REPORT TO THE CONGRESS

Limited Use Of Federal Programs To Commit Narcotic Addicts For Treatment And Rehabilitation B-164031(2)

Department of Justice

Department of Health, Education, and Welfare

BY THE COMPTROLLER GENERAL OF THE UNITED STATES

SEPT. 20, 1971

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(2)

To the President of the Senate and the
Speaker of the House of Representatives

This is our report on the limited use of Federal programs to commit narcotic addicts for treatment and rehabilitation. The programs are authorized by the Narcotic Addict Rehabilitation Act of 1966 (28 U.S.C. 2901) and are administered by the Departments of Justice and Health, Education, and Welfare.

Our review was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

Copies of this report are being sent to the President of the United States; the Director, Office of Management and Budget; the Attorney General of the United States; and the Secretary of Health, Education, and Welfare.

Elmer B. Staats

Comptroller General
of the United States

COMPTROLLER GENERAL'S REPORT TO THE CONGRESS

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D I G E S T

WHY THE REVIEW WAS MADE

Because narcotics addiction has reached the dimensions of a national emergency--as defined below in a Presidential statement--the General Accounting Office (GAO) reviewed the manner in which two Federal agencies were implementing a 1966 law designed to deal more effectively with drug addiction and addict rehabilitation.

Dimensions of the narcotics addiction problem

In a message to the Congress on June 17, 1971, the President stated, in part, that:

--In New York City more people between the ages of 15 and 35 years die as a result of narcotics than from any other single cause.

--The cost of supplying a narcotic habit can run from $30 a day to $100 a day. This is $210 to $700 a week, or $10,000 to over $36,000 a year.

--Untreated narcotic addicts ordinarily do not hold jobs. Instead, they often turn to shoplifting, mugging, burglary, armed robbery, and so on. They also support themselves by starting other people--young people--on drugs.

--The financial costs of addiction are more than $2 billion every year, but at least these costs can be measured; the human costs cannot.

1966 act

The Congress passed the Narcotic Addict Rehabilitation Act (28 U.S.C. 2901) in 1966. The law was designed primarily to enable the courts to deal more effectively with the narcotic addiction rehabilitation problem. In summary, the act:

--Authorizes pretrial civil commitment for treatment, in lieu of prosecution, of addicts charged with certain Federal crimes (title I).

--Provides for sentencing to commitment for treatment of addicts convicted of certain Federal crimes (title II).

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--Provides for civil commitment for treatment of persons not charged with any criminal offenses (title III).

--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 (title IV).

FINDINGS AND CONCLUSIONS

Pretrial civil commitment (title I) has not been used to the extent anticipated during the first 3 years of the program. Only 179 addicts were committed compared with the 900 a year estimated before the act was passed.

Although it has been recognized that the majority of the crimes committed by addicts fall under the jurisdiction of State and local courts, neither the National Institute of Mental Health nor the Department of Justice (the Department) had directed its financial assistance programs toward the development of close working relationships between State or local courts and federally funded State or local narcotic addict rehabilitation programs and for the development of State or local civil commitment programs. (See p. 18.)

About 57 percent of the persons who voluntarily applied for examination and evaluation of treatment potential during the first 3 years of the civil commitment program (title III) were rejected by the two Public Health Service clinical research centers on the basis that these applicants were unsuitable for treatment. As a result the court did not commit the rejected applicants for treatment. At July 31, 1971, about 50 percent of the capacity at the two Federal centers was being used for rehabilitating narcotic addicts.

U.S. attorneys generally indicated that they did not regard their offices as appropriate intake points for requests from persons seeking treatment under the title III program, except for introducing commitment petitions to the U.S. district courts. The attorneys indicated also that they did not wish to engage in those services usually associated with social work agencies for those persons who inquired about the program but did not file petitions or who were found to be unsuitable for treatment. (See p. 27.) GAO's review indicated that the administration of the title III program could be improved and greater assistance could be provided to addicts if the Department of Health, Education, and Welfare (HEW), through its grantees

and contractors, were to assist the U.S. attorneys by performing certain intake functions and activities under the program.

RECOMMENDATIONS OR SUGGESTIONS

The Attorney General should emphasize to all U.S. attorneys the intent of the title I program and encourage them to give greater consideration to its use.

The Attorney General and the Secretary of HEW should 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 Department and HEW would participate jointly in the development of State and local civil commitment programs. (See p. 20.)

The Attorney General and the Secretary of HEW should consider having HEW grantees or contractors involved in the treatment and rehabilitation of narcotic addicts provide assistance to U.S. attorneys by performing the following nonlegal intake 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. (See p. 29.)

AGENCY ACTIONS AND UNRESOLVED ISSUES

The Assistant Attorney General for Administration stated that the title I pretrial civil commitment procedure had not been used to the extent to which it might have been. He stated also that the Department was inclined to agree with the reasons for the underuse set forth in this report. He cited, however, other possible reasons for the underuse of title I. (See p. 15.)

He gave a number of reasons why any instruction the Attorney General might issue to U.S. attorneys could be only in the nature of recommendations and would not be binding. (See p. 16.)

The Assistant Attorney General did not agree with GAO's opinion that the Department had not made a serious effort to assist States in developing close working relationships between the courts and narcotic addict rehabilitation programs. Both he and HEW's Assistant Secretary, Comptroller, indicated, however, that grant guidelines would be used to encourage development of State and local civil commitment programs. (See p. 20.)

Many of the title III precommitment functions assigned to U.S. attorneys, the Assistant Attorney General stated, were or could be performed by the Surgeon General. The Assistant Secretary, Comptroller, stated that HEW had no objection to expanding its role in determining the availability of State and local treatment facilities although he advised that additional resources would be required.

MATTERS FOR CONSIDERATION BY THE CONGRESS

Because of the congressional interest in the problem of narcotic addiction and addict rehabilitation, this report is being sent to the Congress to point out the results of GAO's review of the Federal civil commitment programs.

