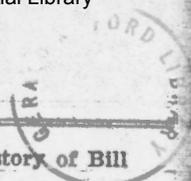


The original documents are located in Box 7, folder “Drug Abuse” of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

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No. Index Key and History of Bill

HOUSE BILLS—Continued

H.R. 8121 (H. Res. 564).—Appropriations, State, Justice, Commerce, the Judiciary, 1976. Reported from Appropriations June 20, 1975; Rept. 94-318. Union Calendar. Passed House June 26, 1975. In Senate, referred to Appropriations June 27 (*Legislative day of June 6*), 1975. Reported July 24 (*Legislative day of July 21*), 1975; Rept. 94-323. Passed Senate amended Sept. 3, 1975. Senate asked for a conference Sept. 3, 1975. House agreed to a conference Sept. 17, 1975. Conference report filed in the House Sept. 18, 1975; Rept. 94-495. House agreed to conference report Sept. 24, 1975. House receded and concurred in Senate amendment No. 42 Sept. 24, 1975. House receded and concurred with amendments in Senate amendments Nos. 35 and 58 Sept. 24, 1975. House insisted on its disagreement to Senate amendment No. 8 Sept. 24, 1975. Senate agreed to conference report Sept. 26 (*Legislative day of Sept. 11*), 1975. Senate agreed to House amendments to Senate amendments Nos. 35 and 58 Sept. 26 (*Legislative day of Sept. 11*), 1975. Senate further insisted on its amendment No. 8 Sept. 26 (*Legislative day of Sept. 11*), 1975. Senate asked for a further conference Sept. 28 (*Legislative day of Sept. 11*), 1975. House agreed to a further conference Sept. 30, 1975. Further conference report filed in disagreement in the House Oct. 2, 1975; Rept. 94-527. House receded and concurred with an amendment in Senate amendment No. 8 Oct. 7, 1975. Senate agreed to conference report Oct. 8 (*Legislative day of Sept. 11*), 1975. Senate agreed to House amendment to Senate amendment No. 8 Oct. 8 (*Legislative day of Sept. 11*), 1975. Approved Oct. 21, 1975. Public Law 94-121.

H.R. 8122 (H. Res. 565).—Appropriations, Public Works for water and power development and energy research, 1976. Reported from Appropriations June 20, 1975; Rept. 94-319. Union Calendar. Passed House June 24, 1975. In Senate, referred to Appropriations June 25 (*Legislative day of June 6*), 1975. Reported Dec. 4 (*Legislative day of Dec. 2*), 1975; Rept. 94-505. Passed Senate amended Dec. 6 (*Legislative day of Dec. 2*), 1975. Senate asked for a conference Dec. 6 (*Legislative day of Dec. 2*), 1975. House agreed to a conference Dec. 8, 1975. Conference report filed in the House Dec. 10, 1975; Rept. 94-711. House agreed to conference report Dec. 12, 1975. House receded and concurred in Senate amendments Nos. 13, 19, 21, 24, 26, 27, 29, 33, 38, and 41 Dec. 12, 1975. House receded and concurred with amendments in Senate amendments Nos. 25, 28, 30, 51, and 52 Dec. 12, 1975. Senate agreed to conference report Dec. 12, 1975. Senate agreed to House amendments to Senate amendments Nos. 25, 28, 30, 51, and 52 Dec. 12, 1975. Approved Dec. 26, 1975. Public Law 94-180.

H.R. 8150 (H. Res. 706) (S. 2017).—Drug Abuse Office and Treatment Act Amendments of 1975. Reported from Interstate and Foreign Commerce July 18, 1975; Rept. 94-375. Union Calendar. Passed House Sept. 11, 1975. Proceedings vacated. Laid on table Sept. 11, 1975. S. 2017, as amended, passed in lieu Sept. 11, 1975.

H.R. 8151.—Medals, Yeager, Brig. Gen. Charles E., present to in name of Congress, authorize. Rules suspended. Passed House Oct. 20, 1975. In Senate, referred to Banking, Housing and Urban Affairs Oct. 21, 1975. Reported Dec. 16 (*Legislative day of Dec. 15*), 1975; Rept. 94-565. Passed Senate Dec. 16 (*Legislative day of Dec. 15*), 1975. Approved Dec. 23, 1975. Public Law 94-179.

No. Index Key and History of Bill

HOUSE BILLS—Continued

H.R. 8228.—Federal Aviation Act of 1958, relating to emergency locator transmitters, amend. Reported from Public Works and Transportation Feb. 11, 1976; Rept. 94-829. Union Calendar. Rules suspended. Passed House Feb. 17, 1976. In Senate, referred to Commerce Feb. 18, 1976.

H.R. 8235 (H. Res. 929) (S. 2711).—Federal-Aid Highway Act of 1975. Reported from Public Works and Transportation Dec. 11, 1975; Rept. 94-716. Union Calendar. Passed House Dec. 18, 1975. Passed Senate amended Jan. 19, 1976. Senate asked for a conference Jan. 19, 1976. House agreed to a conference Jan. 20, 1976.

H.R. 8240 (S. 1711).—Veterans, Physicians and Dentists Comparability Pay Act of 1975, Veterans' Administration. Reported from Veterans' Affairs July 9, 1975; Rept. 94-339. Union Calendar. Rules suspended. Passed House July 21, 1975. Passed Senate amended Aug. 1 (*Legislative day of July 31*), 1975. House agreed to Senate amendment with an amendment Oct. 8, 1975. Senate agreed to House amendment Oct. 9 (*Legislative day of Sept. 11*), 1975. Approved Oct. 22, 1975. Public Law 94-123.

H.R. 8304.—Reading improvement program, national, provide more flexibility in types of projects funded, amend. Reported from Education and Labor Dec. 12, 1975; Rept. 94-720. Union Calendar. Rules suspended. Passed House Dec. 15, 1975. Passed Senate amended Dec. 17 (*Legislative day of Dec. 15*), 1975. House agreed to Senate amendments Dec. 19, 1975. Approved Dec. 31, 1975. Public Law 94-194.

H.R. 8365 (H. Res. 586).—Appropriations, Transportation and related agencies, 1976. Reported from Appropriations June 26, 1975; Rept. 94-331. Union Calendar. Passed House July 10, 1975. In Senate, referred to Appropriations July 11 (*Legislative day of July 10*), 1975. Reported July 22 (*Legislative day of July 21*), 1975; Rept. 94-291. Passed Senate amended July 25 (*Legislative day of July 21*), 1975. Senate asked for a conference July 25 (*Legislative day of July 21*), 1975. House agreed to a conference Sept. 17, 1975. Conference report filed in the House Nov. 6, 1975; Rept. 94-636. House agreed to conference report Nov. 11, 1975. House receded and concurred in Senate amendments Nos. 49 and 50 Nov. 11, 1975. House receded and concurred with amendments in Senate amendments Nos. 20, 21, 31, 32, 42, and 47 Nov. 11, 1975. Senate agreed to conference report Nov. 12, 1975. Senate agreed to House amendments to Senate amendments Nos. 20, 21, 31, 32, 42, and 47 Nov. 12, 1975. Approved Nov. 24, 1975. Public Law 94-134.

H.R. 8451.—Private relief, Yang Jung Shik. Reported from the Judiciary Nov. 7, 1975; Rept. 94-641. Private Calendar. Passed House Nov. 18, 1975. In Senate, referred to the Judiciary Nov. 19 (*Legislative day of Nov. 18*), 1975. Reported Jan. 30, 1976; Rept. 94-613. Passed Senate Feb. 2, 1976. Approved Feb. 13, 1976. Private Law 94-35.

