



U.S. Department of
Transportation

News:

Office of the Assistant Secretary for Public Affairs
Washington, D.C. 20590

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STATEMENT BY
SECRETARY OF TRANSPORTATION JIM BURNLEY
ON THE TEXAS AIR INVESTIGATION
JUNE 2, 1988

On April 13, 1988, I announced that the Department of Transportation was undertaking a preliminary investigation of Texas Air Corporation, its subsidiaries and its management. At the same time, FAA Administrator Allan McArtor announced a special 30-day, 100 percent ramp inspection of Eastern Airlines aircraft, an inspection that was subsequently extended to Continental Airlines and its commuter subsidiaries. He also announced a review of Eastern Airlines' "compliance posture." Today we are reporting the results of these investigations and inspections.

First, let me review what led to our undertaking the preliminary investigation. Under the Federal Aviation Act, an air carrier must at all times be "fit, willing and able" to perform properly. This "fitness" requirement means that a carrier must be disposed to comply with regulatory and other legal requirements, must have sufficient resources to operate without undue risk to the public, and must have competent management.

A number of events led me to my determination that a preliminary investigation into the continuing fitness of Eastern and Continental, the operating subsidiaries of Texas Air, was warranted. Among these were:

- The announcement by the FAA of proposed civil penalties of over \$800,000, following a \$9.5 million civil penalty settlement in February 1987.
- A series of transfers of Eastern's assets that might adversely affect its financial viability.

- An assessment by the Department's Policy Office, together with filings by Texas Air Corporation at the Securities and Exchange Commission, concerning the financial situation of Texas Air and its subsidiaries.
- I was also aware of the concerns of the Military Airlift Command, which had been summarized in a letter to Eastern Airlines dated April 11, and which have now become public.

This fitness investigation, as I stressed in April, was preliminary in nature. Its objective was to determine whether there is substantive cause to question the carriers' continuing fitness, thus requiring further action.

The investigation was directed by the Department's career Deputy General Counsel, Rosalind Knapp. She and a staff of 30 DOT analysts, investigators and attorneys devoted full time to this effort for six weeks. Many of these investigators are former employees of the Civil Aeronautics Board who were transferred to the Department when the CAB went out of business on January 1, 1985. These people brought years of experience with airline financial and management issues to this investigation. While the fact-finding phase of the investigation was originally targeted for 30 days, I extended it to permit our investigators to probe in somewhat more depth.

The investigation included depositions, interviews and meetings with over 200 employees and corporate officials, from mechanics and pilots to the Chief Executive Officer and Presidents of Texas Air, Eastern and Continental. Tens of thousands of pages of documents were reviewed. Investigative teams visited operating facilities at Houston, Miami, O'Hare, National and Hobby airports and corporate offices in Houston and Miami. The Airline Pilots Association and the International Association of Machinists were also invited to submit information.

The Department contracted with the Defense Contract Audit Agency to provide audit services for the investigation. Seventeen auditors, divided into teams, conducted on-site reviews of Texas Air's, Continental's and Eastern's books, and provided a report of their findings to the Department.

In addition, three economists from other government agencies met with the Department's investigation staff to suggest lines of inquiry and also provided some independent analysis of several issues.

The FAA's ramp inspection, as I noted earlier, covered Continental and its commuter subsidiaries -- Bar Harbor Airways, Provincetown Boston Airlines, Rocky Mountain Airlines, and Britt Airways -- as well as Eastern. This effort involved over 7,700 hours of FAA inspection time at all the major airports. 5,029 inspections covered 777 individual aircraft, many of which were examined several times. By the end of the 30-day inspection period, 100 percent of the fleet of each airline had been inspected at least once.

The FAA review, in addition to the ramp inspections, included an assessment of Eastern by a team of six senior FAA managers. This group, headed by Wayne Barlow, Regional Director of FAA's Northwest Mountain Region, focused on Eastern's corporate philosophy toward compliance with safety regulations and its methods of compliance.

Administrator Allan McArtor will now address the specific findings of the ramp inspections and outline some additional steps to be taken by the FAA.

* * * * *

The findings and conclusions of the ramp inspections and the Barlow team were provided to the fitness investigation team as they were developed. Let me turn again to the results of that effort.

The first fitness criterion is what we refer to as "compliance disposition." In other words, do Texas Air, Continental and Eastern have the intent and the ability to comply with the laws governing their operations, particularly FAA's safety regulations? During the course of the investigation, senior management at Texas, Continental and Eastern repeatedly asserted an intention to comply completely with applicable rules and regulations and demonstrated that significant resources were being devoted to improving their performance, particularly with respect to maintenance.

Continental has encountered significant difficulties in incorporating People Express, New York Air and Frontier assets. This affected its ability, to some extent, to comply with both safety and consumer protection regulations. The preliminary investigation report includes evidence that progress has been made in this area, although more remains to be done, particularly in non-safety areas. On the whole, both the preliminary fitness investigation and the FAA ramp inspections are reassuring with respect to Continental's disposition to comply, ability to comply and actual compliance with our safety requirements.

At Eastern, the incumbent management is taking numerous actions to address what the FAA's Barlow team calls a "corporate cultural problem...which adversely affects the ability of senior management to bring about rapid changes in attitudes and to raise the level of commitment to operate in a fully compliant posture." With the exception of quality control for line maintenance activities, which Eastern has agreed to correct forthwith, the Barlow team concluded, "In Eastern's management plan and in the procedural and system changes that have been made...a basic process exists to address the remaining fundamental problems...." The preliminary fitness investigation results are consistent with this conclusion, and found that Eastern's compliance with consumer regulations is generally in line with industry averages. Thus, on both safety and consumer matters, I have concluded that Eastern is disposed to comply. However, the labor-management difficulties, which I will discuss momentarily, do raise concerns about Eastern's ability to comply in a full and satisfactory way with our safety requirements.