Contents

ABBREVIATIONS

GAO	General Accounting Office
HEW	Department of Health, Education, and Welfare
LEAA	Law Enforcement Assistance Administration
NARA	Narcotic Addict Rehabilitation Act
NIMH	National Institute of Mental Health

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CHAPTER 1

INTRODUCTION

We reviewed the efforts of the Departments of Justice and Health, Education, and Welfare to administer narcotic addict treatment and rehabilitation services provided under titles I and III of the Narcotic Addict Rehabilitation Act (NARA) of 1966 which authorized the Federal civil commitment program. This program and the related direct services are administered jointly by the U.S. attorneys of the Department and by the National Institute of Mental Health (NIMH) of HEW.

Drug abuse has been one of the most widely reported problems in the United States in the past few years. The relationship between narcotic addiction, crime, the courts, and the prisons has been highly publicized, and efforts have been intensified to understand and deal with the problem of addict rehabilitation as well as crimes stemming from drug abuse. The incidence of narcotic addiction is increasing, and conservative estimates are that there are about 180,000 narcotic users in the country. A strictly legalistic and punitive approach to a problem of this magnitude has been challenged by professionals in both the law enforcement and the medical fields.

Civil commitment of narcotic addicts is generally understood to mean compulsory confinement in a special narcotics treatment facility followed by outpatient treatment under intensive parole-type supervision. The treatment regimen consists of withdrawing the addict from his physical dependence upon narcotics and providing therapy and training to overcome his psychological dependence upon drugs. Commitment is for an indeterminate period not to exceed the prescribed number of years set forth in the applicable statutes.

Congress recognized narcotic addiction as a problem in 1929 with enactment of legislation calling for the establishment of two clinical research centers for treatment of drug addicts. The centers--at Fort Worth, Texas, and Lexington, Kentucky--were opened in the mid-1930's and are still in operation.

In 1962 the White House Conference on Narcotic and Drug Abuse was convened because drug traffic and abuse was growing and was of critical national concern. The President's Advisory Commission on Narcotic and Drug Abuse was established in 1963 to recommend a program of action. The Commission's final report, issued on November 1, 1963, pointed our among other matters, that the treatment at the two Federal centers had, in essence, become a revolving-door process for voluntary patients who entered and left treatment as they desired and who were more properly the responsibility of the patients' States and communities. Of the total 87,000 admissions to both centers from 1935 through 1964, 63,600 were voluntary admissions of addicts who applied for treatment and the remaining 23,400 were Federal prisoners. Most of the voluntary patients--an average of over 70 percent during this period--left the centers against medical advice.

The Commission recommended that voluntary patients be accepted only for purposes of research study and that Federal financial and technical assistance be authorized for State and local programs. The Commission recommended also that a special treatment program be established within the Federal prison system and that a Federal civil commitment statute be enacted to provide an alternative method of handling Federal prisoners who were narcotic addicts.

In 1966 the Congress passed NARA to enable the courts to deal more effectively with the narcotic addiction problem.

In summary, the main titles, or parts, of NARA are as follows:

--Title I authorizes the pretrial civil commitment for treatment, in lieu of prosecution, of addicts charged with certain Federal crimes.

--Title II provides for the sentencing to commitment for treatment of addicts convicted of certain Federal crimes.

--Title III provides for the civil commitment for treatment of persons not charged with any criminal offenses.

--Title IV 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.

Eligibility for civil commitment under titles I and II may be extended by a U.S. district court to any narcotic addict charged with, or convicted of, an offense against the United States, but excludes any person

--charged with a crime of violence;

--charged with unlawfully importing or selling, or conspiring to import or sell, a narcotic drug;[1]

--against whom there is pending a prior charge of a felony;

--convicted of a felony on two or more occasions (Title II provides--on two or more prior occasions); and

--previously civilly committed on three or more occasions (Title II provides--civilly committed on three or more occasions under the title I program).

A person eligible under title I is committed by a U.S. district court to the custody of the Surgeon General for treatment. The total period of treatment for any such person may not exceed 36 months. Generally the person will be confined in an institution for part of this period and then may be conditionally released, at the discretion of the Surgeon General, for supervised aftercare treatment in his community. If the person successfully completes the treatment program, the criminal charge is dismissed; if not, prosecution of the charge may be resumed.

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[1]A person convicted for this offense may be offered title II if the court determines that the sale or importation was for the primary purpose of enabling the offender to obtain a narcotic drug which he required for his personal use because of his addiction to such drug.

A person not given the opportunity to elect civil commitment, or who does not so elect, if subsequently prosecuted and convicted, may receive sentencing to commitment for treatment under title II. Such a person is committed to the custody of the Attorney General who provides for his treatment.

Under title III, any person seeking treatment for narcotic addiction may voluntarily file a petition with a U.S. attorney. A member of his immediate family or household also may file a petition. Title III provides that a U.S. attorney has the responsibility for determining whether there is reasonable cause to believe that the person seeking treatment is a narcotic addict and whether appropriate State or local treatment facilities are available. It is upon these determinations that the U.S. Attorney is authorized by NARA to petition a U.S. district court for commitment.

Before the court can commit a person for treatment, he must undergo examination and evaluation by two qualified physicians appointed by the court to determine whether he is a narcotic addict and is likely to be rehabilitated through treatment. NARA requires that one of the two physicians be a psychiatrist. Upon completion of the examination and evaluation, each physician is required to file a written report with the court.

Most of these examinations and evaluations for the courts have been made by either the Fort Worth or the Lexington clinical research centers of the Public Health Service, and such examinations and evaluations at these centers can take up to 30 days.

NARA provides also that, if the court determines, after receiving the reports of the examining physicians and after a hearing, that a person seeking treatment is a narcotic addict who is likely to be rehabilitated through treatment, the court order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Public Health Service for a period not to exceed 6 months. At the discretion of the court, and upon the advice of the Surgeon General, the person may then be provided with supervised aftercare in his home community for as long as 3 years.

