

Congress of the United States
House of Representatives

OFFICIAL BUSINESS

Richard H. Poff
M. C.

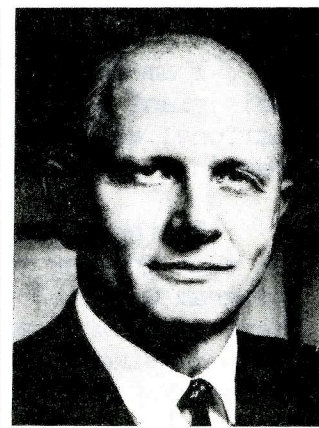
Mr. John Dean
Associate Deputy Attorney General
Room 4115-Dept. Of Justice
Washington, D.C.

(Not Printed At Government Expense)

Report from Washington



CONGRESSMAN RICHARD H. POFF
6TH. DISTRICT OF VIRGINIA



(NOT PRINTED AT GOVERNMENT EXPENSE, NEWSLETTERS ARE MAILED TO 6TH DISTRICT RESIDENTS ONLY ON REQUEST.
TO RECEIVE NEWSLETTER EACH WEEK, WRITE CONGRESSMAN RICHARD POFF, 2228 HOUSE OFFICE BUILDING, WASHINGTON, D. C. 20515)

FOR RELEASE ON OR ABOUT JUNE 15, 1970

Dear Folks:

NARCOTICS

President Nixon said in 1968: "Let us begin to face facts--and to act upon that knowledge. Narcotics are the modern curse of American youth. Just like the plagues and epidemics of former years, these drugs are decimating a generation of Americans." Since taking office, he has directed a stepped-up campaign against hard drugs, aimed chiefly at peddlers who are trading in young lives. He has set up an across-the-board campaign using foreign policy, education, adequate financing and cooperation with the States and localities.

He has negotiated with the Governments of Turkey, France and Mexico to enlist their support in cutting off the base of supply for heroin. Operation Cooperation in Mexico is directed against the 15 percent of total heroin and 85 percent of marijuana being smuggled into the country. About 80 percent of the heroin originates in Turkey. Since other nations now are experiencing drug problems, the outlook for international cooperation has improved as nations move against a common problem.



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File Drugs

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The National Institute of Mental Health is conducting long-range studies into the effects of various drugs on the human system--what they do to change the mind and emaciate the body. The object is to produce facts so that potential users can be warned of the permanent dangers posed by such drugs as LSD and marijuana. Recognizing the differences in drugs, the Administration has sought changes in the penalty structure. Under present Federal law, marijuana, which is a hallucinogen, and heroin, which is a narcotic, both carry the same penalty. Nixon has sought to differentiate between "soft" and "hard" drugs.

The key to eliminating the demand for drugs lies in education. Street corner mythology and misinformation have lured many of the young into a one-way, dead-end street. President Nixon has allocated \$1 million to the NIMH for education and to set up a national clearinghouse on drug abuse.

Stepped-up enforcement is the shortcut to saving lives from the drug traffic. The President asked for, and got, \$8.75 million from Congress to hire 915 more agents to guard U. S. borders and ports, and for equipment. A data bank of information on drug crime will be set up. This data processing center will computerize the war on drugs, compile and make available information on international drug operators and local peddling suspects. New customs facilities will aid thorough search practices. New laboratories will provide technical data for prosecution.

The job is a long, hard one. The drug "problem" of the 1950's became the drug crisis of the 1960's and during the 1970's the Nation will have to repair the damages incurred by years of neglect.

SST

I voted against the \$296 million item in the Department of Transportation Appropriation bill for the Supersonic Transport (SST). I voted against a similar item last year.

I am acquainted with all of the arguments in favor of federal subsidies for this giant new aircraft. They include the balance of payments arguments, the international aeronautical competition argument, the job argument and all the rest. I remain unconvinced by these arguments.

In the first place, the cost of the federal subsidy eventually is likely to be much greater than predicted. Only a year ago, the cost forecast of the prototype program was \$1.3 billion. This year, it is in the neighborhood of \$1.4 billion. Next year, who can say what it will be. Even if it were less, however, I have not been convinced that the private aviation industry is entitled to such a substantial direct subsidy from the federal treasury.

Neither have I been convinced that sales of SST's to other nations will benefit the American position in the international balance of payments picture. One of the subcommittee's of the President's SST Review Committee predicted that the increased passenger exit from the United States would so increase the size of the American tourist dollar spent abroad as to offset the beneficial effect of aircraft sales.

Proponents say that the federal subsidy will eventually be fully recovered through royalties on sales. But this depends upon a sale of at least 300 SST's, and many experts think that the total sale market is much lower.

What concerns me is the potential environmental consequences. These include a sonic boom with an overpressure of 2.1 to 3.5 lbs. per square foot; sideline noise pollution (possibly 4 to 5 times louder than the 747 airplane); possible high altitude pollution, including unpredictable climate changes and ultraviolet radiation: etc.

