

WITHDRAWAL SHEET

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Collection: Cicconi, James W.: Files

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File Folder: [Cicconi Memos, Jan - Jun 1982] [4 of 4]

Date: 2/18/98

Cicconi

OA 10793 Box 1

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
1. memo	JW Cicconi to James A. Baker, III re Black Strategy: Follow-up, 1p.	6/14/82	<i>P5</i>
2. memo	JW Cicconi to JAB, III re Safe Drinking Water Act, 2p.	6/28/82	<i>P5</i>
3. memo	JW Cicconi to James A. Baker re CCLP Meeting, 2p.	6/28/82	<i>P5</i> <i>UB 10/19/00</i>

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P-1 National security classified information [(a)(1) of the PRA].
- P-2 Relating to appointment to Federal office [(a)(2) of the PRA].
- P-3 Release would violate a Federal statute [(a)(3) of the PRA].
- P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA].
- P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA].
- P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA].

C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

- F-1 National security classified information [(b)(1) of the FOIA].
- F-2 Release could disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA].
- F-3 Release would violate a Federal statute [(b)(3) of the FOIA].
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- F-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
- F-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA].
- F-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA].

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May 24, 1982

THE WHITE HOUSE
WASHINGTON

*Called - Talked
to Hooks
Counsel.*

MEMORANDUM FOR MIKE DEAVER

FROM: Jim Cicconi
SUBJECT: Telegram from
Benjamin Hooks

My suggestion is that you not respond to this in writing, but instead handle it by phone.

How frank you are with him should depend on your relationship.

If you feel he will keep it between the two of you, you may want to assure him that we will not get involved in the case.

If you are unsure as to whether he will keep the conversation confidential, I suggest you simply thank him for his thoughts and tell him we will give his views very careful consideration.

Fred Fielding concurred in this approach as I explained it to him.

WHC017(1644)(1-022673A140)PD 05/20/82 1644

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MS MICHAEL DEEVER, DLR

WHITE HOUSE

WASHINGTON DC 20500

FOR EIGHTEEN YEARS REPUBLICAN AND DEMOCRATIC ADMINISTRATION HAVE CONSISTENTLY SUPPORTED A BROAD INTERPRETATION OF TITLE VI AND OTHER CIVIL RIGHTS LAWS TO BAR USE OF GOVERNMENT MONEY TO COMMIT ACTS THAT RESULT IN DISCRIMINATION. NOW, IN THE GUARDIAN CASE, THE JUSTICE DEPARTMENT IS CONSIDERING CHANGING THIS POSITION IN THE SUPREME COURT.

OUR LAWYERS HAVE MADE THEIR LEGAL ARGUMENTS TO THE SOLICITOR GENERAL, BUT I UNDERSTAND THIS MATTER IS RECEIVING POLICY CONSIDERATION AT THE HIGHEST LEVELS OF THE ADMINISTRATION. IF THE JUSTICE DEPARTMENT CHANGES POSITION, IT COULD HAVE DEVASTATING EFFECTS ON THE RIGHTS OF BLACK PEOPLE, HISPANIC AMERICANS, WOMEN, DISABLED PERSONS AND SENIOR CITIZENS TO FAIR TREATMENT IN GOVERNMENT SUPPORTED PROGRAMS. ON BEHALF OF THE LEADERSHIP CONFERENCE ON CIVIL RIGHTS, A COLLISION OF 160 NATIONAL ORGANIZATIONS, I URGE THAT THIS ADMINISTRATION STAY WITH THE POSITION OF ITS PREDECESSORS AND ARGUING FOR A STRONG AND FAIR INTERPRETATION OF THE CIVIL RIGHTS LAWS.

BENJAMIN L HOOKS

CHAIRPERSON

LCCR

(2027 MASSACHUSETTS AVE NORTHWEST WASHINGTON DC 20036)

1604 EST

NNNN

f

THE WHITE HOUSE
WASHINGTON

May 28, 1982

MEMORANDUM FOR RED CAVANEY

FROM: Jim Cicconi
SUBJECT: Jewish Community

I recently met with a Republican who has solid connections in the Jewish community. He was understanding and complimentary of our efforts, especially in forming the Spiegel group. However, he wanted to point out to us the danger (as I'm sure you know) of angering some of the traditional Jewish leaders by having them deal with our system as opposed to dealing directly with the President, as they often did in the past.

One person he specifically suggested we "stroke" was Max Fisher. He said that we could let him know in subtle ways that he is still welcome as an advisor, etc. without harming our new setup.

One other suggestion: if there is a dinner or other event for Begin during his visit, he suggested we recognize that invitations are much prized in the Jewish community and should not treat it as a social event. He said we should be sure

Memo to Red Cavaney
May 28, 1982
Page 2

to reward those who helped us on AWACS and not those among the Jewish community who opposed us. Otherwise we would send a signal that it's safe to oppose the President without consequence.

(I realize you've probably already heard the above points, but thought I should pass them on anyway since I trust the source.)

Thanks.

→ Red.

If this point requires some help from SAE, let me know.

△

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

May 28, 1982

FOR: KEN DUBERSTEIN
FROM: JIM CICONI
SUBJECT: Clean Air Act

JAB asked me to let you know that he completed the phone call to Howard Baker on the Clean Air Act.

Senator Baker talked with Senator Stafford and said he has a commitment from him to report a bill out no later than mid-July.

cc: Richard G. Darman
Elizabeth Dole
Boyden Gray

f JC memo

THE WHITE HOUSE
WASHINGTON

June 1, 1982

TO: JAB III

Re the attached, I talked with Craig and do not feel a response from you is advisable. I then spoke with Ken Starr at the AG's office and he said the AG took Fuller's memo as being your response.

I'd suggest we leave this one alone for awhile. As far as Justice is concerned Fuller has the action on their idea.

6/1

JC Jim
OK - Trump.
JAB III

THE WHITE HOUSE

WASHINGTON

May 10, 1982

MEMORANDUM FOR THE ATTORNEY GENERAL

FROM:

CRAIG L. FULLER *CF*

SUBJECT:

DOJ Review and Approval of Proposed Executive Orders and Presidential Proclamations

Having received a copy of your letter to Jim Baker on the subject of Executive Orders and Proclamations, I wanted to assure you that I could not agree more with the statement that the President has the right to expect a thorough and professional legal review of such items. In fact, if I had known that you or your staff had any reservations about the Sugar Import Quota Proclamation, I would have delayed any action until a satisfactory review was completed.