With respect to financial fitness, the investigation looked at two major areas. First, do the carriers have sufficient financial wherewithal to operate safely and without undue risk to the public? Second, what is the effect of transactions between the various parts of the Texas Air family on the financial condition of the companies and their ability to maintain safe operations?

As to the first point, the investigation found that, despite significant financial losses last year at both Continental and Eastern, each carrier has substantial assets and access to capital. There does not appear to be any significant question about their financial viability for the near term, unless particularly adverse circumstances arise.

With respect to the second point, questions have been raised about such intercorporate transactions as the sale of Eastern's computer reservation system to Texas Air, the proposed sale of Eastern's Air Shuttle to a Texas Air subsidiary, and various aircraft, slot and gate transactions between Eastern and Continental.

It was not the intent or purpose of this investigation to second guess the wisdom or worth of every aspect of these transactions. The concern was whether these transactions were in effect shams, designed to "bleed off" the assets of either Eastern or Continental in a manner that would threaten their viability. The investigation did not support such a conclusion.

The third area of review for purposes of determining fitness is management competence. Given the size and complexity of Texas Air Corporation, we were particularly interested in whether the management structures and procedures of the various companies were such that the airlines could provide adequately for their operating needs. I do not intend to go into great detail on every finding in the preliminary investigation report, but let me summarize briefly the major points.

Texas Air is a holding company that owns all of the common stock of Continental and Eastern and the computer reservation system, System One, as well as other assets. Frank Lorenzo, Chairman of the Board of Directors of Texas Air, also serves as Chairman of the Boards of Eastern, Continental and System One. Mr. Lorenzo does not, however, routinely involve himself in the day-to-day operations of the subsidiary airlines. Those are in the hands of the respective Presidents and Chief Operating Officers. At both Continental and Eastern, authority and responsibilities appear to be clearly defined at the senior level; and management personnel are experienced professionals. Thus, we found no basis for serious concern about management competence.

Finally, I want to return to the issue of Eastern's ability to comply with our safety regulations. Both the fitness investigation team and the FAA's Barlow team found serious cause for concern because of the extreme labor-management tension within the company. The Barlow team, noting its members' first-hand knowledge of a number of other intense labor-management conflicts in the airline industry in recent years, found, "The discord and the complexity of the labor-management issues at Eastern are much deeper and more intense than at any other carrier with which the team is familiar." It noted "a long-held deep feeling of mutual distrust," and cited "a near total lack of constructive communication between the two groups."

The fitness investigation uncovered instances in which mechanics refused to sign-off on repairs because they were not fully satisfied with them, thus forcing supervisors to sign off, contrary to Eastern's stated policy. Management is attempting to instill greater discipline and individual responsibility in its employees, but these efforts are perceived by many employees "as intimidating, demeaning and punitive," the fitness team found, and "appear to have exacerbated, rather than relieved, the unrest within the workforce." Both labor and management agreed that the current atmosphere discourages employees from accepting promotions to positions of greater responsibility.

These findings are consistent with the observations of the Military Airlift Command. Furthermore, we found that Eastern lacks many of the internal devices

for effective communication between employees and management that are utilized at Continental.

As the Barlow team concluded, "In a company so divided, the risk is increased that the labor-management discord will, at some time, either through inattention or design, have an adverse impact on the public safety."

The additional surveillance being announced today by the FAA Administrator will give us further assurance that Eastern is safe and fit. However, given the unprecedented nature of the level of hostility inside the company between its management and some of its employees, Administrator McArtor and I both feel that an additional step should be taken. Thus, I have asked former Secretary of Labor William Brock to work with all parties to build the lines of communication and cooperation inside the company that are essential to safety. I know that Eastern's management and its employees are committed to safety. I also know neither can achieve it without the other.

The National Mediation Board is continuing to mediate the economic disputes, and I do not intend to interfere in its ongoing efforts. Therefore, my charge to Senator Brock is to focus his efforts on the safety-related aspects of this problem. I am not setting artificial goals or deadlines for his undertaking; frankly, given the extraordinary nature of this matter, neither he nor I can predict a successful conclusion. It will be at best very difficult, but we have to try.

However, I want to thank him publicly for his willingness to accept this assignment. He is uniquely qualified for this role, having served his country with great distinction not only as Secretary of Labor, but as U.S. Trade Representative and as a member of the Senate. I will rely heavily on his reports and advice in determining when and if further action by the Department is warranted. The bottom line remains the same: we will do whatever is necessary to assure the flying public that Eastern Air Lines and all other commercial carriers are safe and fit.



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STATEMENT BY
SECRETARY OF TRANSPORTATION JIM BURNLEY
PUBLIC HEARING ON THE FAA DRUG TESTING RULE
WASHINGTON, DC
JUNE 2, 1988

I would like to thank all of you for coming here today as we begin our series of public hearings on the Notice of Proposed Rulemaking that I announced on March 3, which calls for drug testing of all employees in the aviation industry who have sensitive safety or security-related jobs. Under the proposed rule, the testing will be conducted with respect for the privacy and dignity of each individual. To ensure fair treatment, employers would test for the use of marijuana, cocaine, opiates, amphetamines, and PCP under strict federal guidelines.

As many of you know, this Administration has renewed and reinforced its commitment to fighting the war against drug abuse. Two weeks ago, the President proposed a bipartisan, "emergency legislative task force" to review both the supply and demand side of the drug problem in the United States. President Reagan is asking the task force to consider a number of proposals ranging from capital punishment for certain drug-related murders to greater use of the National Guard by the states in drug eradication and enforcement.

The Department of Transportation has been one of this Administration's lead agencies in the battle to end drug abuse and drug trafficking. We have already proposed a rule requiring random drug testing of railroad employees in key positions. We have had a rule in force since February of 1986 requiring post-accident, pre-employment and reasonable suspicion testing in the railroad industry. Soon we will be announcing similar rules to cover other modes of transportation, as well. And we have been holding Department of Transportation employees in safety and security positions, including myself, to the same standard since last fall when we began our own random testing program. The American people are entitled to a

drug-free transportation system, and I am going to do all in my power to assure them of one.

