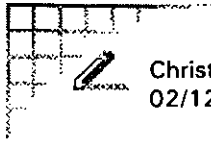


NLWJC - Kagan

DPC - Box 015 - Folder 007

Drugs - Drug Testing

Drugs - drug testing



Christa Robinson
02/12/98 05:21:48 PM

Record Type: Record

To: Ann F. Lewis/WHO/EOP, Paul E. Begala/WHO/EOP, Bruce N. Reed/OPD/EOP

cc: Elena Kagan/OPD/EOP, Michelle Crisci/WHO/EOP

Subject: Radio Address

In addition to talking about the National Drug Control Strategy, the President will be announcing the results of a new study from the Justice Department Bureau of Prisons. The study indicates that federal prisoners who were drug tested and treated (through the voluntary program that was part of the 94 Crime Bill) were 73% less likely to be rearrested and 40% less likely to use drugs again after their release.

Presidential Directive on Coerced Abstinence in the Criminal Justice System January 12, 1998

Announcement

- Today, the President directed the Attorney General to take the necessary steps to: (1) require states to determine the level of drug use in their prisons and report annually on their progress; (2) grant states the flexibility to use their federal prison funds for drug detection, offender testing and drug treatment; and (3) work with states to enact stiffer penalties for drug trafficking into and within correctional facilities. The President also announced that his FY 1999 budget will include nearly \$200 million for a series of initiatives to promote coerced abstinence and treatment in the criminal justice system.

Towards a National Policy of Coerced Abstinence

- Last week, Columbia University's Center on Addiction and Substance Abuse (CASA) released a study confirming the need for coerced abstinence and treatment in the criminal justice system. CASA's study found that 1.4 million offenders -- or 80% of the 1.7 million criminals in prison and jails -- were either high on drugs or alcohol when arrested, stole property to buy drugs, or have a history of drug and alcohol abuse. Many other studies also confirm that the majority of individuals in the criminal justice system have similar drug histories.
- **Testing to Measure Progress.** Under current law and federal guidelines, states are required to submit drug testing and intervention plans for their federal prison grant funding. The President's directive calls on the Attorney General to amend the guidelines to require states to also include a baseline report of their prison drug abuse problem, and to report every year thereafter to chart the progress they are making to reduce drug use and availability.
- **Helping States Get the Job Done.** Today's directive asks the Attorney General to draft and transmit to the Congress legislation that will grant states the flexibility to use their federal prison construction and substance abuse treatment funds to provide the full range of drug testing, sanctions and treatment for offenders under criminal justice supervision. With this added flexibility, states could tap into the nearly \$8 billion in prison funds authorized by the 1994 Crime Law (about \$2 billion of which already have been appropriated to date).
- **Keeping Drugs Out of Prisons.** Finally, the President's directive calls on the Attorney General to draft legislation, in consultation with the states, that would require states to enhance their penalties for drug trafficking into and within correctional facilities as a condition of receiving prison construction funds. The 1994 Omnibus Crime Bill contains tough penalties for similar crimes. The President believes we must have "zero tolerance" for drug use and trafficking within our nation's prison system.

A Record of Accomplishment

- President Clinton has consistently promoted a policy of drug testing, sanctions and treatment for offenders. Specifically, he has:

Pushed for Drug Testing and Intervention in the 50 States. The President fought for and signed the legislation requiring states to drug test prisoners and parolees as a condition for receiving prison grants. States must now submit comprehensive drug testing and intervention plans for prisoners and parolees by March 1998 and implement them by September 1998. Today's actions directly build on this effort.

Doubled the Number of Federal Arrestees Tested. President Clinton directed the Attorney General to create a program to drug test federal criminal defendants. Operation Drug TEST (Testing, Effective Sanctions and Treatment) funded a pilot program to test defendants immediately upon their arrest. In FY 1997, data from 24 judicial districts indicated that 56% of defendants (9,308) were tested -- a dramatic increase over the 28% (4,929) of defendants tested in the previous year. There was also a 190% increase in drug treatment for defendants over the same period.