Dick Darman and I will not send forward items that have not been properly reviewed. In the case of the Proclamation concerning Sugar Import Quotas, I told the agencies involved in expediting the process (as agreed upon at the Cabinet meeting) that all of the regular OMB and Justice clearances would be required. Our records indicate these were received.

Please be assured that we will respond immediately to any request from the Justice Department for adequate time to satisfactorily review Executive Orders and proclamations.

? | We are reviewing the memorandum concerning proclamations you recommended. Let me know if there is anything else that can help improve the process.

cc: Edwin Meese III
David A. Stockman
✓ James A. Baker III
Richard G. Darman

5/11 JC: Pls draft
response to Bill S.
from me. Ref. this
memo. Shouldn't we
send ^{the} memo from all heads
of depts. + agencies that CF
say will reviewing? JAB:sc



Office of the Attorney General
Washington, D. C. 20530

May 7, 1982

Honorable James A. Baker III
Chief of Staff
The White House
Washington, D.C. 20500

Re: Department of Justice Review and
Approval of Proposed Executive
Orders and Presidential Proclamations

Dear Jim:

Although I attended the Cabinet meeting at which the subject was discussed, I learned for the first time by reading Wednesday's paper that President Reagan had approved imposition of import quotas on sugar as a way to protect domestic producers and the United States Treasury from the cost of foreign competition. Import fees are apparently also to be a part of the package. The newspaper article stated that the U.S. Cane Sugar Refiners Association has threatened litigation, claiming that it is illegal to impose quotas and import fees simultaneously.

At approximately 10:00 a.m. Wednesday morning, an OMB official came to our Office of Legal Counsel seeking approval as to form and legality of Proclamations which, we were told, the President intended to sign before noon that same day.

The level of the fees and quotas and the combination of imposing fees and quotas at the same time raise difficult legal questions. Needless to say, these circumstances were not wholly conducive to the conduct of the thorough and professional legal review which the President has the right to expect and which, in my view, proposed proclamations and Executive orders must receive.

We have had a number of Executive orders and Proclamations thrust upon us with very short notice in the last few months. Fortunately, most of them have been relatively routine, but even the routine ones must be examined carefully to make sure that we do not certify that the President can do something which is not legal. Simply processing these materials -- which can be on virtually any subject -- takes some time.

We gave tentative telephonic approval of the sugar Proclamations but pointed out that we simply had not had adequate time to satisfy ourselves fully that the proposed action was legal. I am particularly concerned about this incident because of the threatened law suit. The stakes are so high that the law suit is a virtual certainty. And, the President will have acted without the normal written certification that his actions were legal.

The procedures established by Executive Order to certify as to the legality of proposed Presidential action are extremely important to the President. We cannot conceivably begin to do our job properly if we are not given adequate time within which to do it.

Because it is so important to the President that he act legally and that he be given proper assurances that the actions which he takes have been examined for their legality I recommend that the President consider sending a memorandum to the heads of executive departments and agencies on this subject. A proposed memorandum is enclosed for your convenience in accomplishing this result.

Many thanks.

Sincerely,



William French Smith
Attorney General

cc: Edwin Meese, III
David A. Stockman
✓ Craig Fuller

f jc memos

THE WHITE HOUSE
WASHINGTON

June 7, 1982

MEMORANDUM FOR CRAIG FULLER

FROM:

Jim Cicconi 

SUBJECT:

Minority Business Goals

Concerning the attached, Jim Baker has asked that I convey his agreement with Wendell Gunn's recommendation that the aggregate goal for federal procurement from minority firms for FY 1982 be increased so that it is more in line with the percentage increase in total procurement.

LSO memo

THE WHITE HOUSE
WASHINGTON

June 11, 1982

MEMORANDUM FOR RICHARD DARMAN

FROM: Jim Cicconi *JC*
SUBJECT: Legislative Strategy

Per JAB, would you please schedule a meeting of the Legislative Strategy Group as soon as possible.

Subject of the meeting is when to send our tuition tax credit bill to the Hill. There is apparently some disagreement on this. Meese and some people in Legislative Affairs wanted to do it on return from Europe. However, Don Regan came in today and asked that we not send it up before July 15.

The bill is largely ready with the religious group support lined up. Conservatives are grouching that it is taking us way too long.

Thanks.

THE WHITE HOUSE
WASHINGTON

June 12, 1982

JAB,

Remember the complimentary article on
the AG in American Lawyer?

The AG was very flattered when the
President mentioned it in the Cabinet
meeting (after you left), and when
the Cabinet applauded him.

I casually mentioned to a friend at
Justice that you had brought the
article to the President's attention.
He later told the AG.


JC

✓
THE WHITE HOUSE
WASHINGTON

June 14, 1982

TO: JAB III

RE: Federal Election Commission

FYI, I met with Ernie Minor and he made me promise to pass on to you his interest in the next GOP slot that comes open on the FEC. He sounds like he's tired of CEQ.

I assume he's not at the top of the list, and won't pass on to Personnel unless you think I should.

JC

f se ✓
THE WHITE HOUSE
WASHINGTON

June 14, 1982

TO: JAB III

RE: Texas Primary Races

Congressional:

Steve Bartlett beat Kay Bailey in the 3rd with 57% of the vote.

In El Paso, it will be a liberal Demo, Ron Coleman, versus Pat Haggerty (this is a sleeper race).

Solomon Ortiz (Dem.) will probably win the new 27th in South Texas/Corpus.

In the new 25th (south Harris Co.), it will be Walter Mischer's wunderkind, Mike Andrews (D) v. John Ray Harrison.

State:

In the down-ballot offices, the Demos have their most liberal ticket ever-- Jim Mattox for AG, Garry Mauro (Krueger's campaign manager in '78) for Land Comm'r, and Ann Richards for Treasurer. Last word I had was that Allen Clark (a former Clements asst I worked for awhile, Viet veteran Green Beret, double amputee) will be the last-minute Republican nominee for Treasurer.

Legislature:

Milton Fox survived a tough challenge, but Bob Gaston did not. Bill Blythe

he was also
briefly our Deputy
at V.A.

was beaten in a primary challenge to
Buster Brown (R), the State Senator
who beat Babe Schwartz in '80. Blythe
will not be missed by many Republicans.