H.R. 8507.—American Battle Monuments Commission per diem allowance for members, revise. Reported from Veterans' Affairs Oct. 30, 1975; Rept. 94-600. Union Calendar. Rules suspended. Passed House Nov. 4, 1975. In Senate, referred to Interior and Insular Affairs Nov. 5, 1975. Committee discharged. Referred to Veterans' Affairs Mar. 2, 1976. Reported Mar. 11, 1976; Rept. 94-695.

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THE WHITE HOUSE
WASHINGTON

September 12, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
FROM: VERN LOEN VL
SUBJECT: H. R. 8150 - Drug Abuse - possible veto candidate

Assistant Secretary of HEW, Steve Kurzman, says Secretary Mathews may well recommend a veto of this bill, the Drug Abuse Office and Treatment Act amendments. It was passed by the House September 11 by a vote of 382-11, but the key vote was on Doc Carter's amendment to abolish the Office of Drug Abuse Policy authorized to be set up within the White House. The vote was 167-237.

That office would be a successor to the Special Action Office for Drug Abuse Prevention, which went out of business on June 30. The Administration favors centralizing all drug abuse activities in the National Institute on Drug Abuse (NIDA).

Since the Senate has passed pretty much a straight extension of the act, the Office of Drug Abuse Policy (ODAP) provision will be at issue in conference.

Doc Carter's amendment to abolish it was approved in the Committee of the Whole House on a division vote. Paul Rogers had to demand a separate vote after the committee rose in order to defeat it. This was the first time Carter has really challenged Rogers.

Cost estimates of this provision range from \$3 million to \$10 million, so it is not that big a deal. Given the vote on the Carter amendment, I would suggest that the Senate boys go all out to get it knocked out in conference. If a veto is deemed advisable, Rogers probably would report out a clean bill and not attempt to override. He might even drop the bill entirely. I understand from Kurzman that we do not need legislation in this area.



Dick Parsons has been following this closely for the Domestic Council, which is conducting a comprehensive review of the whole matter.

cc: Bill Kendall
Tom Loeffler
Charles Leppert ✓
Pat O'Donnell
Jim Cannon
Dick Parsons



The Department of Health, Education, and Welfare favors striking the Office of Drug Abuse Policy (ODAP) provisions in H.R. 8150 for the following reasons:

- The Administration recognizes that drug abuse continues to be a major problem in our Nation, and is clearly committed to a continuing all-out effort to combat it.
- The intent of the Drug Abuse Office and Treatment Act, P.L. 92-255--to create a special agency to provide the coordinative mechanisms of Federal drug abuse prevention activities during a limited period of special need--has been met.
- Consistent with the statutory intent of P.L. 92-255, the National Institute on Drug Abuse (NIDA) has developed into an organization of sufficient strength and capability to ensure the continuation of the program activities fostered and developed by the Special Action Office.
- The President has charged the Domestic Council with the task of undertaking a comprehensive review of the whole spectrum of Federal drug abuse efforts, including drug treatment and rehabilitation, law enforcement, and international control activities. This review and a report will be delivered to the President later this month and will make recommendations concerning the appropriate level and structure of any necessary Executive Office coordination of the three principle aspects of the drug abuse program. The Task Force is planning to make strong recommendations for continuing coordination of drug abuse prevention and treatment activities formerly provided by SAODAP. The reestablishment and designation of SAODAP as the Office of Drug Abuse Policy prior to the completion of this comprehensive review and the President's recommendations concerning the appropriate coordinative mechanisms within the Executive Branch would be premature.



Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

WHITE PAPER ON DRUG ABUSE

The President today has directed that the Report of the Domestic Council's Drug Abuse Task Force be made public.

Background

President Ford, last April, called for an in-depth review of the Federal Government's entire drug abuse prevention program. To accomplish this mission, a Domestic Council task force, consisting of senior representatives of 12 Federal departments and agencies, was created and charged with responsibility for preparing a comprehensive report to the President.

The specific objectives of the review were to:

- . Assess the effectiveness of current drug programs and policies;
- . Determine if the Federal drug strategy, priorities and organizational structures are appropriate to meet current needs;
- . Examine the need for, and structure of, a drug management and coordination mechanism in the Executive Office of the President.

That report, the "White Paper on Drug Abuse", has been completed and presents the task force's extensive findings and recommendations in detail.

Highlights and Recommendations of the Task Force

The task force strongly endorses the concept of a Federal program which balances the effort to reduce the supply of drugs with an effort to reduce the demand for drugs, and it recommends that this concept should continue to be the cornerstone of the Federal strategy for containing drug abuse.

In addition to confirming the validity of this fundamental strategy, the White Paper contains numerous programmatic recommendations based on the following themes:

- . We must be realistic about what can be achieved and what the appropriate Federal role is in the war against drugs. We must be prepared to continue our efforts and commitment to contain the problem at a minimal level. We must also recognize that the Federal Government cannot do the job alone. Only through the combined efforts of the Federal, State and local governments, private individuals and business, and a variety of local organizations, working together, can we hope to ultimately succeed.

more

- . Not all drug use is equally destructive and we should give priority in our treatment and law enforcement efforts to those drugs which pose the greatest risks to the individual and to society, as well as to compulsive users of drugs of any kind. The highest risk drugs are heroin, amphetamines, particularly when taken intravenously, and barbiturates when taken in combination with other drugs.
- . Supply reduction is broader than law enforcement and we should utilize a variety of approaches and tools to reduce the supply of illicit drugs.
- . Federal law enforcement efforts should focus on the development of major conspiracy cases against the leaders of high-level trafficking networks and should move away from "street-level" activities.
- . The current treatment focus of demand reduction efforts should be supplemented with increased attention to prevention and vocational rehabilitation.
- . Neither successful prevention nor successful rehabilitation is drug specific. Both should be closely integrated with other, comprehensive social programs.
- . The success program managers have in enlisting the support and cooperation of foreign governments, and State and local governments and private organizations domestically, is greatly enhanced when our national leaders clearly manifest their commitment to combatting drug abuse.

Finally, the White Paper observes that there is a significant need to better coordinate and manage the Federal drug program and to more effectively mobilize and utilize all the resources available, and it makes a number of recommendations to accomplish these objectives.

#

1976

A BILL

To protect the public from traffickers in heroin and other opiates and for other purposes.

1 *Be it enacted by the Senate and House of Representatives of the*
2 *United States of America in Congress assembled, That this Act may*
be cited as the "Narcotic Sentencing and Seizure Act of 1976".

TITLE I - MANDATORY MINIMUM SENTENCES

SEC. 101. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 841) is amended by:

(1) adding the following new subparagraph at the end of subsection (b)(1):

"(C)(i) Except as provided in clause (ii), the judge, in setting the sentence under paragraph (A) for an offense involving an opiate, may not sentence the person to probation, or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402 of title 18, but shall sentence the person to a term of imprisonment of not less than 3 years and shall designate a term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 3 years. If the person committed such violation after he had been



convicted of a felony under federal, state, or foreign law relating to an opiate, the mandatory minimum term of imprisonment under this paragraph shall be not less than 6 years and the mandatory minimum term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, shall be not less than 6 years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on the defendant, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on the defendant pursuant to section 4208(a)(1) of title 18.

"(ii) Notwithstanding the provisions of clause (i), the court may sentence the defendant to a shorter term of parole ineligibility or imprisonment than required under clause (i), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense:

"(a) the defendant was less than eighteen years old;

"(b) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(c) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(d) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor."; and

(2) adding at the end thereof the following new subsection:

"(d) As used in subsection (b) (1) (C):

"(1) 'opiate' means a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance in schedule I or II, other than a narcotic drug consisting of (A) coca leaves; (B) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (C) a substance chemically identical thereto; and

"(2) 'felony' means an offense for which a term of imprisonment of more than one year is authorized."

