

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Tuck, John C.: Files
Folder Title: Drugs II [June 1988 - December 1988] (2)
Box: 2

To see more digitized collections visit:

<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:

<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

John,

Preliminary drafts -
they are also adding
the Dole amendment
to the "side-by-side"

Don

~~Drug file~~

BRIEF SUMMARY OF SELECTED MAJOR PROVISIONS OF S. 2852 -
THE OMNIBUS ANTI-SUBSTANCE ABUSE ACT OF 1988

I. Criminal Justice/Law Enforcement Amendments

- A. Chemical Diversion and Trafficking. Establishes a comprehensive system for keeping track of "precursor" chemicals (i.e., chemicals that are used in the manufacture of illicit drugs).
- B. Asset Forfeitures. Requires Justice and Treasury to promulgate regulations for expedited administrative procedures for forfeitures involving the possession of "personal use quantities" of a controlled substance.
- C. Death Penalty. Authorizes imposition of the death penalty in certain serious drug-related murders.
- D. Drug Czar. Establishes the Office of National Drug Control Policy in the EOP and abolishes the National Drug Policy Board and the White House Drug Abuse Policy Office.
- E. State and Local Assistance. Authorizes appropriations for the State and local assistance grant program (\$275 million in FY 1989, \$350 million in FY 1990, and \$400 million in 1991).

II. Interdiction Amendments

- A. Coast Guard Provisions. Authorizes appropriations for the Coast Guard of: \$68 million for FY 1989 for acquisition, construction, and improvements; and \$16 million for FY 1989 for operating expenses.
- B. Customs Service Amendments. Authorizes appropriations of \$57 million for FY 1989 for Customs for operation and maintenance and the air interdiction program and \$30 million for salaries and expenses.

III. Rehabilitation and Treatment

- A. Alcohol and Drug Abuse and Mental Health Services Block Grants. Authorizes appropriations of \$700 million for FY 1989, \$868 million for FY 1990, and \$952 million for FY 1991 for these block grants.
- B. Comprehensive Substance Abuse Treatment Assistance Program. Authorizes appropriations of \$959 million for FY 1989, \$2 billion for FY 1990, and \$3 billion for FY 1991 for this program.
- C. Mental Health Demonstration Projects. Authorizes appropriations of \$60 million for FY 1989 and \$63 million for FY 1990 for this activity.

- D. AIDS Grants. Authorizes appropriations of \$95 million for FY 1989 for projects that seek to reduce the transmission of AIDS.

IV. Education Provisions

- A. Drug-Free Schools and Communities Act of 1986. Authorizes appropriations of \$405 million for FY 1989, \$489 million for FY 1990, \$538 million for FY 1991, \$592 million for FY 1992, and \$651 million for FY 1993.

V. International Provisions

- A. Authorization of Appropriations for International Narcotics Control Assistance. Authorizes appropriations of \$101 million for FY 1989 for this purpose.
- B. Latin American Anti-Drug Strike Force. Directs the President to initiate discussions with OAS aimed at forming such a strike force.
- C. Passport Revocation. Permits revocation of passports for certain specified drug violations.

VI. Drug-Free Housing

- A. In general. Authorizes termination of a public housing lease for certain specified drug activity. Also permits public housing authorities to hire persons to investigate the illegal use of drugs in public housing projects. HUD would be authorized to set up a pilot grant program to eliminate drug use in public housing.

VII. Drug-Free Workplaces

- A. Drug-Free Workplace Requirements. Requires Federal Government contractors and grantees to establish drug-free workplaces meeting specified criteria.
- B. Employee Sanctions. Requires a contractor or grantee to take appropriate personnel action against employees convicted of drug violations.

VIII. Transportation Provisions

- A. Drug Testing in Transportation Industry. Requires the establishment of a drug testing program for certain employees in the transportation industry.

IX. Denial of Benefits

- A. In general. Would require the new "drug czar" to submit to Congress a list of Federal benefits that, if withheld from individuals convicted of drug offenses, would significantly deter drug use.

X. Important Provisions Not Included

- A. Exclusionary Rule/Habeas Corpus. The House bill, H.R. 5210, contains provisions reforming the exclusionary rule. The Senate bill does not. Neither bill contains a provision reforming Federal habeas corpus procedures.