JC

cc: Lee Atwater

Notes on Meeting with Jim Billington

Attendees: Jim Baker, Bud McFarlane, Jim Cicconi

Israel

- * at strategic level, there is an opportunity in next few months to try for a settlement--much more leverage now than previously
- * in Billington's opinion, Sam Lewis is more Israel's Ambassador to U.S. than vice versa--Lewis, due to way his relationships have developed, may not be able to carry President's hard word as well
- * crucial to allow development of more moderate Palestinian leadership, but Israel won't allow it. The present opportunity will probably disappear in 6 months.

Russia

- * possibilities for variation are admittedly small--2% either way--but Russia is nearing a type of break point--we are not doing adequate political intelligence, and are horribly ill-equipped for the coming changes--everything going into present studies is based on outside factors, ideology, etc.; not inside factors or knowledge
- * our diplomats listen to 75 year old politicians and our journalists to 25 year old poets--not much contact with mass in between--academia in U.S. is eating each others garbage on subject
- * What to do? Use more aggressive embassy work like the Russians do here; if the Soviets cause difficulties, insist on reciprocity with the arrangements they have here.
- * may need a Marshall Shulman type with loose portfolio for everything Soviet
- * studies currently being done are based on very little solid info from the Soviet Union; they are instead based more on the hopes or biases of their authors
- * offer to help by Billington
- * Russians feed stuff to us, but we have no independent way of judging the information's accuracy
- * the danger is that, with communism not working, the Soviet Union is falling back on an even more strident nationalism
- * we have a management problem of getting an integrated analysis of a great power about to undergo its most dramatic leadership change since the Russian Revolution
- * embassy could be used more effectively

THE WHITE HOUSE

WASHINGTON

June 14, 1982

MEMORANDUM FOR JAMES A. BAKER, III

FROM: Jim Cicconi 
SUBJECT: Women's Strategy Follow-up

1. Develop a report on positive accomplishments for women during the Reagan Administration.

ACTION/STATUS: Mike Barody is currently preparing such a report. A first draft will probably not be ready before June 21.

2. Move forward with implementation of the 50 States Project.

ACTION/STATUS: Rich Williamson is currently preparing a state-by-state status report on the project.

You and Elizabeth Dole are to meet and discuss the naming of a new project director concurrent with transfer of the project to OPL.

3. Assure the implementation of Executive Order 12336, creating the Task Force on Legal Equity for Women.

ACTION/STATUS: Brad Reynolds is in the process of completing the Justice Department's first quarterly report. I have been in close touch with him throughout the process. The report, once approved by the Attorney General, will be transmitted to the Cabinet Council on Legal Policy.

Ed Harper is forming a high-level CCLP working group on women's issues, which will meet before June 30 to consider the completed DOJ report.

On receipt of the DOJ report, Ed Harper will also transmit our thanks to Barbara Honegger for her work as chairman of the interim Working Group on Legal Equity for Women; since that interim group will have been superceded by the new high-level working group, it will be terminated (though several members of the Honegger group will serve on the new group).

4. Conduct an issues briefing for key women appointees in the Administration.

ACTION/STATUS: Elizabeth Dole will identify such appointees, but no decision will be made on such a briefing until the Barody and Reynolds reports are complete and have been assessed.

5. Identify respected women outside the Administration who will then speak in support of the President's accomplishments on women's issues.

ACTION/STATUS: Margaret Tutwiler will work with the RNC to identify women who might serve as spokesmen on issues of concern to women. However, further action should await an assessment of the Baroody and Reynolds reports.

6. Conduct a review of the President's campaign commitments on women's issues as well as other policy issues affecting women, and identify those on which we can move forward between now and 1984.

ACTION/STATUS: Ed Harper will conduct such a review, and will coordinate with Mike Baroody to avoid duplication.

7. Intensify recruitment of women for high-level posts in the Administration.

ACTION/STATUS: Helene von Damm has formed, and will chair, a group composed of women appointees which will identify a pool of women for prospective appointment. Dick Darman will assist Personnel in developing a system to assure that women from the pool are discussed when particular appointment decisions are made.

8. Commission a poll to assess public sentiment, and perceptions of the Administration, on issues of concern to women.

ACTION/STATUS: Ed Harper will set up a meeting with Bob Teeter and Dick Wirthlin to discuss this subject.

9. Develop a program to increase the electability of state and local Republican women.

ACTION/STATUS: Suggest you call Ed Rollins and ask that he (a) identify female candidates the President could support, (b) consider setting up a meeting with the President to boost their candidacy, and (c) make any other recommendations he feels may help in achieving this goal.

10. Consider a Presidential speech on women's issues.

ACTION/STATUS: This idea will be considered sometime after June 30.

cc: Edwin Meese
Mike Deaver
Richard Darman
Elizabeth Dole
Craig Fuller
Ed Harper

THE WHITE HOUSE

WASHINGTON

June 14, 1982

MEMORANDUM FOR JAMES A. BAKER, III

FROM: Jim Cicconi

SUBJECT: Black Strategy: Follow-up

1. The question of whether to hire a black in a senior WH position to serve as an Administration spokesman has, until now, been left open. I would suggest it continue to be left open for several reasons:
 - a. It is useful to pause and assess our situation after recent initiatives. In particular, we should give Mel Bradley a chance to develop his enhanced role of representing black concerns within the Administration;
 - b. The naming of Clarence Pendleton as head of the Civil Rights Commission allows us to develop an Administration spokesman from within an agency that has traditionally addressed black concerns. This might be preferable to having such a spokesman within the WH; and
 - c. The naming of a black to a senior staff position in the WH would, at this time, cause problems in our organizational structure.
2. The Attorney General is, at present and on his initiative, considering the hiring of a black in a senior position who would report directly to him.
3. All persons now holding senior liaison positions within the Office of Public Liaison are commissioned appointees except two: Thelma Duggin and Henry Zuniga. Thelma and Henry are responsible for black and Hispanic liaison, respectively. It is my understanding that Elizabeth Dole is considering both for promotion to Special Assistant; I would suggest that such responsibilities should have at least equal status within OPL, and that whoever holds the positions should, indeed, be ranked as a Special Assistant to the President.
4. The Political Affairs Office is moving forward with a plan that will pinpoint perhaps 25 congressional districts with significant black population, and then seek to appoint blacks from those districts to various federal advisory boards and commissions. Thelma Duggin is assisting Lee Atwater in this project, which is designed to develop a black Republican element in specific districts. For it to have a chance, however, there should be a commitment to make about 50 such appointments, roughly 2 per district, to advisory committees (which can include the numerous departmental committees). If Personnel agrees, Atwater and Duggin will undertake to forward names of prospective appointees.