The Coast Guard's "zero tolerance" enforcement approach to drugs found on vessels is another part of our efforts to attack the demand for as well as supply of illegal drugs. Under the zero tolerance policy, discovery of a measurable amount of drugs on a vessel within U.S. waters can lead to the seizure of the vessel and, where appropriate, the arrest of those on board. This can also lead to eventual forfeiture of the vessel. A boat carrying drugs on the "high seas" -- beyond 12 miles from shore -- will also be seized if an intent to either introduce the illegal substance into the U.S., or export it, can be shown.

The millions of Americans who use drugs -- many of whom have had a glamorous view of drugs -- have made the United States the most lucrative market for the world's drug suppliers. Obviously, when we make it more costly and more painful for drug users, we gradually make this country less profitable and less attractive for drug smugglers. Getting serious about curtailing the demand for drugs in this country means holding all Americans -- regardless of their social or economic status -- to the letter of the law.

But while we work to stem the demand for drugs in this country, we still must do all we can to cut the supply. Last year federal agents interdicted and seized at least 639 pounds of heroin, 92,000 pounds of cocaine, and an estimated two million pounds of marijuana. Just last week, in a joint effort with the Drug Enforcement Agency and U.S. Customs, the Coast Guard helped interdict a record 50 tons of marijuana and hashish off the shores of San Francisco.

Yet despite such successes, we must remember that the drug suppliers are fully committed to penetrating our borders with their deadly merchandise. It was to my disbelief and dismay that Congress cut the President's proposed 1988 Coast Guard budget by \$72 million. Months ago the President submitted a \$60 million reprogramming request to Congress to restore the operating funds necessary for an effective Coast Guard drug interdiction campaign. I have urged Congressional leaders to move quickly on this request. Until Congress acts, routine drug patrols will continue to be sharply curtailed because of the lack of funds. For 1989, the President and I requested a 13 percent or \$343 million total increase in Coast Guard funding. Congress must grant the full funding request.

The rulemaking that we are discussing today underscores what we have painfully learned: transportation and drugs are a fatal combination. When society has a drug problem, no segment of our population -- from welfare recipients to Wall Street -- is exempt from it. Yet when a pilot or a flight attendant or an aircraft mechanic uses drugs, the stakes are extremely high. Millions of Americans place their confidence and trust in the aviation system and its staff. When a key airline employee uses drugs, he is tossing that trust out the window by acting in blatant disregard for the physical well-being of passengers.

Just a few months ago we learned that the body of the pilot of Continental Express Flight 2286, a twin engine turbo prop that crashed in Colorado in January, tested positive for cocaine. Nine people died in the accident. And in the fall of 1986 when reporters of The Pittsburgh Press interviewed emergency room staffs at six area hospitals, 23 cases of flight crew drug abuse were quickly recalled. Twenty of these cases involved cocaine overdose, two were heroin reactions and one dealt with valium and alcohol. Twelve cockpit crew members and eleven cabin crew

members were among those treated by hospitals for excessive drug use. The Press also reported that doctors across the country have said that many other pilots with drug problems are shunning help, fearing they will be discovered and grounded forever. The most current data we have on drug abuse tell us that 23 million Americans are present users. Cocaine use alone increased 38 percent from 1982 to 1985. Aircrews are a part of society. When the nation at-large has serious drug problems, there is no reason to believe that airline personnel are exempt.

Some of the airline unions have complained about denial of the "right to privacy." Such a right should be given deference when it does not threaten the lives of others. In the case of commercial aviation, there are often hundreds of innocent lives involved on a single plane. One can speak no more convincingly of a "privacy right" to endanger airline passengers than of a "privacy right" to commit child abuse. When the lives and safety of other people are at stake, we have to balance a desire to leave people alone with the need to prevent needless deaths.

Fighting the drug scourge in this country takes extraordinary resolve and strong measures. Requiring pre-employment, periodic, random, reasonable cause, and post-accident testing for employees with defined sensitive safety and security-related positions at all of the nation's air carriers and at other commercial aviation operations is crucial to our efforts to establish a drug-free aviation system. How can we guarantee maximum levels of safety if we cannot identify drug abusers in our aviation industry -- individuals who put the lives of hundreds of innocent people in jeopardy when they show up for work high?

Every town in every state across this land has been affected by the mammoth social ill of drug abuse. Clearly, this is no time for tolerance or moderation or compromise with the enemies in this battle -- the suppliers, the smugglers and, yes, the drug users. There is nothing "recreational" or "casual" about what drug abuse has done to this country. The weekend users and the schoolyard pushers are just as responsible for spreading the eroding influences of drugs in our society as are the biggest growers in South America. We are committed to pulling apart the drug chain in this country link by link. The U.S. drug problem did not arise overnight, and there is no magic formula that will allow us to conquer it overnight. But we must use every tool available to us to convince people that smuggling, selling and using drugs is not worth the risk.

Although I realize that the drug testing proposal we are discussing today involves difficult issues, I firmly believe that drug testing -- especially random testing -- is absolutely critical to our efforts to create a drug-free aviation system for the American people.

I am confident that the testimony and discussion that is generated today will be a useful addition to our efforts to formulate the most effective drug testing program possible.



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OPENING STATEMENT BY
SECRETARY OF TRANSPORTATION JIM BURNLEY
PUBLIC HEARING ON THE FAA DRUG TESTING RULE
SAN FRANCISCO, CALIFORNIA
JUNE 9, 1988

I'm delighted to be here in San Francisco to chair the third in our series of public hearings on the Notice of Proposed Rulemaking that I announced on March 3, which calls for drug testing of all employees in the aviation industry who have sensitive safety or security-related jobs. Under the proposed rule, the testing will be conducted with respect for the privacy and dignity of each individual. To ensure fair treatment, employers would test for the use of marijuana, cocaine, opiates, amphetamines, and PCP under strict federal guidelines.

