



# Department of Justice

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STATEMENT

by

ATTORNEY GENERAL NICHOLAS deB. KATZENBACH

before the

HOUSE JUDICIARY SUBCOMMITTEE NUMBER 2

in support of the

NARCOTIC ADDICT REHABILITATION ACT OF 1965 (H. R. 9167)

Wednesday, July 14, 1965

Mr. Chairman:

I appreciate the opportunity to appear here today in support of H.R. 9167, the Narcotic Addict Rehabilitation Act of 1965.

Crime is hacking away at the fabric of American society. Since 1958, the crime rate has increased five times faster than the population. Its cost in dollars is in the billions. The costs in human loss and misery are immeasurable.

The fight on crime cannot be separated from a fight on narcotic addiction. Organized crime profits on the spread of this disease. Desperate drug takers often resort to crime to feed their addiction. To give more addicts a way to rid themselves of the ravages of the disease, therefore, is also to provide strong ammunition to the fight on crime.

Narcotics addiction has received much attention in the last several years. A White House Conference on Narcotic and Drug Abuse was held in 1962. A highly qualified Commission under the distinguished chairmanship of Judge E. Barrett Prettyman was appointed by President Kennedy to follow up the conference discussions with specific recommendations. As you know, numerous bills have been introduced into the Congress on the problem.

The recommendations stemming from these conferences, studies, and legislative proposals have identical goals -- the treatment of narcotic addicts who give promise of being rehabilitated. The able Chairman of the House Judiciary Committee has introduced such legislation, as have other members of the House. Similar bills have been introduced into the Senate.

The basic purposes of H. R. 9167 are identical to many other bills now before this committee. It implements one of the key objectives stated by President Johnson in his Message to Congress on Law Enforcement and the Administration of Justice. In his Message the President said:

"The return of narcotic and marihuana users to useful, productive lives is of obvious benefit to them and to society at large. But at the same time, it is essential to assure adequate protection of the general public."

H. R. 9167 is carefully designed to satisfy both aims -- the rehabilitation of narcotic addicts and the protection of the public. The Departments of Justice, the Treasury, and Health, Education and Welfare collaborated in the preparation of its specific proposals. It was drafted only after closest study of narcotics addiction, a complex subject which cuts across the boundaries of many disciplines -- criminology, sociology, psychology, as well as medicine, pharmacology and the various biological sciences.

This legislation represents a fundamental reorientation toward the problem of addiction. Because it is a problem that is dangerous and sordid, we have until now put all our eggs in one basket. We have too long stressed punitive solutions and neglected medical and rehabilitative measures.

The Bureau of Narcotics has done a magnificent job in cutting the illegal traffic in narcotics and bringing to justice the vicious racketeers who exploit the needs of addicts.

But though the work of the Bureau effectively attacks this aspect of the problem, it cannot strike at another basic aspect -- the permanent rehabilitation of addicts.

H. R. 9167 is directed toward this fundamental aspect of the narcotics problem. There is hopeful evidence that future innovations as well as a fuller utilization of known techniques can return a far higher percentage of addicts to a useful role in the community.

The legislation follows many of the recommendations of the Prettyman Commission. It is carefully balanced. While it provides a new and more open approach to addiction, it contains adequate safeguards. H. R. 9167 represents not a large step, not a dangerous step, but a progressive step. It allows us to treat criminals as criminals but allows us to treat addicts when they can be rehabilitated. It provides an excellent process by which those who can be helped are selected from those who cannot or those who may be dangerous. It is also flexible, leaving adequate room to meet the changing manifestations of this disturbing problem.

H. R. 9167 has three titles, which I shall first briefly summarize and then discuss in greater detail.

Title I offers narcotic addicts charged with a federal offense the choice of civil commitment to medical treatment prior to and instead of a criminal trial.

Title II authorizes an indeterminate sentence for treatment not to exceed ten years for selected narcotic addicts convicted of any federal offense.

Title III makes parole available to all marihuana offenders. It makes sentencing under the Federal Youth Corrections Act available to all marihuana or narcotics offenders under the age of 26.

#### TITLE I

Estimates of the number of drug addicts in the United States vary from 45,000 to 100,000. The Narcotics Bureau placed the figure at 56,000 at the end of 1964. Most live in a strange, melancholy world marked by squalor and desperation.