(b) Section 405 (21 U.S.C. 845) is amended by adding at the end thereof the following:

"(c) (1) Except as provided in subparagraph (2), the judge, in setting the sentence under section 401(b) (1) (A) of a person at least eighteen years of age who violated section 401(a) (1) by distributing an opiate to a person under twenty-one years of age, shall not sentence the person to probation or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402 of title 18, but shall sentence the person to:

"(A) except as provided in paragraph (B), a term of imprisonment of not less than 6 years

and shall designate a term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 6 years; or

"(B) a term of imprisonment of not less than 9 years and shall designate a term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 9 years, if the person committed such violation after he had been convicted of a felony under federal, state, or foreign law relating to an opiate.

A term of imprisonment under this subsection shall run consecutively to any other term of imprisonment imposed on the defendant, and a term of parole ineligibility under this subsection shall run consecutively to any other term of parole ineligibility imposed on the defendant pursuant to section 4208(a)(1) of title 18.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence the defendant to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense:

"(A) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(B) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(C) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor.

"(3) As used in this subsection:

"(A) 'opiate' means a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance in schedule I or II, other than a narcotic drug consisting of (i) coca leaves; (ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (iii) a substance chemically identical thereto; and

"(B) 'felony' means an offense for which a term of imprisonment of more than one year is authorized."

(c) Section 406 (21 U.S.C. 846) is amended by designating the existing language as subsection (a) and adding the following new subsection (b):

"(b) (1) Except as provided in paragraph (2), the judge, in setting the sentence under subsection (a) for an attempt or conspiracy to commit an offense described in section 401 involving an opiate, may not sentence the person to probation or suspend imposition or execution of the sentence or sentence the person pursuant to chapter 402 of title 18, but shall sentence the person to a term of imprisonment of not less than 3 years and shall designate a term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 3 years.

If the person committed such violation after he had been convicted of a felony under federal, state, or foreign law relating to an opiate, the mandatory minimum term of imprisonment under this subsection shall be not less than 6 years and the mandatory minimum term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, shall be not less than 6 years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on the defendant, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on the defendant pursuant to section 4208(a)(1) of title 18.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence the defendant to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense:

"(A) the defendant was less than eighteen years old;

"(B) the defendant's mental capacity was significantly impaired although not so impaired as to constitute a defense to prosecution;

"(C) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(D) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor.

"(3) As used in this subsection:

"(A) 'opiate' means a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance in schedule I or II, other than a narcotic drug consisting of (i) coca leaves; (ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (iii) a substance chemically identical thereto; and

"(B) 'felony' means an offense for which a term of imprisonment of more than one year is authorized."

SEC. 102. Part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended by adding the following new paragraph at the end of subsection (b):

"(3) (A) Except as provided in subparagraph (B), the judge, in setting the sentence under paragraph (A) for an offense involving an opiate, may not sentence the person to probation, or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402 of title 18, but shall sentence the defendant to a term of imprisonment of not less than 3 years and shall designate a term of

parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 3 years. A term of imprisonment under this subparagraph shall run consecutively to any other term of imprisonment imposed on the defendant, and a term of parole ineligibility under this subparagraph shall run consecutively to any other term of parole ineligibility imposed on the defendant pursuant to section 4208(a)(1) of title 18.

"(B) Notwithstanding the provisions of paragraph (3)(A), the court may sentence the defendant to a shorter term of parole ineligibility than required under paragraph (3)(A), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense:

"(i) the defendant was less than eighteen years old;

"(ii) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(iii) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(iv) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor.

"(C) As used in this paragraph:

"(i) 'opiate' means a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance in schedule I or II, other than a narcotic drug consisting of (a) coca leaves; (b) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (c) a substance chemically identical thereto, and

"(ii) 'felony' means an offense for which a term of imprisonment of more than one year is authorized."

(b) Section 1012 (21 U.S.C. 962) is amended by adding the following at the end thereof:

"(d) (1) Except as provided in paragraph (2), the judge, in setting the sentence for an offense under section 1010(b) involving an opiate, if the person committed such violation after he had been convicted of a felony under federal, state, or foreign law relating to an opiate, shall not sentence the person to probation or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402 of title 18, but shall sentence the person to a term of imprisonment of not less than 6 years and shall designate a term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 6 years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on the defendant, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on the defendant pursuant to section 4208(a)(1) of title 18.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence the defendant to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense:

"(A) the defendant was less than eighteen years old;

"(B) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(C) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(D) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor.

"(3) As used in this subsection:

"(A) 'opiate' means a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance in schedule I or II, other than a narcotic drug consisting of (i) coca leaves; (ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (iii) a substance chemically identical thereto; and

"(B) 'felony' means an offense for which a term of imprisonment of more than one year is authorized."

(c) Section 1013 (21 U.S.C. 963) is amended by designating the existing language as subsection (a) and adding the following new subsection (b):

"(b) (1) Except as provided in paragraph (2), the judge, in setting the sentence under subsection (a) for an attempt or conspiracy to commit an offense described in section 1010(a) involving an opiate, may not sentence the person to probation, or suspend imposition or execution of the sentence, or sentence the person pursuant to chapter 402 of title 18, but shall sentence the person to a term of imprisonment of not less than 3 years and shall designate a term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, of not less than 3 years. If the person committed such violation after he had been convicted of a felony under federal, state, or foreign law relating to an opiate, the mandatory minimum term of imprisonment under this subsection shall be not less than 6 years and the mandatory minimum term of parole ineligibility pursuant to section 4208(a)(1) of title 18, United States Code, shall be not less than 6 years. A term of imprisonment under this paragraph shall run consecutively to any other term of imprisonment imposed on the defendant, and a term of parole ineligibility under this paragraph shall run consecutively to any other term of parole ineligibility imposed on the defendant pursuant to section 4208(a)(1) of title 18.

"(2) Notwithstanding the provisions of paragraph (1), the court may sentence the defendant

to a shorter term of parole ineligibility or imprisonment than required under paragraph (1), to a term of imprisonment with no term of parole ineligibility, or to probation, or may suspend imposition or execution of the sentence, if the court finds that, at the time of the offense:

"(A) the defendant was less than eighteen years old;

"(B) the defendant's mental capacity was significantly impaired, although not so impaired as to constitute a defense to prosecution;

"(C) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; or

"(D) the defendant was an accomplice, the conduct constituting the offense was principally the conduct of another person, and the defendant's participation was relatively minor.

"(3) As used in this subsection:

"(A) 'opiate' means a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance in schedule I or II, other than a narcotic drug consisting of (i) coca leaves; (ii) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (iii) a substance chemically identical thereto; and

"(B) 'felony' means an offense for which a term of imprisonment of more than one year is authorized."

SEC. 103. The Federal Rules of Criminal Procedure are amended by adding the following new Rule after Rule 32:

"Rule 32.1 - Sentence to a Mandatory Sentence of Imprisonment

"If a defendant is convicted of an offense for which he may be sentenced to a mandatory term of imprisonment or a mandatory term of parole ineligibility under section 401(b)(1)(C), 405(c), 406(b), 1010(b)(3), 1012(d), or 1013(b) of the Comprehensive Drug Abuse Prevention and Control Act, as amended (21 U.S.C. 841(b)(1)(C), 845(c), 846(b), 960(b)(3), 962(d), or 963(b)), the court, prior to imposition of sentence shall hold a hearing to determine whether a term of imprisonment and parole ineligibility is mandatory. The hearing shall be held before the court sitting without a jury, and the defendant and the government shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. If it appears by a preponderance of the information, including information submitted during the trial, during the sentencing hearing, and in so much of the presentence report as the court relies on, that the defendant is subject to a mandatory term of imprisonment and parole ineligibility, the court shall sentence the defendant in accordance with the appropriate provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as

amended. The court shall place in the record its findings, including an identification of the information relied upon in making its findings."