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we began our own random testing program. The American people are entitled to a drug-free transportation system, and I am going to do all in my power to assure them of one.

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Fighting the drug scourge in this country takes extraordinary resolve and strong measures. Requiring pre-employment, periodic, random, reasonable cause, and post-accident testing for employees with defined sensitive safety and security-related positions at all of the nation's air carriers and at other commercial aviation operations is crucial to our efforts to establish a drug-free aviation system. How can we guarantee maximum levels of safety if we cannot identify drug abusers in our aviation industry -- individuals who put the lives of hundreds of innocent people in jeopardy when they show up for work high?

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STATEMENT BY
SECRETARY OF TRANSPORTATION JIM BURNLEY
PROPOSED RULEMAKING FOR DRUG TESTING OF COMMERCIAL DRIVERS
LOS ANGELES, CALIFORNIA
JUNE 10, 1988

Trucks and buses are essential to this country's economic health and social fabric. Whether it is an 18-wheeler carrying California produce to the rest of the country or a bus carrying college students home for the holidays, these vehicles are indispensable to our way of life. The men and women who drive trucks and buses have an enormous responsibility on their hands. They must deliver their cargo or passengers safely and in a timely manner to their final destination. Operating these large, heavy vehicles requires that a driver be fully alert and in complete control of his mental faculties. Thus, today I am proposing a rule to require drug testing for the trucking and bus industries. Depending on the terms of the final rule, 3 to 5 million drivers will be covered.

The American people have come to understand the seriousness of the drug problem now facing our country. Today about 5 million Americans use cocaine and there are at least 18 million users of marijuana. Drug abuse kills thousands of Americans each year. It tears families apart. It has brought violent crime to small town America and made what were already dangerous inner city neighborhoods drug death traps. Drug abuse was once primarily considered a problem for the major metropolitan areas of this country. We know now that the drug threat is as real in small towns as it is in Los Angeles. When society has a drug problem, no segment of our population -- from welfare recipients to Wall Street brokers -- is exempt from it. The trucking industry is clearly vulnerable as well.

For example, in June, 1987 the Insurance Institute for Highway Safety obtained blood and/or urine samples from 317 tractor-trailer drivers at a weigh station on Interstate 40 in Tennessee. Fifteen percent of the drivers tested positive for marijuana, two percent tested positive for cocaine and five percent tested positive for prescription stimulants.

Truckers themselves are beginning to recognize the drug problem facing their industry. When 1300 truck drivers at three Florida truck stops were surveyed, the average respondent thought that 36 percent of all truckers sometimes drive under the influence of drugs.

The evidence is compelling. We must act to identify those commercial drivers who abuse drugs and get them off the roads. When one drugged truck or bus driver goes out on the road, he not only puts the lives of many people in danger, he gives the entire workforce a bad reputation.

Thus, today I announce a Notice of Proposed Rulemaking that would require a comprehensive program of drug testing and rehabilitation for interstate or foreign commerce drivers. The Department is proposing five types of drug testing for commercial drivers -- preemployment, periodic, random, reasonable cause, and post-accident. Under the new rule, drivers would be tested for marijuana, cocaine, opiates, PCP and amphetamines. Tests would be fair, accurate and conducted under strict federal guidelines in order to protect the privacy and dignity of the driver.

I have already announced similar proposed rules for the aviation and railroad industries, as part of our comprehensive effort to assure the American people that their transportation system is drug-free.

Drugs and any form of transportation are a deadly combination. We don't need any more casualties to demonstrate that random drug testing is a necessary and crucial step in our effort to ensure a drug-free transportation system. Random testing already has a proven track record. The Coast Guard has been randomly testing its military personnel since January of 1983. Since then, the percentage of those testing positive has dropped from 10.3 percent in 1983 to 2.9 percent in 1987. Even the Conrail engineer who was responsible for the horrible Conrail-Amtrak crash of last year which killed 16 people and injured many more, testified before a Senate committee that random testing is the only answer to an industry-wide problem.

I am not asking the private sector to rid itself of the taint of drugs without requiring that governmental employees in sensitive safety and security positions in transportation adhere to the same standards. In fact, since last September some 30,000 Department employees, including myself, have been subject to random testing.

Our proposed rule also seeks public comment on various alternatives under which drivers might qualify for rehabilitation and reinstatement. Our goal is to make our roads safer by preventing drug abuse by commercial vehicle operators. Although we encourage rehabilitation rather than punishment, we are proposing penalties up to and including disqualification for drivers convicted of operating under the influence of an illegal drug.

There is nothing "casual" or "recreational" about what drug abuse has done to this country or about the tragedy that can occur when one drugged truck or bus driver climbs behind the wheel. The trucking industry has already recognized the critical importance of drug testing, and thousands of companies already are testing, particularly applicants for jobs as drivers. But more comprehensive testing is clearly required if we are going to address this problem effectively. While the vast majority of America's commercial drivers do not use drugs, we cannot and will not tolerate those operators who ignore common sense and endanger the lives of others on the highway by driving under the influence of drugs.

When the American public uses our transportation system, they expect and rightfully demand that it be as safe as possible. Seeing that those who drive trucks and buses on our highways are free from the influence of drugs is the least we can do to fulfill those expectations.



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REMARKS PREPARED FOR DELIVERY BY
SECRETARY OF TRANSPORTATION JIM BURNLEY
INTERNATIONAL AVIATION CLUB
JUNE 21, 1988
WASHINGTON, D.C.

We're facing some watershed issues in both domestic and international aviation. Domestically, we continue to focus our efforts on responding to the explosive growth in air travel that resulted from economic deregulation of the airline industry. Internationally, we must work to ensure that international aviation will be a fair and successful enterprise for all.

