THE NARCOTICS PROBLEM - IN PROPER PERSPECTIVE

Senate Bill 81 by Senator Regan and others, as amended, places the narcotics problem in proper perspective. It supplies what is missing in our present laws which permit narcotic addicts to return to their communities after periods of totally ineffective incarceration. Once back in their former environment, addicts inevitably become implicated in other and increasingly more serious narcotic law violations.

It seems paradoxical, but true, to say: (a) Senate Bill 81 is both the "toughest" narcotic bill in the Legislature and yet the most humane. (b) It is in no sense a "compromise" measure, yet one which the legislator, judge, narcotic law enforcement officer, district attorney, member of the medical profession, and the public can enthusiastically support.

Senate Bill 81 does the following:

1. It accomplishes the number one objective of all law enforcement personnel; namely, it gets the addict <u>off the street</u>.

> The spread of addiction can only be prevented by "isolating a principal agent of dissemination, the narcotic addict." (James V. Lowry, M.D., Medical Officer in Charge U.S. Public Health Service Hospital, Lexington, Kentucky, December 1956)
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> "Narcotic addicts should not be permitted to remain on the streets until they become a police problem. . . . When the addict peddler is removed from the streets of California, the narcotics traffic in this state will be substantially eliminated." (Governor's Special Study Commission on Narcotics, December 6, 1960)
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> "The general practitioner should realize that it is almost impossible to treat addicts outside of institutions." (Dr. Harris Isbell, Chief of Addiction Research Center, National Institute of Mental Health)
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> ". . . addiction is spread principally by direct social contact of addicts with vulnerable non-addicts - not by pushers . . ." (David P. Ausubel, M.D. Ph.D., University of Illinois.
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> ". . . We need more than our agents to win the war against the trafficker. We have to cure the addict who has already become infected, that's the only way we'll be completely successful." (Harry J. Anslinger, U.S. Commissioner of Narcotics, April 16, 1961)

2. It makes the detention of addicts compulsory.

> U.S. Commissioner Anslinger, in his article in the Los Angeles Times, April 16, 1961, asserts that the "confinement of addicts in appropriate institutions must be mandatory for the addict, not optional."
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> "Compulsory institutional treatment in a drug free environment is essential . . ." (David P. Ausubel, M.D., Ph.D., September 4, 1959)
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> "The history of institutional treatment of drug addiction by the Federal Government in the United States . . . shows that compulsory treatment is much more effective than voluntary treatment . . ." (Page 22, U.S. Government Printing Office, Pamphlet on Narcotics, published in 1953)

3. It excludes from the program the criminally aggressive addict, meaning those convicted of:

(1) Murder
(2) Attempt to commit murder
(3) Kidnapping
(4) Robbery
(5) Burglary in the first degree
(6) Mayhem
(7) Assault with a deadly weapon
(8) Forcible rape
(9) Any felony involving bodily harm
(10) Any violation of narcotic laws for which the minimum term prescribed is more than 5 years in state prison.

Many criminals have turned to narcotics and the mere fact that they have added addiction to their misdeeds should not entitle them to escape state prison. As Dr. Harris Isbell of the Federal Hospital at Lexington, Kentucky, stated in his report (Public Health Service Publication No. 94, page 3):

> "Criminals are quite likely to become addicts since they move in the underworld where other criminals are actually selling narcotics and looking for new customers. This does not mean that the use of drugs directly causes crimes but only that criminals frequently abuse drugs. Neither does it mean that all addicts are criminals; many are not."

But many addicts are not criminally aggressive persons.

> "It is a common misconception that crimes of violence and sexual orgies result from narcotic consumption. Even in desperate attempts to obtain a supply the addict with his passive personality is more apt to connive than

to act with aggression and violence." (Dr. Norman B. Atkins, M.D., in his review of the findings of the Education Research Center of the National Institute of Mental Health.)

"It is of course well known to students of the subject that heroin, like morphine, is a soothing drug that reduces the impulse to aggressive crime." (Lawrence Kolb, M.D., former Assistant Surgeon General in charge of the Division of Mental Hygiene of the Public Health Service; also former Medical Consultant to the Bureau of Prisons of California)

4. The program is limited to addicts of hard narcotics. (It excludes marijuana.)

5. The program includes persons in "imminent danger of addiction to narcotics." The repeated use of heroin places a person in "imminent danger of addiction."

