

United States General Accounting Office
Washington, D.C. 20548



For Release on Delivery
Expected at 10 AM EDT
September 21, 1971

STATEMENT OF
ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES
BEFORE
SUBCOMMITTEE NO. 4
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES
ON
[LIMITED USE OF FEDERAL PROGRAMS
TO COMMIT NARCOTIC ADDICTS FOR
TREATMENT AND REHABILITATION]

H 2500

1 37
2 P. 1930

~~710159~~
094411

Mr. Chairman and Members to the Subcommittee, I am pleased to appear here today to discuss our report to the Congress--September 20, 1971, B-164031(2)--on Federal programs to commit narcotic addicts for treatment and rehabilitation.

These programs were authorized by the Narcotic Addict Rehabilitation Act of 1966 which defined certain responsibilities of the Federal government in providing treatment and rehabilitation services directly to narcotic addicts and provided the means to encourage the States to provide services to narcotic addicts within their own jurisdiction.

In summary, the main titles of the act are:

- Title I which authorizes the civil commitment for treatment, in lieu of prosecution, of addicts charged with certain Federal crimes.
- Title II which provides for the sentencing to commitment for treatment of addicts convicted of certain Federal crimes.
- Title III which provides for the civil commitment for treatment of persons not charged with any criminal offense.
- Title IV which provides for rehabilitation and post-hospitalization care programs for addicts civilly committed and for financial and technical assistance to States and municipalities in the development of treatment programs for addicts.

In a message to the Congress on June 17, 1971, the President stated that narcotics addiction has reached the dimensions of a national emergency. In this regard, in 1967 it was estimated that the number of narcotic addicts in the United States was 125,000 and today's estimates range from 200,000 to 250,000.

Our review was concerned with the efforts of the Department of Justice, and the Department of Health, Education, and Welfare in administering narcotic addict treatment and rehabilitation services provided under titles I and III of the act. The programs under these titles are administered jointly by the U.S. Attorneys of the Department of Justice, and the National Institute of Mental Health within the Department of Health, Education, and Welfare. 37
p. 1930

The legislation recognized that narcotic addiction was a medical problem. Title I of the act was an innovative departure from past methods of dealing with narcotic addicts in that it permitted, instead of criminal prosecution, pretrial commitment of arrested addicts who are charged with certain nonviolent Federal crimes and who show prospect for rehabilitation. Civil commitment is generally understood to mean court-ordered confinement in a special treatment facility, followed by release to outpatient status under supervision in the community, with provision for final discharge if the patient abstains from drugs.

ADMISSIONS AND COMPLETIONS

Information furnished by HEW disclosed that as of June 30, 1971, 7,860 persons had been admitted for examination and evaluation of treatment potential under the title I and III programs. At this date, there were 2,078 persons being treated or being examined for treatment. Of this number, 121 persons were in the examination and evaluation phase, 527 were receiving inpatient treatment, and 1,430 were receiving aftercare treatment in community facilities under contract with HEW. We were informed by HEW that as of September 14, 1971, of the total number of persons committed under titles I and III of the act, 52 have successfully completed treatment and have been discharged from the program.

TITLE I PROGRAM

Pretrial civil commitment (title I) has not been used to the extent anticipated during the first 3 years of the program--July 1967 - June 1970. Only 179 addicts were committed under title I during this period. We identified three causes for the relatively low use of the program:

1. lack of appropriate emphasis on implementation of title I by U.S. attorneys,
2. a preference by U.S. attorneys for the use of post-trial commitments authorized by title II of the act, and
3. the practice of referring addicts to State and local courts for prosecution when the crimes also were violations of State laws.

Also, neither the Department of Justice, through the Law Enforcement Assistance Administration, nor the National Institute of Mental Health had encouraged the use of available financial assistance programs to develop close working relationships between State or local courts and Federally

funded State or local narcotic addict rehabilitation programs or the development of State or local civil commitment programs.

In contrast with the 179 addicts accepted for pretrial commitment under title I of the act during the first 3 years of the program's operation, 509 addicts had been sentenced for treatment under the title II posttrial commitment programs.

The small number of addicts committed under title I was in striking contrast to expectations prior to passage of the Narcotic Addicts Rehabilitation Act. For example, there was Congressional concern as to whether the existing capacity--about 1,800 beds--of the two Public Health Service clinical research centers at Lexington, Kentucky and Fort Worth, Texas which are used for evaluation and treatment of narcotic addicts under the act would be sufficient to handle the patient load. Officials from the administrative agencies alleviated the concern in part by pointing out that they had the authority to contract for additional facilities if the patient load became a problem.