TITLE II - CONDITIONS OF RELEASE

SEC. 201. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) is amended by adding at the end thereof the following new sections:

"RELEASE CONDITIONS

"Sec. 412. In setting conditions of release under section 3146(a) of title 18, United States Code, for any person charged with an offense under section 401(a) of this title or section 1010(a) of title III with respect to an opiate, or charged under section 406 of this title with attempting or conspiring to commit an offense under section 401(a) of this title relating to an opiate, or charged under section 1013 of title III with attempting or conspiring to commit an offense under section 1010(a) of title III relating to an opiate, the judicial officer shall, in addition to determining which conditions will reasonably assure the appearance of the person for trial, consider which conditions will reasonably assure the safety of the community, the personal safety of persons in the community including witnesses to the offense, and the avoidance of future similar offenses by the person charged.

"DENIAL OF RELEASE PRIOR TO TRIAL

"Sec. 413. (a) Subject to the provisions of this section and notwithstanding the provisions of section 3146 of title 18, United States Code, a judicial officer may deny release of a person charged with a violation

of section 401(a) of this title or section 1010(a) of title III with respect to an opiate, or charged under section 406 of this title with attempting or conspiring to commit an offense under section 401(a) relating to an opiate, or charged under section 1013 of title III with attempting or conspiring to commit an offense under section 1010(a) of title III relating to an opiate, who --

"(1) has previously been convicted of an offense under any provision of federal, state, or foreign law, relating to an opiate, which is punishable by more than one year's imprisonment;

"(2) at the time of the offense, was on parole, probation, or other conditional release in connection with a conviction for or a pending charge of an offense under federal or state law that is punishable by more than one year's imprisonment;

"(3) is a nonresident alien;

"(4) was arrested while in possession of a passport or other documentation necessary for international travel incorrectly identifying him or belonging to some other person; or

"(5) has been convicted of having been a fugitive from justice, an escapee, or for willfully failing to appear before any court or judicial officer under federal or state law.

"(b) No person described in subsection (a) of this section shall be denied release unless the judicial officer --

"(1) holds a hearing in accordance with the provisions of subsection (c) of this section;

"(2) finds --

"(A) that there is clear and convincing evidence that the person is a person described in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section;

"(B) that there are no conditions of release which will reasonably assure the appearance of the person charged, the safety of the community, the personal safety of persons in the community including witnesses to the offense, or the avoidance of future similar offenses by the person charged; and

"(C) that on the basis of information presented by proffer or otherwise to the judicial officer there is a substantial probability that the person committed the offense for which he is present before the officer, and

"(3) issues an order denying release accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States Attorney.

"(2) Whenever the person has been released pursuant to section 3146 of title 18, United States Code, and it subsequently appears that such person may be subject to an order denying release under

this section, the United States Attorney may initiate a hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person.

"(3) The hearing shall be held immediately upon the person's being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance or motion of the United States Attorney shall be granted upon good cause shown and not exceed three calendar days. The person may be held pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information by proffer or otherwise, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under sections 3150 and 3151 of title 18, United States Code in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings.

"(7) Appeals from orders denying release may be taken pursuant to section 3147 of title 18, United States Code. The United States may appeal from orders granting release under this section.

"(d) The case of a person denied release pursuant to this section shall be placed on an expedited calendar and, consistent with the sound administration of justice, his trial shall be given priority.

"DEFINITIONS

"Sec. 414. As used in sections 412 and 413 of this title, the term:

"(a) 'judicial officer' means any person or court authorized pursuant to section 3041 of title 18, United States Code, or the Federal Rules of Criminal Procedure, to admit to bail or otherwise to release a person before trial or sentencing or pending appeal, in a court of the United States and any judge of the Superior Court of the District of Columbia; and

"(b) 'opiate' has the meaning set forth in section 401(d) of this title."

SEC. 202. The table of contents at the beginning of the Drug Abuse Prevention and Control Act of 1970 is amended by adding the following new items after the item relating to section 411:

"Sec. 412. Release conditions.

"Sec. 413. Denial of release prior to trial.

"Sec. 414. Definitions."

TITLE III -- FORFEITURE OF PROCEEDS
OF ILLEGAL DRUG TRANSACTIONS

SEC. 301. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended by:

(a) adding at the end of subsection (a) the following new paragraph:

"(6) All proceeds of an offense described in this title or title III and all monies, negotiable instruments, and securities used or intended to be used by any person, directly or indirectly, in connection with a violation of this title or title III.";

and

(b) adding after the words "Whenever property" in subsection (e) the words "described in subsections (a) (1) through (a) (5)"; and

(c) adding a new subsection (h) at the end thereof as follows:

"(h) Whenever property described in subsection (a) (6) is forfeited for violation of this title or title III, the Attorney General, making due provision for the rights of any innocent person;

"(1) may dispose of property other than monies, negotiable instruments and securities in the manner set forth in subsection (e);

"(2) may dispose of negotiable instruments and securities in the manner prescribed in subsection (e) (2); and

"(3) shall forward currency obtained from sales pursuant to paragraph (2) and monies forfeited under subsection (a) (6) to the Treasurer of the United States for deposit in the general fund of the United States Treasury."

TITLE IV -- ILLEGAL EXPORT OF CASH

SEC. 401. Section 231(a) of the Currency and Foreign Transactions Reporting Act is amended to read as follows:

"(a) Except as provided in subsection (c) of this section, whoever, whether as principal, agent, or bailee, or by an agent or bailee:

(1) intends to transport, or have transported, monetary instruments from any place within the United States to or through any place outside the United States in an amount exceeding \$5,000 on any one occasion shall file a report or reports in accordance with subsection (b) prior to departing from the United States;

(2) knowingly transports, or causes to be transported, monetary instruments from any place outside the United States to or through any place within the United States in an amount exceeding \$5,000 on any one occasion shall file a report or reports prior to or at the time of arrival in accordance with subsection (b); or

(3) receives monetary instruments at the termination of their transportation by common carrier to the United States from or through any place outside the United States in an amount exceeding \$5,000 on any one occasion shall file a report or reports in accordance with subsection (b)."

SEC. 402. Section 235 of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1105) is amended by redesignating subsection (b) as subsection (c) and by adding a new subsection (b) as follows:

"(b) When because of exigent circumstances a warrant cannot be obtained, any officer of Customs may search without a warrant any of the individuals or objects included in subsection (a) of this section if he has probable cause to

believe that monetary instruments are in the process of transportation and with respect to which a report required under section 231 of this Act (31 U.S.C. 1101) has not been filed or contains material omissions or misstatements."

TITLE V - PROMPT REPORTING OF VESSELS

SEC. 501. Section 433, Tariff Act of 1930, as amended (19 U.S.C. 1433), is amended to read as follows:

"The master of any vessel from a foreign port or place, or of a foreign vessel from a domestic port, or of a vessel of the United States carrying bonded merchandise, or foreign merchandise for which entry has not been made, arriving at any port or place within the United States, shall immediately report the arrival of the vessel at the nearest customhouse or such other place as the Secretary of the Treasury may prescribe in regulations. The Secretary may by regulation extend the time, not to exceed twenty-four hours after the arrival of the vessel, in which to report arrival."

SEC. 502. Section 459, Tariff Act of 1930, as amended (19 U.S.C. 1459), is amended by substituting a comma for the word "or" wherever it appears between the words "entry" and "customhouse", and inserting after the word "customhouse" the phrase "or other places as the Secretary of the Treasury may prescribe in regulations."