Expanded Testing and Treatment in Federal Prisons. Through his budgets and the 1994 Crime Act, the President has promoted coerced abstinence in the federal prison system. In 1997 federal prisoners were subjected to nearly 130,000 drug tests. Additionally, the number of inmates required to receive treatment increased by 3-fold (from 5,450 in FY 1993 to 17,943 in FY 1997).

Multiplied the Number of Drug Courts. As part of the 1994 Crime Act, the President fought to launch a \$1 billion initiative to spread Drug Courts across the country. Drug Courts use drug testing, sanctions and -- when necessary -- treatment to cut crime and addiction. Drug Courts have increased from a mere handful in 1993 to more than 200 that are operational today.

Increased Resources in FY 1999 Budget. The President's FY 1999 Budget will continue the Administration's policy of drug testing, sanctions and treatment. In particular, the budget includes \$197 million for related programs:

**“Zero Tolerance” Initiative for Drugs in Prison
Questions and Answers
January 12, 1998**

Q. What is the President announcing today?

A. Today, the President signed a directive to the Attorney General calling on her to take the necessary steps to:

(1) Require states to determine the level of drug use in their prisons and report annually on their progress. Under current law and federal guidelines, states are required to submit drug testing and intervention plans for their federal prison grant funding. The President's directive calls on the Attorney General to amend the guidelines to require states to also include a baseline report of their prison drug abuse problem, and to report every year thereafter to chart the progress they are making to reduce drug use and availability.

(2) Give states the flexibility to use their federal prison funds for drug detection, offender testing, and drug treatment. The Attorney General will draft and transmit to the Congress legislation to give states the flexibility to use their federal prison construction and substance abuse treatment funds for the full range of drug testing, sanctions, and treatment for offenders under criminal justice supervision. This will allow states to tap into the nearly \$8 billion in prison funds authorized by the 1994 Crime Law (about \$2 billion of which already have been appropriated to date).

(3) Work with states to enact stiffer penalties for drug trafficking into and within correctional facilities. Finally, the President's directive calls on the Attorney General to draft legislation, in consultation with the states, that would require states to enhance their penalties for drug trafficking into and within correctional facilities as a condition of receiving prison construction funds. The 1994 Omnibus Crime Bill contains tough penalties for similar crimes. The President believes we must have “zero tolerance” for drug use and trafficking within our nation's prison system.

The President also announced that his FY 99 budget will include \$197 million for a series of initiatives to promote coerced abstinence and treatment in the criminal justice system--including \$85 million for a new drug testing and sanctions program for states and localities.

Q. How bad is the problem? Is this directive really needed?

A. While crime rates continue to drop and overall drug use is down, illegal drugs remain an enormous factor behind the level of crime and violence in America. Drug addicts are involved in approximately 3 to 5 times the number of criminal incidents as arrestees who do not use drugs. Last week, Columbia University's Center on Addiction and Substance

Abuse (CASA) released a study confirming the need for coerced abstinence and treatment in the criminal justice system. CASA's study found that 1.4 million offenders -- or 80% of the 1.7 million criminals in prison and jails -- were either high on drugs or alcohol when arrested, stole property to buy drugs, or have a history of drug and alcohol abuse.

Drug test results and anecdotal information reveal that even while incarcerated, offenders can gain access to drugs. In drug tests conducted last year, approximately 2 percent of offenders in federal prison and roughly 9 percent of inmates in state facilities tested positive for drugs.

President Clinton believes that our criminal justice system should reduce drug demand -- not prolong, enhance, or tolerate it. We know that drug testing and treatment can help to break the cycle of drugs and crime. Convicted offenders who undergo drug testing and treatment while in prisons and after release are approximately twice as likely to stay drug-free and crime-free as those offenders who do not receive drug testing and treatment. Today's directive and the resources proposed in the President's budget will help us get to zero tolerance for drugs in prison and to help state to cut crime and recidivism linked to drug abuse.