HEW had estimated that about 900 persons would be eligible for treatment under title I for narcotic addiction each year, far more than the 179 persons actually committed during the first three years of the program. HEW could not provide us supporting data for its estimate of anticipated usage.

Our determination of the reasons for the low use of title I was based primarily on information furnished to us by U.S. attorneys in response to a questionnaire. Responses received from 21 U.S. attorneys representing the districts having the highest incidence of drug addiction, disclosed

that they had processed a total of 48 addicts under title I during the year ended December 31, 1969. Ten of them reported no title I civil commitment cases, four reported only one civil commitment case, and seven reported two or more cases.

In response to our questionnaire, one U.S. attorney merely stated that his office did not process title I cases. The paraphrased comments of two others follow.

One U.S. attorney informed us that his inquiry within his office early in 1970 disclosed no study, understanding, or use of title I and that few, if any, of the staff were aware of the existence of the act. Although he indicated a desire to develop a viable commitment program, he envisioned problems in attempting delayed prosecution of those addicts committed for treatment who did not successfully complete rehabilitation. The problems would stem from the passage of time, which might affect the availability of witnesses or the usefulness of other evidence.

Another U.S. attorney stated that his office had not yet developed a program for commitment in lieu of prosecution. He pointed out that suspension of prosecution for serious offenses was not considered appropriate and that, for minor offenses, his office favored dismissal of the charges and referral to the State for treatment and rehabilitation.

By letter dated June 16, 1971, the Assistant Attorney General for Administration informed us that the title I procedure had not been used to the fullest possible extent and that the Department of Justice was inclined to agree with the reasons we had identified for the low use.

He suggested, however, that the low use may have been due to other factors as well. He pointed out that one major factor was that, under the rather detailed eligibility requirements contained in title I many addicts who probably would benefit from treatment simply were ineligible. He pointed out also that the decision to use title I was wholly discretionary with the courts and that the courts were under no obligation to state reasons when they determined not to use title I. He stated also that the Department of Justice was not in a position to comment on the frequency with which any one given court declined to use title I.

In our report we suggested that the Attorney General issue instructions to U.S. attorneys that they consider the use of title I in all cases in which narcotic addicts are charged with Federal offenses.

The Assistant Attorney General for Administration stated that our suggestion had overlooked two important considerations: (1) the offender might not be an eligible person within the definition of the statute and (2) there might be many reasons why the U.S. attorney would not want to utilize title I. For example, if a U.S. attorney believed that a person was not likely to benefit from the program, any effort to get the person into the program might be futile. Also, since the pending charge is held in abeyance conditioned upon the person's successful completion of the program, the situation frequently might arise when the person did not successfully complete the program and, because of the passage of time, the U.S. attorney would be unable to try the person on the underlying criminal charge.

He pointed out that, in situations such as this, the person was neither rehabilitated nor made to pay for his offense and that consequently neither the goal of rehabilitation nor the goal of justice was served.

He said that any instructions which the Attorney General might issue could be only advisory. He emphasized that any decision of whether to invoke the provisions of title I was a prosecutorial decision which must be left to the discretion of the U.S. attorneys.

We continue to believe that the possible application of title I should be given careful consideration in all cases in which narcotic addicts are charged with Federal crimes, even though such consideration might lead to a conclusion that the addict is ineligible or that other good reasons exist for not utilizing title I.

With regard to the Assistant Attorney General's concern for prosecuting Federal offenders after substantial delays for purposes of treatment, it should be noted that the Senate Committee on the Judiciary, in considering the legislation in 1966 discussed the possibilities of the effect of delays in criminal prosecution. On the basis of the testimony of medical authorities and the then-Attorney General, the committee was persuaded that pretrial civil commitment offered worthwhile advantages and that the possibility of resuming the criminal prosecution would remain as a sanction reinforcing the addicts' disposition to cooperate throughout their programs of treatment.