There is substantial evidence to indicate that addiction is primarily an emotional problem. Addicts tend to immaturity. They have strong feelings of futility and a sense of failure. They are weak and unstable.

Physiologically, even a long-term heroin addict, can be rid of his symptoms in a short time. That is to say, his body no longer requires the drug. Emotionally, however, his need is as great as ever.

The emotional problems and lack of self-discipline that characterize addiction have led those experienced in the problem to these conclusions: There are some addicts who have the willpower necessary to finish the required treatment voluntarily. Voluntary treatment should continue to be available for addicts against whom there is no criminal charge. Most addicts, however, will leave unless continued treatment is compulsory.

These addicts cannot be permitted to discontinue treatment at their own option. They must also be supervised during an extended period of rehabilitation following their release from an institution. These considerations underlie the provisions of Title I.

A recent study of some 1900 addicts who were discharged from the Public Health Service narcotic hospital at Lexington found that only ten percent had not returned to the use of drugs. The rest relapsed, mostly within six months of leaving the hospital. The majority of patients at Lexington are there on a voluntary basis. They can leave at any time, and most do so a short time after being "cured."

Under Title I an individual charged with any offense against the United States is offered the choice of civil commitment instead of criminal prosecution, if the court believes him to be a narcotic addict. The choice must be made within five days after the individual's first appearance in district court, except when compelling reasons are shown to the court.

The court informs the individual that if he chooses civil commitment, he will be examined and may then be held in custody for treatment for up to three years. If the necessary treatment is completed satisfactorily, the criminal charge against him is dismissed. If it is not, prosecution is resumed. The provisions of the Criminal Justice Act of 1964 providing counsel are available to him.

If the individual chooses civil commitment, he is committed to the Surgeon General for examination. The Surgeon General reports his recommendations back to the court within a 60-day period.

The medical and other evidence presented to the judge must show that the individual is likely to be rehabilitated. This is an important factor in the program, without which its success would be problematical.

If the court rules that the individual is likely to be rehabilitated, it may commit him to the Surgeon General for a period of treatment not exceeding three years. This period may include time spent in conditional release under supervised care in the community.

Once the individual is committed to the Surgeon General for treatment, the entire program is under his jurisdiction. The Surgeon General prescribes treatment in the institution and determines the conditions under which the individual may be conditionally released for treatment in the community.

The individual does not report back to court except under the following circumstances:

1. If the Surgeon General has not conditionally released the individual after two years, he must inform the court and the United States Attorney, and recommend whether treatment should be continued. The court may then reaffirm the commitment or terminate it and resume the pending criminal proceeding.

2. If a conditionally released individual returns to the use of narcotics, the Surgeon General must report the fact to the court and recommend whether treatment should be continued. The court may then reaffirm the commitment or terminate it.

3. The Surgeon General may at any time during treatment advise the court that the individual cannot be further treated as a medical problem. The court must thereupon terminate the commitment.

If the criminal proceeding is resumed, the individual receives full credit toward the service of any sentence imposed for the time he spent in the institutional custody of the Surgeon General.

The determination of addiction and subsequent civil commitment is not considered a criminal conviction. The results of any tests conducted during treatment to determine addiction may be used only in a further proceeding under this Title.

The great advantage of pre-trial civil commitment lies in its emphasis on swift medical and rehabilitative treatment. Addiction is spread by addicts themselves. Keeping them off the street in itself represents an important obstacle to the further spread of addiction.

In the absence of a meaningful pre-trial program, addicts who are indicted in the federal system have two alternatives pending trial: imprisonment, normally without treatment, or returning to the community on bail. This legislation offers the addict not only a means of medical treatment but an opportunity to avoid the stigma which attaches to a trial and possible conviction.

All addicts indicted by the federal government, who are considered to be good prospects for treatment are eligible, whether or not they are charged with a narcotic offense. There are, however, certain important exceptions: Individuals charged with crimes of violence; individuals charged with selling drugs for profit rather than as a means to support their own addiction; individuals with a prior felony charge, the outcome of which has not been determined; and finally, individuals with two or more convictions of a felony or two or more previous civil commitments.