Q. How is this different from previous actions taken by this Administration to address this issue? Is this anything new?

A. The President's action today builds on his strong record of accomplishment in this area. In 1996, the President launched the first comprehensive effort to address the drug problem in our state criminal justice systems. President Clinton fought for and signed legislation to require states-- whose criminal justice systems house the vast majority of drug dependent offenders-- to drug test prisoners and parolees as a condition of receiving federal prison grants. Under the President's initiative, states must submit comprehensive plans of drug testing and intervention for prisoners and parolees by March 1, 1998 and implement them by September 1, 1998.

Today's directive complements the President's earlier initiative by helping us to chart the states' efforts to reduce drug use and availability in their prisons. The directive also makes more resources available to states to help them get the job done

The President has taken numerous other actions to combat the problem of drug abuse by offenders involved in the criminal justice system including: doubling the number of federal arrestees drug tested in 24 judicial districts; fighting to launch a \$1 billion initiative to spread Drug Courts across the country; and expanding drug testing, intervention and treatment in Federal prisons through his budgets and the 1994 Crime Act.

Q. Is the federal government tracking the problem of drug use in its own prisons?

What are you doing about the drug problem in federal prisons?

- A. Under the leadership of Attorney General Reno, the federal Bureau of Prisons is carrying out model programs in drug testing, drug treatment, and drug detection.

Drug Testing. In 1997, federal inmates were subject to 127,460 drug tests. Two percent of tests were positive, as compared to the 9 percent average for state correctional systems. Prisoners testing positive for drugs are appropriately punished and follow up tests are scheduled regularly to ensure they stay clean. Drug testing of correctional officers, and other selected employees is also an established policy in the Federal Bureau of Prisons.

Drug Treatment. In compliance with the 1994 Crime Law, drug treatment is provided to 100 percent of eligible inmates prior to their release from Bureau custody. In FY 97, nearly 31,000 inmates participated in Bureau treatment programs. The number of institutions offering residential treatment has grown from 32 to 42 since FY 1994.

Drug Detection. Innovative drug detection technology is being piloted at Bureau institutions. The Office of National Drug Control Policy is working with the Bureau to provide the states with information on the best ways to keep drugs out of prisons.

Q. Is this new reporting requirement for states on their prison drug problem tantamount to an unfunded mandate on states?

- A. No. By law, states must develop and implement plans for drug testing and intervention as a condition of receiving federal prison construction grants. Today's action means that as part of those plans, states will need to add information on their existing prison drug use problem, and update that information annually. All 50 state correctional systems conducted some form of drug testing on their inmates last year; yet no comprehensive data exists on the prevalence on drug use in state prisons. Anecdotal reports have shown that certain systems, such as the District of Columbia's corrections department, have had difficulty keeping drugs out of prisons. The baseline information they provide will help us to chart states' progress to reduce drug use and availability in their prisons.

In order to provide additional resources for states to promote coerced abstinence and zero tolerance for drugs, the directive calls on the Attorney General to develop legislation to allow states to use their federal prison construction and treatment funds to carry out all of these activities.

In addition, the President is proposing \$197 million in FY 99 for a series of initiatives to help states promote coerced abstinence and treatment: 1) \$85 million for a new drug testing, sanctions, and intervention program for states and local criminal justice systems; 2) \$30 million for Drug Courts; 3) \$4.7 million for the federal Operation Drug Test program; 4) \$5 million for a juvenile justice demonstration program to combat teen drug use; and 5) \$72 million to continue the Residential Substance Abuse Treatment in State

Prisons program.

- Q. The President's directive asks the Attorney General to work with states to increase their penalties for smuggling drugs into prisons. Are there tough penalties for trafficking drugs into federal prisons?**
- A. Yes. The 1994 Omnibus Crime Act increased penalties for illegal drug use and smuggling drugs into Federal prisons. For instance, drug trafficking in Federal prisons can now lead to imprisonment for up to 20 years for smuggling narcotics and methamphetamine, and up to 5 years for trafficking marijuana.