XI. Funding

- A. In general. A comprehensive funding breakout is under development and will be supplied later.

**SUMMARY OF MAJOR PROVISIONS OF OMNIBUS DRUG
INITIATIVE ACT OF 1988 - H.R. 5210**

I. Criminal Justice/Law Enforcement Amendments

- A. Money Laundering. Toughens the existing money laundering statutes in various respects (e.g., by making it a criminal offense to engage in a prohibited transaction with the intention of evading income tax).
- B. Chemical Diversion and Trafficking. Establishes a comprehensive system for keeping track of "precursor" chemicals (i.e., chemicals that are used in the manufacture of illicit drugs). In general, requires persons engaged in transactions involving such chemicals to keep records of such transactions.
- C. Asset Forfeitures. Creates statutory "innocent owner" defenses for the owners of conveyances able to demonstrate that they had no knowledge of drugs on their conveyances. Also creates an expedited petition process for mitigation or remission of certain forfeitures and provides that up to \$150 million in the Assets Forfeiture Fund may be used for certain specified purposes (e.g., diversion control programs under DEA and U.S. Attorneys).
- D. State and Local Assistance and Related Matters. Makes various minor changes to the State and local grant program. Also reauthorizes: the Bureau of Justice Statistics (\$30 million in for each of FY's 1989-1992); the National Institute of Justice (\$30 million for each of FY's 1989-1992); the Bureau of Justice Assistance (\$100 million for each of FY's 1989-1992); the drug grant program (\$250 million for FY 1989 and \$500 million for each of FY's 1990-1992); and grants for prison construction (\$25 million for each of FY's 1989-1992).
- E. Appropriation Authorizations for the Justice Department. Authorizes appropriations for various drug-related activities of the Justice Department (e.g., DEA) totalling \$2.345 billion for FY 1989.
- F. Firearms. Makes it a criminal offense to travel in interstate commerce and attempt to purchase a firearm in pursuance of certain specified criminal activity. Also requires Justice to develop a plan for a system for the rapid identification of felons in connection with hand gun sales.
- G. Death Penalty. Permits the imposition of the death penalty in certain particularly serious drug-related cases in which death results, subject to certain limitations and restrictions (e.g., a prohibition on

imposing the death penalty on a mentally retarded person).

- H. Exclusionary Rule. Establishes a statutory "good faith" exception to the exclusionary rule.
- I. Agency Law Enforcement Authorities. Clarifies and enhances the law enforcement authorities of the Postal Service, the Forest Service, the Bureau of Land Management, and the National Park Service.
- J. Marshals Service. Establishes the Marshals Service by statute in Justice and clarifies its authorities.
- K. DEA-EPA Task Force. Establishes a joint DEA-EPA task force to formulate and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories.
- L. Drug Czar. Establishes the Office of Drug Enforcement Coordination in the EOP and abolishes the National Drug Policy Board.
- M. Civil Penalties. Authorizes the imposition of civil penalties against persons possessing small amounts of specified illicit drugs.

II. Interdiction Amendments

- A. Coast Guard Provisions. Authorizes appropriations for the Coast Guard of: \$264 million for FY 1989 for acquisition, construction, and improvements; and \$82 million for FY 1989 and \$30 million for each of FY's 1990-1992 for operating expenses. Requires the Transportation Department to establish a vessel identification system.
- B. Federal Aviation Administration Amendments. Authorizes the FAA to modify its aircraft registration system, its system for issuing airman's certificates, and related systems to make them more effective in drug law enforcement. Establishes criminal penalties for false marking of aircraft and similar acts. Provides the FAA with limited concurrent budget submission authority and limited exemption from Paperwork Reduction Act.
- C. Customs Service Amendments. Authorizes appropriations for FY 1989 for Customs, as follows: \$417.068 million for noncommercial operations; \$622.753 million for commercial operations; \$197.262 million for air operations; and \$15 million for an x-ray scanning device. Also makes various other Customs-related amendments (e.g., an increase in the penalty for failure to declare a controlled substance).