Also the court, acting upon the recommendation of the Surgeon General, has the authority to ultimately release a person from the civil commitment program; however, in no case may the person voluntarily withdraw from the program after having been committed for treatment by court order.

NIMH has been delegated the responsibilities assigned to the Surgeon General under NARA and is concerned principally with the treatment and rehabilitation aspects of the program. The U.S. attorneys are the principal administrators involved in formalizing the narcotic addicts' entries into and exits from the civil commitment program.

Both title I and title III persons have been sent for treatment to the Federal centers in Fort Worth and Lexington and have been sent for supervised aftercare to community facilities which receive Federal financial assistance. Title II persons received treatment at one of three Federal prisons located in Danbury, Connecticut; Alderson, West Virginia; or Terminal Island, California.

The principle that treatment was the primary responsibility of the State and local communities was established by title IV and was expanded by allowing title III commitments only when appropriate State or other treatment facilities were not available. Also, although certain grant provisions of title IV were repealed by the Alcoholic and Narcotic Addict Rehabilitation Amendments of 1968, the basic principle of title IV--development of community programs for addicts--was incorporated in the new law and in later amendments which permitted NIMH to make grants for construction and/or staffing of narcotic addict facilities in communities.

In February 1967, shortly after passage of NARA, the President called for enactment of legislation in the area of Federal assistance for the control of crime. The Presidential proposal, introduced in the Senate as the Safe Streets and Crime Control Act of 1967, followed the Presidential message on crime in America. The message called for an intensified attack on the narcotics and drug problem by every level of government and included the following statement on the Federal rehabilitation effort.

"*** to carry out the purposes of the Narcotic Addict Rehabilitation Act of 1966, I am instructing the Secretary of Health, Education, and Welfare, in consultation with the Attorney General and the Secretary of the Treasury, to coordinate the rehabilitation efforts of all the Federal agencies concerned and to work through local and State facilities to the greatest possible extent. Federal rehabilitation efforts will be closely related to local programs that may qualify for federal support under the grant provisions of the Safe Streets and Crime Control Act of 1967."

The legislation was enacted in June 1968 as the Omnibus Crime Control and Safe Streets Act of 1968. The act created the Law Enforcement Assistance Administration, under the general authority of the Attorney General and within the Department, to administer the program. The act, as amended in 1970, requires the Attorney General to submit to the President and to the Congress annual reports on the operation and coordination of the various Federal assistance programs relating to crime prevention and control, including those authorized by NARA.

In his message to the Congress on June 17, 1971, the President outlined a comprehensive approach to the solution of the drug abuse problem. The key element in his recommendation was the creation of the Special Action Office for Drug Abuse Prevention which would have direct responsibility for all Federal drug abuse training, education, prevention, treatment, rehabilitation, and research programs and activities. As an interim measure, the President, by Executive Order 11599, established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President to coordinate the work of all Federal agencies in their drug abuse prevention activities.

CHAPTER 2

NEED FOR ENCOURAGING USE OF CIVIL COMMITMENT PROGRAMS

NARA was intended to enable the Federal courts to deal more effectively with the problem of narcotic addiction and to bring about a fundamental reemphasis on rehabilitation. The legislation was based on the recognition that narcotic addiction was a medical problem. Title I of NARA was one of the most innovative departures from past methods of dealing with narcotic addicts by permitting pretrial civil commitment, instead of criminal prosecution, of arrested addicts who are charged with nonviolent Federal crimes and who show prospect for rehabilitation.

The title I provision of NARA has not been used to the extent anticipated at the time it was passed. During the first 3 years of the program--July 1967 to June 1970--179 drug addicts were committed, compared with the estimated 900 a year. As far as we could determine, expectations of anticipated use of title I were not met because of (1) the lack of appropriate emphasis on implementation of title I by U.S. attorneys and (2) a preference by U.S. attorneys for the use of posttrial commitments authorized by title II of NARA. Also the use of the title I program has been reduced by the practice of referring addicts who were potentially eligible for the title I program to State and local courts for prosecution when the crimes also were violations of State statutes.

Our review indicated also that neither NIMH nor the Department had directed its financial assistance programs toward the development of 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.

ACTUAL USE OF TITLE I LESS THAN EXPECTED

Our review showed that, despite initial expectations that 900 addicts would be eligible each year under the title I pretrial civil commitment program, only 207 persons had

been examined for admission into the program and only 179 had been accepted for treatment during the first 3 years of the program's operation--July 1967 to June 1970. In contrast, 509 addicts had been sentenced for treatment under the title II posttrial commitment program. Whether to use title I or II is the decision of the court.

The small number of addicts accepted under the title I provisions was in striking contrast to expectations prior to passage of NARA. For example, there was congressional concern as to whether the 1,800-bed capacity of the two Federal centers would be sufficient to handle the expected patient load. Officials from the administrative agencies alleviated the concern, in part, by pointing out that they had the authority to contract for facilities if the patient load became a problem.

Also studies made by the Department and HEW indicated that a large number of addicts would be charged with crimes in the Federal courts and therefore would be eligible for the commitment program. HEW estimated that about 1,300 persons suspected of narcotic addiction would be brought before the Federal courts each year because of criminal activity and that about 900 of these persons would be treated under title I for narcotic addiction. It was estimated that 100 persons would not qualify and that 300 persons, after examination, would not be eligible for treatment. HEW could not provide us with supporting data for these estimates, and we have no basis for questioning the estimates or for validating them. The number of persons expected to be eligible in 1 year for rehabilitation under title I was greater than the actual number of commitments in 3 years under both title I and title II.

During our review we attempted to establish the number of Federal offenders who were narcotic addicts, as well as the number of such offenders who were denied rehabilitation because of the eligibility restrictions contained in NARA. Records available at U.S. attorneys' offices which we visited were not sufficient for making these determinations.