The Narcotic Addict Rehabilitation Act provided not only for the commitment of narcotic addicts under Federal court jurisdiction but also for Federal assistance to aid State and local agencies in developing narcotic addict treatment facilities. In addition, the Omnibus Crime Control and Safe Streets Act of 1968 created the Law Enforcement Assistance Administration with the Department of Justice, to assist State and local governments to improve their criminal justice systems--the police, the courts, and institutions for corrections. Federal assistance under this act is available to develop narcotic addict treatment and rehabilitation programs. Guidelines issued by the Law Enforcement Assistance Administration do not encourage the development of civil commitment programs for the rehabilitation of narcotic addicts by State and local agencies.

The National Institute of Mental Health grant programs, which are concerned primarily with increasing the availability of nonFederal treatment programs for narcotic addicts, have a potential for assisting the development of State civil commitment programs. The National Institute's guidelines for the narcotic grant programs, however, do not encourage the development of civil commitment programs for the treatment of addicts referred by State and local courts.

Under the provisions of the Narcotic Addict Rehabilitation Act, only U.S. district courts are empowered to invoke title I. Therefore, when addicts who commit Federal crimes are referred to State or local authorities for prosecution, opportunities for pretrial civil commitment in lieu of prosecution are lost if the State does not have a civil commitment program.

Because only a few States have civil commitment programs, we recommended in our report that the Attorney General and the Secretary of HEW revise their grant program guidelines to stress the development of close working relationships between rehabilitation programs and the courts and to encourage arrangements whereby the two Departments would participate jointly in the development of State and local civil commitment programs.

Both departments advised us that they were taking steps in line with our recommendation. We were also told that, in the annual report to the President and to the Congress required under the 1970 amendments to the Omnibus Crime Control and Safe Streets Act, the Department of Justice planned to provide data on the programs conducted, plans developed, and problems encountered in the operations and coordination of Federal efforts to stimulate the development of State and local civil commitment programs.

By way of background HEW explained that:

At the time the Narcotic Addict Rehabilitation Act was passed, it was widely believed that patients would enter the program primarily under title I and secondarily under title II. Most believed that few voluntary patients would be committed under title III. This, of course, has not been borne out. Due to the unprecedented growth of drug addiction in recent years, the failure or inability of States and local communities to develop adequate treatment capabilities, and the infrequent use of title I, almost all of the patient commitments under the Narcotic Addict Rehabilitation Act have been pursuant to title III. As this unexpected pattern became clear, HEW expanded its efforts to develop community treatment capabilities. This was done not only to conform to congressional intent and HEW's policy that voluntary patients are primarily the responsibility of the States and communities, but because HEW's experience had indicated that community-based

treatment approaches would be more effective than treating addicts in centralized Federal institutions.

The trend towards increasing support for community-based treatment programs and in lieu of using centralized Federal institutions is also reflected by the proposed transfer of the Federal clinical research center in Ft. Worth, Texas to the Bureau of Prisons, Department of Justice. We understand that the Bureau of Prisons intends to use the facility for treatment of persons committed under title II and neuropsychiatric and other prisoners requiring medical treatment. After the transfer, which we understand is tentatively scheduled for October 4, addicts from the Western sector of the Nation will receive services from community agencies under contract with HEW. Final action on the transfer is awaiting agreement between the House and Senate on differences between concurrent resolutions.

TITLE III PROGRAM

Our review indicated that the administration of the title III program could be improved and that greater assistance could be provided to addicts if HEW, through its grantees and contractors, were to assist the U.S. attorneys by performing certain nonlegal activities concerned with helping persons who seek treatment under the program.

During the first 3 years of the title III program, 2,801 addicts, or about 57 percent of the 4,889 who voluntarily sought commitment, were rejected by the Federal treatment centers during the examination and evaluation phase of the program. Rejections were made on the basis of the persons' being unsuitable for treatment. At July 31, 1971 about 50 percent of the capacity of the two centers was being used for rehabilitating narcotic addicts.

The Surgeon General is authorized by the Narcotic Addict Rehabilitation Act to restrict commitments under the program when he certifies that adequate facilities or personnel for treatment of patients under the title III program are unavailable.

HEW believes that a higher potential exists for successful rehabilitation for persons who are highly motivated for treatment than for those who are not so motivated. Accordingly the National Institute of Mental Health has elected to accept those persons who have high motivation for rehabilitation and to reject all others as not being suitable for treatment. HEW advised us that:

"Our experience has borne out the belief of experts in this field that a high degree of

motivation on the part of addicts is an essential prerequisite if treatment and rehabilitation programs are to be successful. We have found that the individuals who have been most disruptive and uncooperative, most eager to leave the program prematurely, and who have profited least have been those with insufficient motivation who, frequently, were in the program only because of pressures from relatives and friends. Our experience has also demonstrated that the disruptive influence exerted by such addicts on the other patients is extremely detrimental."