III. International Provisions

- A. Latin American Regional Anti-Narcotics Force. Directs the President to seek the views of the OAS with respect to establishment of a Latin American Regional Anti-Narcotics Force and directs DOD to provide assistance for the force, if established. Authorizes appropriations for such purpose of \$10 million for FY 1988 [sic].
- B. Authorizations and Earmarkings of Foreign Assistance. Authorizes appropriations of \$101 million for FY 1989 for international narcotics control assistance and earmarks certain funds for specified activities (e.g., \$2 million for education and training in crop eradication).
- C. Specific Country Provisions. Contains provisions directed at certain source countries (i.e., Bolivia, Mexico, Peru, Columbia, Pakistan, Laos, and Afghanistan). For example, no United States assistance may be furnished to Laos if the President determines that the government of that country is involved in drug trafficking.
- D. Annual Reports/Certifications and Miscellaneous Assistance Provisions. Makes various changes in reports furnished by the Executive branch to Congress regarding foreign assistance and international drug trafficking. Also directs the President to take reasonable steps to ensure that assistance under the Arms Export Control Act and the Foreign Assistance Act of 1961 is not provided to drug traffickers.
- E. Department of State Provisions. Makes State responsible for coordinating assistance provided by the United States in support of efforts to combat international narcotics production and trafficking. Permits denial or revocation of passports of certain convicted drug traffickers. Permits the stamping of passports to indicate that holders have been convicted of drug offenses.
- F. Export-Import Bank/Multilateral Development Bank Provisions. Permits the Exim Bank to guarantee or insure a sale of defense articles for certain foreign anti-narcotics efforts. Directs the Treasury to discuss with other members of multilateral development banks (e.g., the World Bank) the possibility of establishing lending programs for developing countries that would reduce the dependence of such countries on illicit drug production and trafficking.
- G. Information on Illegal Foreign Drug Activities. Requires that any employee of the Federal Government, who in the course of his or her duties obtains information about

illegal foreign drug activities, to report such information to the head of the agency designated for that purpose by the President.

IV. Education Provisions

- A. Youth Gangs. Authorizes grants for discouraging participation of youth gangs in drug-related activities. Authorizes appropriations of \$30 million for FY 1989.
- B. National Youth Sports Program. Authorizes grants for a national youth sports program for disadvantaged youth. Authorizes appropriations of \$15 million for FY 1989, \$17 million for 1990, and \$20 million for FY 1991 for such program.
- C. Juvenile Justice/Runaway Youth. Authorizes grants for various anti-drug education programs targeted at juveniles and authorizes appropriations totalling \$45 million for FY 1989 therefor. Also authorizes grants for projects to discourage drug use among runaway and homeless youth and authorizes appropriations of \$15 million for FY 1989 therefor.
- D. Drug Abuse Education for Participants in the Special Supplemental Food Program for Women, Infants, and Children. Authorizes appropriations of \$10 million for FY 1989 for a study of appropriate methods of drug abuse education for persons participating in this program.
- E. Volunteer Demonstration Projects for Drug Abuse Education. Authorizes appropriations of \$5 million for each of FY's 1989-1991 for community-based volunteer demonstration projects that provide comprehensive drug abuse education to youths during the summer months.

V. Drug-Free Workplaces

- A. Drug-Free Workplace Requirements. Requires Federal Government contractors and grantees to establish drug-free workplaces meeting specified criteria (e.g., by setting up a drug-free awareness program). Those who fail to comply may be suspended, terminated, or debarred, as appropriate.
- B. Employee Sanctions. Requires that a grantee or contractor take appropriate personnel action against employees convicted of drug violations.

VI. Rehabilitation and Treatment

- A. AIDS Grant Program. Extends the Drug Abuse, Alcohol Abuse, and Mental Health grant program to States that establish and operate programs for discouraging and

treating intravenous drug abuse. Authorizes appropriations of \$250 million for this purpose for FY 1989.