7 SC memos

THE WHITE HOUSE
WASHINGTON

June 17, 1982

MEMORANDUM FOR ED HARPER

FROM: Jim Cicconi 

SUBJECT: H.R. 4498

Attached is a memo to Jim Baker from Carlton Turner on H.R. 4498, which relates to the use of marijuana for medical purposes.

I felt that the request for guidance was more appropriately handled by your office.

By the way, Joe Wright told me that the bill was not going anywhere for the moment.

Thanks.

THE WHITE HOUSE

WASHINGTON

June 18, 1982

MEMORANDUM FOR RICH WILLIAMSON

FROM: Jim Cicconi 
SUBJECT: Voting Rights Act Signing Ceremony

I received a verbal request from Governor Bill Clements' office that he be invited to the White House signing ceremony for the Voting Rights Act.

As you know, Texas is the largest state covered in toto by the Voting Rights Act. Nevertheless, Governor Clements has supported and praised the President's position throughout the debate. He also testified in favor of extension.

With Mark White's emergence as the Democratic nominee for governor, this issue takes on added importance for Clements. The reason is that Mark White has a record of opposition to the Voting Rights Act going back to 1975 (he is the White in the Supreme Court's White v. Regester decision). Clements has already attempted to use the issue to make inroads with the Hispanic vote at White's expense, and his presence at the signing ceremony would probably assist such efforts.

cc: Ken Duberstein
Lee Atwater



THE WHITE HOUSE
WASHINGTON

June 18, 1982

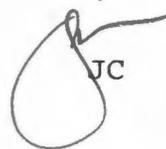
TO: JAB III

RE: 8th Circuit Judgeship

I checked on status of this judgeship, which was between Fagg and Donaldson. It is on "hold" right now for a further check into Donaldson (Gov. Ray's preference).

Justice felt Fagg was better qualified, but I remember questioning them on this at the time because it seemed they'd been unduly turned off by Donaldson's overt campaigning for the judgeship.

It will be on the agenda for the next Judicial Meeting within a week or two.



JC

THE WHITE HOUSE
WASHINGTON

June 18, 1982

TO: JAB III

RE: Voting Rights Act Passage

FYI, the bill passed the Senate
today 85-8. The eight were:

Harry Byrd
Denton
East
Helms

Humphrey
Hayakawa
McClure
Symms



P.S. Thurmond and Hatch
both voted for the bill.

THE WHITE HOUSE
WASHINGTON

June 21, 1982

TO: JAB III

RE: Federal Tort Claims Act

Sherry Cooksey checked into the status of this bill (Fred was unsure), and said that we have gotten our version reported out of the House committee. Thus, the Senate may not be as crucial as we'd thought.

Sherry advises that neither you nor Meese should call Specter at this time. She says Specter wants to feel he's the decisive vote (same game he played on Voting Rights) and a call would just feed that impression he has.

di
JC

THE WHITE HOUSE
WASHINGTON

June 11, 1982

Kc.
JAB READING FILE P/S.
6/14
MOT

MEMORANDUM FOR: EDWIN MEESE III
→ JAMES A. BAKER, III

FROM: FRED F. FIELDING

SUBJECT: Federal Tort Claims Act Amendments

Attached for your information is a summary, prepared at my request by the Department of Justice, Civil Division, of the recent, relatively chaotic developments regarding the proposed amendments to the Federal Tort Claims Act.

Those amendments, as you know, would substitute the United States as the exclusive defendant in cases currently brought under the 1971 Supreme Court decision in Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971). That case permitted the filing of a lawsuit against a federal official for alleged violation of the plaintiff's constitutional rights.

6/14 To Jc
Call Fred. ask
him: "Should I call
Spector? Would that do any
good?"
JFB

EM or JAB call?
Sherry has copy & will
advise: 6/18
No JAB should not
call Spector. OBE'd.
H. Comm will report what we
want. Spector shouldn't feel he's

INFORMATION MEMORANDUM

Re: Federal Tort Claims Act Amendments

Congress is currently attempting to address the serious problems resulting from the Supreme Court's 1971 decision in Bivens v. Six Unknown Named Agents which permitted a plaintiff to file a personal lawsuit against a federal officer for alleged violation of the plaintiff's constitutional rights. 403 U.S. 388 (1971). Since this decision there have been approximately 10,000 lawsuits filed personally against federal officials at every level of the government for doing no more than carrying out the duties which Congress and the President have ordered them to perform. We currently face some 2200 lawsuits of this nature with 7500 to 10,000 individual defendants. This type of lawsuit is particularly sinister because it seeks to attack the personal assets of the official rather than those of the United States, which remains immune because of concepts of sovereign immunity. Therefore the defendants face the specter of losing their homes and savings at the hands of vindictive plaintiffs. No other group of officers or professionals lies so exposed to personal loss through legal actions as do these federal public servants. From the perspective of the government these suits are a tremendous drain on resources requiring a disproportionate amount of attorney time and expense because of the added ingredient of individual liability. Moreover, the Department of Justice has been required to spend some \$3,000,000.00 since 1976 to retain private counsel to represent officers because of conflicts of interest which frequently arise in multiple defendant cases. It is also noted that these suits are being used increasingly as a collateral attack against law enforcement activities either as a source of intimidation or a discovery tool. In addition, they are being used as a means to intimidate federal managers from disciplining and terminating unsatisfactory employees.

There are two bills before the Congress. Both would substitute the United States as the exclusive defendant in such cases and would authorize suit against the United States for the Bivens type of tort. Copies of testimony submitted by Deputy Attorney General Schmults, Assistant Attorney General McGrath and OPM Director Divine are attached for further background. In the House, H.R.24 was introduced by, now retired, Congressman Danielson from California. It is currently the responsibility of Congressman Sam Hall from Texas, the new Chairman of the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee. The Republicans on the Subcommittee, (Morehead, Kindness and McClory) are in full support. In addition, the Chairman and Mr. Mazzoli from Kentucky appear to be supportive and, there appears to be no substantial opposition at the Subcommittee level. We have been advised that the Subcommittee Chairman is in position to move forward with the Bill at any time but is waiting for the Senate; therein lies the problem.