To determine the reasons for the underuse of title I, we solicited, by questionnaire, the comments of 22 U.S. attorneys in offices located in those Federal districts with

indexes of major narcotic addiction. Of the 22 replies,[1] 21 disclosed that 48 addicts were processed under title I during the year ended December 31, 1969. Although these 21 U.S. attorneys represented the districts having the highest incidence of drug addiction, 10 of them reported no title I civil commitment cases, four reported one civil commitment case, and seven reported two or more cases.

Because 20 cases were reported by the U.S. attorney at one location--the District of Columbia--we inquired into the practices followed at that location. We were informed that (1) the U.S. attorney and Federal judges within the district court in Washington, D.C., accepted the merits of a civil commitment program and were willing to offer the addicts a chance for rehabilitation and (2) there were many addicts in the District of Columbia who were charged with Federal offenses, such as thefts from mail boxes and check forgeries, which did not exclude them from eligibility under title I, whereas in other districts these types of offenses were generally referred to State or local courts.

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 had 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.
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> 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

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[1]One reply was not responsive.

that, for minor offenses, his office favored dismissal of the charges and referral to the State for treatment and rehabilitation.

Our review showed that in some districts the U.S. attorneys preferred criminal prosecution to the civil commitment option. Also U.S. attorneys advised us that (1) they encountered practical difficulties in ascertaining which persons charged with Federal crimes were narcotic addicts and (2) the difficulties were compounded by the defendants' or defense counsels' lack of cooperation in disclosing cases of narcotic addiction. Legislation currently being considered by the Congress addresses the identification problem by requiring immediate emergency medical treatment for persons who appear to be drug abusers and who are charged with Federal crimes. Such emergency treatment would include determination of addiction, detoxification, and identification of rehabilitation potential prior to determination of whether to prosecute.

Agency comments

In commenting on our draft report 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. He stated that the Department was inclined to agree with our reasons for the underuse.

The Assistant Attorney General pointed out that title I did contain a rather detailed listing of eligibility requirements and that one major reason for the underuse of title I was that, under the eligibility requirements as written, 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 themselves were under no obligation to state their reasons when they determined not to use title I.

The Assistant Attorney General also stated that, although the Department was not in a position to comment on the frequency with which any one given court declined to use title I, he suggested that the underuse of title I might have been due to factors other than those which we specified in the report.

In our draft report we suggested that HEW, through NIMH, and the Department jointly develop and distribute information to defense attorneys and to the courts on the concept of treatment under title I and stress the importance of the civil commitment program.

HEW's Assistant Secretary, Comptroller, stated that HEW agreed with our suggestion and would continue to work with the Attorney General in jointly developing and distributing additional information on title I.

The Department, although agreeing that our suggestion had merit, indicated that it did not see any way in which the suggestion could be implemented meaningfully and cited, as an example, that it would be a monumental task to contact all defense attorneys to advise them of the availability of title I commitments.

We are aware of the problems that would be associated with informing all defense attorneys of the concept of treatment under title I, but we believe that there is a need for continued exploration of ways to publicize and implement the provisions of title I. We believe also that the Department should seek opportunities, such as bar association meetings and articles in professional legal publications, to inform defense attorneys of the concept of treatment under title I.

In our draft report we suggested also 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 advised us 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. The Assistant Attorney General 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.

The Assistant Attorney General advised us that any instructions which the Attorney General might issue could be only in the nature of an advisory recommendation, which was the current policy of the Department, and that he certainly could not issue any binding instructions. He emphasized that any decision of whether to invoke the provisions of title I was a prosecutorial decision which must be left to the sound discretion of the U.S. attorneys.

We recognize that title I has eligibility requirements, and we do not question the merits of such requirements.

Also we have no basis for questioning the Assistant Attorney General's statement that any decision of whether or not to invoke the provisions of title I is a prosecutorial decision which must be left to the discretion of U.S. attorneys. We believe, however, that the possible application of title I should be considered in all cases in which narcotics addicts are charged with Federal crimes.

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 in 1966 the Senate Committee on the Judiciary, in considering the then-proposed NARA, discussed the possibilities of the effect of delays in criminal prosecution but, on the basis of the testimony of medical authorities and the then-Attorney General, 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.

Recommendation to Attorney General

We recommend that the Attorney General emphasize to all U.S. attorneys the intent of the title I program and encourage them to give greater consideration to its use.

NEED TO ENCOURAGE DEVELOPMENT OF STATE CIVIL COMMITMENT PROGRAMS

Although it has been recognized that the majority of the crimes committed by addicts fall under the jurisdiction of State courts, neither NIMH nor the Department has directed its efforts toward the development of 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.

NARA 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. The Omnibus Crime Control and Safe Streets Act of 1968 created the Law Enforcement Assistance Administration (LEAA), within the Department, to assist State and local governments to improve their criminal justice systems--the police, the courts, and institutions for corrections--as well as to develop narcotic addict treatment and rehabilitation programs.

NIMH's grant programs, which are concerned primarily with increasing the availability of non-Federal treatment programs for narcotic addicts, have a potential for assisting the development of State civil commitment programs. NIMH'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. Our review of 22 NIMH grants awarded through April 30, 1971, showed that some grantees had been required to assist the Federal civil commitment program; however, none of these grants had included a requirement for the grantee to accept commitments or referrals from State and local courts.

The use of title I generally was intended to apply to addicts who committed such Federal crimes as mail theft, check forgery, auto theft, and other nonviolent crimes. Many of these Federal crimes are also violations of State statutes and often are prosecuted in the State or local courts under State statutes. Under the provisions of NARA, 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.

An indication of the number of persons committing certain types of Federal offenses and who therefore may be eligible for title I commitment but who are tried in State courts is provided by Post Office Department (now the U.S. Postal Service) statistics which show that during fiscal year 1970, 2,093 persons were convicted in Federal courts and 3,225 were convicted in State or local courts for the theft of mail from letter boxes. Post Office Department officials estimated that, nationwide, about 20 percent of the persons arrested on such mail-theft charges were addicts. On this basis, we estimated that about 640 addicts were convicted in State or local courts of thefts from letter boxes and thus could not be considered for pretrial civil commitment under the title I program. Also, in New York City, which has the largest estimated narcotic addiction problem in the country, a 3-month study showed that 45 percent of the persons arrested for thefts from letter boxes were narcotic addicts.