- B. Alcohol and Drug Abuse Prevention, Treatment, and Rehabilitation Grant Program. Authorizes grants to States for planning and establishing programs for the prevention and treatment of drug and alcohol abuse. Authorizes appropriations of \$475 million for this purpose for FY 1989.
- C. Mental Health Services. Authorizes grants to States that plan and provide community mental health services. Authorizes appropriations of \$350 million for this purpose for FY 1989.
- D. Counseling and Testing With Respect to AIDS. Provides that financial assistance may not be provided for AIDS counseling and testing unless the recipient agrees to ensure the confidentiality of information and records obtained. Requires that the recipient of assistance agree that, before testing a person for AIDS, such person receive certain specified information (e.g., measures for preventing the transmission of AIDS). Establishes numerous other requirements relating to AIDS testing and counseling, including standards for Federal certification of laboratories engaged in drug testing.
- E. Grants for Reducing Waiting Period for Drug Abuse Treatment. Authorizes appropriations of \$100 million for FY 1989 for expanding the capacity of grantees to treat drug abusers.
- F. Funding for Office of Substance Abuse Prevention. Authorizes appropriations of \$75 million for FY 1989 for the Office of Substance Abuse Prevention.
- G. Mental Health Demonstration Projects. Authorizes appropriations of \$32 million for each of FY's 1989 and 1990 for demonstration projects to provide prevention services to certain persons thought to be at risk of developing mental illness.

VII. Drug-Free Housing

- A. Clearinghouse on Drug Abuse in Public Housing. Directs HUD to establish such a clearinghouse. Also requires HUD to establish a regional training program for public housing officials to combat drug abuse in public housing.
- B. Drug-Related Crime in Public Housing. Authorizes grants to public housing authorities to combat drug abuse-related crime in public housing.

VIII. Denial of Benefits

- A. In General. Denies certain Federal benefits (e.g., eligibility for contracts, grants, and loans) with respect to any person convicted of drug trafficking or twice convicted of simple possession of illegal drugs.

IX. Transportation Provisions

- A. Drunk Driving Grant Program. Authorizes up to \$125 million in grants to help States implement drunk driving enforcement programs.
- B. Suspension of Drivers' Licenses. Authorizes up to \$125 million in grants for States that suspend the drivers licenses of persons convicted of drug-related criminal offenses.
- C. Common Carrier Offenses. Increases the criminal penalties for operating a common carrier (e.g., a passenger train) while under the influence of alcohol or drugs.

COMPARISON OF HOUSE AND SENATE OMNIBUS ANTI-DRUG BILLS
H.R 5210 (AS PASSED BY THE HOUSE) AND S. 2852 (AS INTRODUCED)

I. Criminal Justice/Law Enforcement Amendments

A. Money Laundering.

House Bill: Toughens the existing money laundering statutes in various respects (e.g., by making it a criminal offense to engage in a prohibited transaction with the intention of evading income tax). In addition, undercover law enforcement officers would be permitted to pose as drug traffickers in order to obtain evidence to convict money launderers.

Senate Bill: Similar provisions.

Administration Position: Support.

B. Chemical Diversion and Trafficking.

House Bill: Establishes a comprehensive system for keeping track of "precursor" chemicals (i.e., chemicals that are used in the manufacture of illicit drugs). In general, requires persons engaged in transactions involving such chemicals to keep records of such transactions and to make them available when requested by the Department of Justice. The import and export of specified chemicals would be unlawful, unless they are intended to be used for a legitimate purpose.

Senate Bill: Similar provisions.

Administration Position: Support.

C. Asset Forfeitures.

House Bill: Creates statutory "innocent owner" defenses for the owners of conveyances able to demonstrate that they had no knowledge of drugs on their conveyances. Also creates an expedited petition process for mitigation or remission of certain forfeitures and provides that up to \$150 million in the Assets Forfeiture Fund may be used for certain specified purposes (e.g., diversion control programs under DEA and U.S. Attorneys).

Senate Bill: Requires Justice and Treasury to promulgate regulations for expedited administrative procedures for forfeitures involving the possession of "personal use quantities" of a controlled substance. Property would have to be returned if owner did not know or consent to the violation and the owner took reasonable steps to prevent illegal use of the property. Makes various other

changes to Customs and Assets Forfeiture Funds.

Administration Position: Senate version is preferable, because it does not include House statutory "innocent owner" provisions and would essentially codify current administrative practice.

D. State and Local Assistance and Related Matters.

House Bill: Makes various minor changes to the State and local grant program. Also reauthorizes: the Bureau of Justice Statistics (\$30 million in for each of FY's 1989-1992); the National Institute of Justice (\$30 million for each of FY's 1989-1992); the Bureau of Justice Assistance grant program (\$100 million for each of FY's 1989-1992); the drug grant program (\$250 million for FY 1989 and \$500 million for each of FY's 1990-1992); and grants for State and local prison construction (\$25 million for each of FY's 1989-1992).

