$3,750,000). The 98th Congress adopted a provision which became P.L. 98-263 to authorize the program for Fiscal Year 1983 (\$5,000,000), Fiscal Year 1984 (\$5,500,000) and Fiscal Year 1985 (\$6,000,000).

According to the AO in 1983, of the total cases removed from supervision between July 1, 1980, and June 30, 1981, 6.4% experienced a new conviction. An additional 11.3% committed technical violations of supervision conditions. Among drug treatment offenders, 28.8% had new convictions, and an additional

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18.7% committed technical violations. Violations were slightly less among offenders who received non-contract services apparently because such services are more selective and treat only cases with high probability of success. Although participants in drug aftercare suffer 4.5 times the reconviction rate of all persons on supervision, that rate would apparently be higher without treatment. A Temple University study concluded that the incidence of crime was six times higher during periods of addiction than during periods of abstinence (i.e. treatment). In addition, the costs of incarceration (\$16,000 per annum) are roughly 6.75 times higher than treatment for addicts released on probation (\$2370 per annum).

No amendments are anticipated.

H.R. 5246, THE DESIGNER DRUG ENFORCEMENT ACT OF 1986

H.R. 5246 makes designer drugs illegal and is based upon the structure set forth in Mr. Lungren's bill H.R. 2977. Specifically, H.R. 5246 would:

-subject traffickers of controlled substance analogs to the stiffest drug penalties available today and forfeiture;

-defines a controlled substance as:

-1. a chemical structure substantially similar to a drug scheduled in schedule I or II and

-2. a. which has a stimulant depressant or hallucinogenic effect similar to a schedule I or II drug (DEA is concerned that they will have a difficult time proving the effect of the drug, particularly new analogs, in every case).

-legitimate research is not included in the definition because the following things are exempted:

-substances already controlled and placed in a schedule;

-substances for which a new drug application is approved;

-substances for which there is a investigational use exemption (IND) for human testing under FDA laws (only for the person for which the exemption is permitted) and quantities of substances created prior to an IND

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exemption that are not intended for human consumption until an IND exemption is granted.

-Controlled substance analogs are treated as schedule I drugs under the controlled Substances Act when they are intended for human consumption (Thus a chemical, otherwise meeting the definition used to manufacture tires will not be included unless someone diverts it for human consumption).

Background

The focus of H.R. 5246 is the new form of dangerous drug commonly referred to as "designer drugs". Law enforcement personnel have urged that the term "designer drugs" be abandoned since it falsely glamorizes and sensationalizes these dangerous substances. The preferred term for the drug upon which the hearing is based is "controlled substance analogs".

Under current law drugs are controlled by the federal government for drug enforcement purposes under the Controlled Substances Act (CSA), 21 U.S. C. 1801 et seq. There are thousands of various prescription drugs, but relatively few of them are controlled substances.

Under the CSA drugs are placed in schedules according to their relative medical use and abuse potential. The restrictions and penalties regarding a controlled drug vary according to the schedule in which the drugs are placed. For example, Schedule I contains heroin and other drugs with high abuse potential and no medical value. Schedule V, the lowest schedule, contains drugs with some abuse potential and more common medical use. A drug is defined for scheduling purposes by its chemical structure. The manufacture, distribution and sale of scheduled drugs outside of the registration, reporting and record keeping requirements violates federal drug trafficking laws. However, unless a drug is placed in one of the five schedules it is not a controlled substance and federal drug trafficking statutes will not apply.

The controlled substance analog phenomenon involves chemists outside this legitimate medical practice who are able to slightly vary the chemical components of a controlled substance and thereby manufacture a new product which is outside of the controls contained in the Controlled Substances Act, but which has the same dangerous effect. These dangerous substances are then legally manufactured, distributed, and used despite the fact that they are every bit as dangerous as the controlled substances that they almost mirror.

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In the 1960's the amphetamine and mescaline analogs (MDA and others) were developed. PCP analogs, which are common and as easy to manufacture as PCP itself, have posed a problem for over a decade and have been added to the CSA schedules through both legislation and the administrative scheduling process. New analogs are constantly developed. The current analog development is much more serious because it involves the production of synthetic narcotics. The fentanyl and merperidine analogs amount to synthetic heroin.

It takes the education of a graduate level chemist to create the most dangerous controlled substance analogs, the fentanyls, so there is some limitation on their production. Nonetheless, controlled substance analogs are a growing problem in California and their manufacture has been sighted in Florida and attempted in Delaware. There are signs that the problem is increasing.