We believe it extremely important to make all other addicts eligible. Addicts frequently support their addiction by crime. The close relationship between addiction and crime is easily seen in information available on federal prisoners. Between 1960 and 1963, forty-three percent of all convicted addicts in federal institutions violated laws other than narcotics and marihuana statutes.

## TITLE II

Title II provides for the sentencing of addicts to treatment after conviction. If the court determines that the convicted offender is an addict likely to be rehabilitated through treatment, it may commit him to the custody of the Attorney General for an indeterminate period up to ten years. The period of commitment may not, however, exceed the maximum sentence that could otherwise have been imposed.

Title II makes treatment available to addicts who do not choose civil commitment or who are not chosen for or do not complete the civil program. In the latter case, unsuccessful treatment does not conclusively point to subsequent failure.

The maximum ten year sentence allows correctional and medical authorities flexibility in treating individual addicts. At the same time, it provides a lengthy sentence for recalcitrant offenders who do not respond to treatment. As in Title I, an addict convicted of any federal offense with certain exceptions is eligible for treatment.

Under Title I the Surgeon General, and under Title II the Attorney General, have broad authority to contract for community care. Such contracts may involve individuals, state and local parole authorities, half-way houses, or local clinics and centers, public as well as private.

Civil commitment for addicts has been introduced in California and in New York. The California law became effective in 1961, the New York law in 1963.

The California law was enacted after an experimental program proved successful. Fifty-two percent of the addicts treated under this program were neither detected using narcotics nor convicted of any crime within six months after their release. While it is too early to judge the success of the California law's operation in statistical terms, many former addicts paroled to a community care program have remained in the community under supervision without returning to narcotics.

The individuals who have remained off drugs include former hard-core addicts. One such man began using marihuana at the age of 12 and later switched to heroin. He used up to six grams, or about \$75 worth a day. He had a long history of arrests prior to being committed to the rehabilitation center but has not returned to crime or addiction since his release.

Another addict also began using marihuana at the age of 12 and later switched to heroin. He used heroin for ten years, taking as much as one gram of 79 percent pure heroin a day (an extremely high dosage) while in the service in Japan. He has not relapsed to drugs since his release in July of 1963.

### TITLE III

Title III provides an alternate sentencing procedure for marihuana offenders. It makes them eligible for parole. Marihuana is not addictive, and its users require different kinds of treatment than individuals addicted to narcotics. This provision acknowledges this well-recognized difference, as did the Prettyman Commission.

Title III also extends the indeterminate sentencing provisions of the Federal Youth Corrections Act to all narcotic and marihuana offenders under 26 years of age. This extension explicitly recognizes that youthful offenders can be helped in conforming to the rules of society and that the youthful offender should be allowed to extricate himself from early mistakes. Successful completion of the treatment program under the Youth Corrections Act results in the conviction being set aside.

Committing youthful offenders to the custody of the Attorney General for treatment is at the discretion of the court. But before committing those between 22 and 26, the court must commit the young offender to the custody of the Attorney General for observation and study. The court must then find that grounds exist to believe that the defendant will benefit from the treatment.

Finally, under Title III, the Board of Parole is directed to review the records of all marihuana offenders and narcotic offenders who were under 26 when convicted and who are not now eligible for parole.

The Board can grant parole to these individuals if they have served one-third of their sentence. Those who were under 26 at the time of conviction may, at the discretion of the Board, be placed in the custody of its Youth Division for treatment. The concept of reviewing sentences stems from a recommendation by the Prettyman Commission. It is designed to allow individuals now in prison the same opportunity as those who will appear in court subsequent to passage of this legislation.

H. R. 9167 combines flexibility with adequate safeguards. It places emphasis on addiction as a sickness. It gives the courts and correctional authorities ample scope to provide the most appropriate treatment. At the same time, it excludes those who commit acts of violence, repeated offenders, those who make a business of selling narcotics, and those who are judged unable to profit from treatment. No addict can be committed if the Surgeon General or Attorney General believes adequate treatment facilities or personnel are not available.

Strong public support has enabled science to conquer many of the terrible diseases which afflicted man in the past. We are continuing an all-out effort against heart disease, cancer, and other maladies as yet undefeated.

Drug addiction is a fearful disease of mind and body no less damaging and no less deserving of our attention. This legislation, I am convinced, represents our best current hope to halt its eroding effect on our society.