Economic deregulation of the U.S. airline industry is the greatest populist reform since World War II. In the United States today, more people can afford to fly than ever before -- passenger traffic has increased from 278 million in 1978 to 450 million last year. They are flying for less money -- American consumers are saving an estimated \$11 billion annually. Even after the wave of mergers, the number of city pairs with competitive single-plane service has increased 48 percent since 1978. Ninety-two thousand new jobs have been created in the airline industry since economic deregulation began a decade ago. What was already an exemplary safety record has improved: comparing statistics for the nine years before deregulation to the nine years after deregulation, we find that total commercial flight hours increased nearly one-third while the fatality rate for commercial aviation dropped 46 percent. As part of our continued commitment to air safety, the FAA has issued numerous rules in the last few years regarding matters ranging from altitude-reporting transponders to windshear avionics. In addition, last March I announced a proposed rule to require drug testing for commercial aviation employees in key safety and security jobs, the first of a series of such rules extending across all modes of transportation.

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Obviously, the burst of aviation activity has created some strains on the system. Part of the solution lies in airport expansion and improvement -- as FAA Administrator Allan McArtor reminded this group three weeks ago. Another part of the solution lies in restructuring of the FAA. I have called for breaking the air traffic control system out of the Department and out of the FAA to liberate it from the kinds of debilitating rules and regulations that hinder the system's ability to deliver its critical services most efficiently. In addition to the restrictive personnel rules, the FAA is hobbled by a maze of procurement rules that slow down the acquisition of state-of-the-art technology and an unpredictable Congressional appropriations process that makes long-term planning impossible.

For example, a quasi-governmental corporation, funded by the same ticket taxes now collected from users of our aviation system, would be free of all the red tape that goes with being a traditional government agency. On the other hand, I agree with NTSB (National Transportation Safety Board) Chairman Burnett that safety regulation and enforcement should remain in the executive branch of government. This crucial restructuring of the FAA cannot be accomplished without legislative action, but we are doing all we can to strengthen the FAA while the legislative process grinds slowly along. Early this spring, I appointed a task force co-chaired by FAA Administrator McArtor and Assistant Secretary Jon Seymour. Forty-five days later they produced a series of recommendations to, among other things: streamline controller training; improve the procurement process; and centralize, and thus provide more consistency, in certification and enforcement matters. We are now implementing these reforms, which will significantly enhance the FAA's ability to carry out its responsibilities. But I want to emphasize again that basic statutory changes are urgently needed.

Many of our European friends were somewhat taken aback by the unsparing nature of economic deregulation in this country -- several airline companies went under and everybody felt some growing pains. Following that inevitable shake out, though, our airline industry has emerged stronger and more vibrant than ever.

Encouraged by our success at home, we began to promote competition abroad with great enthusiasm. We were willing to take the first steps toward attaining a truly open, competitive international marketplace. Unfortunately, this process has not been as smooth and successful as we had hoped. As you know, over the last five years we have toughened our approach to problems that in our view thwart promising opportunities.

Fair treatment and the removal of economic barriers are crucial to the future of international aviation. The United States will not continue to play by the Golden Rule if we do not see reciprocity. Despite our best efforts to resolve problems through negotiation, we are not yet gaining fully reciprocal treatment for U.S. carriers from a number of countries.

European air navigation fees are one example. In the U.S., no airline is charged for air traffic control services, but every individual leaving the country is charged a \$3 international departure tax, which contributes to air traffic control services. Eurocontrol assesses airlines on the basis of aircraft weight, thus placing the greatest burden on U.S. and other international airliners that have wide-body international operations. Further, the per passenger charge averages far more than the \$3 charge in the U.S. -- estimates indicate that the per passenger charge could be anywhere from \$10 to \$18.

Airport user charges for transatlantic airlines are also exceedingly high in the United Kingdom. We are not opposed to these fees merely because they are high, but because they do not reflect the airport's legitimate costs for services rendered. In other words, we're being gouged by others at the same time we're charging fees that approximate our actual costs.

Computer reservations systems (CRSs) are another major challenge facing international aviation. In the early 1980s, we recognized the power of CRSs to influence competition in our domestic aviation industry. Accordingly, in 1984, the Civil Aeronautics Board issued rules requiring these systems to be non-discriminatory. Our domestic CRSs have been quite fair on the whole. The international CRS situation, however, borders on disaster. The overt display bias against U.S. airlines and the denial of vendor access are totally unacceptable.

As you know, American Airlines filed a complaint at the Department under the International Air Transportation Fair Competitive Practices Act. American complained that British Airways, directly and indirectly through its Travicom CRS, discriminates against American and other U.S. carriers in the U.S.-U.K. market. It also alleged that British Airways refuses to allow travel agents using Sabre in the U.K. to issue British Airways tickets. Since British Airways accounts for more than half the revenue of British travel agents for scheduled airline traffic, this obviously reduces the value of the Sabre system. We have informed the British that the U.S. cannot tolerate such inequitable treatment. We will issue a ruling very soon on this complaint.

Code sharing is another important issue with which we are wrestling. As you know, the CRS Code of Conduct now under consideration by ECAC (European Civil Aviation Conference) could effectively prohibit code sharing. Under current policy, my Department will authorize code sharing between U.S. and foreign carriers only when the latter have route authority in bilateral agreements to serve points in this country to which code sharing privileges are requested. And, under U.S. law, U.S. carriers serving foreign points are generally permitted to code share with foreign carriers serving those same cities.

A number of foreign airlines, with multiple U.S. gateways, have the opportunity to provide code sharing services. They, and their prospective U.S. airline partners, are petitioning the Department for authorization to exercise these opportunities. We have already approved several code sharing arrangements, including United-British Airways, Pan Am-Malev, TWA-Gulf Air and Continental-Transavia.