Recently, a chemist who planned to manufacture controlled substances analogs, told an undercover DEA agent:

Another point to keep in mind is that I can easily prepare new, unregulated, and completely legal designer drugs by just altering the structures of the fentanyls a bit. The only problem is that we have no way of knowing how potent they are until someone uses them (Emphasis added). Perhaps in future deals, I can supply you with new, legal fentanyls and you can get them tested. If one turns up good and potent, we have a true gold mine on our hands because it will be absolutely legal to sell and use it. Keep it in mind.

The Federal Response

The 98th Congress, in adopting the Comprehensive Crime Control Act of 1984, P.L. 98-473, began to address the controlled substance analog problem by giving DEA the ability to place analogs in Schedule I on an emergency basis. While the analog is subject to temporary emergency scheduling, DEA processes the drug under the normal procedures for proper scheduling. Emergency scheduling occurs only after DEA can establish that emergency scheduling is necessary to avoid an imminent hazard to the public safety. The burden is relatively easy to meet in the case of fentanyl analogs which are highly toxic. The hallucinogenic amphetamines pose a higher burden and DEA is required to develop a record of drug abuse and danger to health. A 30 day public

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notice occurs prior to the effective date of the emergency scheduling.

Thirteen drugs have become subject to emergency scheduling since October, 1984, when the new law was adopted. Although emergency scheduling has been extremely useful, remaining loopholes permit continued legal production of dangerous controlled substance analogs. On more than one occasion DEA has investigated and arrested chemists, raided their labs, and then been forced to release the chemists or charge them with FDA misdemeanors because the analogs these chemists produced were not controlled substances. The disparity in the treatment of these equally dangerous drugs makes little sense. The delay in the emergency scheduling process and its "reactive" nature have also been criticized. Several proposals have been introduced in the 99th Congress in response to these concerns including a new administration bill.

On July 11, 1985, Mr. Lungren introduced the Administration proposal, H.R. 2977. The Senate adopted the Administration proposal as S. 1437 on December 18, 1985. On December 12, 1985, Mr. Smith (of Florida) for himself, Mr. Fascell and Mr. Hyde also introduced language identical to H.R. 2977, as H.R. 3936.

Mr. Lungren will offer amendments on behalf of the DEA to clarify the burden of proof regarding whether a substance is a designer drug.

H.R. 4885, CAREER CRIMINAL ACT AMENDMENTS OF 1986

H.R. 4885 expands the Armed Career Criminal Act to include violent crimes and drug crimes.

Background

The Armed Career Criminal Act was adopted by the 98th Congress as Chapter XVIII of title II of P.L. 98-473, the Comprehensive Crime Control Act of 1984.

The Armed Career Criminal Act of 1984 provides a 15 year mandatory minimum sentence for a person in possession of a firearm who has three previous convictions for robbery or burglary and local authorities can convince the United States that circumstances warrant prosecution under this enhanced penalty.

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The House Report 98-1073 at 5-6 notes:

In this manner, H.R. 6248 will be giving law enforcement officials another option in dealing with career criminals, and it would be achieved without permitting a radical expansion of Federal jurisdiction over common law crimes and without creating a need for a local veto over the exercise of Federal jurisdiction. Finally, it would not put federal courts in a position of having to interpret and apply state laws on robbery and burglary in Federal criminal trials.

The Administration has no opposition to this provision and no amendments are expected.

H.R. 5217, THE MONEY LAUNDERING CONTROL ACT OF 1986

H.R. 5217 creates a new crime of money laundering. The bill also makes amendments to the Bank Secrecy Act, 31, U.S.C. §§5311-5322, and the Right to Financial Privacy Act, 12 U.S.C. §§3401-3422 to improve investigatory tools and reduce restrictions on law enforcement in the banking area. These changes are made in recognition of the limited value of the new crime without proper investigation of money laundering activities. The amendments to the banking laws resulted in a joint referral of H.R. 5217 to the Committees on Banking and Judiciary. A summary of H.R. 5217 is attached to this memorandum.

At the present time the Committee on Banking has adopted a money laundering proposal which amends only banking laws. It is broader than H.R. 5217, but overlaps each major banking amendment in H.R. 5217. The Senate Committee on the Judiciary is also processing a money laundering bill.

The Departments of Treasury and Justice both endorse the progress the Subcommittee is making on money laundering legislation.