Senate Bill: Reauthorizes: the Bureau of Justice Statistics (\$21 million in FY 1989); the National Insitute of Justice (\$24 million for FY 1989); the Bureau of Justice Assistance (\$25.5 million for FY 1989); the drug grant program (\$275 million for FY 1989, \$350 million for FY 1990; and \$400 million for FY 1991); grants for State and local prison construction (\$15 million in FY 1989); the juvenile justice program ("such sums" for FY's 1989-1992); the runaway and homeless youth program ("such sums" for FY's 1989-1992); missing children's assistance ("such sums" for FY's 1989-1992); the Victims of Crime Act ("such sums" for FY's 1989-1992); and the State Justice Institute (\$15 million for FY 1989).

Makes many other changes, both major and minor, in these areas (e.g., by: substantially restructuring the juvenile justice program; clarifying the duties of the Bureau of Justice Statistics; authorizing "transitional living projects" in the runaway and homeless youth program; authorizing grants to State and local criminal justice agencies involving regional information sharing; increasing benefits payable under the Public Safety Officers Benefit program; and authorizing grants to improve the accuracy of criminal history information).

Administration Position: Support some of the reauthorizations (e.g., the Bureau of Justice Statistics, crime victims assistance, and missing children's assistance) but oppose others (e.g., grants for State and local prison construction, juvenile justice, and State Justice Institute). Restructuring of juvenile justice program considered objectionable by Justice. House bill may be less troublesome (although drug grants would be

authorized at higher levels). Also, see IX, "Funding."

E. Appropriation Authorizations for Drug Enforcement Personnel.

House Bill: Authorizes appropriations for various drug-related activities of the Justice Department (e.g., DEA, Prisons, and U.S. Attorneys) totalling \$2.3 billion for FY 1989.

Senate Bill: Authorizes appropriations for various agencies with drug-related responsibilities (e.g., INS; BATF; DEA; FBI; the Marshals Service; Federal Prison System; U.S. attorneys; and the Federal judiciary).

Administration Position: See IX, "Funding."

F. Firearms.

House Bill: Makes it a criminal offense to travel in interstate commerce and attempt to purchase a firearm in pursuance of certain specified criminal activity. Also requires Justice to develop a plan for a system for the rapid identification of felons in connection with hand gun sales.

Senate Bill: Makes it a criminal offense to transfer or possess a firearm in an elementary or secondary school. Provides for enhanced penalties for use of firearms in connection with certain violent crimes or drug trafficking crimes. Makes it a criminal offense to possess a firearm in specified "Federal facilities."

Administration Position: Senate bill is closer to Justice's proposals of earlier this year. The study called for by the House bill was adopted as an alternative to the so-called "Brady amendment," which would require a 7-day waiting period before the purchase of a handgun.

G. Death Penalty.

House Bill: Permits the imposition of the death penalty in certain particularly serious drug-related cases in which death results, subject to certain limitations and restrictions (e.g., a prohibition on imposing the death penalty on a mentally retarded person).

Senate Bill: Similar provisions.

Administration Position: The Administration supports enactment of the death penalty for appropriately serious crimes.

H. Exclusionary Rule.

House Bill: Establishes a statutory "good faith" exception to the exclusionary rule.

Senate Bill: No provision.

Administration Position: The Administration supports the House bill.

I. Agency Law Enforcement Authorities.

House Bill: Clarifies and enhances the law enforcement authorities of the Postal Service, the Forest Service, the Bureau of Land Management, and the National Park Service (e.g., by permitting Postal Service investigative personnel to carry firearms in certain situations).

Senate Bill: Somewhat similar provisions but limited to the Postal Service and Forest Service.

Administration Position: Generally support House bill.

J. Marshals Service.

House Bill: Establishes the Marshals Service by statute in Justice and clarifies its authorities. Makes the Director of the Marshals Service a Presidential appointee, subject to confirmation by the Senate.

Senate Bill: Similar provisions.

Administration Position: Support.

K. DEA-EPA Task Force.

House Bill: Establishes a joint DEA-EPA task force to formulate and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories.