CONSUMERS PAY FOR CRIME

Consumers are paying a big price for business crime. Annual losses now are computed at \$10 billion from burglary, robbery, vandalism, shoplifting, bad checks, employee theft and embezzlement. 30 percent of business failures are due to employee dishonesty. More than half of the \$1.4 billion in burglary and robbery losses were inflicted on small businesses. Higher insurance premiums needed to protect against losses are passed on to the consumer in the form of higher prices. Many raise prices to pay for goods stolen by shoplifters.

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DEPARTMENT OF JUSTICE

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TO:	NAME	DIVISION	BUILDING	ROOM
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REMARKS

FROM:	NAME	BUILDING & ROOM	EXT.	DATE
	Earl J. Silbert	Main - 4213	3711	5/28

Criminal Division
Attention: Mr. Harold Koffsky

May 28, 1970

Donald E. Santarelli
Associate Deputy Attorney General

H.R. 17269, a Bill to Provide
for Mandatory Civil Commitment
of Certain Narcotic Drug Addicts

Analysis

H.R. 17269 amends the Narcotic Addict Rehabilitation Act of 1966 (NARA) in the following ways:

(1) It permits pretrial civil commitment of narcotic addicts charged with criminal offenses against the United States "who require medical treatment." Either the prosecutor or the court can initiate the commitment proceeding.

(2) It permits the Surgeon General to initiate civil commitment for any person he has reason to believe is a narcotic addict who requires medical treatment if the state or locality in question lacks commitment facilities.

Comment

A. We have the following brief comments to make on the proposed pretrial civil commitment of narcotic addicts who require medical treatment.

1. If this proposal is to operate in effect as pretrial detention of narcotic addicts charged with crime, it fails to provide the safeguards contained in H.R. 12806, the Administration's pretrial detention proposal. For example, no provisions are included guaranteeing access to counsel during this period of commitment or temporary release to look for witnesses or otherwise prepare the defense to the criminal charge.

2. The commitment of drug addicts is predicated on whether or not they require medical treatment. Obviously, a brief period of medical treatment is necessary to detoxify an addict. But because of the vagueness and difference of opinion of the medical profession on how to treat addicts and, more importantly, whether or not they need medical treatment on an inpatient basis, we are not in any way confident that this provision will result as a practical matter in the commitment prior to trial of many addicts. For all we know, doctors may testify that but for other brief period covering withdrawals, most addicts "require" outpatient methadone maintenance treatment.

Accordingly, until such time as the medical profession, HEW, or the D. C. Department of Public Health indicate that in their view the great majority of addicts should be hospitalized at least for the length of time it takes to bring the criminal case to trial, the utility of this provision remains a question mark.

3. Finally, while some may view this as a covert substitute for pretrial detention of dangerous felons, we cannot accept it as such both on theoretical, conceptual grounds and on practical grounds because it is too narrow.

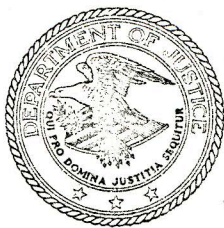
B. We have the following comment on the proposed mandatory civil commitment of drug addicts in proceedings initiated by the Surgeon General when state or local facilities are lacking:

1. As a practical matter, we wonder how the Surgeon General is going to come across these individuals and what measures he will use to bring them into court.

2. More fundamentally, the involuntary federal commitment of a drug addict presents a potential Tenth Amendment problem. There is a clear federal nexus for Title I and II of NARA since it involves drug addicts charged or convicted of federal offenses. Title III presents no problem since it provides only for voluntary commitment. But the power of the federal government to commit involuntarily and civilly a drug addict may well

be challenged on the grounds that it invades the local power of the states to provide for their own health, safety and welfare. At the very least, it would appear that Congress would have to make findings tying in the drug addict with, probably, interstate commerce. NARA presently contains no such findings because for the purposes for which it was enacted in 1966, such findings were not necessary.

Until the basic questions posed in the above comments are satisfactorily resolved, any further comment by this Office on the ultimate merits of H.R. 17269 would be premature.



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

MEMORANDUM FOR THE HONORABLE JOHN D. EHRLICHMAN
EXECUTIVE DIRECTOR, DOMESTIC COUNCIL

I am in receipt of a copy of Secretary Kennedy's memorandum to you concerning the discussions between the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs relating to a joint implementation agreement. I wish to make certain observations relative to this memorandum to aid you in determining a proper course of action in this situation.

As Secretary Kennedy points out, it is highly regrettable that no headway has been made between the two agencies involved in drafting a joint implementation agreement. The reason for the lack of progress rests with the Bureau of Customs.

Secretary Kennedy states in his memorandum that he has been advised that the point of issue between the two agencies revolves around the definition of "smuggling" and whether it includes preparatory acts. The Secretary has apparently been misled.