Mr. McCollum will offer three amendments to:

- ensure courts have authority to prohibit a bank that is subpoenaed for grand jury documents from notifying the customers;
- clarify that bank customers must sign exemption forms if they seek exemptions from currency transaction reporting requirements; and

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-include four crimes enforced by the Customs Service in the list of predicate crimes.

H.J.RES. 631, PROVIDING FOR A WHITE HOUSE CONFERENCE ON DRUG ABUSE AND CONTROL

H.J.Res. 631 makes findings regarding drug abuse, drug trafficking and the federal response. The resolution calls for the President to convene a White House Conference on Drug Abuse and Control by April, 1987.

The conference is instructed to develop recommendations for further action to control the illicit production, trafficking, and distribution of narcotics internationally and in the United States and to prevent and treat narcotics abuse. Specifically, the conference must increase public awareness on narcotic supply and demand, pool information, and assist in formulating a national strategy for addressing demand and supply. The conference must consider the impact of recent laws such as the Comprehensive Crime Control Act and the Emergency Deficit Reduction Act of 1985 on the drug demand and supply, the recommendations of the President's Commission on Organized Crime, and the impact of sanctions in section 481 of the foreign Assistance Act of 1961. A final report and a follow up report would be required each year for three years.

Appropriate cabinet officers, elected officials and persons with background in health, education, sociology, business, drug abuse and law enforcement would participate. Participants would be required to pay their own expenses. Staff would be detailed from agencies. A general authorization for such sums a may be necessary is provided for fiscal year 1987.

The Administration opposes H.J.Res. 631, which was adopted by the Subcommittee on Crime by voice vote. An amendment may be offered to extend the conference planning time from 6 to 9 months to allow for proper planning, adequate hotel reservations, etc.

*** 99TH CONGRESS ***
ALL OPTION AS OF 07/02/86

1

H.R. 1625

DATE INTRODUCED: 03/20/85

SPONSOR: Levine
REFERRED TO: House Judiciary
COSPONSOR(S): CURRENT (64)
Rangel; Gilman; Chappie (A-05/02/85);
Scheuer (A-05/02/85); Fields (A-05/02/85);
Collins (A-05/02/85); Kleczka (A-05/02/85);
McCain (A-05/02/85); Levin (A-05/02/85);
Fazio (A-05/02/85); Beilenson (A-05/02/85);
Strang (A-05/02/85); Lagomarsino (A-05/02/85);
Boxer (A-05/02/85); Smith, of FL (A-05/02/85);
Berman (A-05/02/85); Oakar (A-05/02/85);
Towns (A-05/02/85); Murphy (A-05/02/85);
Bennett (A-05/02/85); Stokes (A-05/02/85);
Lowery (A-05/02/85); Conyers (A-05/02/85);
Kaptur (A-05/02/85); Shaw (A-05/02/85);
McGrath (A-05/02/85); Green (A-05/02/85);
Porter (A-05/02/85); Akaka (A-05/02/85);
Koltter (A-05/02/85); Manton (A-05/02/85);
Wortley (A-05/02/85); Roe (A-05/02/85);
Matsui (A-05/02/85); Fish (A-05/02/85);
Bilirakis (A-05/02/85); Mitchell (A-05/02/85);
Durbin (A-05/02/85); Parris (A-05/02/85);
Hertel (A-05/02/85); Guarini (A-05/02/85);
Lantos (A-05/02/85); Dewine (A-05/02/85);
Morrison, of CT (A-05/02/85);
Glickman (A-05/02/85); Fauntroy (A-05/02/85);
Boehlert (A-05/02/85); Crockett (A-05/02/85);
Lloyd, of TN, (03) (A-05/02/85);
Smith, of NJ (A-05/02/85);
Dioguardi (A-07/18/85); Monson (A-07/18/85);
Barnard (A-07/18/85); Seiberling (A-07/18/85);
Rinaldo (A-07/18/85); Saxton (A-07/18/85);
Edwards, of OK (A-07/18/85);
Coughlin (A-11/20/85); Packard (A-11/20/85);
Burton, of IN (A-12/19/85);
Wolpe (A-12/20/85); Walgren (A-04/22/86);
Skeen (A-04/22/86); Hyde (A-05/20/86):

SHORT TITLE(S) AS INTRODUCED:

Mail Order Drug Paraphernalia Control Act

LATEST OFFICIAL TITLE:

OFFICIAL TITLE AS INTRODUCED AS OF 03/21/85:

H.R. 1625

A bill entitled, the "Mail Order Drug Paraphernalia Control Act".