Senate Bill: No provision.

Administration Position: Support House bill.

L. Drug Czar.

House Bill: Establishes the Office of Drug Enforcement Coordination in the EOP and abolishes the National Drug Policy Board. Functions limited to law enforcement matters.

Senate Bill: Establishes the Office of National Drug Control Policy in the EOP and abolishes the National Drug

Policy Board and the White House Drug Abuse Policy Office. Functions include all drug-related activities (i.e., law enforcement, education, rehabilitation, and the like).

Administration Position: The Administration believes that organizational questions of this nature should be deferred until the new President has taken office and has had an opportunity to make his own recommendations.

M. Civil Penalties.

House Bill: Authorizes the imposition of civil penalties against persons possessing small amounts of specified illicit drugs.

Senate Bill: No provision.

Administration Position: Support House bill.

N. Schools and Minors.

House Bill: No provision.

Senate Bill: Contains several provisions intended to protect children from drug trafficking (e.g., by enhancing existing penalties for drug offenses involving children and by making it a criminal offense to possess illegal drugs with intent to distribute within 1,000 feet of a schoolyard).

Administration Position: Support Senate bill.

O. Public Corruption.

House Bill: No provision.

Senate Bill: Makes it a criminal offense for a public official (including State officials) to accept or seek anything of value in return for being influenced in the performance of his or her official duty. It would also be an offense to offer anything of value in return for such influence.

Administration Position: Support Senate bill.

P. Minor and Technical Criminal Law Amendments

House Bill: No provision.

Senate Bill: Contains a series of about 100 criminal law amendments characterized as "minor and technical." Many of these would correct cross references, correct typographical errors in previously-enacted legislation,

redesignate certain provisions, and the like. Others are more substantive, such as those that would: authorize Federal Prison Industries to borrow from the Treasury to finance new construction; impose limitations on the furlough of persons hospitalized who have been found not guilty of a crime by reason of insanity; make it unlawful to use the term "Secret Service" without authorization; create a new offense for obstruction of a Federal audit; and make several additional offenses (e.g., sexual exploitation of children) predicate offenses under the Racketeer Influenced Corrupt Organization statute.

Administration Position: Support Senate bill.

Q. Sentencing Amendments.

House Bill: No provision.

Senate Bill: Includes a series of provisions that affect the United States Sentencing Commission (e.g., permitting the Commission to hire outside counsel to represent the Commission in any proceeding in which the Commission is authorized to represent itself and giving the Commission authority to grant incentive awards to its employees). Also establishes procedures for handling of persons received from foreign countries who are on parole from sentences imposed by those countries.

Administration Position: No objection to Senate bill.

R. Reimbursement to State and Local Law Enforcement Agencies.

House Bill: No provision.

Senate Bill: Requires reimbursement to State and local law enforcement agencies whenever such an agency provides information to the IRS that "substantially contributes" to the recovery of Federal taxes.

Administration Position: Oppose Senate provision.

S. Drug Testing of Criminal Defendants or as a Condition of Parole

House Bill: Includes demonstration program of mandatory drug testing for criminal defendants.

Senate Bill: Requires mandatory drug testing at least every 60 days for all persons on probation or supervised release in connection with specified offenses and includes sanctions (e.g., house arrest) for those who test positive.

Administration Position: Support.

T. Prison-Related Amendments

House Bill: No provision.

Senate Bill: Amends the laws concerning drugs in Federal prisons in various respects (e.g., by increasing from five to 20 years the maximum sentence for distributing drugs within a prison). Also, the Justice Department would be required to study the feasibility of requiring prisoners to pay for the costs of their incarceration.

Administration Position: Support Senate provisions.

V. Violent Criminal Deportation

House Bill: No provisions.

Senate Bill: Among other provisions dealing with aliens and drug trafficking, requires the retention in custody without conditional parole of any alien committing an aggravated felony. Requires the prompt deportation of such persons.

Administration Position: Support Senate bill.

II. Interdiction Amendments

A. Coast Guard Provisions.

House Bill: Authorizes appropriations for the Coast Guard of: \$264 million for FY 1989 for acquisition, construction, and improvements; and \$82 million for FY 1989 and \$30 million for each of FY's 1990-1992 for operating expenses. Requires the Transportation Department to establish a vessel identification system.