DRAFT...DRAFT...DRAFT

January 12, 1998

MEMORANDUM FOR THE ATTORNEY GENERAL

SUBJECT: Zero Tolerance for Drug Use and Availability for Offenders

Crime rates in this country have dropped significantly for 5 years, and the number of Americans who have used drugs is down nearly 50% from its peak 15 years ago. Also, drug-related murders have dropped to their lowest point in a decade, and recent drug use surveys indicate that -- for the first time in years -- teen drug use is leveling off, and in some instances, modestly decreasing. All of this news is encouraging.

Nonetheless, much more can and needs to be done to continue to bring down drug use and increase public safety. With more than half the offenders in our criminal justice system estimated to have a substance abuse problem, enforcing coerced abstinence within the criminal justice system is critical to breaking the cycle of crime and drugs. My Administration consistently has promoted testing offenders and requiring treatment as a means of reducing recidivism and drug-related crime. We have worked to expand the number of Drug Courts throughout the country, increased the number of federal arrestees and prisoners who are tested and treated for drugs, and launched an innovative "Breaking the Cycle" initiative, which is a rigorous program of testing, treatment, supervision, and sanctions for offenders at all stages of the criminal justice process. And under your leadership, the Federal Bureau of Prisons provides models of excellence in drug detection, inmate testing, and drug treatment.

We can do still more to enforce coerced abstinence among state prisoners, probationers, and parolees. When a drug user ends up in a state prison, we have a chance to break his or her addiction. Convicted offenders who undergo drug testing and treatment while incarcerated and after release are approximately twice as likely to stay drug- and crime-free as those offenders who do not receive testing and treatment. But when drug use inside prisons is ignored, the demand for drugs runs high. In this environment, correction officials struggle to keep their prisons drug-free. Often drugs are smuggled in by visitors; sometimes even by compromised correctional staff.

To maintain order in our prisons, to make effective treatment possible, and to reduce drug-related crime, we can not tolerate drug use and trafficking within the nation's prisons. Thus, I direct you to:

- (1) Amend the guidelines requiring states receiving federal prison construction grants to submit plans for drug testing, intervention, and treatment to include a requirement that states also submit a baseline report of their prison drug abuse problem. In every subsequent year, states will be required to update and expand this information in order to

measure the progress they are making towards ridding their correctional facilities of drugs and reducing drug use among offenders under criminal justice supervision.

(2) Draft and transmit to the Congress legislation that will permit states to use their federal prison construction and substance abuse treatment funds to provide a full range of drug testing, drug treatment, and sanctions for offenders under criminal justice supervision.

(3) In consultation with states, draft and transmit to the Congress legislation that requires states to enact stiffer penalties for drug trafficking into and within correctional facilities.

Drug-drug testing



Jose Cerda III

01/09/98 08:11:30 PM

Record Type: Record

To: Sean P. Maloney/WHO/EOP
cc: See the distribution list at the bottom of this message
Subject: "Final Drug Directive"

To the best of my knowledge and efforts this has been signed off on by DOJ, ONDCP and WH Counsel. Some of the added language on "enforcing coerced abstinence" are Rahm's rhetorical flourishes. The new language also alludes to including probationers in bullets #1 and #2 (mine and ONDCP's addition; Justice is okay though).

This version was forwarded to General McCaffrey tonight for one "final" eyeball. I told ONDCP he'll have to speak to Rahm tomorrow if he has any serious concerns.

Rahm: I'll drop the other paper off to you tonight before I leave.

Jose'



PRISON10.

Message Copied To:

Michelle Crisci/WHO/EOP
Elena Kagan/OPD/EOP
Bruce N. Reed/OPD/EOP
Karen A. Popp/WHO/EOP
Leanne A. Shimabukuro/OPD/EOP
Christa Robinson/OPD/EOP

drug - drug testing



Jose Cerda III

01/07/98 03:00:52 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Karen A. Popp/WHO/EOP
cc: Bruce N. Reed/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP
Subject: Directive on Drug Testing/Treatment in State Prisons

EK/LS:

Rahm asked Leanne and I to re-draft the state prisons drug directive that's been on the shelf for some months now and get him a copy today. I just dropped off the attached version and faxed it to DOJ and ONDCP. Originally, he wanted it for the radio address, but I think that's no longer in play. Instead, I believe he wants the directive's imminent signature to make into the coverage tomorrow night on Joe Califano's speech on this topic at the Press Club.