The term "smuggling" has been defined further by case authority as "the clandestine introduction of goods into the United States the importation of which is prohibited (Tomplain v. United States, 42 F. 2d 205). The Tomplain case was a 1930 case in the Fifth Circuit, in which the Supreme Court subsequently denied certiorari. Other Federal case authority holds that the offense of smuggling is not committed until a customs barrier or port of entry is passed or goods are brought across a boundary in such a way as to avoid a port of entry. Hence, the element of "introduction into the United States" appears to be an integral part of a "smuggling" offense. Keek v. United States 172 U. S. 434(1899), United States v. Ritterman 273 U. S. 261 (1927), and Wong Bing Nong v. United States 221 F. 2d 917 (9th Cir. 1955). Preparatory acts, irrespective of how cogently

they may indicate subsequent smuggling, do not constitute "smuggling" itself. In 1903, the Attorney General reiterated the view that smuggling is the actual passage of undeclared merchandise through the customs line. Therefore, the offense of smuggling is not committed until the goods have crossed the line of Customs authorities (24 Ops. Atty. Gen., 585). Therefore, as a matter of law, the guidelines comport with the interpretation of "smuggling" given by the courts.

The guidelines specify "... For this purpose, smuggling is understood to mean the actual passage of undeclared merchandise, or contraband, through the Customs lines. It does not include preparatory acts prior to bringing the articles within the boundaries of the United States." The term "smuggling" is clearly defined in the guidelines, and is not subject to interpretation or change as a result of any joint agreement or unilateral definition by either agency.

The idea of a joint agreement was proposed by Treasury and if the Secretary feels no further headway can be made, I would be entirely agreeable to dispense with any effort in that direction. The two agencies could proceed under the guidelines and as required, submit any disputes which may arise to me for resolution.

With respect to the recommendation that the Administration submit an amendment to the Controlled Dangerous Substances Act to adjust statutes governing Customs' operations, I wish to make two observations. First, as the President pointed out in his memorandum of February 5, 1970, the jurisdictional questions involved here have been long-standing matters of dispute between these two agencies. There is nothing to indicate that passage of the Controlled Dangerous Substances Act is imminent and any attempt to resolve the dispute by amending that Act will only serve to continue the problem for some time to come, since the effective date of that Act is six months after passage.

More importantly, as the Secretary points out in his memorandum "... statutes governing Customs' operations which will nail down the general definition of "smuggling" (in the "before and after sense")" may well be needed to enhance their existing authority. If this is deemed necessary in the non-drug smuggling area, the place for such

legislative adjustment would be with those sections of the laws which the Customs Bureau is required to enforce. In my opinion as Attorney General, there is no legislative authority for the position that preparatory acts and acts subsequent to the actual passage of goods lie exclusively with the Secretary of Treasury.

Historically, the separation of functions according to what was deemed "drug smuggling" jurisdiction was based on certain guidelines approved by the concerned Bureaus within the Treasury Department. In contemplation of Reorganization Plan No. 1 of 1968, a Memorandum of Understanding was executed between the then Commissioner of Customs and the Commissioner of Narcotics with the approval of the Special Assistant to the Secretary of the Treasury (for Enforcement). There are two points especially significant in this Memorandum of Understanding:

First, " ' Smuggling' means the secret introduction of narcotics or marihuana upon or by a person, vessel, vehicle or aircraft entering this country, its territories or possessions. "

Second, "It is anticipated that these existing divisions of responsibility will be carried forward after the effective date of Reorganization Plan No. 1 of 1968. " The Report of the Committee on Government Operations on H. Res. 1101, Approving Reorganization Plan No. 1 of 1968 (Report No. 1214), 90th Cong 2nd Session) seems conclusive that Congress was aware of the division of jurisdictions. Beginning on page 19 of the Appendix to the Report describing the functions transferred, the Subcommittee noted the division of responsibility between the Bureau of Narcotics and the Bureau of Customs by stating: "The division of responsibility between the Bureau of Narcotics (which has been the traditional central administration to reduce trafficking in narcotic drugs and marihuana) and the Bureau of Customs (which is responsible for enforcing all laws relating to smuggling) has been a matter of concern in the Treasury Department for many years ... [and]... the Treasury Department has established guidelines setting forth investigative jurisdiction and operating procedures for the Bureau of Narcotics and the Bureau of Customs. "

Through a reorganization plan the President of the United States may properly delegate authority to an Executive Department. With the execution of Reorganization Plan No. 1 of 1968, President Johnson delegated the duties and responsibilities vested in the Commissioner of Narcotics on April 8, 1968, to the Attorney General of the United States. This delegation included all of the functions which had been previously performed by the Bureau of Narcotics, including those contained in the 1968 guidelines previously mentioned. The current position of the Bureau of Customs that the latest guidelines are not workable seems a tenuous one when viewed with the knowledge that almost identical guidelines were entirely acceptable in 1968 when the Bureau of Narcotics was in the Treasury Department.

The President has made it clear that the problem of drug abuse is of the highest domestic priority. One of the steps the Administration has taken to assure that the problem can be acted upon most effectively has been the preparation of the Controlled Dangerous Substances Act. There would be little point in extending hearings on this bill to include the airing of a dispute which in the past thirty years has filled volumes in the files of both the agencies involved. Therefore, I am firmly opposed to the proposal of the Treasury Department that this matter be placed before the Congress via an amendment of the proposed Controlled Dangerous Substances Act. The guidelines represent another step to insure that this Government brings to bear its full force in resolving this problem. Any adjustment of the approved guidelines would only hinder our total effort.

