Department of Justice

STATEMENT

BY

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BEFORE A

SPECIAL SUBCOMMITTEE

OF THE

SENATE COMMITTEE ON THE JUDICIARY

ON

S. 2152, THE NARCOTIC ADDICT REHABILITATION ACT

TUESDAY, JANUARY 25, 1966

Mr. Chairman and members of the Committee:

The Narcotic Addict Rehabilitation Act, S. 2152, that is before us today represents a first step toward disentangling medical and criminal elements in the knot of problems we call drug addiction. Essentially the bill seeks to recognize in law what has long been established in medicine: that narcotic addicts, even those who commit criminal offenses, should not be treated, invariably and inevitably, as common criminals.

Addiction has roots so deep in the mysteries of psychology and medicine, and it winds its branches through so many dark areas of sociology and criminology that I think any of us here would hesitate to give precise definition to the problem.

Yet the step we hope to take through this legislation rests on a simple and unassailable understanding: that addiction itself is not cured by prosecuting and imprisoning the addict. To attack it at the root, we must search out and apply the more flexible tools of medicine and psychiatry, re-education and job training, family and neighborhood rehabilitation.

This bill does not pretend to offer a total solution, but the fact that the road ahead is long makes it all the more imperative that we begin.

Narcotic addiction has received much long-awaited attention in the last several years. The White House Conference on Narcotic and Drug Abuse in 1962 drew together the fruits of careful research in many specialized fields. And a highly qualified commission under the distinguished chairmanship of Judge E. Barrett Prettyman, Sr., was appointed by President Kennedy to follow up the conference discussions with specific recommendations.

As you know, numerous bills reflecting these recommendations have been introduced into the Congress -- all of them representing ambitious, innovative approaches to the problem of narcotic addiction. For a number of reasons that I would like to explain this morning, I think that S. 2152, which was prepared by the Departments of Justice, Treasury, and Health, Education and Welfare, represents a successful accommodation of many valuable views.

The bill has three parts:

Title I would empower a federal district judge to offer a narcotics addict charged with a federal crime the choice of civil commitment for medical treatment prior to and instead of a criminal trial. If the addict chose the program, and if the Surgeon General found him likely to be rehabilitated, he would be civilly committed, for a maximum period of 36 months in institutional confinement and aftercare treatment. Criminal charges would be dropped only if the treatment were successfully completed.

Title II would make treatment available to addicts who did not choose civil commitment, or who were not chosen for the civil program, or who failed to complete it. It would allow a narcotics addict, whom the court considered likely to be rehabilitated, to be sentenced for treatment after conviction. The sentence to treatment could run as long as the criminal sentence that might have been imposed, but in no case could the sentence to treatment run longer than 10 years.

After a minimum of six months institutional treatment, whenever the Attorney General and Surgeon General certify that release is warranted, the person would be eligible for conditional release to an aftercare program of counselling and assistance in finding employment in the community.

Title III would for the first time include narcotics and marijuana offenders under the provisions of the Young Adult Offenders Act of 1958, which extended the flexible sentencing standards of the Federal Youth Corrections Act to persons between the ages of 22 and 26. Title III would also make parole available again to marijuana offenders.

President Johnson, in his Message on Crime last March, declared that our present laws on drug control are inadequate and made reform of our narcotics laws one of his principal objectives.

In his Message the President said:

"The return of narcotic and marijuana 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."

I believe that the legislation I have just outlined satisfies both of those demanding standards. I commend S. 2152 to you for the obvious humanitarian reasons, but also for practical law enforcement grounds. Clearly, to give more addicts a way to rid themselves of their affliction is also to provide strong ammunition to the fight on crime.

I would not be here speaking in support of this bill if I did not consider it an essential part of our fight against crime. It is already unmistakably clear that until we find more adequate ways to handle narcotics addicts, we will be preserving a very large and avoidable part of our most dangerous criminal activity.

There is no question that much general crime is directly related to narcotics. At the opening meeting of the President's Crime Commission last September, Mayor Wagner of New York reported that authorities in his city believe that addicts account for 50 percent of the crime there.

It is widely believed that a major part of our property crime is the work of addicts trying to support themselves and the soaring expense of their need.

Prostitution also is known to be a common resort for women trying to support their habit or the habit of a friend. Clearly we could make drastic inroads into these forms of crime if we could relieve the pressure on the people driven to commit them.

Statistics from the Bureau of Prisons for fiscal 1965 indicated that more than half of the offenders with histories of drug addiction had been convicted for crimes other than narcotics law violations.

Only about 44 percent of the addicts or former addicts who were sentenced to the federal prisons in that year were convicted of narcotics violations, strictly speaking. Of the remainder, about seven percent were convicted of offenses involving marijuana, which is technically excepted from the narcotics classification; 14 percent were convicted of forgery; over eight percent of motor vehicle theft; and another 14 percent of other forms of larceny.

I am sure that state correctional authorities, who deal more than federal authorities with property crime, could more than match this evidence that addiction is a factor in all sorts of crime, especially crimes involving property.