LEGISLATIVE ACTIONS:

Mar 20, 85 Referred to House Committee on The Judiciary.

Mar 22, 85 Referred to Subcommittee on Crime.

May 8, 86 Subcommittee Hearings Held.

ABSTRACT:

Makes it a Federal criminal offense for any person to use the U.S. Postal Service or any private parcel service in interstate commerce as part of a scheme to sell drug paraphernalia.

DIGEST:

Mail Order Drug Paraphernalia Control Act - Makes it a Federal criminal offense for any person to use the U.S. Postal Service or any private parcel service in interstate commerce as part of a scheme to sell drug paraphernalia.

Imposes a penalty of imprisonment for not more than three years and a fine of not more than \$100,000. Provides for the seizure and forfeiture of any paraphernalia involved in a violation of this Act.

**SUMMARY OF THE HUGHES - McCOLLUM
MONEY LAUNDERING PROPOSAL**

H.R. 5217

NEW CRIME

I The bill creates a new crime, 18 U.S.C. §1956, for the act of money laundering.

There are three ways to commit a money laundering offense under this proposal:

- by engaging or attempting to engage in a transaction with a financial institution, knowing that the transaction involves the proceeds of a crime (except for bona fide fees received by an attorney in exchange for representation in criminal matters);
- by engaging or attempting to engage in a commercial transaction knowing that the transaction is part of a scheme to conceal the proceeds of a crime or a scheme to disguise the source of or ownership of the proceeds of a crime (A commercial transaction is one which:
 - involves a financial institution;
 - involves the purchase of goods or services; or
 - involves the creation of a debt); or
- by knowingly transporting or attempting to transport a monetary instrument or funds into the United States or from the United States knowing that the transportation is part of a scheme to conceal the proceeds of a crime or to disguise the source of or ownership of the proceeds of a crime.

NOTE: The government must establish that the source of the money or property is a RICO offense, one of thirteen other title 18 offenses that are economically motivated, or the proceeds of a drug trafficking violation in another country. The government does not have to establish that the defendant knew which specific crime was violated, as long as it can establish that the defendant knew that the funds were the proceeds of a crime.

II The punishment for this offense is:

- a fine of not more than \$1,000,000 or imprisonment for not more than 20 years or both if the offender is an individual;

- a fine of not more than \$5,000,000 if the offender is a person other than an individual (for example, a corporation); or
- an alternative fine of not more than twice the amount of the property, funds, or monetary instrument in the transaction.

Civil and criminal forfeiture (using the procedures in drug forfeiture cases, 21 U.S.C. §§853, 881) for the commission earned by the money launderer in exchange for his laundering services and any conversions of his payment into other proceeds. Civil forfeiture of the proceeds of foreign drug crimes that are being laundered in the United States is created.

III The crime is to be investigated by the Departments of Justice and Treasury.

IV Court ordered wire taps are permitted in the investigations of the money laundering offense.

BANKING AMENDMENTS - IMPROVING INVESTIGATORY ABILITY

I The bill makes the following amendments to the Bank Secrecy Act, 31 U.S.C. §§5311-5322:

- requires that banks must certify to the Secretary of the Treasury that its customer, who has applied for an exemption from the Bank Secrecy Act reporting requirements, is qualified for the exemption (effective 90 days after the enactment of the Act);
- permits the Secretary of the Treasury to proscribe regulations defining "at one time" as it applies to the currency reporting requirements for transactions involving more than \$10,000;
- changes the language "attempts to transport" to "is about to transport" in an effort to clarify the provisions regarding the reporting requirements for exporting currency;
- provides authority to the Secretary of the Treasury to subpoena records and bank officer and employee testimony to enforcement civil Bank Secrecy Act requirements;
- clarifies the standard of intent for civil violations of the reporting requirements in the Bank Secrecy Act by replacing "willful" with "knowingly or with reckless disregard". The criminal standard of intent is clarified by changing "wilfully" to "knowingly";

and

- increases the maximum criminal fine for criminal violations of the Act from "\$500,000" to "\$1,000,000 if the person is an individual (and not more than \$5,000,000 in any other case)".