SEC. 601. For the purposes of Sections 607, 610 and 612 of the Tariff Act of 1930, as amended (19 U.S.C. 1607, 1610 and 1612), are amended by substituting "\$10,000" for "\$2,500" wherever it appears, when the property subject to forfeiture was used or intended for use in violation of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (12 U.S.C. 801, et seq.).

THE WHITE HOUSE
WASHINGTON

SCHEDULE PROPOSAL
DATE: February 2, 1976
FROM: Charles Leppert *clj*
THRU: Max L. Friedersdorf
Vern Loen *VL*
VIA: Bill Nicholson

MEETING: Representatives Morgan Murphy, Ben Gilman
Peter Rodino, William Rangel, Lester L. Wolff

DATE: Open

PURPOSE: To report to the President on their trip to Columbia,
Costa Rica, Mexico and Panama and the drug
situation.

FORMAT: The Oval Office - 30 minutes

PARTICIPANTS: The President
Secretary of State Henry A. Kissinger
Rep. Benjamin Gilman (R-NY)
Rep. Peter Rodino (D-NJ)
Rep. Lester Wolff (D-NY)
Rep. Charles Rangel (D-NY)
Rep. Morgan Murphy (D-Ill.)
Charles Leppert, Jr. (staff)
Dick Parsons (staff)

CABINET PARTICIPATION: Secretary of State Henry A. Kissinger

SPEECH MATERIAL: Talking points

PRESS COVERAGE: White House Photographer only

STAFF: Charles Leppert, Jr.

RECOMMEND: Max L. Friedersdorf

OPPOSED: None

PREVIOUS PARTICIPATION: President met with the same group on December
22, 1975 prior to their trip.

BACKGROUND:

1. Rep. Wolff on behalf of the group would like to discuss first-hand with the President the drug situation as they found it in these various countries.

BACKGROUND: (continued)

2. Reps. Wolff and Gilman feel they were able to do certain things in Mexico which should be brought to the President's attention and to convey to the President the views of each head of state on the drug situation.

APPROVE _____

DISAPPROVE _____

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Drug abuse is one of the most serious and tragic problems in this country. Its cost to the nation in terms of ruined lives, broken homes and divided communities is staggering. In addition to this toll, it is a major cause of crime.

Combatting this problem is a major priority of my Administration.

The appointment of Peter Bensinger as head of the Drug Enforcement Administration is one of the most important I have made as President, because of the critical mission of that agency. I believe we have found in Mr. Bensinger the right combination of proven experience, complete integrity and full commitment to public service.

The Drug Enforcement Administration is the agency principally responsible for Federal drug law enforcement. It has the often thankless task of seeking out and apprehending some of the cruelest criminals in the world -- those who traffic in hard drugs. This is a complex and difficult task. However, if we are to win the war on drugs, these merchants of tragedy and death must be stopped.

I have recommended that the Congress enact legislation which would impose mandatory prison sentences on those convicted of trafficking in hard drugs. I have also met with the leaders of Mexico, Turkey and Colombia, and with members of the United States Congress, to assure them of my full commitment to curbing the illicit traffic in drugs. I want to take this opportunity to pledge to the American people an all-out Federal effort to combat the drug menace.

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Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have signed into law S. 2017, amending the Drug Abuse Office and Treatment Act of 1972.

This legislation addresses one of the most serious problems our nation faces -- drug abuse. Drug abuse disrupts lives, causes victims and their families to suffer anguish and is a major contributor to our growing crime rate. The passage of S. 2017, by voice vote, in both Houses of the Congress gives emphasis to our national commitment to give priority to dealing with this important problem.

A critical aspect of the legislation is that it extends appropriation authorizations for Federally funded drug abuse prevention and treatment programs which, for the past eight months, have been funded under a continuing resolution. My approval of this bill will permit the appropriation of needed additional funds.

I thoroughly agree with the position of the Congress on the importance of a well coordinated Federal drug abuse program. I have consistently held, however, that such coordination can best be carried out by existing departments and agencies, without an additional agency for that purpose. I also agree that both the Congress and the President need to be kept informed about the problems and progress of this program. The best places to get such information and to seek accountability for progress are the departments and agencies which have direct responsibility and program authority. I intend to use the appropriate department and agency heads for such reporting.

Over the past several months, I have voiced strong opposition to the re-establishment of a special office for drug abuse in the White House. I believe that such an office would be duplicative and unnecessary and that it would detract from strong Cabinet management of the Federal drug abuse program. Therefore, while I am signing this bill because of the need for Federal funds for drug abuse prevention and treatment, I do not intend to seek appropriations for the new Office of Drug Abuse Policy created by the bill.

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April 27, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

FACT SHEET

PRESIDENT'S MESSAGE ON DRUG ABUSE

In transmitting his special Message on Drug Abuse to the Congress today, the President stated that he would propose legislation to strengthen the criminal justice system's ability to deal with arrested traffickers. Also, he announced that he is taking several Executive actions to strengthen the overall management of the drug program, and he called for intensified diplomatic initiatives to strengthen international narcotic controls.

BACKGROUND

Counting narcotic-related crime, addicts' lost productivity, criminal justice system costs, and direct treatment and prevention program spending, estimates of the direct cost of drug abuse to the Nation range from \$10 billion to \$17 billion a year. More than 5,000 American citizens die of drug-related causes each year, with most of these deaths concentrated among the young adult population. Also, law enforcement officials estimate that up to one-half of all robberies, muggings, burglaries, and other forms of property crimes are committed by addicts to support their expensive and debilitating habits.

Over the past half decade, total Federal expenditures have grown from less than \$100 million to over three quarters of a billion dollars per year for a comprehensive program of prevention and treatment, law enforcement, and international control. The result was that between late 1972 and early 1974, drug abuse indicators which had been going up steadily for years had turned down, and the increase in property crime seemed to have been broken.

By early 1975, it was clear that conditions were again worsening and that gains of previous years were being eroded. For example, "street" availability of heroin measured by price and purity was increasing. Waiting lists for treatment existed again, after having almost disappeared. Drug-related deaths and drug-related cases in hospital emergency rooms were increasing. Drug-related crimes were on the upsurge. Cities which only two years before had reported a decline in heroin use, began reporting an increase, and some smaller communities which never before had a drug problem began experiencing significant use of heroin and other dangerous drugs.

Last April, President Ford directed a comprehensive review of the entire Federal effort in drug law enforcement, treatment and prevention, and international control. He asked for an assessment of the extent of the problem and for recommendations to make the Federal program more effective.

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The President has endorsed the resulting White Paper on Drug Abuse (see supplement A for summary of White Paper), and the budget he submitted for FY 1977 requests funds to implement all of its principal recommendations (see supplement B for description of FY 1977 drug abuse control budget).

The message which the President is sending to the Congress today builds on the White Paper, spells out a number of specific steps the President is taking to strengthen the overall drug program, and calls on the Congress to act in several areas.

I. STRENGTHENING LAWS

Substantial progress has been made in improving the ability of Federal law enforcement agencies to apprehend major drug traffickers; for example, the number of major traffickers arrested in the last six months of 1975 was up sharply over prior periods.

However, this progress in arresting major traffickers may be largely dissipated unless major changes are made in the way the criminal justice system handles them after arrest. For example, a recent Justice Department study revealed that one out of every four persons convicted of trafficking in heroin received no prison sentence at all; one in three received a sentence of less than three years. In another example, a 1974 Justice Department study showed that nearly one out of two of a sample of individuals arrested for trafficking in narcotics were implicated in post-arrest drug trafficking while out on bail.