In terms of the legislation before us, these figures mean that if we are going to get at the whole problem of addiction and addict criminality, we must design our reforms for addicts generally, not just those addicts who are convicted on narcotics law violations. S. 2152 seeks to do so.

Under our present laws we confront the addict almost solely as a criminal, and though we can effectively remove a relatively few addicts from the streets where they are public menaces, we can do very little to prevent them from returning to society with the cause of their addiction unsolved.

We are all at least dimly aware that there is substantial knowledge about the nature of addiction and the possibilities for its cure, but our laws persist in denying that the addict's problem lies deeper than the commission of criminal acts.

Physiologically, even a long-term heroin addict can be cured of his physical craving in a relatively short time. His body no longer requires the drug. But obviously, his underlying emotional problems and the more immediate factors like environment and unemployment are as pressing as they ever were.

A relatively few addicts seem to be sufficiently healthy and strong-willed to see themselves through complete rehabilitation voluntarily. Most addicts who have the choice will leave their hospital too soon unless continued treatment is compulsory.

It is hardly surprising, then, that a recent study of some 1900 addicts who were discharged from the Public Health Service Hospital at Lexington, Kentucky, found that only ten percent gave up the use of drugs. The rest relapsed, most of them within six months of leaving the hospital.

Under present law, we have no authorization to force any addicts to help themselves. The only way we can confine an addict against his will is by convicting him of a crime. Yet the straight prison sentence that follows criminal conviction denies us the flexibility we need to treat this particular offender's affliction.

James V. Bennett, who as director of the Bureau of Prisons did so much for prisoner rehabilitation, told the White House Conference on Narcotic and Drug Abuse of the unique difficulties with addicts in regular prisons:

"It is extremely difficult," he said, "to get this group to participate in our rehabilitative program...They are doing what in prison parlance is called 'flat time' -- a sentence without hope of parole or remission no matter how hard they may try to better themselves....The consequence is that when their discharge finally comes many leave little better than when they entered. In fact, some of them may be worse because whatever skills and industrial contacts they may have had have been lost."

"Even those who serve the shortest possible sentences .... are devoid of friends or relatives and they are feared, shunned, and discriminated against on every hand. Is it any wonder so many return to the only thing they know will permit a brief escape?"

Clearly, neither voluntary commitment nor criminal imprisonment are working. Civil commitment of addicts accompanied by a program of aftercare in the community gives us a way out of the dilemma.

Legislation authorizing civil commitment would not bind us to any particular school of thought on the treatment of addicts but would leave specialists with the choice of psychiatric, medical and vocational approaches to rehabilitation. Civil commitment would establish only that addicts would receive the attention of specialists and that the specialists would have time to get to the heart of the problem.

Civil commitment has the further advantage over criminal prosecution that it would be undertaken quickly. Pre-trial delays, in which a criminal defendant is out on bail, only prolong addiction. Civil commitment procedures, on the other hand, would begin just as soon as the addict came before a judge. A defendant who was offered the choice of commitment would have to make up his mind within five days and the Surgeon General would have to report on the likelihood of rehabilitation within 60 days. Treatment would begin and addiction could be under control in less than two months.

Once an individual were committed, his entire program would be under the jurisdiction of the Surgeon General. The Surgeon General would prescribe treatment in the institution and determine the conditions under which the individual could be conditionally released for treatment in the community. Supervision of the addict's life would end only after the Surgeon General judged him rehabilitated.

Civil commitment for addicts has already been introduced in the two states with the most severe narcotics problems. California's law became effective in 1961, New York's in 1963. Even California's program has not been operating long enough to allow serious statistical evaluation, yet the experimental program that led to the enactment of the California law gave promising signs that civil commitment could work. Many former addicts, including hard-core heroin users, have been paroled to community care programs without returning to narcotics.

Our record with civil commitment, and also with sentences-to-treatment under Title II, will depend on the continuing advancement of knowledge about rehabilitation. What both of these programs assure at a minimum is that at every future stage in the development of rehabilitation techniques, addicts who have been civilly committed or sentenced to treatment will have the advantage of the most advanced treatment available.

Both Title I and Title II of S. 2152 contain a number of noteworthy safeguards against abuse of the opportunity for rehabilitation. The bill wisely excludes from the scope of treatment certain classes of addicts who either deserve punishment or who would not be likely to profit from the therapeutically-oriented procedures.

Among those excluded from treatment under this bill are

-- addicts charged with crimes of violence -- though I should add that addicts do not generally commit crimes of violence;

-- traffickers in narcotics -- that is, those who sell drugs for reasons other than to suppprt their own habits;

-- persons convicted of at least two felonies;

-- persons who have already gone through civil commitment twice and have fallen back; and

-- persons against whom a felony charge is already pending.

I think these safeguards are more than adequate reassurance that the opportunities in this bill will not be abused, and that public safety will be protected.

The real question is how much longer we can allow the public safety to be endangered by continuing the primitive, strictly punitive, approach

to addiction, which has spread like a plague through some areas even as penalties against it have been stiffened? How much longer will we allow our crime rate to be fueled, by laws that lag years behind medical research?

S. 2152 represents an overdue first step toward the reformation of our narcotics policy. I urge its speedy enactment.