The Administration version of the legislative proposals is embodied in S.1775 which was introduced by Senator Grassley from Iowa, Chairman of the Subcommittee on Agency Administration of the Senate Judiciary Committee, who has proceeded vigorously. He conducted four days of hearings and prepared an overall excellent record. He attempted to markup the Bill on Wednesday, June 9 but was prevented from doing so by the actions of Senator Specter from Pennsylvania. Up until 9:00 P.M. of the evening preceeding the scheduled markup, the White House, Justice and the Chairman had been advised that Senator Specter had agreed to support the bill in toto at Subcommittee and move it to full Committee. However, at the markup he introduced a complicated and unacceptable amendment and insisted on a vote. Senator Grassley was justifiably surprised and irritated and adjourned the session with the stated purpose of achieving a consensus Bill before returning to markup.

Since Wednesday, June 9, several meetings have occurred at several different levels. Intense negotiations were undertaken with the staff of Senator Specter and, again, an accomodation appeared to have been reached. However, when Justice Department staff attended the meeting at which the agreement was to be finalized, the staff of Senator Specter had completely abandoned the proposal which was to have formed the basis of an agreement and submitted a different "Proposed Baucus-Specter-Metzenbaum Amendment."

The situation created by Senator Specter has allowed the principal opponent of the legislation, the ACLU, to have a field day. The present goal of the Chairman, a consensus of all five members of the Subcommittee, is extremely unlikely and plays into the hand of the ACLU, whose ambition is to kill the Bill. There are shifting coalitions of young staffers manipulating their own views of jurisprudential and social propriety. The consensus which Senator Grassley is seeking would have to embrace the Administration proposals, those put forth by the ACLU, and Senators Metzenbaum, Baucus, Specter, Grassley and Laxalt. Ironically, the various proposals put forth by various Senate staff groups have been so unreasonable that the American Civil Liberties Union has now taken on the role of impartial broker. The situation has deteriorated to that extent.

In our view, the only immediate hope for resolution in the Senate is to attempt to reestablish a Republican consensus initially with Senators Grassley, Laxalt and Specter, which will continue in full Committee. This perhaps could be initiated with leadership and direction from high levels of the Administration, and signals that the Bill is important. The situation is extremely fluid and, frankly, chaotic at this time.

THE WHITE HOUSE
WASHINGTON

June 21, 1982

MEMORANDUM FOR MICHAEL UHLMANN
BOB THOMPSON
ANN FAIRBANKS

FROM: Jim Cicconi

SUBJECT: Attached

Attached is for your information.

PERSONAL AND CONFIDENTIAL

M E M O R A N D U M

DATE: June 11, 1982

TO: Honorable James A. Baker, III
Chief of Staff and Assistant to the President
The White House

FROM: William T. Coleman, Jr. 

SUBJECT: Proposed Tuition Tax Credit Bill and the Provisions Requiring Non-Racial Discrimination

I think it is good that the Administration, in the proposed legislation, recognizes that there should be affirmative provisions in the bill denying the parents the tuition tax credit if the school discriminates on the basis of race. I would not want to be put in the position, however, of giving public endorsement to the bill for the following reasons:

1. I think there is a serious constitutional question whether any type of federal tax credit for parents whose children attend religious schools does not violate the First Amendment.

2. As a matter of federal policy, so long as there are insufficient federal funds and state funds to support a completely adequate public school system, I do

not think federal revenues should be diverted to private schools.

3. With respect to the provisions dealing with non-racial discrimination, I find the following deficiencies in the proposal as presently drafted:

a. Section 3(3), the definition of what is a "racially discriminatory policy" is not inclusive enough. (page 6) It certainly should include the types of despicable conduct which goes on at the Bob Jones University. It should, in fact, include any kind of conduct which includes the separation of the races.

b. There is no need for the provisions with respect to racial quota, etc., also set forth on page 6.

c. The fact that by Section 3(4) (on page 6) the credit is not disallowed until after the action brought is final means that the school might well be an eligible institution for four or five years, as the case wends through the courts.

d. The statute of limitations in the bill is awfully short, to wit, the complaint has to be made to

the Attorney General within 180 days and he has to bring suit within one year. (page 6)

e. It is desirable that the Attorney General be given enforcement policy, but there is no reason to make that the exclusive remedy. For example, the Attorney General has the right to bring civil and criminal antitrust suits but we all know that the private right of enforcement is also desirable to make sure that the antitrust laws are fully complied with.

f. In the memorandum, draft dated June 5, 1982, it is said that the person discriminated against would continue to have a private right of action under 42 U.S.C. 1981, but I cannot find that provision in the bill. If it is not put in the bill there is the argument that the remedy set forth in the bill in Section 4, to wit, enforcement by the Attorney General, is the exclusive remedy.

g. Section 6, which states that the tax credit is not federal financial assistance, is inconsistent with the Budget Control Act of 1974. If you look at the budget report you will see that tax credits are treated as a federal contribution. This is one of the reasons why the civil rights groups argue in the Bob Jones University case

that if Section 501(c)(3) and Section 170 are construed as permitting the tax deduction even if there is racial discrimination that such statutes are unconstitutional.

I end as I started. It is commendable that the Administration has recognized that the racial discrimination issue must be dealt with. There are, however, certain provisions trying to carry out this decision which I wish were done differently. If you wish, I could, on a confidential basis, provide the resources to have the non-discriminatory provisions written in a way which would get acceptance by those who think such provisions are exceedingly important.

Thanks for your confidence.

WTC, Jr.

THE WHITE HOUSE

WASHINGTON

June 21, 1982

MEMORANDUM FOR ELIZABETH DOLE

FROM: Jim Cicconi *JC*
SUBJECT: 50 States Project

As an addendum to the May 20 decision memo signed by JAB transferring the 50 States Project to OPL, I feel it necessary to restate our conversation last month in which it was agreed that no slot would be added to OPL without concurrence from Rich Williamson. Absent such concurrence, you will recall, you agreed to try to work out with John Rogers any arrangements necessary to staff the new responsibility.

With the decision to name Thelma Duggin as the project director, the above may, of course, be moot since she will retain her current responsibilities as well.

cc: Richard Darman
Craig Fuller

THE WHITE HOUSE
WASHINGTON

June 22, 1982

TO: JAB III

RE: Eastern Pa. District Judgeship

Sen. Heinz called you about an O'Neill, who was passed on by he and Sen. Specter as a nominee for district judge.