John N. Mitchell

Copies to:

The Honorable David Kennedy
The Honorable George P. Shultz
The Honorable Bryce N. Harlow
The Honorable Peter M. Flanigan

NIXON AIDE FAILS IN EFFORT TO DELETE SEPARATE TRANQUILIZER-BARBIT CATEGORY FROM INTERSTATE'S ABUSE BILL; MILLS WANTS HOUSE ACTION BEFORE SUMMER RECESS

An aide to President Nixon was rebuffed July 30 in his effort to persuade the House Interstate Cmte. to remove the separate minor tranquilizer/long-acting barbiturate category from the narcotics/abuse-drug bill (HR 18583) approved by its Health Subcmte. July 22.

Council to the President John Dean III, until recently with the Justice Dept., reportedly has pledged that the administration will not relent in its efforts to cut back the number of categories to four, as they are in the Senate-passed bill and in the original Justice Dept. measure. Two battlegrounds remain for Dean and others who oppose a separate schedule (IV in Interstate's bill) for minor tranquilizers and long-acting barbiturates:

① The House floor, where voting may come soon on Interstate's bill, with Ways & Means' narcotics provisions spliced in. An effort might be mounted there to amend the bill.

② In the subsequent conference, where differences between House- and Senate-passed versions must be reconciled, probably by representatives of the two House cmtes. plus Senate Judiciary and Labor & Public Welfare.

By July 31, the Interstate Cmte. had endorsed the first half of the Health Subcmte.'s bill, including the provision giving H-E-W veto power over any Justice Dept. effort to place drugs under abuse controls and all other provisions of primary importance to the industry, pharmacy, medicine and medical research. To be taken up again Wed., August 5, are the bill's criminal provisions, with a possibility that the cmte. would delete the controversial "no-knock" clause.

Abuse Drug Veto Power For H-E-W Endorsed by PMA's Brennan

Ways & Means is scheduled to take up the narcotics legislation Thurs., Aug. 6 and Chairman Mills (D-Ark.) hopes to report it out quickly and to bring up the combined Interstate-Ways & Means package for House passage before the summer recess begins Aug. 14.

PMA's testimony was presented to Ways & Means July 27 by VP-General Counsel Bruce Brennan. Brennan read less than two thirds of his 16-page text, and none of the seven cmte. members present asked questions. PMA's entire presentation took less than 20 minutes, but the full statement, with an 11-page appendix of suggested amendments and a two-page "Analysis of Selected Sections," was inserted in the hearing record.

On the matter of which dept. should have final authority over abuse drug control, Brennan's statement endorsed Interstate's H-E-W veto power language. "We feel," he said, "that the provisions of Section 201(b) of HR 18583 contain a satisfactory compromise with respect to the various factors involved in the determination of whether or how to control a substance."

Section 201(b) of Interstate's bill says H-E-W's recommendations to Justice's BNDD "shall be binding...and if (H-E-W) determines that a drug or other substance should not be controlled, (BNDD) shall not control the drug or other substance."

Brennan said PMA is "very apprehensive" about provisions in the Senate-passed bill calling for registration of researchers and "we are equally as apprehensive about the severe limitations on researchers and protocols" in Interstate's bill. Both bills, he said, "would require pre-approval (by BNDD or H-E-W, respectively) not only of the qualifications and competency of each practitioner before he undertakes new research, but also the merits of the research protocol...in the case of Schedule I (non-NDAed narcotics) substances."

MEMORANDUM FOR THE HONORABLE JOHN D. EHRLICHMAN
EXECUTIVE DIRECTOR, DOMESTIC COUNCIL

Secretary Kennedy has directed a memorandum to you concerning the discussions between the Bureau of Narcotics and Dangerous Drugs and the Bureau of Customs relating to a negotiation of a joint agreement between the two bureaus to implement jurisdictional guidelines that the President has approved.

I wish to make certain observations relative to this memorandum so that you may consider all the ramifications in order to determine a proper course of action with respect to this situation.

As Secretary Kennedy points out, it is highly regrettable if in fact the discussions have broken down. The Director of BNDD advises me that he has discussed the matter further with the Commissioner of Customs as recently as July 16, and sent a written proposal inviting the Commissioner's comments on July 17.

Secretary Kennedy states in his memorandum that he has been advised that the point of issue between the two agencies revolves around the definition of "smuggling" and whether it includes preparatory acts.

