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STATEMENT BY

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BEFORE THE

SUBCOMMITTEE ON PUBLIC HEALTH AND WELFARE
OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

February 3, 1970

Mr. Chairman and Members of the Subcommittee. It is a pleasure to appear before you today to discuss the need for effective new legislation to control and regulate narcotics and dangerous drugs. As you will recall, last July 14, the President sent a Message to Congress outlining a 10-point program to combat the national problem of drug abuse. In that Message the President called for:

-- A new Federal law to more effectively control the narcotics and dangerous drug problem from the Federal level.

-- Developing model State drug legislation to provide an interlocking trellis of laws to enable governments at all levels to more effectively deal with the problem.

-- Exploration of new avenues of cooperation with foreign governments to stop the production of illicit drugs at the source.

-- Initiating of a major new effort to guard the nation's borders and ports against the illegal entry of narcotic and dangerous drugs from abroad.

-- New resources and men, and a redeployment of existing personnel, to focus a Federal crackdown on the major criminal enterprises engaged in drug trafficking.

-- A gathering of all authoritative information on the subject and a presentation of a balanced and objective educational program regarding the abuse of drugs for all Americans -- especially the young people.

-- Expanding existing research efforts to acquire new knowledge and a broader understanding in this entire area.

-- A concerted effort to develop promising programs in the field of the rehabilitation of those addicted to drugs.

-- A redoubling of special training programs in the field of narcotics and dangerous drug enforcement for State and local law enforcement officials.

-- A series of nationwide conferences with law enforcement officials of the various States and concerned Federal officials to obtain new firsthand information on the scope of the problem, to discuss areas where Federal assistance and aid can be most useful and to evaluate and exchange ideas on mutual policies.

All of these areas dealt with in the President's Message are vital in our Federal effort to deal with the problem. Today, however, I shall focus my comments

principally on the law enforcement aspects of the problem, since this is the area of major concern to the Department of Justice.

Education, research, and rehabilitation are the long term answers to the drug abuse problem in the United States. But while we plan, prepare, and explore in detail each of these areas, it is important that we regulate the manufacture, importation and distribution of narcotics and dangerous drugs through a logical and enforceable control scheme.

On July 15, 1969, the Administration sent to Congress the proposed "Controlled Dangerous Substances Act." This is the proposal the President referred to in his Message. This legislation, amended during consideration in the Senate, passed that body last Wednesday by a vote of 82 to nothing. This bill (S. 3246) is presently pending before the House. The Administration supports it wholeheartedly and requests prompt and immediate action on it so that the law enforcement and regulatory tools it contains can be focused on the drug abuse problem.

I would like to briefly highlight the major features of the Controlled Dangerous Substances Act and shall ask Mr. Ingersoll, Director of the Federal Bureau of Narcotics and Dangerous Drugs, to explain the details of this proposal

with more specificity. The proposed legislation will, for the first time, bring about a unified approach to enforcing the narcotics and dangerous drug laws. It will vest -- as does present law -- the authority and responsibility with respect to the control of narcotics and dangerous drugs with the Attorney General. It will coordinate and codify the present diverse drug laws into one comprehensive law. It will improve drug law enforcement by giving Federal law enforcement officers the necessary tools to take effective, fast and fair action. Finally, the proposed new law will establish a realistic penalty structure for drug offenses.

I would now like to mention some of the modifications and changes that the Administration's proposal underwent while being acted upon in the Senate and point out that most of these changes were made with the full support and assistance of this Administration.

The hearings held before the Senate Juvenile Delinquency Subcommittee of the Senate Judiciary Committee were extensive and, I think, illuminating. Those hearings started September 15, 1969, and concluded October 20, 1969. Testifying before the Subcommittee were members of the Department of Justice, the Department of Health, Education, and Welfare, members of the legitimate drug industry, city and State officials, and members of the medical professions.