Senate Bill: Authorizes appropriations for the Coast Guard of: \$68 million for FY 1989 for acquisition, construction, and improvements; and \$16.4 million for FY 1989 for operating expenses.

Administration Position: See IX, "Funding."

B. Federal Aviation Administration Amendments.

House Bill: Authorizes the FAA to modify its aircraft registration system, its system for issuing airman's certificates, and related systems to make them more effective in drug law enforcement. Establishes criminal penalties for false marking of aircraft and similar acts. Provides the FAA with limited concurrent budget submission authority and limited exemption from Paperwork

Reduction Act.

Senate Bill: Increases penalties for importation of controlled substances by aircraft.

Administration Position: Senate bill is preferable because of highly objectionable concurrent budget submission requirement and Paperwork Reduction Act provisions in House bill.

C. Customs Service Amendments.

House Bill: Authorizes appropriations for FY 1989 for Customs, as follows: \$417 million for noncommercial operations; \$622 million for commercial operations; \$197 million for air operations; and \$15 million for an x-ray scanning device. Also makes various other Customs-related amendments (e.g., an increase in the penalty for failure to declare a controlled substance).

Senate Bill: Authorizes appropriations of \$57.4 million for FY 1989 for Customs for operation and maintenance and the air interdiction program and \$30.3 million for salaries and expenses. Also directs Customs to accelerate research on x-ray detection and contains various other Customs-related amendments (e.g., an increase in the penalty for failure to declare a controlled substance and authority to administer oaths and issue subpoenas). Permits Treasury to issue regulations setting forth criteria for owners and operators of conveyances to ensure that illegal drugs are not imported into the United States aboard such conveyances.

Administration Position: See IX, "Funding."

III. Transportation Provisions

A. Drunk Driving Grant Program.

House Bill: Authorizes appropriations (\$25 million in FY 1989, and \$50 million each of FY's 1990 and 1991) for grants to help States implement drunk driving enforcement programs.

Senate Bill: No provision.

Administration Position: Oppose House provisions.

B. Suspension of Drivers Licenses.

House Bill: Authorizes appropriations (\$25 million in FY 1989 and \$50 million in each of FY's 1990 and 1991) for grants to States that suspend the drivers licenses of

persons convicted of drug-related criminal offenses.

Senate Bill: No provision.

Administration Position: Oppose House provisions.

C. Common Carrier Offenses.

House Bill: Increases the criminal penalties for operating a common carrier (e.g., a passenger train) while under the influence of alcohol or drugs.

Senate Bill: Similar provision.

Administration Position: Support.

D. Drug Testing in Transportation Industry.

House Bill: No provision.

Senate Bill: Requires DOT to promulgate regulations mandating alcohol and drug testing for certain employees in the transportation industry in safety-sensitive positions. Requires UMTA to withhold funds from transit authorities that do not implement alcohol and drug testing programs. Requires common carriers and affected DOT modal agencies (e.g., the FAA) to establish rehabilitation programs meeting certain specified criteria for employees with substance abuse problems.

Administration Position: Mandated rehabilitation programs could be quite expensive.

IV. International Provisions

A. Latin American Regional Anti-Narcotics Force.

House Bill: Directs the President to seek the views of the OAS with respect to establishment of a Latin American Regional Anti-Narcotics Force and directs DOD to provide assistance for the force, if established. Authorizes appropriations for such purpose of \$10 million for FY 1988 [sic].

Senate Bill: Similar provision but does not contain DOD/appropriation authorization provisions.

Administration Position: No objection.

B. Authorizations and Earmarkings of Foreign Assistance.

House Bill: Authorizes appropriations of \$101 million for FY 1989 for international narcotics control assistance and earmarks certain funds for specified

activities (e.g., \$2 million for education and training in crop eradication).

Senate Bill: Similar provisions (including \$101 million appropriation authorization).

Administration Position: Earmarks are objectionable. Also, see IX, "Funding."

C. Specific Country Provisions.

House Bill: Contains provisions directed at certain source countries (i.e., Bolivia, Mexico, Peru, Columbia, Pakistan, Laos, and Afghanistan). For example, no United States assistance may be furnished to Laos if the President determines that the government of that country is involved in drug trafficking.