We believe that, because only a few States have active civil commitment programs, NIMH and LEAA should seek, particularly through grant program guidelines, the development of 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.

Agency comments

The Assistant Attorney General for Administration did not agree with our conclusion that LEAA had not made a serious effort to assist the States in developing close working relationships between the courts and narcotic addict rehabilitation programs. He pointed out that LEAA, from fiscal year 1969, had provided about $25 million to a number of programs concerned with the rehabilitation of the narcotic addict.

The Assistant Attorney General stated that it was true that LEAA had not been involved in developing civil commitment programs for the narcotic addict (1) because LEAA funding went to the States which were largely responsible for the spending of the money and (2) because changes in State laws would be needed in most cases to establish such programs and because LEAA had not been involved to a great extent in influencing changes in State legislation. The Assistant Attorney General agreed that LEAA had not developed guidelines regarding civil commitment programs for the narcotic addict.

Recommendation to Attorney General and to Secretary of Health, Education, and Welfare

We recommend 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 Department and HEW would participate jointly in the development of State and local civil commitment programs.

HEW's Assistant Secretary, Comptroller, informed us that HEW, in its community assistance program guidelines, would stress the need for local treatment agencies to cooperate with State and local civil commitment programs. He also stated that HEW would coordinate its activities with LEAA to support the development of local treatment services which emphasized acceptance of State and local court commitments in the locales in which LEAA was supporting the development of legislation for civil commitment programs.

The Assistant Attorney General said that LEAA would make it a point to develop guidelines in greater detail with State planning agencies regarding civil commitment programs. He said also that NIMH and LEAA had several committees with representatives from both agencies, including one on drug addiction, which could be assigned the task of studying and considering ways in which the two agencies could stimulate and promote the development of civil commitment programs for narcotic addicts.

We were 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 planned to provide data on the programs conducted, plans developed, and problems discovered in the operation and coordination of Federal efforts to stimulate the development of State and local civil commitment programs.

CHAPTER 3

OPPORTUNITIES FOR IMPROVING ADMINISTRATION OF 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.

Of the persons who voluntarily submitted for examination and evaluation of treatment potential under the title III program during the first 3 years of its operation, about 57 percent were rejected by the two Public Health Service clinical research centers. The rejections were made on the basis that the persons were unsuitable for treatment, and therefore the court did not commit them for treatment to the Federal centers. At July 31, 1971, about 50 percent of the available capacity at the two Federal centers was being used for rehabilitating narcotic addicts.

Following is a summary of the statistical data received from 19 U.S. attorneys' offices[1] responding to our questionnaire regarding the voluntary civil commitment program authorized by title III. The data represents calendar year 1969 figures only.

1. Narcotic addicts in district (note a)	56,036
2. Narcotic addicts who contacted U.S. attorneys' offices about commitment under the NARA title III program	3,804
3. Title III petitions filed with the courts	1,123
4. Narcotic addicts rejected by HEW after examination and evaluation as not being suitable for treatment under title III	596

[a]Obtained from Bureau of Narcotics and Dangerous Drugs, Department of Justice.

[1]Three U.S. attorneys' offices did not supply statistical data.

ADMINISTRATION BY NATIONAL INSTITUTE OF MENTAL HEALTH

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.

According to HEW, the addict's motivation toward treatment, to a high degree, indicates his relative suitability for treatment. The eligibility conditions, including suitability for treatment, must be met before a person may be admitted to the program for treatment.

The Congress gave the Surgeon General broad authority for treatment of addicts who are likely to be rehabilitated. NIMH was delegated the responsibilities of operating the program for the Surgeon General and was authorized to delegate any of its responsibilities to other public agencies or to private agencies or to contract with such agencies for facilities and services for examining or treating addicts.

Treatment can include, but is not limited to, services in the medical, educational, social, psychological, and vocational fields. It can include also corrective and preventive guidance and training and any other rehabilitation services designed to protect the public as well as to benefit the addict by correcting his antisocial tendencies and ending his dependence on, and susceptibility to, narcotics.

The Surgeon General is authorized by NARA 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 NIMH 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 clinical research centers, in response to an NIMH request, 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.

The gist of the paper was that the persons being rejected required large amounts of medical, nursing, and social work time 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. The paper stated that:

> "It is possible to retain and treat some patients in the hospital whose behavior is chronically antagonistic and disturbing to others. The problem is that we have to devote large amounts of medical, nursing and social work time to small groups of these patients. With additional resources of trained personnel we could accept and treat larger numbers of antagonistic patients, psychotic patients, mentally retarded patients, and others with special problems. However, at the

present time, the fiscal and personnel restraints within the Federal Government are very severe, and we are forced to limit our program to the number of patients who can be adequately treated within our current limitations. We do not foresee any lifting of those limitations at any time in the immediate future. Accordingly, we will try to give the best treatment possible to those patients who are most highly motivated to benefit from it."

Formalized guidelines issued in March 1970 to the community agencies which were under contract and which were performing narcotics addiction treatment activities included basically the same criteria with respect to motivation for acceptance of applicants for treatment.

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

Agency comments

The Assistant Secretary, Comptroller, HEW, stated that court commitments should be restricted when personnel and facilities were not adequate to provide the authorized treatment and control services and that the voluntary civil commitment program was directed toward accepting only those addicts with high motivation for treatment. He stated that to do otherwise would seriously diminish the overall rehabilitation potential of the addicts committed to the program and that patients cannot be considered "likely to be rehabilitated" unless they are highly motivated. He stated further that HEW's experience had borne out the belief of experts in the field that a high degree of motivation on the part of addicts was an essential prerequisite if treatment and rehabilitation programs were to be successful.