While there are some potential complications in code sharing, there are also many potential advantages -- for instance passengers would enjoy coordinated schedules and lower joint fares. I think that as long as the traveling public is aware of who is operating the flights, and we make sure that there is equal opportunity for U.S. and foreign carriers, code sharing holds a great deal of promise. Although I have no interest in supporting code sharing that is one-sided, balanced arrangements would be beneficial to consumers and airlines.

I would urge ECAC not to prohibit code sharing in the final version of their CRS Code of Conduct, and not to perpetuate the myth of passenger deception. ECAC's CRS Code of Conduct could be an important step in improving international aviation relationships. I am wary, however, of some of the recommendations being discussed that have the tendency to dictate elements of aviation business that should be left to the marketplace. For instance, instead of insisting on detailed

regulation of the CRS display algorithm, which would have restrictive effects on CRS companies, I would push for a more general standard of accuracy and fairness. Again, we're looking for guidelines that are evenhanded -- I also think that the ticketing issue is one that needs to be addressed, so that all CRSs can issue tickets for the various airlines.

Finally, I'd like to talk a little about cabotage. Right now there's a law forbidding it, and Congressional sentiment against it is unshakable. Yet it is a topic that people have begun to discuss. I know that Frank Lorenzo touched on this topic when he spoke to you last month. The United States traditionally has supported opening world markets to international trade. As I stated earlier, part of our international aviation strategy as we move toward the next century is to knock down economic barriers.

One thing has to happen, though, before a discussion on cabotage ever can become serious: overseas markets must open up so that an equitable swap of cabotage rights could take place between the U.S. and all of Europe. That's the only way that a true balance of benefits could be achieved.

As we approach the 21st century, the message for the international aviation community is liberalization. Vast opportunities are before us, and we must take them. In closing, I will tell you one thing that I have learned for sure during my five years at the Department of Transportation: travelers like low fares and they don't like restrictions. As we work our way through complicated decisions and international agreements, we would do well to keep that simple thought in mind.

Thank you very much.



U.S. Department of
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REMARKS PREPARED FOR DELIVERY BY
SECRETARY OF TRANSPORTATION JIM BURNLEY
FREE CONGRESS FOUNDATION'S CAPITOL HILL FORUM
JUNE 24, 1988
WASHINGTON, D.C.

It's always a pleasure to have a chance to talk among friends here at Free Congress. Paul has certainly been a great help to this Administration with his work on the Amtrak board of directors. As one of Washington's most prominent conservative political activists, he helped give conservatism a new respectability and a broad policy application. He did this by building coalitions with other groups, not by tearing them down. Free Congress, under Paul's leadership, has recently spearheaded serious discussion about "cultural conservatism," the idea that our laws and policies should be rooted in our Judeo-Christian heritage.

As the '88 campaign gets into full-swing, the voters are faced with a plethora of issues on which to judge the various candidates. Again, Free Congress helped deliver a positive conservative blueprint for this and future Administrations with "Issues '88: A Platform for America," containing hundreds of policy recommendations, along with solid advice on how to implement them. One such issue, which has unfortunately become a political dogfight, is the drug problem. The debate on how to best tackle this devastating social ill is more intense than it has ever been.

The drug problem even represents a dilemma for many conservatives. One has to reconcile tough law enforcement with individual liberty. Some conservative thinkers, most notably Milton Friedman and Bill Buckley, say we should just throw up our hands and legalize drugs. That, they say, would open the drug trade to free

market forces, reducing the price of narcotics, and therefore reducing the incentive to commit crimes to finance drug purchases. Proponents of legalization also argue that the societal benefit of reduced crime outweighs the damage that would be done by more widespread drug abuse. The money now spent on drug law enforcement could go into drug rehabilitation, they claim. Mr. Buckley and Dr. Friedman have found some unusual allies on this issue: D.C. Mayor Marion Barry, Baltimore Mayor Kurt Schmoke, and Kitty Dukakis, among others.

Unfortunately, it is just not that simple. What the legalization advocates fail to mention is that we have more than 20 million users of illegal narcotics today, and that could double or triple if the stigma of illegality were removed. Imagine the impact that would have on all areas of public safety -- including our transportation system.

The best counter-argument to all of this legalization lunacy is one I heard from DEA chief Jack Lawn: "Drugs are not bad because they're illegal; they're illegal because they're bad." It is naive to think that criminal activity would vanish if drugs were legalized. As Ian McDonald, director of the White House Drug Abuse Policy Office, explains: "Drugs cause crime. PCP makes people crazy. Cocaine makes people paranoid."

We see the sad and devastating consequences of drugs every night on the evening news. Drug-related crimes are on the rise in almost every major metropolitan area. Here in the District, for example, about three-quarters of those arrested for major crimes test positive for illegal narcotics at the time of arrest. And about one-third of the murders committed in the Miami area are drug-related.

Yet some things affect us more deeply than others as we examine the consequences of drug abuse. Recently, I read that elementary school children here in the District have invented a new game called "Hustler." The goal of the game is to successfully complete fake drug deals, using play money, pebbles for crack, pencil shavings for marijuana, and ground up chalk for cocaine. A D.C. Recreation Department Counselor told the Washington Post: "They do everything like they've seen it -- with the runners, the lookouts, the users, the jumpout squads, everybody." What is most disturbing is that the regular police and the special anti-drug jumpout squads are seen as being the bad guys in the game. These kids are not just playing a game -- they are rehearsing what could be real life for them in a few short years.