"The cases also illustrate that the project is successful when it results in the apprehension of a narcotics user before he becomes addicted - before he is hooked - before he loses his job, his family, his friends - and before he must turn to a constant round of crime to pay for the narcotics that now only keep him from the agony of withdrawal." (Richard A. McGee, Director of Calif. Dept. of Corrections, Vol. 13, No. 4, 1960 Calif. Youth Authority Quarterly)

6. It fixes a minimum period of detention of 6 months; a maximum of 5 years (if the criminal charge is a misdemeanor) and 10 years (if the criminal charge is a felony).

Addicts admitted to the federal hospitals at Lexington and Fort Worth are expected to remain under treatment for a period of 4½ months. (Harris Isbell, M.D.)

"The rehabilitation program includes confinement in a drug free environment for 4 to 6 months . . ." (Abraham Wikler, M.D., Chief, Neuropsychiatric Section, U.S. Public Health Service Hospital, Lexington, Kentucky)

7. Commitment of the addict is for an indeterminate period. The length of his stay depends upon his progress under treatment at the institution.

Thus, if the addict shows no progress he could be kept for the maximum periods of 5 or 10 years. It is not intended that he be released from the program merely because he shows no improvement. Both the addict and society are better off with the addict living in the detention and treatment facility.

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On the other hand, at any time after the 6 months' minimum, if the Director of Corrections feels that the addict has recovered to such an extent that he is no longer a menace to the health and safety of himself and others and worthy of an opportunity on parole, he would be certified to the Adult Authority as being eligible for parole.

8. A California Rehabilitation Center is established for the detention, employment, education, treatment and rehabilitation of persons addicted to narcotics.

The Special Study Commission on Narcotics recommended (Dec. 9, 1960) that adequate facilities be provided "so that every known addict may be eventually removed from the community under a voluntary or involuntary civil court commitment to a state hospital for quarantine, withdrawal from the psysiological use of narcotics, and rehabilitative treatment."

Re-education in a drug-free environment is essential. "In re-education vocational training assumes a very important role, since many addicts have never acquired sociably useful skills which could serve as a basis for self-support, or for sources of satisfaction and preservation of self-esteem. Likewise the desirability of recreational activity and improvement in general health requires little justification." (Abraham Wikler, M.D.)

Federal financial aid is available. "The mental health research grant program of the Public Health Service may be used to support grants for promising research projects in connection with experimental treatment programs, and other phases of drug addiction." (Carl L. Anderson, Ph.D., Special Program Development Section, National Institute of Mental Health, April 13, 1961)

9. The detention and treatment facility is placed under the control of the Director of Corrections. Trained custodial officers are required to keep the addicts in and narcotics out. A professional staff would direct the treatment of the inmates.

"Compulsory institutional treatment in a drug-free environment is essential." (David P. Ausubel, M.D., Ph.D.)

10. An escape from the detention facility is given the same effect as an escape from a state prison.

11. We should not contaminate our mental hospitals by flooding them with drug addicts.

> Insanity due to morphine or heroin and other opiates is so rare that it is not even mentioned in reports from mental hospitals, asserts Dr. Kolb, who states: "In 40 years of experience with thousands of opiate addicts, and psychotics who are not addicts, I have seen only two persons whose psychosis was due to an opiate."

12. Expensive hospital construction is not required.

> Recognizing the shortage of hospital facilities, U.S. Commissioner of Narcotics Anslinger suggests that even old C.C.C. camps could be reactivated and used for the purpose. (Los Angeles Times, April 16, 1961)
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> "Treatment is primarily psychological. Possibly the greatest emphasis is on the promotion in the treatment unit of an attitude in which the inmates actively support each other in their efforts to understand and overcome the problems that induce them to use narcotics. The techniques used here are those of group psychotherapy, widely used in the treatment of the emotionally disturbed." (Richard A. McGee, State Director of Dept. of Corrections)
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> To the same effect: James V. Lowry, M.D., Medical Officer in Charge U.S. Public Health Service Hospital, Lexington, Kentucky, in "Hospital Treatment of the Narcotic Addict." (December 1956)

13. Close supervision of the parolee after release from the detention facility is required.

> On this point <u>all</u> of the experts quoted in this analysis are in full accord - e.g. ". . . addicts require extensive posthospital supervision with intensive application of rehabilitation techniques." (Kenneth W. Chapman, M.D., formerly Consultant on Narcotic Drug Addiction, National Institute of Mental Health.)
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> Paroled federal prisoners made the best record from the standpoint of abstinence. It was this group that received the most posthospital supervision, reported James V. Lowry, M.D. (Dec. 1956)
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> "There is almost complete lack of followup care or outpatient supervision on the community level to assist the addict once he is discharged or released from state or federal hospitals. . . . This failure can nullify any benefits the addict may have received while in any of these institutions." (Report of the Subcommittee on

Narcotics and Dangerous Drugs Assembly Interim Committee, page 28)

14. The Director of Corrections is authorized to establish a "half way house" as a pilot project to determine the effectiveness of such control upon the addict's rehabilitation after his release on parole.