The Assistant Secretary, Comptroller, acknowledged that the provisions of NARA, which direct that addicts be committed to treatment only if they are considered likely to be rehabilitated, limited the intake of patients into

the program. He stated that HEW believed this to be the intent of the Congress and considered HEW's practice of weeding out individuals unlikely to be rehabilitated to be consistent with NARA and with HEW's judgment as to the best way to manage the program at that point in time.

ADMINISTRATION BY U.S. ATTORNEYS' OFFICES

We found that many U.S. attorneys questioned the use of the title III program and particularly their own role in assisting program applicants. Many persons who inquired about the program did not file petitions with the U.S. attorneys, and many who did were rejected by the Public Health Service clinical research centers as being unsuitable for treatment. Comments from U.S. attorneys generally indicated that they did not wish to take on the type of work that required following up on such persons or providing referral services, which they said was usually associated with social agencies.

NARA requires that an applicant voluntarily seeking treatment for narcotic 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 requires an examination and evaluation of a person to determine whether he is a narcotic addict and is likely to be rehabilitated before deciding whether the applicant should be committed for treatment. The examination and evaluation function has been performed mostly at the clinical research centers. We understand that some examinations and evaluations are being performed in community facilities which have contracted with HEW to perform such services.

To gain an insight into the intake process at the U.S. attorneys' offices, we discussed the process with representatives of the U.S. attorneys' offices in four selected cities and obtained, by questionnaire, information from 22 U.S. attorneys' offices.

U.S. attorneys' comments in response to our questionnaire indicated that there appeared to be general agreement that the U.S. attorneys' offices were not appropriate intake points for persons seeking treatment under the title III program because intake involved the type of work usually associated with social agencies. There are, however, certain legal functions that must be performed by the U.S. attorney, such as making eligibility determinations and filing petitions with the court. (See p. 8.)

One U.S. attorney, whose district had a relatively high ratio of commitments to the estimated addict

population, expressed one of the most favorable opinions, i.e., that the program was running quite smoothly and that the purpose of the legislation was being effectively realized. He went on to explain, however, that most of the commitments were referrals from the State courts and that some other intake point would, in his opinion, be more successful in generating voluntary commitments.

Other U.S. attorneys generally were far less complimentary about the program's effectiveness. One deemed the program ineffective, stating that, of 43 persons submitting petitions under the title III program in his district, only one was accepted for treatment. Another 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 large number of petitioners accepted, emphasized the point that commitments were voluntary and stated that, to his knowledge, no sanctions had been imposed on escapees. He went on to state that 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.

Another U.S. attorney recommended that, at the very least, the evaluation and examination phase of the program be done locally and entirely on the initiative of NIMH and that the person be referred to a court for commitment only after completion of evaluation and examination.

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 any referral to available treatment centers or of follow-up on those persons who had not pursued the steps to commitment or who had been found to be unsuitable for treatment.

Agency comments

Because U.S. attorneys generally agreed that their offices were not appropriate intake points for persons seeking treatment for narcotic addiction, except with respect to the performance of the required legal functions, we suggested in our draft report that the administration of the title III program possibly could be improved if HEW

would assume the responsibility for certain precommitment functions assigned to U.S. attorneys. These functions include determining whether there is reasonable cause to believe that the person seeking treatment is a narcotic addict and whether appropriate State or local treatment facilities are available.

The Assistant Attorney General advised us that many of the precommitment functions currently assigned to U.S. attorneys were, or could be, performed by the Surgeon General. He stated that there was no objection to having a prescreening conducted by the Surgeon General to ensure that a person was suitable for treatment. The Assistant Secretary, Comptroller, HEW, had no objection to expanding HEW's advisory role to U.S. attorneys in determining the availability of State and local treatment facilities, although he advised that additional resources would be required. The Assistant Secretary, Comptroller, stated that HEW considered it inappropriate to require the Surgeon General, acting through NIMH, to perform the legal functions required of U.S. attorneys. He stated that it would be unwise to mix the legal and therapeutic functions.

We did not intend to imply that HEW should take over any of the legal functions of the U.S. attorneys. Our concern was for improving the administration of the title III program by having nonlegal functions performed by HEW, instead of by U.S. attorneys.

Recommendation to Attorney General and to Secretary of Health, Education, and Welfare

We recommend 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 intake 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.

CHAPTER 4

SCOPE OF REVIEW

Our review was directed principally to an examination of those policies, procedures, and practices of the Department of Health, Education, and Welfare and the Department of Justice relating to the implementation of the pretrial commitment and voluntary commitment programs under NARA. Our review was made during 1969 and 1970 and covered the pertinent activities of the Department and HEW from the passage of NARA in November 1966.

Our work included a review of (1) the legislative history of NARA, (2) national and local reports on the problems of addiction, crime, and the courts, and (3) records, reports, and the related guidelines of the Department and HEW. A significant part of our fieldwork was done at program sites in Albuquerque, New Mexico; Chicago, Illinois; New York, N.Y.; and San Antonio, Texas.

We also contacted NIMH field and regional office staffs, the offices of U.S. attorneys, and operating officials concerned with State or local programs, including those programs assisted with Federal grants. We supplemented site visits with questionnaires and made selective inquiries at key offices of several Federal, State, and local agencies. We also visited the NIMH centers at Lexington and Fort Worth, NIMH headquarters at Bethesda, Maryland; and the LEAA regional office in Des Plaines, Illinois.

APPENDIXES

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20201

JUL 29 1971

Mr. Dean K. Crowther
Assistant Director, Civil Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Crowther:

The Secretary has asked that I reply to the draft report of the General Accounting Office entitled, "Limited Impact of Federal Programs for Treating and Rehabilitating Narcotic Addicts." As requested, we are enclosing the Department's comments on the findings and recommendations in your report

[See GAO note.]