To remedy this situation, the President will shortly submit legislation to the Congress which will:

- Require minimum mandatory prison sentences for persons convicted of high-level trafficking in heroin and similar narcotic drugs;
- Enable judges to deny bail in the absence of compelling circumstances if a defendant arrested for trafficking heroin or dangerous drugs is found (1) to have previously been convicted of a drug felony; (2) to be presently free on parole; (3) to be a non-resident alien; (4) to have been arrested in possession of a false passport; or (5) to be a fugitive or previously convicted of being a fugitive;
- Raise the value of property used to smuggle drugs which can be seized by administrative, as opposed to judicial, action (from \$2,500 to \$10,000);
- Extend the above forfeiture provision to include cash or other personal property found in the possession of a narcotics violator if the property is determined to have been used (or be intended for use) in connection with an illegal drug transaction;
- Require masters of boats -- including pleasure vessels -- arriving in the United States to report immediately to Customs upon arrival, rather than within 24 hours as is now required; and

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- Expand Customs' authority to search for cash and other monetary instruments being smuggled out of the country.

II. IMPROVING PROGRAM MANAGEMENT

The Federal program to control drug abuse involves seven Cabinet departments and seventeen agencies. The President has taken a number of actions to integrate the efforts of these departments and agencies into an effective overall program, while at the same time ensuring that program management be lodged with the departments and agencies having direct program responsibility. The President has also taken several actions intended to more fully utilize all the resources available throughout the Federal Government.

- Two new Cabinet committees are being established to provide direction for, and coordination of, Federal drug programs and activities. The Cabinet Committee for Drug Law Enforcement will be chaired by the Attorney General, and will include the Secretaries of Treasury and Transportation. The Cabinet Committee for Drug Abuse Prevention, Treatment, and Rehabilitation will be chaired by the Secretary of HEW, and will include the Secretaries of Defense and Labor, and the Administrator of the Veterans' Administration;
- The Secretary of HEW and the Attorney General have been directed to develop plans to improve coordination between the treatment and criminal justice system, so drug users in the criminal justice system are identified and provided with treatment and rehabilitation services;
- The new Cabinet Committee on Drug Abuse Prevention, Treatment, and Rehabilitation has been directed to give high priority to identifying specific ways to improve job opportunities for former addicts;
- The Secretary of the Treasury and the Commissioner of the Internal Revenue Service, in consultation with the Attorney General and the Administrator of the Drug Enforcement Administration, have been directed to develop a tax enforcement program aimed at major drug traffickers.

III. ENHANCING INTERNATIONAL COOPERATION

Since many of the most seriously abused drugs originate in foreign countries, our capability to deal with supplies of drugs available in the United States is to a large degree reliant upon the interest and capability of foreign governments to control the production and shipment of illicit drugs.

In his drug message, the President:

- Reaffirms the Administration's commitment to intensifying diplomatic efforts at all levels in order to encourage the greatest possible commitment from other governments to this mutual problem, and to continuing to provide technical and equipment assistance, formal training of foreign enforcement officials, and assistance through cooperative enforcement efforts with U.S. agents stationed overseas;
- Directs the Secretary of State, the Attorney General, and the Ambassador to the United Nations to expand their discussions of drug control with foreign leaders;

- Endorses the proposal of Mexican President Echeverria to establish a mechanism for formally exchanging information and ideas between high-level coordinating bodies; assigns responsibility for liaison with the Mexican Commission to the Cabinet Committee on International Narcotic Control; and directs the Chairman of the CCINC to immediately form an Executive Committee to meet with its Mexican counterpart to discuss ways in which our Government can collaborate more effectively with Mexico;
- Urges the Congress to expedite approval of the 1971 Convention on Psychotropic Substances, an international treaty which would provide a system for the control of synthetic drugs similar to that which exists for narcotic drugs.

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April 27, 1976

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OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
UPON SIGNING THE
DRUG MESSAGE

THE OVAL OFFICE

10:15 A.M. EDT

For nearly a year I have been devoting increasing attention to a problem which strikes at the very heart of our national well-being, drug abuse. I have initiated and then endorsed a major study of this issue. I have met with foreign heads of state, Members of Congress and members of my Cabinet to express my deep concern and the need for action, and I have publicly spoken about this as one of the most serious and tragic problems our country faces.

Today I am sending to the Congress a special Message on Drug Abuse which outlines, in very frank terms, the severity of this problem and which proposes definitive steps which must be taken to meet the challenge posed by the worsening drug situation.

I am requesting the Congress to enact specific legislation to improve our ability to put the traffickers who sell drugs into prison. I am also calling for a renewed commitment to a program that balances the law enforcement effort with the provisions of humane and effective treatment for drug users.

Finally, since our ability to control the supply of illegal drugs in this country depends to a very large degree on the interest and the capability of foreign governments in controlling drugs which originate in or move through their territory, I renew this government's commitment to providing support for foreign allies in this fight.

With the combined efforts of the Executive Branch, the Congress, State and local Government and the private sector, we can control drug abuse.

Now that the problem is worsening, we must not shrink from this challenge but rather redouble our efforts at all levels to provide the leadership and resources to reverse the trend.

At this time I will sign the two Messages to the House as well as to the Senate.

END

(AT 10:17 A.M. EST)

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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END (AT 10:17 A.M. EST)

APRIL 30, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

TEXT OF A LETTER FROM THE
PRESIDENT TO THE SPEAKER OF THE
HOUSE OF REPRESENTATIVES
AND THE PRESIDENT OF THE SENATE

April 30, 1976

Dear Mr. Speaker: (Dear Mr. President:)

There is transmitted herewith a bill containing the Administration's proposals for increasing the effectiveness of the criminal justice system in protecting the American people from trafficking in heroin and other narcotic drugs.

This legislation, which implements the recommendations contained in my special message to the Congress on drug abuse, would, if enacted, improve our ability to put the traffickers of hard drugs into prison. It would also improve our ability to take the easy profits out of drug trafficking as well as our capacity to detect and apprehend drug smugglers.

Considering the terrible toll that narcotic addiction takes, it is a matter of high priority that our laws be made more effective in curbing the narcotic traffic. If the law does not act as a deterrent, the risk of arrest and seizures becomes merely a cost of doing business for the narcotic traffickers. Unless there exists a reasonable certainty of punishment after conviction, traffickers have little reason to get out of the trafficking business. I therefore respectfully urge that these proposals receive consideration this session.

Sincerely,

GERALD R. FORD

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NARCOTIC SENTENCING AND SEIZURE ACT OF 1976

SECTION-BY-SECTION ANALYSIS

- TITLE I: MANDATORY MINIMUM SENTENCES
- TITLE II: CONDITIONS OF RELEASE
- TITLE III: FORFEITURE OF PROCEEDS OF ILLEGAL
DRUG TRANSACTIONS
- TITLE IV: ILLEGAL EXPORT OF CASH
- TITLE V: PROMPT REPORTING OF VESSELS

April 30, 1976



SECTION-BY-SECTION ANALYSIS

Section 1 of the draft bill provides that the Act may be cited as the Narcotic Sentencing and Seizure Act of 1976.

TITLE I. - MANDATORY MINIMUM SENTENCES

Title I of the draft bill provides mandatory minimum prison sentences for most persons convicted of an offense involving manufacturing, importing, or trafficking in opiates. The defendant could not be paroled until he had served the minimum sentence. The judge could not sentence the defendant to probation, suspend his sentence, or sentence him under the Youth Corrections Act. If, however, the judge found that, at the time of the offense, the defendant was under 18 years of age, that his mental capacity was substantially impaired, that he was under unusual and substantial duress, or that he was a minor participant in the offense, the judge could sentence the defendant to a lower term of imprisonment with a lower term of parole ineligibility, to probation, or to a suspended sentence; a mandatory minimum term of imprisonment under these provisions would be consecutive to any other term of imprisonment and a mandatory minimum term of parole ineligibility would be consecutive to any other term of parole ineligibility.