Also, please note that while the concepts in the directive were originally proposed by DOJ -- baseline requirement, promoting increased penalties from smuggling drugs into prisons, and using prison construction funds for testing/treatment -- our directive proposes a slightly different mechanism. I'm suggesting that funds made available to states for testing/treatment be contingent on their enacting tougher penalties for smuggling drugs into prisons (equivalent to what's in the Crime Bill).

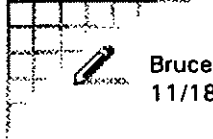
Jose'



PRISON3.

Jose -
Thanks. This is great
Elena

Drugs - drug testing
and
Education - disruptive students



Bruce N. Reed
11/18/97 02:56:09 PM

Record Type: Record

To: Michael Cohen/OPD/EOP, Jose Cerda III/OPD/EOP, Thomas L. Freedman/OPD/EOP

cc: Elena Kagan/OPD/EOP

Subject: More wacky ideas

1. Make it a condition of federal education funds -- or perhaps Safe & Drugfree funds -- that schools have an effective policy of removing disruptive students from the classroom. Not that toothless compromise from IDEA. We need a good values issue -- I'm sure y'all can work it out.

2. Drug testing (and treatment): I'll send you a chart on the success of random drug testing in the military. Use has dropped from over 25% in 1981 when the program started, to 3% in 1995 -- which is one-third the civilian rate. We should find a way to help employers do this (either a handbook or a program), and come up with another proposal for the criminal justice system.

Drugs - Drug testing

Leanne A. Shimabukuro 05/20/97 09:33:39 AM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jose Cerda III/OPD/EOP

cc: Bruce N. Reed/OPD/EOP

Subject: drug testing and driver's licenses

Update: Transportation is drafting the RFP to notify states of the funding for the 2-4 state demonstration. The notice will state that there is \$2 million in the current fiscal year to fund this demonstration. I'm pushing Transportation to nail down a date on when they will publish the RFP.

Drugs-
Drug Testing



Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Re: For Rahm -- Drug Testing 

Yes. He told me that he wants to bring it up at tomorrow's crime meeting and get Justice moving on it. He would like to have it ready for the Mayors Drug Conference at the White House, which I think is May 20-21.

Drug-drug testing



02:21:16 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: For Rahm -- Drug Testing

One of your Counsel projects!

----- Forwarded by Dennis K. Burke/OPD/EOP on 04/18/97 02:25 PM -----



02:18:34 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP
cc:
Subject: For Rahm -- Drug Testing

Remember the December 1995 directive to the AG to begin drug testing offenders as they enter the Federal criminal justice system?

I called Justice today to get an update on the 25 district pilot program.

They told me that 24 of the 25 districts have already agreed to do it (judges signed off and everything) and that the programs are up-and-running in around 20 of the districts.

The woman in charge of this implementation told me that some of the districts are doing extremely well and she specifically mentioned the Northern District of Illinois --- which includes Chicago. They have a very high level of consent by the offenders. This is fascinating - - she also said that at one point they noticed a large amount of offenders testing positive for PCP and they were all from the same area of Chicago. So, they were able to find out that they had a PCP problem that they didn't know of before.

Information like this can obviously help you better identify a drug problem and target your resources to a particular area.

I was thinking that we could ask Justice to draft a report to the President on the 25 city pilot program and its success and then conclude that they are going to expand it to every district. Also, when we are ready to release it, you could let the Chicago Tribune know about the success of this Clinton drug initiative in their city and what it is going to allow us to do in the future.

*Great - done?
To Bruce*