> "Hospital treatment can start a patient on the way to recovery but it cannot provide a lifelong immunity that protects the patient against relapse. Hospital treatment can initiate rehabilitation but it must be completed after the patient returns to the community." (James V. Lowry, M.D.)
>
> "It is necessary to have a related outpatient program where the patient can continue with his group and individual therapy and resume contact with the world. Much work needs to be done to help the addict integrate into the community and to counteract the old addict environment." (Norman B. Atkins, M.D.)
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> Federal grants to the states are now available "to provide the essential post-hospital services to addict patients in their community rehabilitation programs." (Carl L. Anderson, Ph.D.)

15. Earnings of parolees are to be controlled while residing in such "half way house." Charges for maintenance would be deducted therefrom. Thus, the "half way house" would be partially self-supporting.

16. Parole violators are subject to being retaken and returned to the detention facility; just as other parole violators are handled.

> It will not be necessary to prove that the individual had committed a crime while on parole. A return to the use of narcotics or other violation of the conditions of parole is sufficient.
>
> We face the fact that some, maybe the majority, will fail on parole. For the addict to succeed he must have motivation to live without narcotic drugs. "To date medical science has discovered no way of artifically instilling this motivation. It has to be generated within the patient by the patient, or by persons in the environment who are important to the patient, or by the demands of society. There is no way to measure motivation objectively. Its presence has to be inferred from verbalized attitudes and from actions. (James V. Lowry, M.D.) However, where a person does fail on

parole we should recall:

> "Truly incurable addicts are less dangerous to society when incarcerated for life . . . than when provided with a maintenance dose of drugs and left free to deal in the illicit market, to spread the drug habit, and to prey upon the public." (David P. Ausubel, M.D., Ph D.)

17. If a parolee abstains from the use of narcotics for at least three consecutive years and has otherwise complied with the conditions of parole, the Adult Authority may certify the defendant back to the court in which the criminal charges were pending. The court then discharges him from the program and may dismiss the criminal charges.

> A discharge of a parolee from the program and a dismissal of the charges against him release him from all penalties and disabilities resulting from the crime of which he had been convicted. (Similar to provisions under 1203.4 Penal Code)
>
> If such original charges are not dismissed and the defendant is sentenced thereon, time served while under commitment under the program shall be credited on such sentence.

18. The parole program applies to misdemeanants as well as felons.

19. If a defendant is convicted of <u>any</u> crime in a Municipal or Justice Court, and it appears to the judge that the defendant is addicted, the judge adjourns the criminal proceedings and certifies him to the Superior Court to determine if he qualifies for the commitment under the program.

20. Similarly, upon conviction of a defendant for <u>any</u> crime in the Superior Court (excepting those aggressive-type crimes expressly excluded from the operation of the program) the judge adjourns the proceedings and proceeds as indicated.

21. The commitment itself is a civil-type commitment similar to that provided for under Section 5360 of the Welfare and Institutions Code.

22. The program <u>also</u> applies to the involuntary commitment of addicts not charged with a crime.

> If the person so committed or any friend in his behalf is dissatisfied with the order of

the court committing him, he may demand a hearing by judge or jury in substantial compliance with the present provisions of Section 5125 of the Welfare and Institutions Code.

23. An addict who doesn't have criminal charges pending against him is nevertheless committed for a period of from six months to five years subject to the right of parole in the same manner as heretofore outlined.

He becomes eligible to be discharged from the program by the Adult Authority if he abstains from the use of narcotics for at least three consecutive years while on parole and has otherwise complied with the conditions of parole.

24. The Director of Corrections is required to engage in a program of research in the detention, treatment and rehabilitation of narcotic addicts.

Federal grants to the states are now available to assist in such projects. (Carl P Anderson, Ph,D.)

25. The bill contains an article requiring the registration of all narcotic addicts, save and except those committed under the program.

Presiding Judge Louis H. Burke
Los Angeles Superior Court
April 24, 1961