There are no objections to O'Neill per se-- his name has not even been formally considered in the Judicial meeting. All we want is a few more names; most senators will give us 5. We know Heinz and Specter have more names from their nominations committee that they are not sending us. The reason is that we have generally not taken their first choices in the past.

We need more than one name for two key reasons:

1. the President of the US should have a choice; and
2. it is in the senators' interest to give us more names to avoid embarrassment if we have to reject their first choice.

Also, FYI, if we get another name, we probably would not go with O'Neill-- Justice says he's too liberal.

JC

THE WHITE HOUSE
WASHINGTON

June 22, 1982

TO: JAB III

RE: Enterprise Zones

FYI, at the recent CCHR meeting with the President it was mentioned that the enterprise zone proposal is having problems in Congress, and that this was in part due to a perception that the President was not really serious about passing it.

Sec. Pierce said it would be very helpful if the President were to make some sort of statement, perhaps at the start of his next press conference, to stress his commitment to passing the enterprise zone proposal. There was general Cabinet Council agreement in this suggestion and the President said that he'd very much like to make such a statement.

JC

THE WHITE HOUSE
WASHINGTON

June 22, 1982

JAB,

Attached are Tower's comments on the subject of impact aid to educate illegal alien children.

As you can see, he embellished a bit, but the difference is not readily apparent and will probably go unnoticed.

I gave Anson the guidance to handle questions on this.

JC



Comments by Sen. Tower re Administration Reaction
to Federal Aid for Educating Aliens

They indicated they would be glad to consider favorably any reasonable congressional initiative. That is an indication--I don't have any hard promises or anything like that, but at least they didn't throw cold water on the idea. In fact, quite to the contrary, it seemed to me that they encouraged it.

THE WHITE HOUSE
WASHINGTON

June 22, 1982

MEMORANDUM FOR RICHARD DARMAN

FROM: Jim Cicconi 
SUBJECT: Comments on Signing
Statement for H.R. 4

I definitely feel the CIA draft is better for use in the signing ceremony on the Agents' Identities bill.

Suggest we consider, though, whether the last sentence ("...our next legislative goal...FOIA...") should be in the statement. It would probably take away from the impact of this bill's passage by allowing the press to write about future plans that they no doubt disagree with (due to their professionally expansive reading of the First Amendment). In short, I think we should drop the last sentence of the draft.

JUSTICE DRAFT SIGNING STATEMENT

I am pleased to approve H.R. 4, the "Intelligence Identities Protection Act of 1982." This legislation represents a tough law enforcement measure which was passed with the strong support of this Administration. The statute will provide a strong weapon against those who attempt to undermine foreign intelligence activities by revealing names of covert agents operating on behalf of the United States. Enforcement of this law will create an effective deterrent against such conduct.

Preservation of undercover intelligence identities is essential in order to ascertain the necessary insight into actual plans and intentions of foreign powers which seek to confront the United States and also in the discovery of problems of an international magnitude. Disclosure of such identities harms the nation's ability to conduct foreign policy and provide for a common defense. This measure shall help prevent disruption of intelligence activities.

Recommended Signing Statement

On December 4th of last year I had the pleasure of signing the Intelligence Authorization Act for Fiscal Year 1982. At that time I expressed the hope that I would soon be able to sign the Intelligence Identities Protection Act, which I said would be another step forward in revitalizing our intelligence efforts. It is with the deepest sense of pride, therefore, that today I sign into law Enrolled Bill H.R. 4.

The formulation of sound foreign policy and the security of our nation depend to a great extent upon the timely acquisition of information concerning the capabilities and intentions of other countries. There have been great technological advances in intelligence collection techniques, but in the crucial area of intentions the human source and the human collector remain paramount, and they can never be replaced by machines. Protection must be afforded to the dedicated men and women who serve our nation in difficult and dangerous intelligence assignments. I know that every patriotic American feels the same revulsion that I do for those who have made it their business to expose the names of individuals engaged or assisting in our intelligence activities. I am gratified that the Congress has provided the necessary means to put an end to this perverse conduct, and that it has done so in a manner which protects First Amendment rights.

I am well aware of the serious attention and debate that was given to the Intelligence Identities Protection Act in both Houses, and I wish to commend the Congress for its overwhelming bipartisan support for the Bill. I would like to take this opportunity to express my appreciation to all of those who worked so diligently on this legislation. The effort to protect intelligence identities began several years ago, with the initiatives of Senator Lloyd Bentsen and Representatives Bob Michel and Charles Bennett. In the 97th Congress, the Chairmen of the Senate and House Committees on Intelligence, Senator Barry Goldwater and Representative Edward Boland, worked diligently to secure passage of the legislation. Senators Thurmond, Denton, Jackson, and East were steadfast supporters of the Identities Bill, and Representatives Robinson, Mazzoli, McClory, Hyde, Solomon, Wright, and Young pressed the effort in the House. I especially want to state my deepest admiration for Senator John Chafee, whose outstanding leadership and determination played the key role in securing approval of the Bill in the Senate. I only wish that the late Representative John Ashbrook, who took the lead on the House floor, could be with us today to witness this signing; the Intelligence Identities Protection Act is a monument to him.

Enactment of the Intelligence Identities Protection Act is proof that this nation values and will continue to support the efforts of its intelligence agencies and their personnel. This achievement will allow us to focus our efforts on the next legislative goal in our program to revitalize the nation's intelligence capabilities: securing relief for the Intelligence Community from the wasteful and debilitating impact of the Freedom of Information Act.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JUN 22 1982

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 4 - Intelligence Identities
Protection Act
Sponsors - Rep. Boland (D) Massachusetts and 52 others

Last Day for Action

June 26, 1982 - Friday

Purpose

To prohibit the unauthorized disclosure of information identifying certain United States intelligence officers and agents.

Agency Recommendations

Office of Management and Budget	Approval
Department of Defense	Approval
Department of Justice	Approval (Signing statement attached)
Central Intelligence Agency	Approval (Signing statement attached)
National Security Council	Approval
Department of State	Approval

Discussion

This bill enacts the Administration's recommendations. Existing law does not prohibit the unauthorized disclosure of the identities of United States intelligence agents. As you noted in a September 14, 1981, letter to Senator Thurmond, however, "nothing has been more damaging to our intelligence effort abroad than the pernicious, unauthorized disclosure of the names of those officers whom we send on dangerous and difficult assignments abroad." H.R. 4 is intended to deter unauthorized and knowing disclosure of agents' identities by making it a felony.