II The bill makes the following amendments to the Right to Financial Privacy Act, 12 U.S.C. §§3401-3422:

- Clarifies the type of information the financial institutions can share with federal law enforcement officials when they suspect that they are victims of or are being used to commit a crime. The section stating that the institutions can notify the government is clarified to state that the following information is permitted:
 - name;
 - account number; and
 - description of possible violation.

The purpose of this clarification is to ensure that in the case where a bank volunteers information under this section, that the information is sufficient to initiate a grand jury investigation of the suspected crime;

- A state preemption statute limited in scope only to this one section is created to ensure that banks, on a voluntary basis, can provide this information to the federal government without violating state law; and
- A protection from customer initiated tort suits for banks who voluntarily provide this information in good faith.

A BILL

To establish a drug abuse prevention program which will provide for drug-free schools and workplaces and allow testing to identify and hold accountable users of illegal drugs.

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

SHORT TITLE

SEC. 1. This Act may be cited as the "National Drug Abuse Prevention Act of 1986."

FINDINGS

SEC. 2. The Congress finds and declares that --

- (a) The United States has a compelling interest in eradicating drug abuse not only through criminal law enforcement efforts but also by taking action to lessen the demand for illegal drugs.
- (b) The use of illegal drugs with impunity undermines respect for the law.
- (c) Employers and educational institutions should establish clear policies to ensure that illegal drug users will be held accountable for their actions.
- (d) Drug testing is a diagnostic tool designed to create a healthier work environment, increase productivity, improve public safety, and protect national security.
- (e) Experience with drug testing has shown that it can significantly contribute to reducing the demand for illegal drugs while protecting non drug-using coemployees and the public from the harms caused by illegal drug users.
- (f) The drug-user employee is less productive, more likely to be involved in on the job accidents, more likely to be absent, and has an increased level of health care costs.
- (g) Federal and private employees with access to national security information who are drug users pose an increased national security risk.

(h) Reducing the demand for illegal drugs will discourage interstate and foreign commerce in these illegal drugs.

(i) The extraordinary costs of the use of illegal drugs is undermining the ability of American industry to compete internationally, and is causing the loss of jobs and productive capital.

DEFINITIONS

SEC. 3. As used in this Act --

(a) "federal employee" includes all members of the Civil Service, the Armed Forces and the Uniformed Services as defined by section 2101 of title 5, United States Code.

(b) "federal employer" means the Civil Service the Armed Forces and the Uniformed Services as defined by section 2101 of title 5, United States Code.

(c) "illegal use of drugs" means the use of a controlled substance, as defined by section 802(6) of title 21, United States Code, the possession of which is unlawful under chapter 13 of title 21, United States Code.

(d) "drug testing" means any drug testing conducted in accordance with procedural guidelines promulgated by the Secretary of Health and Human Services after consultation with the Director of the National Institute on Drug Abuse.

DRUG PROGRAM

SEC. 4. Drug Free Federal Workforce

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

(b) Federal employers are authorized to conduct drug testing of federal employees or applicants to determine if they engage in the illegal use of drugs.

(c) Federal employers may refuse employment to applicants who are determined to have engaged in the illegal use of drugs.

(d) If it is determined that a federal employee has engaged in the illegal use of drugs or if a federal employee refuses to participate in drug testing, the federal employer is authorized to take disciplinary action against the employee, including

removal from employment. Such disciplinary action may be taken regardless of whether the illegal use of drugs occurred while on duty.

SEC. 5. Drug Free Private Workforce

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

(b). It shall not be unlawful for any employer to conduct drug testing of its employees or applicants to determine if they are engaged in the illegal use of drugs.

(c). It shall not be unlawful for an employer to refuse employment to applicants who are determined to have engaged in the illegal use of drugs.

(d). It shall not be unlawful for an employer to take disciplinary action against an employee, including removal from employment, who is determined to have engaged in the illegal use of drugs (on or off the job) or who refuses to participate in a drug testing program.

SEC. 6. Drug Free Educational Institutions

(a). It shall not be unlawful for any educational institution to require as a condition of admission or continued enrollment that students refrain from the illegal use of drugs.

(b). It shall not be unlawful for any educational institution to conduct drug testing of its students or applicants for admission to determine if they engage in the illegal use of drugs.

(c). It shall not be unlawful for an educational institution to refuse enrollment to applicants for admission who are determined to have engaged in the illegal use of drugs.

(d). It shall not be unlawful for an educational institution to take disciplinary action against a student, including suspension or expulsion, who is determined to have engaged in the illegal use of drugs (whether or not committed at the educational institution) or who refuses to participate in drug testing.