The term "smuggling" has been defined further by case authority as "the clandestine introduction of goods into the United States the importation of which is prohibited (Toussaint v. United States, 42 F. 2d 803). The Toussaint case was a 1916 case in the Fifth Circuit, in which the Supreme Court subsequently denied certiorari. Other Federal case authority holds that the offense of smuggling is not committed until a customs barrier or port of entry is passed or goods are brought across a boundary in such a way as to avoid a port of entry. Hence, the element of "introduction into the United States" appears to be an integral part of a "smuggling" offense. Beck v. United States 173 U. S. 434 (1899), United States v. Rittorann 273 U. S. 261 (1927), and Wong Wing Nong v. United States 211 F. 2d 917 (2d Cir. 1953). Preparatory acts, irrespective of how cogently

ADMA-F
(R)

THE WHITE HOUSE
WASHINGTON

TO: *John Dean*
FROM: KEN COLE

FYI _____

COMMENT _____

DEPARTMENT OF JUSTICE

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REMARKS

Here are the copies you sent me,
thanks.

Michael R. Sonnenreich
Deputy Chief Counsel

FROM:	NAME	BUILDING & ROOM	EXT.	DATE

ROUTE SLIP

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EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET

DATE June 17, 1969

TO: Mr. Durham

FROM: Jim Devall

REMARKS:

Per our discussion.

JUN 13 1969

Sir:

Your office has asked for the views of this Department on a Justice Department draft bill, "To amend the Internal Revenue Code of 1954 to make qualification under State law a prerequisite to registration under the narcotic drug and marihuana laws; to eliminate the provision permitting payment of tax to acquire marihuana by unregistered persons, and for other related purposes."

The draft bill is intended to cure the constitutional defects found in the Marihuana Tax Act by the Supreme Court of the United States in its decisions of May 19, 1969, in Leary v. United States and United States v. Covington, in which the Court held that 26 U.S.C. 4744(a) is directed primarily towards persons inherently suspect of criminal activities and requires unregistered transferees of marihuana to obtain an order form, thereby providing information incriminating themselves under State law in violation of the constitutional right against self-incrimination.

The Department has no objection to the purposes of the draft bill as a stopgap measure. However, we are not certain that the bill, as drafted, will accomplish what is intended and have the following comments and amendments to offer.

The draft bill is intended to avoid imposing the marihuana tax and related duties on individuals (like Mr. Leary) whose marihuana involvement was outlawed quite apart from the Federal tax laws. An attempt has been made to implement this intent by specifying that only "legally qualified or lawfully entitled" persons are subject to the special tax and registration requirement of 26 U.S.C. 4751 and 4753. This specificity suffices so far as it goes, but we are not at all certain that a future Mr. Leary would not be found subject to the marihuana transfer tax imposed by 26 U.S.C. 4741 or to the requirement to use order forms contained in 26 U.S.C. 4742.

In this regard, we note that section 4741 as proposed to be amended by the bill would impose a \$ 1/oz. tax on marihuana transfers "which are made pursuant to section 4742". Section 4742, for which no amendment is proposed, would continue to provide in pertinent part:

70054 15 52 BW 20

OFFICE OF THE
SOLICITOR GENERAL

"It shall be unlawful for any person, whether or not required to pay a special tax and register under sections 4751 to 4753, inclusive, to transfer marihuana, except in pursuance of a written order of the person to whom such marihuana is transferred, on a form to be issued in blank for that purpose by the Secretary or his delegate."
(Underscoring supplied.)

We think that these two sections, read together, could be construed as imposing the marihuana transfer tax on a future Mr. Leary, who might then successfully defend a section 4744 prosecution on the basis of the Leary decision.

Perhaps this problem could be solved by deleting the underscored language above from section 4742(a) and adding to section 4742(c) a provision to the effect that only "legally qualified, etc." persons can obtain order forms. Parallel provisions should be considered for parallel problems relating to: section 4701 - imposing a tax on importers, etc., of narcotic drugs; section 4705(a) - requiring order forms for sales, etc., of narcotic drugs; section 4711 - imposing a tax on the manufacture of opium; and section 4732 - requiring records, etc., re narcotics drugs transactions.

We see an additional problem in prosecuting a future Mr. Leary under the draft bill. He could raise the alternative defense, which the Supreme Court never reached in the Covington case, that a person cannot in effect be convicted for not paying a tax which he is not required (nor even permitted) to pay. This argument may be tested in the context of the present tax laws covering narcotic drugs and we are not sure of its outcome.

Finally, we note that the proposed exemption of illegal trafficking from taxation may to some extent reduce the effective regulatory strength of the original laws. Accordingly, under the draft bill, utilization of the regulatory tax on marihuana activities as a deterrent against illegal trafficking will no longer be possible.

Sincerely yours,
(Signed) Paul W. Eggers

Paul W. Eggers
General Counsel

The Director

Bureau of the Budget



ASSISTANT SECRETARY

TREASURY DEPARTMENT

WASHINGTON, D.C. 20220

April 18, 1969

MEMORANDUM TO THE HONORABLE KENNETH R. COLE, JR.
SPECIAL ASSISTANT TO THE PRESIDENT

Subject: Message to Congress on Narcotics
and Dangerous Drugs

A couple of additional comments to those submitted by Acting Secretary Volcker earlier today. These comments do not bear directly on the Bureau of Customs activities.

1. You may want to review the message to see if it contains enough regarding rehabilitation of drug addicts. In this connection, the President made some remarks in his September 16, 1968, Anaheim, California statement.