Despite Democrats' assertions to the contrary, this Administration's record on drugs is strong, on both the supply and demand sides. We were the first to make the war on drug abuse a national priority. It was Nancy Reagan's "Just Say No" campaign that first galvanized communities and neighborhoods across the nation against the drug threat. And back in 1982, the President set up the South Florida Task Force and asked Vice President Bush to head it. Hundreds of additional drug agents, along with extra judges and prosecutors, were sent to Florida -- the transshipment area for more than 80 percent of the cocaine that enters this country. More Coast Guard cutters were deployed, and the other military services provided surveillance assistance for the first time. This constituted an all-out mobilization of available forces, and the result was record drug seizures. Major crime in South Florida dropped nearly 20 percent during the first year of task force operation.

In 1984, when the "Comprehensive Crime Control Act" was passed, more than \$44 million in drug-related assets were seized; by last year that figure had risen to more than \$500 million. Since 1981, the anti-drug law enforcement budget has

tripled; since 1979, federal drug convictions have doubled and prison sentences are 40 percent longer. In 1983, the National Narcotics Border Interdiction System an inter-agency working group, was formed to combat drug smuggling. Since then, annual cocaine seizures have increased twenty-fold. Last year, federal agents seized 113,500 pounds of cocaine, 722 pounds of heroin, and an estimated 3.2 million pounds of marijuana.

Thus, it was to my disbelief and dismay that the Democrats in Congress cut \$72 million from the President's 1988 request for Coast Guard operating expenses. Months ago, the President submitted to Congress a \$60 million reprogramming request that would correct this outrage. So far, the response from the Democrats in Congress has been a resounding silence. I have urged Congress to immediately approve this request and to give us the full 13 percent, \$343 million increase the President is seeking for next year.

Some Democrats have tried to politicize the drug issue. As President Reagan has said, we cannot allow such misinformation to go unchallenged. Our program is a comprehensive one. I have mentioned a few of the many ways in which we are addressing the supply side of the problem, yet we're hitting just as hard on the demand side.

This nation has learned a hard lesson from more than twenty years of turning a blind eye to so-called recreational drug use. We cannot afford to look the other way, because the affluent "weekend" drug users are just as responsible for lining the pockets of the world's druglords as are the back-alley junkies. If millions of Americans were not willing to pay for illegal drugs, we would not have to concern ourselves with interdiction.

At the Department of Transportation we are implementing a "zero tolerance" policy toward drug abuse on U.S. waters. We are using our full legal authority to attack the supply and the demand sides of the narcotics problem. As you may recall, zero tolerance means that simple possession of any measurable quantity of drugs within our territorial lands or waters may result in confiscation of the vehicle where illegal substances are found -- with the exception of common carriers, such as passenger ships or airliners. Vessels also will be seized outside our coastal boundary when an intent to either introduce the illegal substance into the U.S., or export it, is shown. That is nothing new in policy. That is the law. Boat owners now know that pushing off shore does not mean pushing away from the law. The Coast Guard has issued guidelines on reasonable precautions that boaters can take to prevent illegal drugs from being brought on board their craft. We are making every effort to assure that boat owners are given their due process rights.

Civil libertarians complain that confiscation of property is too much punishment for the crime of possessing minor amounts of drugs. But the purpose of punishment is to deter crime. It is unlikely that many people would risk a \$100,000 boat for the sake of smoking \$20-worth of marijuana. Furthermore, I find it saddening that the same people who moan about the drug problem in the inner-cities are willing to take a less-than-serious approach to deterring drug use among the rich. We will continue to enforce this nation's anti-narcotics laws to their fullest extent, and we are not going to let up until we have made the United States an unprofitable market for the world's drug kingpins.

There are between 5 and 6 million cocaine users in this country, and another 18 million use marijuana. These people have made the United States a leader in an

area in which most of us would like to take last place; we import more illegal drugs than any country in the world.

I am sure you know the impact this has on productivity. American industry is being ripped off by employees who use drugs. Studies have shown that drug users function at only about two-thirds of their work potential. They also are more likely to steal from their employers, and their health care costs are higher. Drug users are two-to-three times more likely to skip work than non-users. And many cases, such as manufacturing and transportation industries, safety also is a concern. Drug users are three-to-four times as likely to be involved in on-the-job accidents as non-users.

We have all seen, time and again, that drugs mixed with any form of transportation is a deadly combination. The January 1987 Conrail-Amtrak crash in Chase, Maryland, where a Conrail engineer under the influence of drugs rolled through several warning signals and collided with an Amtrak passenger train was a horrible and needless tragedy; sixteen people died in that crash and another 178 were injured. That Conrail engineer and his conductor, who also tested positive for drugs after the accident, both testified before Congress that drug use by railroad employees is commonplace. Since January of 1987, for nearly 20 percent of all rail accidents, the Federal Railroad Administration determined the presence of alcohol or drugs in one or more crew members.

Yet, we know that rail employees are not the only transportation workers who are vulnerable. In January, nine people died in a commuter aircraft crash in Durango, Colorado. The pilot of the aircraft had cocaine in his blood. When the Pittsburgh Press interviewed emergency room staffs at area hospitals, 23 cases of flight crew drug abuse were instantly recalled; 20 of those cases were cocaine overdose, 2 were heroin reactions, and the other dealt with a mixture of alcohol and valium. A dozen cockpit crew members and eleven flight attendants were among those treated for drug abuse, according to the report. These are people responsible for the lives of hundreds of passengers each day.

The evidence is compelling. Drug use is just as much a social ill for the transportation industry as it is for society-at-large. Thus, I have proposed drug testing rules for up to five million truck drivers, 500,000 key personnel in commercial aviation, and 120,000 railroad employees. I am proposing random testing; pre-employment testing; testing as a part of periodic physical examinations; testing after accidents; and testing upon reasonable suspicion of drug use. Such testing would take place under strict federal guidelines and with respect for the privacy and dignity of the individual. We will make every effort to give employers the flexibility they need in designing company-specific programs.

We do not need to witness more tragic drug-related accidents to know that random drug testing is necessary. We have had a civilian-employee drug-testing program at the Department of Transportation since last fall. 30,000 employees in sensitive safety or security-related positions, myself included, are subject to the same standard. We know random testing works. Five years ago, the Coast Guard began random testing, and the percentage of those testing positive has dropped from 10.3 percent when the program began to 2.9 percent last year.

