



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF NATIONAL DRUG CONTROL POLICY
Washington, D. C. 20503**

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FAX TRANSMITTAL

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DATE: December 5, 1996

PAGES: 6 (including cover)

SUBJ: Prop 200/215 Interagency Meeting, December 6, 1996

Have attached the Agenda and an Information Update for tomorrow's IWG meeting.

AGENDA
200/215 Interagency Working Group
December 6, 1996

10:00 - 10:05 Introduction

10:05 - 10:50 Information Exchange: matters under consideration; actions taken; pros and cons.
(5-10 minutes each)

ONDCP
DOTrans
DOJ/DEA
DOTreas
HHS
DOE
NRC
Arizona
California

10:50 - 11:10 Discussion

11:10 - 11:15 Closing Remarks/Adjourn

POST- ADOPTION OF AZ 200/CA 215: INFORMATION UPDATE

I. Proponents' Goal and Strategy:

- legitimize illicit drug use through "medicalization" approach
- take AZ and CA successes nationwide using
 - coalition of legalizers, libertarians, compassionate and recreational users
 - the MAP (Internet) communications network
 - "compassionate use" message
 - substantial financial resources from a small group
 - initiatives where legislative approach is unsuccessful

II. Propositions' Impact:

- gives children wrong message -- "drugs are good"
- balkanizes the nation's "national" drug strategy
- subverts FDA's science-based designation of medicinal substances
- increases taxpayers' burden to litigate medical proof issues, potential for conflicting results and additional litigation costs
- creates law enforcement conflicts -- limited federal prosecution and enforcement resources, impact on prosecution thresholds, case targeting procedures, investigative authority, deputization and immunity issues, contraband seizure authority/immunity
- pits federal government against the states -- 10th Amendment issues
- contradicts U.S. international treaty obligations -- 1961 and 1972 treaties
- causes confusion for drug-free workplace entities and medical profession
- raises federal resource allocation issues -- should federal block grant funds for law enforcement and treatment be tied to supporting the national drug strategy to discourage inconsistent or conflicting individual state policies which undermine that strategy?

III. Proposition Opponents' Goals and Needs

Goals

- prevent passage of "medicinal marijuana" or similar provisions in other states;
- blunt the negative consequences, including obtaining the repeal, of Propositions 200 and 215 and other "medicinal marijuana" or similar provisions already passed in other states.

Needs

- reframe issue: threat of drugs to developing children; to by-standees (fellow-workers, responsible drivers, school environments, on economically struggling families, and in domestic violence situations, etc.); follow example of secondary smoke issue which

energized non-smokers to focus on their rights to a pollution-free environment; public hides, often enables and often does not understand addiction and its impact physically, emotionally, environmentally; put human face on the issue such as MADD did

- ensure existence of a national drug strategy given interstate mobility and international treaty obligations
- provide guidance and assistance to law enforcement in California and Arizona
- protect the FDA protocol for the scientific based designation of "medicines"
- develop and implement national communications strategy (based on the re-framed issue) with a rapid response element similar to the proponents' MAP Internet approach.
- involve the medical community (which defeated the mid-80's attempt to use heroin medically); at present appears a sizable faction supports marijuana for the terminally ill, why? Tension between individual treatment issues and developing a common good public policy need to be resolved).
- broaden the community involvement, particularly the business community given the negative impact of drugs on business profitability and funding needs.
- identify lead national group to mobilize and coordinate interested state and local groups -- legislatures, chambers of commerce, CADCA, PDFA, Lions, Parents groups etc., to be the first line of defense against formal or stealth efforts to legalize illicit drugs.

IV. Considerations to Date:

Federal Agencies --

- ONDCP -- (1) Drug Cabinet Council meeting 12/12, issue on the agenda; (2) funding for medical research literature review; (3) lead government's message development; (4) Model State Drug Law Alliance monitoring and development of laws with national strategy; (5) assist in developing medical information clearing house; (6) determine what impact the initiatives have on federal funding to states which do not cooperate in a national drug strategy.
- DOI/DEA -- (1) Determine whether the state ballot initiatives may be preempted, in whole or in part, through a federal lawsuit or through new federal legislation; (2) outline DEA enforcement strategy and review prosecution guidelines for U.S. Attorneys' offices; (3) Provide guidance and support to state and local law enforcement agencies regarding their officers' ability to seize federal contraband and make arrests for violation of federal

law; (4) Develop strategy for taking administrative action against medical practitioners who do not comply with applicable federal law; (5) Consider whether to send a letter to DEA physician registrants and/or medical associations regarding physicians' continuing obligations under federal law; (6) Analyze whether states other than California and Arizona have similar medical use provisions.