In brief, H.R. 4 establishes three felony offenses for disclosing the identity of a covert intelligence agent to a person not authorized to receive classified information, knowing that the U.S. Government is trying to keep that agent's identity concealed:

- (1) Where information directly identifying the covert agent is so disclosed by a person with authorized access to that information, the person is punishable by up to a \$50,000 fine or ten years imprisonment, or both.
- (2) Where the covert agent's identity has been learned as a result of authorized access to classified information and information serving to identify the agent is similarly disclosed, the person is punishable by up to \$25,000 fine of five years imprisonment, or both.
- (3) When a person has engaged in a pattern of activities intended to disclose the identity of covert agents, believing that such disclosure would impede U.S. foreign intelligence activities, and does in fact make such a disclosure, the person is punishable by a fine of up to \$15,000 or imprisonment of not more than three years, or both.

The third type of offense has been criticized in Senate floor debate as encroaching on First Amendment freedoms because it does not necessarily require the unauthorized disclosure of, or information derived from, classified information. Opponents of this provision argued that even a well-meaning intent to inform the public about wrongdoing or abuse by intelligence agencies would put journalists in peril of prosecution in determining whether the naming of any individuals in their reporting subjects them to criminal prosecution, particularly when the action is based on information available to the public.

In reply, Senator Leahy (D-Vt.) one of the managers of the bill in the Senate, argued on the floor against the opponents of the provision saying:

"The conference report makes quite clear that the government must prove that the defendant engaged in a pattern of activities both intended to identify and intended to expose a covert agent. In my view, it is the latter element which limits the reach of this bill to those individuals not engaged in legitimate first amendment activity."

Consistent with Senator Leahy's view, the Department of Justice states in its attached views letter that H.R. 4 will withstand constitutional challenge on First Amendment and due process grounds.

The enrolled bill also contains (1) a number of limited defenses and exceptions to prosecution, (2) a requirement that the President report annually to the Congress on measures taken to protect the identities of covert agents, and (3) a provision establishing extraterritorial jurisdiction for an unlawful disclosure of the identity of a covert agent if the person making the disclosure is either a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

H.R. 4 passed the House by a vote of 315-32 and the Senate by a vote of 81-4.

Both the Central Intelligence Agency and the Department of Justice have prepared signing statements, which are attached for your consideration.

James M. Frey
Assistant Director for
Legislative Reference

Enclosures

THE WHITE HOUSE

WASHINGTON

June 24, 1982

MEMORANDUM FOR THE FILE

FROM: Jim Cicconi *JC*
SUBJECT: Battleship Iowa Modernization

A meeting was held on June 22, 1982, at the request of Senator John Heinz, Senator Arlen Specter, and the eastern Pennsylvania congressional delegation to discuss the contract for modernizing the battleship USS Iowa. WH staff in attendance included James A. Baker, III, Ken Duberstein, Jim Medas, B. Oglesby, and myself.

The delegation argued the merits of awarding the contract to the shipyard at Chester, Pennsylvania. At the onset of the meeting, Jim Baker explained that we were meeting at their request to hear their concerns, but that such decisions have been made at the Defense Department during our Administration, and not at the WH. He also stressed that we specifically have not pressed political considerations on DOD during its decision-making on defense contracts.

After hearing the delegation's concerns, Jim Baker urged that they speak directly with Secretary Weinberger on the issue at an early date.

cc: Dick Hauser

f SC memos

THE WHITE HOUSE
WASHINGTON

June 24, 1982

TO: FRED FIELDING

RE: 5th Circuit Judgeship

One of JAB's friends in Houston mentioned the name of Pat Lykos as a possible female nominee to the 5th Circuit. JAB does not know her well, though she is apparently well regarded in the Houston legal community.

Lykos is currently a Republican judge in Harris County, Texas.

We would appreciate it if Justice could take a closer look at her credentials and qualifications.

Thanks.


Jim Cicconi

THE WHITE HOUSE
WASHINGTON

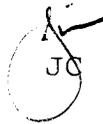
June 25, 1982

TO: JAB III

I suggested to Ken Cribb that it would probably be a good idea if he and I tried to get together more often to discuss what was going on regarding issues, exchange views, prevent problems, etc.

He thought it was an excellent idea and suggested we have a regular lunch every Monday; I agreed.

All I really hope for in this is smooth communications and to try to head off policy differences between you and Meese before they come to a head. So far my dealings with Ken have had some success in minimizing such differences, and this can only help.


JC

THE WHITE HOUSE
WASHINGTON

June 25, 1982

TO: JAB III

RE: Economic Update

Some points from the CCEA meeting (which Dave Gergen has already mentioned to you in connection with unemployment):

-- per Jerry Jordan of CEA, we are definitely looking at a period of economic growth in the 2d half;

-- however, factors are not yet in place (presumably he meant interest rates, etc) to assure the recovery is deep and sustained;

-- the worst is behind us on housing starts;

-- unemployment is likely to hit 10% in time for the November elections;

-- on the whole this recession has not been as severe as the one in 74-75;

-- year-over-year inflation will stay around 6½%.

Also, Kudlow warned that we may have seen the last of the dramatic declines in inflation figures.

JC

cc: Dick Darman

THE WHITE HOUSE
WASHINGTON

June 25, 1982

TO: JAB III

RE: Voting Rights

FYI, it was decided at the meeting chaired by Deaver that Jesse Jackson, Tony Bonilla, Coretta King, and even Lady Bird Johnson will be invited to the Voting Rights signing ceremony.

Ruben Bonilla will not be invited since he does not head any prominent organization and since that would really give Bill Clements heartburn.

It's going to be a good event. We just hope that Jackson and Co. will mind their manners.

JC

THE WHITE HOUSE

WASHINGTON

June 25, 1982

MEMORANDUM FOR JAMES A. BAKER, III

FROM: Jim Cicconi
SUBJECT: Women's Issues Update

Going into "ERA Expiration Week," the status on our various initiatives is as follows:

1. 50 States Project: Thelma Duggin has been promoted to Special Assistant and will direct the project. A status report has been prepared by Rich Williamson's office.
2. Women's Equity Task Force: The Justice Department will finalize its first quarterly review of federal laws and regulations by Monday. The Attorney General will then formally transmit the report to Craig Fuller (for CCLP).
3. ERA: Guidance re our position on both expiration and reintroduction of ERA is being formulated by Ed Harper's office and should be ready by Tuesday.
4. Report on Administration Accomplishments for Women: Mike Baroody has prepared a fact sheet which is now being circulated on the Administration's record.
5. Other Steps: The Justice Department has prepared an analysis of the statutory and judicial progress towards equality for women that has occurred since ERA originally passed the Congress. Justice will be prepared to handle questions on this subject.