We appreciate the opportunity to review and comment on your draft report.

Sincerely yours,

James B. Cardwell
Assistant Secretary, Comptroller

Enclosure

GAO note: Deleted comments pertain to material presented in the draft report which has been revised or which has not been included in the final report.

COMMENTS ON THE GENERAL ACCOUNTING OFFICE DRAFT REPORT ENTITLED: LIMITED IMPACT OF FEDERAL PROGRAMS FOR TREATING AND REHABILITATING NARCOTIC ADDICTS, DHEW, DEPARTMENT OF JUSTICE, AND VETERANS ADMINISTRATION

[See GAO note.]

GAO Recommendation: That the Secretary of Health, Education, and Welfare, and the Attorney General jointly develop and distribute meaningful information to the defense attorneys and the courts on the concept and treatment under Title I, and stress the importance of the civil commitment program enabling the courts to deal more effectively with the problem.

HEW Comment: We concur with this recommendation, and will continue to work with the Attorney General in jointly developing and distributing additional information regarding Title I of the Narcotic Addict Rehabilitation Act (NARA).

[See GAO note.]

In the past, we have met with U.S. Attorneys of all the large United States Court Districts to discuss Title I, and in cooperation with the Department of Justice, have conducted training seminars for U.S. Attorneys at both the Lexington and Fort Worth Clinical Research Centers. Staff members have also appeared on the programs of Sentencing Institutes sponsored by the Administrative Office of the U.S. Courts to present information regarding Title I to U.S. Judges and, on numerous other occasions, have discussed the program with the U.S. Judges, who are of critical importance because they make the final decision regarding commitment.

GAO Recommendation: That the Secretary of Health, Education, and Welfare and the Attorney General jointly include in each of the agencies grant and funding guidelines the importance of meaningful linkages between rehabilitation programs and the courts and encourage working arrangements whereby joint funding could be used to develop State or local court civil commitment programs.

HEW Comment: We concur with this recommendation.

We will expand our efforts in this area by stressing in our community assistance program guidelines the need for local treatment agencies to cooperate with State and local court civil commitment programs. The plans of grant applicants to do so can be considered during the evaluation of applications and subsequently monitored during our administration of these grants. Also, we will coordinate our activities with the Law Enforcement Assistance Administration (LEAA) through the recently-established LEAA-NIMH Liaison Committee so that we support, to the extent permitted by budget constraints, the development of local treatment services which emphasize acceptance of State and local court commitments in the locales in which LEAA is supporting the development of legislation for civil commitment programs.

[See GAO note.]

Provisions of the NARA, which we believe to be sound, state that narcotic addicts will be committed to treatment if, after a period of examination and evaluation, they are considered "likely to be rehabilitated." In conformance with these provisions NIMH has, as stated in the report, "exhibited a tendency to accept only those addicts with high motivation for treatment." To do otherwise would seriously diminish the overall rehabilitation potential of the patients committed to the program.

We believe that the patients cannot be considered "likely to be rehabilitated" unless they are highly motivated. It is widely recognized that the process of treatment and rehabilitation is a difficult and demanding one for addicts.

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.

[See GAO note.]

We acknowledge 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. We believe this to be the intent of Congress and consider our practice of "weeding-out" individuals unlikely to be rehabilitated consistent with both the NARA and our judgment as to the best way to manage the program at this point in time.

[See GAO note.]

We consider it inappropriate to require the Surgeon General, acting through NIMH, to perform the functions now required of U.S. Attorneys. It would be unwise to mix legal and therapeutic functions; not only would it be impractical from a fiscal standpoint (NIMH would need a greatly expanded staff to cover the District Courts), but our involvement in the legal function would diminish the confidence of the addict in our therapeutic role and would tend to destroy the effectiveness of therapeutic relationships. The suggestion to have the Surgeon General petition the Courts to commit the addicts is contrary to long-standing policy to avoid having the Public Health Service become involved, except by providing medical judgments, in committing people to mental or other institutions. To do so would remove an important "check" from the commitment process. We presently examine and evaluate potential commitments and, to some extent, determine the availability of State and local facilities. We have no objection to expanding our role, which is now advisory to the U.S. Attorneys, in assessing the availability of facilities although additional resources would be required.

[See GAO note.]

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

June 16, 1971

Mr. Irvine M. Crawford
Associate Director, Civil Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Crawford:

This is in response to your request for comments on the draft report titled "Limited Impact of Federal Programs for Treating and Rehabilitating Narcotic Addicts." The report expresses your concern over the need for the Federal Government to more effectively deal with the problem of narcotic addiction.

Although the report covers the activities of three Federal organizations, our comments are generally limited to those areas which deal with the relationship of the Department of Justice to the Narcotic Addict Rehabilitation Act (NARA) of 1966. Regarding those areas of the report which deal with the National Institute of Mental Health [See GAO note.] we lack the requisite expertise to make meaningful comments.

In evaluating your recommendation that the Attorney General distribute information to defense attorneys and the courts concerning the concept of treatment under Title I of NARA, the fact must be recognized that Title I of NARA has been on the statute books for almost five years. Presumably, defense counsel seeking some alternative to prosecution for their addict-clients would be aware of the availability of the program. Accordingly, while your suggestion has merit, we do not see any way in which it can be meaningfully implemented. For example, it would be a monumental task to require the Attorney General to contact all defense counsel to advise them of the availability of Title I commitments. In the same vein, any general announcements, as in the form of a press release, would be of limited impact.

GAO note: Deleted comments pertain to material presented in the draft report which has been revised or which has not been included in the final report.