I have focused today on what we in government are doing to combat the drug menace. But without private-sector leadership, our progress will be limited. It is only a matter of time before zero tolerance spreads to other segments of society. Some have even suggested withholding federal aid from state and local

governments, colleges, and other publicly funded institutions that do not adopt strict anti-drug programs.

As leaders in American industry, you have the unique opportunity to lead the charge against drug abuse in the private sector. Already, nearly 30 percent of America's largest corporations are conducting pre-employment drug testing. Private industry needs to adopt a zero tolerance approach to drugs, without waiting for the federal government to impose one. Drug education, testing, and rehabilitation programs can all be extremely effective means to deter drug use in the workplace. Developing a comprehensive drug program says that you are not only concerned about the economic health of your company, but that you also care about the well-being of your employees. With the private and public sectors working together, a drug-free society is a tough, but realistic goal.



U.S. Department of
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STATEMENT BY SECRETARY OF TRANSPORTATION JIM BURNLEY
ON COAST GUARD, UMTA, RSPA DRUG RULES
NEW YORK, NEW YORK
JUNE 29, 1988

Twenty-three million Americans use illegal drugs. Eighteen million use marijuana. Five million use cocaine. Polls consistently show that drug abuse is one of the most serious social ills facing our country today. It has shattered families, neighborhoods and communities across this nation by killing and injuring thousands each year. Drug abuse has brought violent crime to small town America and made what were already dangerous inner city neighborhoods drug deathtraps. It will take years before we can measure the full effects that drug abuse has had on our society. We do know that the toll it has taken on our national economic and social well-being is severe. Although some of this damage cannot be repaired, there is an effective way to address the user aspect of the drug problem that will both enhance public safety and send a warning signal to those Americans who are contemplating using drugs for the first time.

I refer to the proven effectiveness of random drug testing. Today I am announcing three Notices of Proposed Rulemakings that would require testing of:

- 108,000 employees who operate the nation's mass transit services;
- 131,700 seamen who man the nation's commercial vessels;

-- and 116,500 pipeline industry workers.

The rules are being proposed by the Urban Mass Transportation Administration, the Coast Guard, and the Research and Special Programs Administration, respectively, and will apply to those holding sensitive safety and security-related positions. In addition to random testing, we are proposing: pre-employment testing; testing after accidents; and testing upon reasonable suspicion of drug use. This completes the Department's series of proposed drug testing rules; earlier this year we proposed similar rules for the rail, aviation and trucking industries. We took these actions in part because we know that when society has a drug problem, no segment of our population -- from welfare recipients to Wall Street brokers -- is exempt from it. The transportation industry is clearly vulnerable as well.

Employees would be tested for marijuana, cocaine, amphetamines, opiates and PCP. To ensure that testing by employers is conducted in a fair and accurate manner and with respect for the privacy and dignity of the individual, testing procedures would have to follow stringent guidelines established by the Department of Health and Human Services.

The UMTA proposed rule would require vehicle operators and maintenance personnel to be tested, but asks for comment on other transit employees who should be tested. All three rules seek comments on three alternatives for rehabilitation for those testing positive; but we are also asking for comments on whether any drug rehabilitation opportunity should be required.

Unfortunately, serious accidents involving drugs are nothing new to our transportation system -- a system that the traveling public puts its trust in every day. Sixty-five percent of all rail accident fatalities last year occurred in cases where one or more employees tested positive for illegal drug use. Five employees responsible for operating the Metro North commuter train that crashed into another train in Mount Vernon, New York last April tested positive for drugs. The engineer of that train was killed. Both trains were about to begin picking up passengers during the morning rush hour. The only reason we know of the drug use by these five employees is that Metro North is covered by a federal railroad safety rule we issued two years ago that requires testing after serious accidents.

The overall impact the drug epidemic has on the American workplace is immeasurable. Studies have shown that drug users function at only about two-thirds of their work potential. Two-thirds of an effort may not make a radical difference in some fields. Transportation, however, by its very nature involves the risk of accident and has the potential for catastrophe. Therefore, one key mass transit operator who is working at two-thirds capacity could be endangering the lives of hundreds. Furthermore, drug users are 3 to 4 times more likely to be involved in on-the-job accidents as non-users. A critical transportation employee who arrives at work in a drug-impaired state is not just jeopardizing his own safety and job, he is also jeopardizing the lives of his co-workers and of the citizens who use the system every day. It is not difficult to imagine the deadly consequences that could arise from a drug-related accident at a pipeline facility that transports hazardous materials or on board a commercial vessel carrying similar cargo.

Drug testing, especially random testing, would minimize these risks. We already know that random testing works. The Coast Guard has been randomly testing its

military personnel since 1983. Since then, the percentage of positive tests has dropped from 10.3 percent in 1983 to 2.9 percent in 1987.

The UMTA proposed rule would render ineligible for federal assistance any transit system that fails to implement a drug testing program. Under the Coast Guard rule, those mariners who test positive could lose their licenses or merchant mariners could have their certification and their jobs revoked.

Addressing the drug problem in this country will take tough action and a sustained effort by all Americans. Those who use drugs occasionally are just as responsible for fueling the demand for drugs as are the addicts in this country. The Reagan Administration has almost tripled the drug law enforcement budget on the federal level since 1981; but until we get the demand for drugs under control, new smugglers and suppliers will continue to take the places of those who are caught. It is crucial that we send a "zero tolerance" message to all segments of our population regarding drug abuse -- the transportation industry included.

The goal of all of these proposed rules is to discourage drug abuse by key members of our transportation industries. The American people rightfully expect and demand the safest and most efficient transportation system possible. Drug testing is a necessary step as we work to fulfill that responsibility.