The provisions would apply only to offenses involving an opiate, which is defined as "a mixture or substance containing a detectable amount of any narcotic drug that is a controlled substance under schedule I or II, other than a narcotic drug consisting of (A) coca leaves; (B) a compound, manufacture, salt, derivative, or preparation of coca leaves; or (C) a substance chemically identical thereto." The provisions are primarily aimed at heroin and morphine traffickers, importers, and manufacturers.

Section 101 of the draft bill contains the mandatory minimum sentence provisions for manufacturers and traffickers of opiates.

Section 101(a) would amend section 401 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841), pertaining to illegal manufacture, distribution, and dispensing of controlled substances, to provide a mandatory minimum term of imprisonment of three years and a mandatory minimum term of parole ineligibility of three years for a first offense relating to an opiate. If the offense followed a previous conviction for a federal, state, or foreign offense relating to an opiate which was punishable by over one year in prison, the minimum mandatory term of imprisonment and the minimum mandatory term of parole ineligibility would each be six years.

Section 101(b) would amend section 405 of the Act (21 U.S.C. 845) pertaining to distribution of controlled substances by a person at least 18 years of age to a person under 21, to provide a six-year mandatory minimum term of imprisonment and a six-year mandatory minimum term of parole ineligibility for a first offense of selling an opiate to a person under 21 years of age. If the offense is committed after a previous conviction for a federal, state, or foreign felony involving an opiate, the mandatory minimum term of imprisonment and mandatory term of parole ineligibility would be nine years.

Section 101(c) would amend section 406 of the Act (21 U.S.C. 846), relating to attempts and conspiracies to violate the drug laws, to provide that, if the offense was an offense under section 401 involving an opiate, the mandatory minimum term of imprisonment and mandatory minimum term of parole ineligibility would be three years for a first offense. If the offense followed a previous conviction for a federal, state, or foreign felony involving an opiate, the mandatory minimum term of imprisonment and mandatory minimum term of parole ineligibility would be six years.

Section 102 contains the mandatory minimum sentence provisions for persons who illegally import or export, or who manufacture or distribute for illegal importation, opiates.



Section 102(a) would amend section 1010 of the Act (21 U.S.C. 960), pertaining to illegal importation and exportation and to manufacture and distribution for illegal importation, of a controlled substance, to provide a mandatory minimum term of imprisonment of three years and a mandatory minimum term of parole ineligibility of three years, for a first offense relating to an opiate.

Section 102(b) would amend section 1012 of the Act (21 U.S.C. 962) to provide that, if an offense involving an opiate is committed after a previous conviction for a federal, state, or foreign felony relating to an opiate, the mandatory minimum term of imprisonment and mandatory minimum term of parole ineligibility is six years.

Section 102(c) would amend section 1013 of the Act (21 U.S.C. 963), pertaining to attempts and conspiracies to violate the laws concerning importation and exportation of controlled substances, to provide a mandatory minimum term of imprisonment and a mandatory minimum term of parole ineligibility of three years for a first offense of attempting or conspiring to violate section 1010(a) if the offense involves an opiate. If the offense is committed after a previous conviction of a federal, state, or foreign felony involving an opiate, the mandatory minimum term of imprisonment and the mandatory minimum term of parole ineligibility would be six years.

Section 103 would add a new Rule 32.1 to the Federal Rules of Criminal Procedure to provide for a sentencing hearing to those cases where the provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970 require a minimum term of imprisonment and parole ineligibility. The hearing would be held without a jury. Parties would have a right to counsel, to compulsory process, and to cross-examination of witnesses who appear at the hearing. If the defendant is found by a preponderance of the information, including information submitted during the sentencing hearing, to be subject to a mandatory minimum term of imprisonment and parole ineligibility, the judge would sentence him in accordance with the appropriate provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended.

TITLE II. - CONDITIONS OF RELEASE

Release of defendants charged with or convicted of criminal offense is presently governed by the Bail Reform Act of 1966 (18 U.S.C. 3141-56). Title II would amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to provide standards of release and denial of release for defendants charged with trafficking in opiates or with illegally importing or exporting opiates, or with attempting or conspiring to commit one of these offenses.

Proposed section 412 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 would permit the judge, in setting pretrial release conditions under the Bail Reform Act for persons charged with opiate trafficking, exporting, and importing, and with attempts or conspiracies to commit those offenses, to consider the danger the person poses to the safety of any other person or to the community, or would revert to criminal activity of a nature similar to that constituting the basis on the pending charge.

Proposed section 413 of the Act permits the denial of release of certain persons charged with serious opiate offenses. Subsections (a) (1) through (a) (5) list the categories of opiate offenders who may be subject to denial of release. These include persons previously convicted of a federal, state or foreign opiate felony, persons on parole, probation, or other conditional release at the time of the offense, persons who

are nonresident aliens or in possession of illegal passports at the time of arrest, and persons convicted of having been fugitives or escaping from prison or willfully failing to appear before a court of judicial officer under federal or state law.

Subsection (b) requires that a hearing be held before a person may be denied release under the section, and that a person may be denied release only if the judge finds that there is clear and convincing evidence that the person charged with a serious opiate offense belongs in one of the categories of persons subject to denial of release, that no condition or conditions of release -- including the setting of a high bail -- will reasonably assure the safety of any other person or the community, and that there is a substantial probability that the person committed the offense with which he is charge. The judge must also issue an order denying release accompanied by written findings of fact and a statement of reasons for the order's entry.

Subsection (c) outlines the procedures and rights in the hearing. The defendant is entitled to representation of counsel, has the right to testify and to produce information by proffer or otherwise, and to present witnesses in his own behalf.

Under subsection (d), if a person is denied release prior to trial under the provisions of the section, his case must be placed on an expedited calendar.

TITLE III. - FORFEITURE OF PROCEEDS
OF ILLEGAL DRUG TRANSACTIONS

Section 301(a) would amend Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) to permit the forfeiture of all proceeds, monies, negotiable instruments and securities used or intended to be used in violation of this Act.

Since the purpose of this section is to reach only that which is used or intended to be used as consideration for receipt of controlled substances in violation of this Act, the descriptive terms of consideration are defined as follows: (1) "Monies" means officially issued coin and currency of the United States or any foreign country; (2) "Negotiable instruments" means that which can be legally transferred to another party by endorsement or delivery; and (3) "Securities" refers to any stocks, bonds, notes or other evidences of debt or property; and (4) "Proceeds" refers to any other property furnished in exchange for a controlled substance in violation of this Act.

Section 301(b) is simply a clarifying amendment.

Section 301(c) provides that property forfeited pursuant to Section 301(a) would be disposed of by the Attorney General in accordance with existing law and with due regard for the rights of any innocent persons involved. Subsection (h) (3) of Section 301 also provides that the Attorney General shall cause to be deposited in the general fund of the United States Treasury all

monies forfeited pursuant to Section 301(a) and all currency derived from the sale of forfeited negotiable instruments and securities.

TITLE IV. - ILLEGAL EXPORT OF CASH

Title IV of the proposed bill would amend the Currency and Foreign Transactions Reporting Act. Section 401 would amend section 231(a) of the Currency and Foreign Transactions Reporting Act to provide that a violation of the currency reporting requirement occurs when a person who intends to transport monetary instruments out of the United States in an amount exceeding \$5,000 on any one occasion does not file a report prior to departing from the United States.