2. Assistant Secretary for Administration Weatherbee made a comment regarding potential attack from the Democrats in connection with the removal of narcotics agents from career Civil Service. His note is attached hereto.

We did not review the statement from the point of view of style or suggestions not pertaining directly to Customs. The above two comments were made and I thought I should pass them along to you.


Eugene T. Rossides

Attachment

UNITED STATES GOVERNMENT

The Department of the Treasury
Washington, D.C.

Memorandum

TO : Mr. Eugene T. Rossides
Assistant Secretary

FROM : A. E. Weatherbee *aw*
Assistant Secretary for Administration

SUBJECT: Removal of Narcotics Agents from Career Civil Service

DATE: April 18, 1969

I understand a move is under way to remove narcotics agents from the career Civil Service and place them in an excepted schedule. I would caution against such a move at this time. The Democrats took a number of steps to place additional personnel under the merit system. They would be delighted to have evidence that the Republican Administration was moving the other way, and are waiting for just such a move as this. This proposal would be used as evidence of intent to take jobs out of the career system and would be used to discredit the Republican Administration. It would offset much of the credit deserved for attempting to remove postal positions from politics.



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THE SECRETARY OF THE TREASURY
WASHINGTON

April 18, 1969

MEMORANDUM TO THE HONORABLE KENNETH R. COLE, JR.
SPECIAL ASSISTANT TO THE PRESIDENT

Subject: Message to Congress on Narcotics and
Dangerous Drugs

Attached herewith are our comments on the draft which we received yesterday afternoon. The few additions which basically reflect Treasury's responsibilities in smuggling do not reflect adequately the depth of our concern as to the items and the background and history that are involved in this matter.

The draft message fails to stress the crucial factor of smuggling of narcotics and dangerous drugs and the central role of the Bureau of Customs in the suppression of smuggling of these substances.

The message, as written, fails to include the Bureau of Customs as one of the 9 program items. We strongly urge the acceptance of the additional item that we have suggested for inclusion.

The message fails to even comment on the President's campaign pledge (made on September 16, 1968, at Anaheim, California) to triple the number of customs agents from 331 to 1,000, and that this pledge was in accordance with a similar recommendation of the Presidential Crime Commission. (A copy of the full statement is attached.)

The message does not distinguish between internal narcotics trafficking in the United States, which is the responsibility of the Bureau of Narcotics and Dangerous Drugs, and smuggling, which is the responsibility of the Bureau of Customs.

In addition to the overriding protective mission of the Secret Service, the Treasury is placing special emphasis on the fight against (1) narcotics and marihuana smuggling; and (2) organized crime. These two areas overlap in that organized crime is involved in the smuggling of narcotics (but not marihuana).

There is general consensus that the Bureau of Customs is understaffed, particularly in enforcement personnel. To achieve a record of performance in suppressing drug smuggling, increased enforcement personnel in the Bureau of Customs are needed (Internal Revenue Service recommendations for substantial increases in personnel for the drive on organized crime have been approved).

The Treasury Department has upgraded the status of its law enforcement effort in general and is devoting substantial time and resources to this area, which was long neglected under the Democrats.

We have initiated a review of the smuggling laws to see if additional legislation is needed. This review was initiated because of the President's pledge to do it in the September 16, 1968 speech.

In the letter to Budget Director Mayo, dated April 7, 1969, from Acting Secretary Walker, requesting additional manpower for organized crime, it was stated in the final paragraph that the narcotics control program would require a major effort. That paragraph reads as follows:

"Consideration is being given to an increase of as many as 1,060 agent positions in Customs costing \$13,431,000 for added narcotics control activities. The matter has not yet been resolved and may later result in a supplemental appropriation request."

A chart detailing the additional personnel requirements is attached hereto.

We have been involved in discussions with Deputy Attorney General Kleindienst on the matter of cooperation between the Bureau of Customs and the Bureau of Narcotics and Dangerous Drugs. We are in the process of reviewing the relationships between the two bureaus with the aim of improving cooperation.

We have been in active discussions with the Department of Justice in connection with the proposed narcotics and drug abuse bill and have made recommendations for that bill

pertaining to customs and customs responsibility. A copy of our letter to the Budget Bureau, which was also sent to the Department of Justice, is enclosed herewith.

I cannot emphasize enough our feeling that to do a proper job in the suppression of narcotics in this country, we must do everything possible to maximize the efforts of the Bureau of Customs in its area of responsibility, namely, smuggling.

A handwritten signature in dark ink, reading "Paul A. Volcker". The signature is written in a cursive, slightly slanted style.

Paul A. Volcker
Acting Secretary

Attachments --3



NEWS

FOR RELEASE

IMMEDIATE

September 17, 1968

STATEMENT BY RICHARD M. NIXON
REPUBLICAN PRESIDENTIAL NOMINEE
ANAHEIM, CALIFORNIA
SEPTEMBER 16, 1968

Four weeks ago, after the convention at Miami Beach, I came out to Mission Bay to rest and to work. When I was there, a letter was delivered to me for a 19-year-old girl. She described to me her involvement with narcotics from the time she was sixteen years old; she told me how many of her teen-age friends had also become hooked on drugs; she gave the details of the horrible life they led, and the gruesome things they did to support their habit. She asked me what I could do to help her generation, and because she was still on drugs she never signed her name.