The group that met in Ed Harper's office today agreed that a proposal would be submitted to brief the President before Wednesday on the various women's issues (with a recognition that such a proposal is made on shorter notice than our procedure calls for, and thus may not be accepted). The briefing would include Brad Reynolds and Carol Dinkins (Women's Task Force), Thelma Duggin (50 States Project), Helene von Damm (appointments), and Ed Harper (general policy). Red Cavaney is drafting the proposal.

cc: Richard Darman
Craig Fuller

THE WHITE HOUSE
WASHINGTON

June 28, 1982

TO: JAB III

RE: Credit Control Act

CCEA now has an options paper concerning possible extension of the Credit Control Act. It will be forwarded to the President shortly.

The clear majority on CCEA feel that credit control powers should not be used, and they recommend to the President that the Administration oppose extension or expansion of standby credit controls.

By the way, the CCEA heard a report that Carter's invoking of credit controls for 3½ months in 1980 may have caused a \$23B loss in GNP.

JC



THE WHITE HOUSE
WASHINGTON

June 28, 1982

JAB,

FYI, Human Events this week does a real number on Rex Lee, the Solicitor General.

In my view this is not undeserved. From the story, it appears that most of the info came from a few Reaganites in DOJ (probably the same ones who have given Meese's shop inside analyses of certain cases like Lord and Guardians).

JC

THE WHITE HOUSE
WASHINGTON

June 28, 1982

TO: JAB III

RE: Safe Drinking Water Act

At its meeting last week, the CCNRE considered the issue of the Safe Drinking Water Act. The discussion at first centered on the desirability of enacting changes in the Act, but soon broadened to considering outright repeal.

EPA basically opposed efforts to make substantial changes in the Act, much less repeal it. Watt and others suggested some dramatic changes, even to the point of repeal. Watt, at the end of the meeting, asked that an options paper be prepared to bring the issue before the President.

I talked with Ed Harper and Danny Boggs after the meeting. They agreed that there is no real reason to even be considering this issue-- there are no hearings scheduled and the "expiration date" is only an expiration of funding under the Act. I suggested we try not to rush to judgment on the issue, and Harper agreed with putting it off for awhile. I later spoke with Craig on slowing it down, also.

The obvious problem here is that we

Memo to JAB III
June 28, 1982

are hamstrung generally on environmental issues. In many ways we have less freedom of action than Jimmy Carter had. In the case of the Safe Drinking Water Act, though there are clearly grounds for change, any changes at all will probably be portrayed as efforts to "gut" the Act-- and this is especially true of the changes contemplated by Watt.

JC 

cc: Richard Darman

THE WHITE HOUSE

WASHINGTON

June 28, 1982

MEMORANDUM FOR JAMES A. BAKER, III

FROM: Jim Cicconi
SUBJECT: Secretary of Energy

Secretary Watt approached me after the CCLP meeting today concerning the choice of a successor to Secretary Edwards at DOE. Watt feels it would be preferable to name Secretary Baldrige, or his deputy at Commerce, as acting Secretary of Energy (holding both posts concurrently).

Watt feels this would be preferable to naming Don Hodel since DOE is to be merged into Commerce, not Interior. He says Hodel would be pleased to take on the job, but that he agrees with Watt's suggestion. I raised a question about the legality of one man heading two different departments, but assured him I would pass on his suggestion.

Watt said he had already raised the idea with Ed Meese and said Meese "seemed interested."

THE WHITE HOUSE
WASHINGTON

June 28, 1982

MEMORANDUM FOR JAMES A. BAKER, III

FROM: Jim Cicconi
SUBJECT: CCLP Meeting

Back to Cicconi
7/13



Immigration

1. Re legalization, it was decided to push for a middle ground rather than support the provisions in Simpson-Mazzoli (S. 2222). The main sticking point is that S. 2222 now offers permanent resident status to those illegals who have been in the U.S. since January 1, 1978; it offers temporary status for those who entered after 1978. The bill also grants all welfare benefits to permanent residents, and Medicaid and SSI to temporary residents.

The middle ground we advocate will probably give temporary status to all illegal aliens. It may also offer Medicaid and SSI, but only after a cap on total costs has been determined.

The AG says our middle ground approach probably has little chance on the Hill. Since he feels strongly we need to pass an immigration bill this year, he says we may need to negotiate the best deal we can while being prepared to veto an unacceptable bill.

2. Re identification cards, S. 2222 would call for an ID card of some sort. The Administration position has been that such a card was unnecessary and undesirable, and could lead to a national identity card. The decision on this point was that we seek to modify the language in S. 2222 to study, but not implement, the ID card plan.

Antitrust

In summary, this issue involves the antitrust liability of home-rule cities. For the most part, cities have been able to claim an antitrust exemption prior to the Supreme Court's recent decision in the Boulder case. Boulder, in effect, opened the door to antitrust claims against cities and has caused those cities to seek an exemption from Congress if their particular state's law also allows it. Federalism arguments are used by both sides in this. DOJ says we should not support exemption bills as a general policy, and that legislation in this case would be premature. Rich Williamson argues that an exemption is necessary here because of federal interference (by the Supreme Court), and that we should repair the situation to sanction exemptions where state law presently allows them.

Memorandum for James A. Baker, III
June 28, 1982
Page 2 of 2

It was my understanding that the decision was to hedge a bit in Bill Baxter's testimony by expressing sympathy for the cities' situation, a desire to see such matters left to state law, and yet also expressing concern about passing legislation. (Note: Baxter is testifying at committee request on the overall situation and not on a specific bill.)

Crime Package

The AG made the point that the time is ripe to move full speed on the Thurmond-Biden anti-crime measures. He specifically asked that:

- a.) the President meet with Senators Baker and Thurmond to push for speedy action in the Senate;
- b.) the President meet with O'Neill, Rodino and others to push the package; and
- c.) the CCLP, or a sub-group of it, monitor progress of the legislation and make recommendations for necessary WH or departmental actions to speed passage.

The first recommendation was accepted with the proviso it be done by phone. The second recommendation was considered unwise, and the third (which impinges on the Legislative Strategy Group's functions) was not really discussed.

cc: Richard Darman
Dave Gergen