Section 231(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1101(a)) currently requires reports to be filed by persons transporting or causing to be transported monetary instruments in excess of \$5,000 into or out of the United States. However, on March 25, 1976, the United States District Court (S.D. Fla.) dismissed a criminal proceeding against Juan Manuel Centeno who was discovered departing the United States with \$250,000 of unreported currency. The district court reasoned that no violation had occurred because the law is violated only after a person has actually left the United States without filing the required report. As a consequence of this decision, effective enforcement of the reporting requirement was significantly impaired. To remedy this defect in the law, the proposed amendment would require a report to be filed prior to departure by any person who wishes to transport or have transported out of the United States any amount exceeding \$5,000. A person departing by

aircraft or vessel would have to file the report prior to boarding the outbound carrier. Failure to file the report would then be a detectable violation. The law pertaining to reports by persons entering the country would be unchanged.

The sale of narcotics and dangerous drugs in the United States produces vast sums of money much of which leaves the United States. By monitoring the flow of currency and monetary instruments, significant information is developed with respect to narcotics trafficking and the illegal exportation of arms and munitions. However, the gap in the enforcement authority of the Customs Service noted by the district court has reduced the effectiveness of this program. By closing a loop-hole in the reporting requirements and strengthening Customs search authority of departing persons, the programs to halt the flow out of the country of illicitly obtained currency and currency which will be used for the purchase of narcotics destined for the United States would be aided substantially.

Currently, section 235 of the Currency and Foreign Transactions Reporting Act requires a search warrant in order to seize monetary instruments being taken from the United States in violation of the reporting requirements of section 231 of the Act. Section 402 of the proposed bill would allow warrantless searches under exigent circumstances where there is probable cause to believe that monetary instruments are

in the process of transportation and with respect to which a report required under section 231 of this Act (31 U.S.C. 1101) has not been filed or contains material omissions or misstatements.

This proposal would have no effect on the current Customs authority which allows warrantless searches of persons entering the United States.

TITLE V.- PROMPT REPORTING OF VESSELS

Title V of the draft bill would require the master of any vessel arriving from a foreign port or place, or of a foreign vessel arriving from a domestic port, or a vessel of the United States carrying bonded merchandise or foreign merchandise for which entry has not been made, to immediately report arrival of the vessel at the nearest customhouse or such other place as the Commissioner of Customs may prescribe in regulations.

In recent years, the use of private yachts and pleasure vessels to smuggle narcotics and dangerous drugs has created a significant detection and interdiction problem for the Customs Service. The existing law contributes to this problem because, with the exception of vessels arriving from Canada or Mexico, the law permits twenty-four hours in which to report arrival of the vessel. Thus a narcotics smuggler using a small boat can land in the United States without facing the prospect of an immediate Customs inspection and discovery of contraband. This problem has become particularly acute in Florida where private yachts and pleasure yachts with easy access to nearby foreign islands and the U.S. inland waterways complicate detection. The proposed amendment, section 501, would authorize the Commissioner of Customs to require the master of a vessel to report immediately and would also afford greater flexibility in designating the places where arrival may

be reported. Customs would, thus, be in a position to concentrate enforcement activities on those vessels failing to report immediately, on the assumption that they are liable to be involved in smuggling. Section 502 contains a conforming amendment to section 459 of the Tariff Act (19 U.S.C. 1459) relating to the arrival of vessels from Canada and Mexico.

House of Representatives

Washington, D.C. 20515

May 3, 1976

MEMORANDUM

MAY 4 1976

Pat, We shall have talked by the time this reaches you.

However, the Congressman asked me to send you his newsletter on drug addiction and trafficking in narcotics.

He had quite an experience visiting the Mexican prison!

Louis

13577

Mellon, Hutson, Fry, Carter

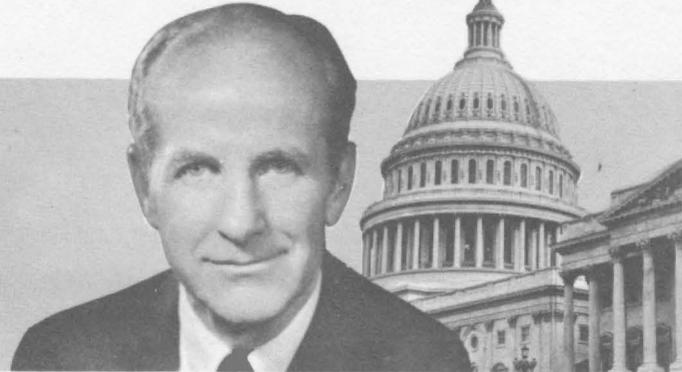


YOUR CONGRESSMAN

ROBERT McCLORY

13TH CONGRESSIONAL DISTRICT, ILLINOIS

*Reports
from Washington*



NOT PRINTED AT GOVERNMENT EXPENSE

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FOR RELEASE WEDNESDAY, May 5, 1976

76-17



Drug addiction and trafficking in narcotics and other dangerous drugs have become more serious problems than at any other time in recent history. Heroin, cocaine and marijuana are moving from and through Mexico in unprecedented amounts -- requiring prompt and effective action on various fronts.

Under the leadership of Peter Bensinger, the recently appointed Administrator of the Drug Enforcement Administration (DEA), supplemented by a program announced last week by President Ford, strong measures are being advanced to cut off the supplies of drugs from Mexico and other foreign sources and to deal severely with drug traffickers.

While attending a conference of the Interparliamentary Union recently in Mexico City, this Member of Congress had occasion to confer with the Attorney General of Mexico and with our customs and DEA officials operating south of the border.

In addition to dealing with its own serious domestic drug problem, the Mexican government is cooperating effectively in a massive program involving the eradication of heroin-producing poppies cultivated in remote mountain areas of Mexico. By the use of helicopters from which herbicides are sprayed on the poppies, as much as 70 percent of the 1976 crop is expected to be eradicated. The cooperative efforts of the Mexican and U.S. Customs officials, including a substantial number of "informants," are leading to the apprehension and arrest of major drug traffickers. A proposed customs agreement is pending between the two countries which should strengthen interdiction program.

It is also hoped that agreement may be reached for exchanges of financial information in order to more easily identify those who are banking large sums of money in the illicit drug traffic. Cooperation in this area is induced on the part of the Mexican authorities largely because of a serious influx of American arms into Mexico which turn up in the hands of guerilla contingents which pose an increasing danger to the Mexican governmental authorities.

-continued-

May 5, 1976
Page Two

In addition to these on-going measures, President Ford has outlined a program of stiff mandatory penalties against major traffickers in narcotic drugs, including the denial of bail to persons arrested while trafficking in heroin and comparable substances.

The President's program would permit expanded authority to search watercraft suspected of smuggling and permit the frisking of suspected drug carriers.

Finally, it should be noted that trafficking in heroin, cocaine or even marijuana in Mexico -- even in small amounts -- poses the most serious consequences to American citizens -- particularly young Americans.

Those apprehended, including mostly college-age Americans, are held without bail, denied counsel and coerced sometimes through force to sign confessions upon which sure and certain conviction is then based. Sentences range from 6 to 12 years with no provision for probation or parole.

What is more, incarceration in Mexican penitentiaries is expensive. Without even suggesting the possibility of corruption under the Mexican system, comforts beyond the barest existence must be bought and paid for. This means that such necessities as mattresses, sheets, pillows, towels, toilet paper and other needs which American prisoners require can only be secured "for cash." Mexico deals similarly with its own citizens -- who, of course, have a better understanding of the Mexican system of justice.

In short, tough, unprecedented measures are being applied to fight drug addiction -- and the trafficking in drugs. In this fight the Administration and the Congress, as well as the Mexican authorities, seem to be cooperating effectively.



Congress of the United States
House of Representatives
Washington, D.C. 20515

OFFICIAL BUSINESS



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MAY 1975
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