SEC. 7. Judicial Review

The promulgation of procedural guidelines by the Secretary of Health and Human Services pursuant to section 3(d) of this Act is committed to the exclusive discretion of the Secretary and shall not be subject to judicial review.

SEC. 8. Savings Clause

The provisions of this Act shall not be interpreted to require any employer, state or local government or educational institution to conduct drug testing.

SEC. 9. Preemption

The provisions of this Act shall preempt and supersede any Federal, State or local government law, rule, regulation or ordinance to the extent such State or local government law, rule, regulation or ordinance is inconsistent with this Act, provided that the provisions of this Act shall not preempt and supersede any state or local government law, rule, regulation, or ordinance applicable solely to state or local government employees.

SEC. 10. Severability

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

SEC. 11. Effective Date

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

99TH CONGRESS
2^D SESSION

H. R. 5266

To require the President to submit legislation for the reorganization of the Executive branch in order to more effectively combat drug trafficking and drug abuse.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1986

Mr. ENGLISH (for himself, Mr. BROOKS, and Mr. KINDNESS) introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To require the President to submit legislation for the reorganization of the Executive branch in order to more effectively combat drug trafficking and drug abuse.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 The Congress finds that—

5 (1) the Federal Government's response to drug
6 trafficking and drug abuse is divided among several
7 dozen agencies and bureaus of the Government, rang-
8 ing from the Department of Defense to the Department
9 of Health and Human Services;

1 (2) numerous recent congressional hearings and
2 reports, reports by the Comptroller General, and stud-
3 ies by Executive branch agencies have documented the
4 waste and inefficiency caused by this division of re-
5 sponsibilities;

6 (3) interagency competition for credit and budget
7 dollars imposes critical obstacles to efficient application
8 of national resources in combating drug trafficking and
9 drug abuse; and

10 (4) successfully combating such trafficking and
11 drug abuse requires coherent planning that includes in-
12 telligent organization and operations of Executive
13 branch agencies.

14 **SEC. 2. SUBMISSION OF LEGISLATION.**

15 Not later than 6 months after the date of enactment of
16 this Act, the President shall submit to each House of Con-
17 gress recommendations for legislation to reorganize the Ex-
18 ecutive branch of the Government to more effectively combat
19 international drug traffic and drug abuse. In the preparation
20 of such recommendations, the President shall consult with
21 the Comptroller General, State and local law enforcement
22 authorities, relevant committees of the Congress, and the At-
23 torney General and the Secretaries of State, the Treasury,
24 Transportation, Health and Human Services, Defense, and
25 Education.

○

99TH CONGRESS
2D SESSION

H. R. 5267

To authorize additional appropriations for fiscal year 1987 for the United States Customs Service in order to strengthen the drug enforcement capabilities of the Service.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1986

Mr. ENGLISH (for himself, Mr. DANIEL, Mr. HUTTO, Mr. COLEMAN of Texas, Mr. PEPPER, Mr. RANGEL, Mr. SHAW, Mr. SMITH of Florida, Mr. WALKER, Mr. HUGHES, Mr. GILMAN, Mr. JONES of Oklahoma, Mr. WATKINS, Mr. EDWARDS of Oklahoma, Mr. MCCURDY, and Mr. HUNTER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To authorize additional appropriations for fiscal year 1987 for the United States Customs Service in order to strengthen the drug enforcement capabilities of the Service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, in addition to any other funds that may be authorized
4 to be appropriated to the Department of the Treasury for
5 fiscal year 1987 for the United States Customs Service, there
6 are authorized to be appropriated to the Department of the
7 Treasury for fiscal year 1987—

1 (1) \$116,300,000 for salaries and expenses of the
2 Service in carrying out drug enforcement; and

3 (2) \$268,500,000 for aircraft, communications en-
4 hancements, and command, control, communications,
5 and intelligence centers for the air interdiction program
6 of the Service.

○

99TH CONGRESS
2D SESSION

H. R. 5268

To authorize additional appropriations and personnel for the Coast Guard for enhanced drug interdiction activities.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1986

Mr. ENGLISH (for himself, Mr. DANIEL, Mr. HUTTO, Mr. COLEMAN of Texas, Mr. PEPPER, Mr. RANGEL, Mr. SHAW, Mr. SMITH of Florida, Mr. WALKER, Mr. HUGHES, Mr. GILMAN, Mr. JONES of Oklahoma, Mr. WATKINS, Mr. EDWARDS of Oklahoma, Mr. MCCURDY, and Mr. HUNTER) introduced the following bill; which was referred to the Committee on Merchant Marine and Fisheries

A BILL

To authorize additional appropriations and personnel for the Coast Guard for enhanced drug interdiction activities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Coast Guard Drug Inter-
5 diction Enhancement Act of 1986".