All segments of the bill were carefully analyzed and compared with the other pending legislation. The discussions during the hearings, as well as those before the Full Senate Judiciary Committee and on the Floor of the Senate, shaped and refined the bill to where, I believe, it has become a meaningful new step towards combatting drug abuse in this country.

One provision that was inserted in the Senate, to which the Administration subscribes, is Title VIII, which provides for the establishment of a Committee on Marihuana. This Committee will be jointly appointed by the Secretary of Health, Education and Welfare and the Attorney General, and its study will review and analyze in depth the medical, legal, and law enforcement knowledge on marihuana and determine the effects and dangers. This new Committee will, within 24 months of the effective date of the Act, submit to the President and to the Congress, a comprehensive report on its findings and give its recommendations with respect to the degree of control to be exercised over marihuana. When appearing before the Senate Judiciary Subcommittee on September 15, I supported such a committee and I support it now.

Another major area that was discussed and analyzed in the Senate was with regard to the penalties to be placed

on the trafficking and use of these controlled dangerous substances. The Department of Justice submitted three alternative penalty schemes to the Subcommittee for its consideration. One of those schemes is presently in the Senate passed bill. Under this penalty structure, a clear differentiation is made between the trafficking offenses on one hand and simple possession offenses on the other. Federal penalties are scaled according to the type of offense involved; for example, trafficking in narcotic drugs listed in Schedules I and II carries a penalty of up to 12 years imprisonment, whereas trafficking in all other controlled dangerous substances, except those in Schedule IV, carries a penalty of up to 5 years imprisonment. Schedule IV, which covers the over-the-counter combination drugs and exempt narcotic preparations carries a penalty of up to one year for trafficking in these drugs. I should add that marihuana is no longer placed in the same posture as narcotic drugs and instead is treated as an hallucinogenic substance.

With regard to simple possession offenses, the maximum term imposed is up to one year's imprisonment with a proviso, at the judge's discretion, allowing first offense treatment for those persons who have never been convicted of a prior offense. The thrust of this approach

is to allow the judge to tailor the penalty to fit the particular defendant before him, based on the presence or absence of mitigating factors that the court considers to be meaningful.

While possession offenses are not the major thrust of the Federal law enforcement efforts, the penalties must have enough "teeth" in them to have a meaningful deterrent effect on those inclined towards illegal use of drugs. The greatest enforcement problem with the existing penalty structure is that it is too severe in relation to the culpability of the user and the dangers of the drugs. Also, the severity of the penalties, given the violation, are out of step with the rest of the Federal criminal sanctions in the United States Code. The result has been a reluctance on the part of prosecutors to prosecute and judges to sentence offenders under the existing penalty structure. The new penalty structure will increase the credibility of the law and the resultant deterrent effect while at the same time providing sufficient flexibility to allow the punishment to fit the crime and the offender.

In conclusion, the Administration supports and recommends enactment of the Senate bill, S. 3246, which is presently pending before this House. Any proposed legislation which does not place together the narcotic, marihuana,

and other dangerous drugs under one regulatory and penal scheme will not enable law enforcement to maximize its efficiency in this area and to handle the drug problem in the best way possible. To maximize effectiveness, the new Bureau of Narcotics and Dangerous Drugs was created out of two other agencies which had, in the past, divided Federal law enforcement responsibilities in this area. The same is now needed in the statutory tools this new Bureau must work with.

I have left to Mr. John E. Ingersoll, Director of the Bureau of Narcotics and Dangerous Drugs, the task of explaining in more detail some of the provisions of the "Controlled Dangerous Substances Act." I only want to reassert that the "Controlled Dangerous Substances Act" is a law enforcement measure and deals with research, education, and training only as they affect the needs of law enforcement in regulating the legitimate industry's commerce in controlled dangerous substances, and in maximizing the overall law enforcement capabilities of the Department of Justice. We need new tools to better meet the growing drug abuse problem. The "Controlled Dangerous Substances Act" is the kind of tool we need.