- HHS (1) Effectively communicate data in the five Institutes of the NIH fact sheets reflecting their scientific assessment of smoked marijuana; (2) Analyze all available data on drug use, especially marijuana, and expand ongoing drug use surveys to determine current levels of drug use in California and Arizona and to track changes in these states in drug use; (3) participate in efforts by all affected parties to develop a more effective "message" for each relevant constituency (preteens, teens, parents physicians, public health officials, etc.,) about the use of marijuana; (4) participate in appropriate efforts in California and Arizona to educate all relevant constituents about the use of marijuana; (4) participate in discussions in all other states (where needed) to educate key public and private health leaders about the problems with the two initiatives; and (5) strengthen our drug abuse prevention efforts directed at preteens and teens (specifically for marijuana) through a new, coordinated Federal/State/community initiative.
- DOEd Develop new, multi-dimensional educational (for parents, teachers, and students) program regarding the physical danger of marijuana and other illicit drugs.
- DOTrans (1) Re-assert and enforce the standards applicable to a alcohol and drug-free transportation industry. (2) Giving guidance to transportation employers and employees that precludes medical use of marijuana except marinol (when prescribed by a physician) and the ingestion of hemp based products by safety sensitive workers.
- NRC Re-assert and enforce the standards applicable to a drug and alcohol free nuclear industry.
- Treasury U.S. Customs will (1) conduct an analysis on what the impact will be on border enforcement in the affected areas; (2) assist DOJ in developing enforcement guidelines as they relate to the border; (3) continue to enforce the Controlled Substances Act to the fullest extent authorized by law and Federal policy; (4) continue to seize any controlled substance and consult with the U.S. Attorney's office concerning prosecution of the violator; and (5) as appropriate, issue penalties and fines for attempted importation of a controlled substance.

States --

- California --
- Sheriff Brad Gates/California Narcotics Officers Association --

(1) met with George Dunn, Governor Pete Wilson's office in forming the state-wide comprehensive plan, including special election to repeal Prop 215;

(2) retained the law firm of Rutan and Tucker to examine prop 215 (and Prop 200, should Arizona care to join) to determine what, if any, type of litigation could be initiated to challenge the effectiveness of Prop 215;

(3) beginning the process for repeal proposition in 1998, including collection of signatures;

(4) working with democratically controlled legislature to look at other legislation which would minimize the negative effects of prop 215 (has limited potential given legislature's prior history with "medical" marijuana);

(5) Governor Wilson to propose a meeting with Governor Symington of Arizona, and legislative leadership of the two states to work on mutual issues arising from the impact of these two propositions and their shared border;

(6) met with California Medical Association (Steve Thompson) to reaffirm their commitment that the designation of a "medicine" must be within the FDA protocols and that the appropriate research should be conducted on the question of marijuana's "medicinal value;"

(7) met with California chamber of Commerce (Kirk West in L.A.) which has assigned two staff attorneys (Martin and Simberg) to work on the issue;

(8) Stu Mollrich is submitting to Jim Copple (CADCA) and Rick Bonnette (PDFA) a proposed strategy for the next 60 days for establishing a national organization to ensure the legalization effort goes no further.

- California Attorney General's Office -- John Gordinar

(1) examining pre-emption issue

(2) California law enforcement Roundtable meeting in January

(3) results of All-Zone meeting

- Arizona --

- Rick Romely, Maricopa County Attorney --

(1) There is a question as to whether the Governor has the ability to veto Prop. 200. It hasn't been signed as of 12/5/96.

(2) There have been a number of meetings with legislators, law enforcement leaders and others to discuss legislative remedies. Options include: (a) repeal of the initiative; (b) dramatic changes including restoring jail as a sentencing option, limiting the inmates eligible for release from prison and repealing/limiting drug medicalization provisions.

(3) Arizona County Attorneys and Sheriffs Association met. There is consensus to work for legislative changes. The Association has taken the position to aggressively oppose release from prison.

(4) Arizona Prosecuting Attorneys Advisory Council will meet and address these issues this week.

(5) A Roundtable has been researching the legal implementation issues regarding Prop 200.

Nongovernmental Organizations

CADCA -- Jim Copple

(1) Discussions with Stu Mollich of Citizens for a Drug-free California re options and timetable

Partnership for a Drug Free America -- Rick Bonnette

Drug Watch International -- David Evans

American Medical Association -- Margaret Garikes

CASA -- Kevin McAnaney

(1) Hosted a meeting November 22 in New York of interested private sector parties on structuring national and state strategies which will be as effective in organizing and communicating as the proponents. Roger Posani preparing a summary of meeting.

(2) Califano Op-ed piece December 4 (Washington Post)

Robert Wood Johnson Foundation -- Paul Jellinek

Institute for a Drug-Free Workplace -- Mark DeBernardo (202) 842-7400

(1) Examining litigation options

Alliance Model State Drug Law Conferences -- Atty Gen of MS. Mike Moore/ Sherrie Green, ex director

(1) Discussion with Mike Moore

• **Other Options For Consideration**