6 **SEC. 2. ADDITIONAL AUTHORIZATIONS.**

7 (a) **SECURE RADIO COMMUNICATIONS.**—There is au-
8 thorized to be appropriated for acquisition of equipment for

1 the Coast Guard the amount of \$50,000,000 for acquisition
2 of secure radio equipment. That amount is in addition to any
3 other amount authorized to be appropriated for acquisition of
4 equipment for the Coast Guard for any fiscal year.

5 (b) ADDITIONAL PERSONNEL.—(1) The full-time equiv-
6 alent strength level for the Coast Guard for active duty mili-
7 tary personnel for fiscal year 1987 is hereby increased above
8 that otherwise provided by law by 1,500.

9 (2) There is authorized to be appropriated for operation
10 and maintenance of the Coast Guard for fiscal year 1987, in
11 addition to amounts otherwise authorized by law, the
12 amount of \$40,000,000 for expenses related to the additional
13 personnel authorized by paragraph (1).

○

99TH CONGRESS
2D SESSION

H. R. 5270

To authorize additional appropriations to the Department of Defense to enhance assistance by the Armed Forces to civilian drug enforcement agencies.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 1986

Mr. ENGLISH (for himself, Mr. DANIEL, Mr. HUTTO, Mr. COLEMAN of Texas, Mr. PEPPER, Mr. RANGEL, Mr. SHAW, Mr. SMITH of Florida, Mr. WALKER, Mr. HUGHES, Mr. GILMAN, Mr. JONES of Oklahoma, Mr. WATKINS, Mr. EDWARDS of Oklahoma, Mr. MCCURDY, and Mr. HUNTER) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To authorize additional appropriations to the Department of Defense to enhance assistance by the Armed Forces to civilian drug enforcement agencies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Department of Defense
5 Narcotics Enforcement Assistance Act of 1986".

1 SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR EN-
2 HANCED DRUG ENFORCEMENT ACTIVITIES.

3 (a) AMOUNTS AUTHORIZED.—Funds are hereby au-
4 thorized to be appropriated to the Department of Defense for
5 fiscal year 1987 for enhancement of authorized drug enforce-
6 ment assistance activities of the Department as follows:

7 (1) For procurement of aircraft for the Army,
8 \$40,000,000, to be available for procurement of Black-
9 hawk Helicopters.

10 (2) For procurement of aircraft for the Navy,
11 \$83,000,000, to be available for modification of four P-
12 3 or C-130 aircraft by the addition of APS-138 radar.

13 (3) For procurement for the Air Force,
14 \$214,400,000, of which—

15 (A) \$75,000,000 is for procurement of six
16 radar aerostats;

17 (B) \$60,000,000 is for procurement of C-130
18 tanker aircraft with APG-63 radar;

19 (C) \$79,400,000 is for modification of spe-
20 cially equipped C-130 aircraft to be assigned to
21 the Southern Command.

22 (4) For operation and maintenance for the Air
23 Force, \$15,000,000, to be available for the transfer of
24 the 302nd Special Operations Squadron from Luke Air
25 Force Base, Arizona, to Davis-Monthan Air Force
26 Base, Arizona.

STATES THAT PASSED THE PARAPHENALIA LAW (38)

ARIZONA
ARKANSAS

CALIFORNIA
CONNECTICUT

DELAWARE
DISTRICT OF COLUMBIA

FLORIDA

GEORGIA

IDAHO
INDIANA

KANSAS
KENTUCKY

LOUISIANA

MAINE
MARYLAND
MASSACHUSETTS
MINNESOTA
MISSISSIPPI
MISSOURI
MONTANA

NEBRASKA
NEVADA
NEW HAMPSHIRE
NEW JERSEY
NEW MEXICO
NORTH CAROLINA
NORTH DAKOTA

OKLAHOMA

PENNSYLVANIA

RHODE ISLAND

SOUTH CAROLINA
SOUTH DAKOTA

TEXAS

UTAH

VERMONT
VIRGINIA

WASHINGTON
WYOMING