This was not some statistic that sent me this letter. It was a human being, someone's daughter -- and in a letter like this the evil of narcotics comes through a good deal clearer than it does from reading statistics or a local newspaper.

I don't have to tell you this story, many of you are aware of the wholesale destruction of lives within your own area. Six months ago, in Fullerton, California, 55 to 65 youngsters, half of them in high school, were arrested for selling narcotics. In Palos Verdes, just last June, a local high school student, the son of a good family, walked off a cliff to his death --- after he had taken LSD.

-more-

Let us begin to face facts -- and to act upon that knowledge. Narcotics are the modern curse of American youth. Just like the plagues and epidemics of former years, these drugs are decimating a generation of Americans.

Between 1960 and 1967 narcotics arrests in this country rose 15 times as rapidly as the population. In New York City, half of the crime is committed by addicts, most of them young. The major cause of death for those between 15 and 35 is heroin addiction.

That young girl asked me in her letter what I can do to help this generation.

Let me tell you what I intend to do.

First, we must move against the source of those drugs. In doing so we must seek out the cooperation and assistance of friendly nations which have been made conduits for drugs. Ninety-five percent of heroin and 100 percent of the marijuana that goes into the hands of the youngsters of Southern California comes from outside the United States. We must work to establish multi-national commissions with neighboring and other countries to stem the flow of drugs along our common borders and at other points of entry into the United States.

Second, let us recognize that the frontiers of the United States are the primary responsibility of the United States Bureau of Customs. I recommend that we triple the number of customs agents in this country from 331 to 1000. This is not any irresponsible recommendation, it was urged upon this country by the President's own Crime Commission, and as President of the United States in January of 1969 I will follow through with that recommendation.

Third, a new administration will accelerate the development of tools and weapons to detect narcotics in transit. It will undertake a long-overdue review of the struggling laws of the United States.

-more-

Fourth, we need to assist the youngsters who have fallen prey to this disease. The Narcotics Addict Rehabilitation Act of 1966 has not been implemented as it might have been, or as it should have been.

Only some 305 addicts have been treated -- out of a national total of at least 60,000 -- in the two years since the legislation was passed.

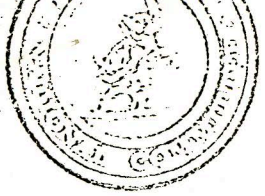
Finally, as President, I will instruct the Attorney General to call a national convocation of law enforcement officials -- in the first days of the new Administration -- to discuss ways and means to curb this traffic which is the scourge of American youth.

My opponent has disagreed with me on this issue of crime. He has said that the President and Vice President and the Attorney General are not responsible for the breakdown in law because they, "...don't break the laws." He said we should have a moratorium on rhetoric about law and order.

My answer is this: We don't need an attitude of complacency and self-congratulation on the issue of crime at the national level. We need action on the part of the nation's highest officials -- that is what this crisis calls for and that is what I pledge the day after we take office in January.

NOTE: Since Mr. Nixon will be speaking without text this evening, there may be additions or changes in these excerpts as delivered, but he stands by them as stated above.

9/17/68



REPUBLICAN NATIONAL COMMITTEE

1625 K STREET, N.W., WASHINGTON, D. C. 20004

NATIONAL 1968

NEWS

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IMMEDIATE

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9/17/68

Treasury Department
Bureau of Customs

ADDITIONAL CUSTOMS NARCOTIC ENFORCEMENT PROGRAM

<u>Agency Service</u>	<u>No. Posn.</u>	<u>Cost</u>
Additional Agents	200	\$ 3,355,000
Additional CPI's	200	2,375,000
Additional Clerical	40	245,000
3 Airplanes	-	225,000
4 Boats	-	100,000
Space	-	300,000
Total Agency Service	<u>440</u>	<u>\$ 6,600,000</u>
 <u>Regions</u>		
Inspectors	450 (Mexican Border)	
	100 (Seaport)	6,050,000
Clerks, Tellers, Etc.	50	450,000
Total Regions	<u>600</u>	<u>6,500,000</u>
 <u>Executive Direction</u>		
	20	306,000
Space	-	25,000
Total Exec. Dir.	<u>20</u>	<u>331,000</u>
 Grand Total Customs		
	<u>1,060</u>	<u>\$13,431,000</u>

APR 15 1969

Sir:

Your office has asked for the views of this Department on a Department of Justice draft bill, "To protect the public health and safety by amending the narcotic, depressant, stimulant and hallucinogenic drug laws, and for other purposes." The Treasury Department's comments refer to the draft of March 26, 1969.