Early in fiscal year 1970, the chiefs of the two clinical research centers, in response to a request from the National Institute of Mental Health, coauthored a paper on their experiences regarding the suitability of addicts for treatment. The paper was distributed to community agencies as a guide in screening applicants and to officials of courts to promote greater understanding of the reasons for rejection.

In summary, the paper stated that persons being rejected would require large amounts of time for medical, nursing, and social work if accepted into the program and that additional resources of trained personnel would be needed to treat larger numbers of antagonistic patients, psychotic patients, mentally retarded patients, and others with special problems.

Rejections by the Federal treatment centers during the examination and evaluation phase of the program, which is carried out in order to avoid the formal commitment of persons considered unsuitable for treatment, rose from 56 percent during fiscal year 1969 to 62 percent during fiscal year 1970.

HEW acknowledges that the provisions of the Act, which state that addicts will be committed to treatment only if they are considered likely to be rehabilitated, limits the intake of patients into the program. HEW believes this to be the intent of the Congress and considers its practice of "weeding-out" individuals unlikely to be rehabilitated to be consistent with both the act and HEW's judgment as to the best way to manage the program at this point in time.

U.S. ATTORNEYS' ROLE IN TITLE III PROGRAM

The Narcotic Addict Rehabilitation Act requires that an applicant voluntarily seeking treatment for narcotics addiction must petition the U.S. attorney's office and that the U.S. attorney, in turn, must petition a U.S. district court. Following the U.S. attorney's petition to the U.S. district court, the court, before deciding whether the applicant should be committed for treatment, requires an examination and evaluation of a person to determine whether he is a narcotic addict and is likely to be rehabilitated. Although most evaluations and examinations have been performed at the clinical research centers, we understand that some are being performed in community facilities which have contracted with HEW to perform such services.

In response to our inquiry, many U.S. attorneys questioned the effectiveness of the title III program and particularly questioned their own role in assisting program applicants. One U.S. attorney deemed the program ineffective, stating that of 43 petitions received under the title III program in his district, only one person was accepted for treatment. Another attorney reported that all

the persons sent to clinical research centers from his district were addicted to narcotic drugs, yet about 75 percent were found to be unfit subjects for rehabilitation. Still another, who had a high number of petitioners accepted, stated that the use of the courts for title III commitments, in his opinion, was cumbersome, constituted a waste of time and money, delayed treatment, and deterred applicants.

Comments which emphasized the view that the U.S. attorneys' Offices were not social-work-type agencies were most frequently offered as an explanation for the lack of referral to available treatment centers or the lack of follow-up on those persons who had not pursued the steps to commitment or who had been found unsuitable for treatment.

In the light of this situation, we suggested that certain of the functions being performed by U.S. attorneys might be assumed by HEW.

The Assistant Attorney General advised us that many of the precommitment functions currently assigned to U.S. attorneys were, or could be, performed by HEW. He stated that there was no objection to having a prescreening conducted by HEW to ensure that a person was suitable for treatment. HEW had no objection to expanding its advisory role to U.S. attorneys in determining the availability of State and local treatment facilities, although we were advised that additional resources would be required. HEW considers it inappropriate, however, to require the Surgeon General, acting through the National Institute of Mental

Health, to perform the legal functions now required of U.S. attorneys, indicating that it would be unwise to mix the legal and therapeutic functions.

We agree that HEW should not take over any of the legal functions of the U.S. attorneys. Our concern is to improve the administration of the title III program by having non-legal functions performed by HEW, instead of by U.S. attorneys.

In our report, we recommended that, to provide greater assistance to addicts who are seeking treatment and to improve the administration of the title III program, the Attorney General and the Secretary of HEW consider having HEW grantees or contractors involved in the rehabilitation of narcotic addicts provide assistance to U.S. attorneys by performing the following nonlegal functions:

1. receiving the request from a person seeking treatment and rehabilitation under the program,
2. determining that there is reasonable cause to believe that the person is a narcotic addict,
3. determining that appropriate State or local facilities are not available for the treatment of the person, and
4. helping the person prepare and file a petition for commitment with the U.S. attorney's office.

Mr. Chairman, this concludes my statement. I shall be happy to answer any question that you or other members of this Subcommittee may have.