The report recommends that the Attorney General issue instructions to United States Attorneys that they consider the use of Title I in all cases in which narcotic addicts are charged with Federal offenses. This recommendation overlooks two important considerations. Firstly, the offender may not be an eligible person within the definition of the statute. Secondly, there may be many reasons why the United States Attorney may not want to utilize Title I. For example, if he believes that the individual is not likely to benefit from the program, any efforts to get the individual into the program may be futile; additionally, since the pending charge is held in abeyance conditional on the individual successfully completing the program, the situation may frequently arise when the individual does not successfully complete the program, but because of the passage of time, the United States Attorney is unable to try the individual on the underlying criminal charge. Witnesses may disappear or their memories may fade; evidence may be lost; and any number of other factors may occur which would prevent a prosecution. In a situation such as this, the addict is neither rehabilitated nor is he made to pay for his offense; neither the goal of rehabilitation nor of criminal justice has been served. Accordingly, any instruction which the Attorney General might issue could be in the nature of a recommendation only; certainly he could not issue any binding instructions. And insofar as any advisory recommendation is concerned, this is no different than the present policy of the Department. However, it must be observed that any decision as to whether or not to invoke the provisions of Title I is a prosecutorial decision which must be left in the sound discretion of the United States Attorneys.

Of course, there is one overriding consideration which must be taken into account with respect to Title I. It is wholly discretionary with the court as to whether or not the Title I procedure will be used with any one individual. Accordingly, even if both the United States Attorney and the Surgeon General recommend to the court that Title I be used, the court is under no compulsion to use this procedure. See 28 U.S.C. §2902(a). There is no way in which the United States Attorney can compel the court to use this procedure. The court itself is under no obligation to state its reasons when it determines not to use Title I; therefore, an important

factor which must be considered in examining the relative low use of Title I is the court itself. The GAO report does not in any way take this into account. While we are not in a position to comment on the frequency with which any one given court declines to use Title I, we would simply suggest that the disuse of Title I may be due to factors other than those which are specified in the report.

We do not agree with the comments in the report indicating that the Law Enforcement Assistance Administration (LEAA) has made little serious effort to assist the States in developing linkages between the courts and narcotic addict rehabilitation programs. LEAA has funded a varied number of programs concerned with the rehabilitation of the narcotic addict totaling approximately $25 million since fiscal year 1969. These programs include prevention/public education programs, treatment/rehabilitation programs and enforcement and control programs.

It is true that LEAA has not been involved in developing adequate civil commitment programs for the narcotic addict. This can be traced to at least two problems. First, the bulk of LEAA funding goes directly to the States and they are largely responsible for the spending of the money. Secondly, changes in State laws would be needed in most cases to establish such programs, and LEAA has not been involved to too great a degree in influencing changes in State legislative matters.

It is also correct to state that LEAA has not developed guidelines regarding civil commitment programs for narcotic addicts. LEAA could certainly do considerably more and we will make it a point to develop this area in greater detail with our State Planning Agencies. In this regard, the National Institute of Mental Health and LEAA have several committees with representation from both agencies, including one on drug addiction. This committee could be assigned the task of studying and considering ways in which the two agencies could stimulate and promote the development of civil commitment programs for narcotic addicts.

As pointed out in the draft report, an annual report to the President and the Congress is required under the Omnibus Crime Control Act of 1970. In preparing our annual report pertaining to this Act, we plan to provide data on the programs conducted, plans developed, and problems discovered in the operation and coordination of Federal efforts to stimulate the development of State and local court civil commitment programs.

With respect to having the Surgeon General perform any of the functions now performed by the United States Attorney, we envision some difficulty. Certainly there is no objection to having a "pre-screening" conducted by the Surgeon General to insure that an individual is a suitable person for treatment. However, the commitment of an individual under NARA is a legal function; the addict is subjecting himself to a relatively long period of carefully supervised treatment. Therefore, we would object to any proposal which would have the Surgeon General himself petition the court for the commitment of an addict. Many of the pre-commitment functions, e.g., the determination of whether an addict is in fact an addict who is likely to be rehabilitated, can be--and we are advised are and will be--performed by the Surgeon General; however, the actual commitment proceeding should and must be left in the control of the United States Attorney.

The report notes, quite correctly, that the Title I procedure has not been used to the extent to which it might be. We are inclined to agree with the reasons for this disuse set forth in the report. However, we would like to point out that Title I does contain a rather detailed listing of eligibility requirements. We believe that one major reason for the disuse of this provision is the fact that under the eligibility requirements as written, many addicts who probably would benefit from Title I treatment are simply ineligible under the Act.

With respect to Title III commitments, the report indicates that during the first 3 years of operation, 57 percent of the addicts who sought treatment were rejected as unsuitable. We can offer no concrete explanation for this, other than the apparent policy of NIMH to select only those addicts for whom complete recovery is deemed highly likely. Coupled with this, of course, is the reluctance of NIMH to accept for treatment those addicts who appear "intractable" or who seem to be troublemakers. Within the confines of the program as presently constituted, there is a sound basis for this reluctance on the part of NIMH; indeed, their task is difficult enough with the "average" addict, without having to introduce potential troublemakers into the patient population.

[See GAO note.]

We appreciate the opportunity afforded us to comment on your proposed report to the Congress.

Sincerely yours,

L. M. Pellerzi
Assistant Attorney General
for Administration

PRINCIPAL OFFICIALS OF THE DEPARTMENTS OF JUSTICE AND HEALTH, EDUCATION, AND WELFARE RESPONSIBLE FOR THE ADMINISTRATION OF ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
ATTORNEY GENERAL OF THE UNITED STATES:		
John N. Mitchell	Jan. 1969	Present
Ramsey Clark	Oct. 1966	Jan. 1969
SECRETARY OF HEALTH, EDUCATION, AND WELFARE:		
Elliot L. Richardson	June 1970	Present
Robert H. Finch	Jan. 1969	June 1970
Wilbur J. Cohen	Mar. 1968	Jan. 1969
John W. Gardner	Aug. 1965	Mar. 1968
DIRECTOR, NATIONAL INSTITUTE OF MENTAL HEALTH:		
Dr. Bertram S. Brown	June 1970	Present
Dr. Stanley F. Yolles	Dec. 1964	June 1970

U.S. GAO, Wash., D.C.

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