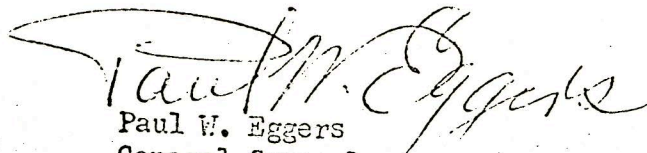
The proposed legislation would provide a comprehensive legislative framework for the control of all narcotics and dangerous drugs and would repeal many of the presently existing Federal drug statutes. Specifically, it would repeal the tax provisions of title 26 of the United States Code relating to narcotics and marihuana. The Treasury Department does not object to the proposed repeal particularly as the Treasury notes with approval that the Department of Justice's proposal would not change the role, or modify the authority, of the Treasury Department with respect to its responsibilities regarding the importation of narcotics and dangerous drugs and would not reduce in any way the possibility for strong enforcement of the law.

As the Treasury Department reads the draft bill, there is no intention to change Treasury Department's existing enforcement and investigative responsibilities as exercised through the Bureau of Customs, to deal with offenses under Customs and related laws, whether or not some or all of the merchandise involved may consist of narcotics and dangerous drugs. In this connection, the Treasury notes with approval the proposed amendment of 26 U.S.C. 7607, which, among other things, would preserve the existing authority of officers of the customs to make arrests without warrant for violation of any law of the United States relating to narcotic drugs or marihuana as defined in the proposed Controlled Dangerous Substances Act of 1969.

We feel very strongly that specific language should be included in the bill to prevent any possibility of misunderstanding with respect to the crucial matter of Treasury's enforcement and investigative responsibilities. Accordingly, we have proposed additions in the preamble, and also in the body of the draft bill, which make clear the intention that the Department of Justice and the Treasury Department share a joint responsibility in controlling traffic in narcotics and dangerous drugs. We are also suggesting important specific language to be included in the draft bill which will, in our opinion, make clear the nature of these joint responsibilities.

There is attached a memorandum setting forth the specific changes recommended by the Treasury Department in the draft bill.

Sincerely yours,


Paul W. Eggers
General Counsel

The Director

Bureau of the Budget

Attachment

TREASURY DEPARTMENT MEMORANDUM

Re: Controlled Dangerous Substances Act of 1969

The following changes are recommended in the draft bill.

1. Delete the third paragraph of Sec. 101, Findings and Declaration, and substitute the following therefor:

The Congress finds and declares that a major portion of the traffic within the United States in controlled dangerous substances flows from the smuggling of such substances from abroad, and to this extent involves movement in foreign commerce.

The Congress finds and declares likewise that a major portion of the traffic within the United States in controlled dangerous substances also flows through interstate commerce.

Incidents of the traffic which are not an integral part of the foreign or interstate flow, or both, such as manufacture, local distribution and possession, nevertheless have a substantial and direct effect upon interstate commerce.

- (a)
- (b)
- (c) Unchanged.
- (d)
- (e)

The Congress finds and declares that Federal control of the primarily intrastate incidents of the traffic in controlled dangerous substances is essential to the effective control of the interstate incidents of such traffic.

The Congress finds and declares that the Department of Justice and the Department of the Treasury must, of necessity, share a joint responsibility in controlling traffic in controlled dangerous substances. The responsibility of the Department of the Treasury relates to the historic role of the Bureau of Customs affecting all importations, and in particular in enforcing the laws against smuggling. The responsibility of the Department of Justice relates to its general law enforcement responsibilities and to the role of the Bureau of Narcotics and Dangerous Drugs in controlling all other elements of the traffic in controlled dangerous substances.

2. Add to Title VII:

Enforcement Responsibility of the Attorney General
and the Secretary of the Treasury

Sec. ____

(a) Except as provided in subsection (b), the Attorney General shall be responsible for the enforcement of this Act.

(b) Nothing in this Act shall derogate from the existing responsibilities and authority of the Secretary of the Treasury under the customs and related laws.

Amend section 701(e) to read "(e) Perform such other duties of the Attorney General relating to law enforcement as he may direct."

In the proviso to section 704(d), change "collector of customs" to "customs officer" and add to the end of the proviso: "except to the extent that such duties arise from seizures and forfeitures effected by any customs officer."

Amend section 802(b) as follows:

"(b) section 1952 of Title 18 of the United States Code is amended by --

"(1) ***

"(2) striking subsection (c) and substituting the following new subsections:

"(c) Investigation of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.

"(d) Investigation of violations under this section involving narcotics and other controlled dangerous drugs shall be conducted under the supervision of the Attorney General, except such investigation shall be conducted under the supervision of the Secretary of the Treasury to the extent that a violation of the customs laws is involved."

3. The Treasury also suggests that the Department of Justice may wish to consider adding at the end of the second sentence of section 201(a) of the draft bill the phrase: "except that heroin, marihuana, tetrahydrocannabinol and lysergic acid diethylanide may not be deleted from Schedule I or moved from Schedule I to another schedule." In view of the nature of these drugs, the Department of Justice might conclude, upon reconsideration, that it would be undesirable to have authority to change their status by administrative action.