Senate Bill: No provisions.

Administration Position: Oppose House bill.

D. Annual Reports/Certifications and Miscellaneous Assistance Provisions.

House Bill: Makes various changes in reports furnished by the Executive branch to Congress regarding foreign assistance and international drug trafficking. Also directs the President to take reasonable steps to ensure that assistance under the Arms Export Control Act and the Foreign Assistance Act of 1961 is not provided to drug traffickers.

Senate Bill: Contains related provisions.

Administration Position: Generally no objection.

E. Department of State Provisions.

House Bill: Makes State responsible for coordinating assistance provided by the United States in support of efforts to combat international narcotics production and trafficking. Permits denial or revocation of passports of certain convicted drug traffickers. Permits the stamping of passports to indicate that holders have been convicted of drug offenses.

Senate Bill: Permits revocation of passports for certain specified drug violations.

Administration Position: No objection.

F. Export-Import Bank/Multilateral Development Bank Provisions.

House Bill: Permits the ExIm Bank to guarantee or insure a sale of defense articles for certain foreign anti-narcotics efforts. Directs the Treasury to discuss with other members of multilateral development banks (e.g., the World Bank) the possibility of establishing lending programs for developing countries that would reduce the dependence of such countries on illicit drug production and trafficking.

Senate Bill: No provision.

Administration Position: No objection to House provisions.

G. Information on Illegal Foreign Drug Activities.

House Bill: Requires that any employee of the Federal Government, who in the course of his or her duties obtains information about illegal foreign drug activities, to report such information to the head of the agency designated for that purpose by the President.

Senate Bill: No provisions.

Administration Position: House provision is unnecessary but is an improvement over the original version of the provision.

V. Education Provisions

A. Youth Gangs.

House Bill: Authorizes new grants for discouraging participation of youth gangs in drug-related activities. Authorizes appropriations of \$30 million for FY 1989.

Senate Bill: Similar provisions. Authorizes \$40 million for FY 1989.

Administration Position: See IX, "Funding."

B. National Youth Sports Program.

House Bill: Authorizes new grants for a national youth sports program for disadvantaged youth. Authorizes appropriations of \$15 million for FY 1989, \$17 million for 1990, and \$20 million for FY 1991 for such program.

Senate Bill: No provision.

Administration Position: See IX, "Funding."

C. Juvenile Justice/Runaway Youth.

House Bill: Authorizes new grants for various anti-drug education programs targeted at juveniles and authorizes appropriations totalling \$45 million for FY 1989. Also authorizes new grants for projects to discourage drug use among runaway and homeless youth and authorizes appropriations of \$15 million for FY 1989 therefor.

Senate Bill: No provision.

Administration Position: See IX, "Funding."

D. Drug Abuse Education for Participants in the Special Supplemental Food Program for Women, Infants, and Children.

House Bill: Authorizes appropriations of \$10 million for FY 1989 for a study of appropriate methods of drug abuse education for persons participating in this program.

Senate Bill: No provision.

Administration Position: See IX, "Funding."

E. Volunteer Demonstration Projects for Drug Abuse Education.

House Bill: Authorizes appropriations of \$5 million for each of FY's 1989-1991 for new community-based volunteer demonstration projects that provide comprehensive drug abuse education to youths during the summer months.

Senate Bill: Amends the Domestic Volunteer Service Act by authorizing an additional \$4 million for FY 1989 to be available for drug abuse prevention efforts.

Administration Position: See IX, "Funding."

F. Employee Assistance Programs.

House Bill: No provision.

Senate Bill: Directs the Secretary of Labor to establish employee drug and alcohol abuse assistance programs. Authorizes \$4 million in FY 1989 for this purpose.

Administration Position: See IX, "Funding."

G. Drug-Free Schools.

House Bill: No provision.

Senate Bill: Amends the Drug-Free Schools and Communities Act to provide authorizations of \$405 million

for FY 1989 for drug abuse education efforts including establishment of regional centers, outreach activities for dropouts, and counselling and referral services for families of drug abusers. Also authorizes \$16 million for FY 1989 for teacher training programs. Directs the Secretary of Education to develop age-appropriate drug abuse prevention curriculum materials.

Administration Position: Many of the Senate amendments, in addition to providing excessive authorization levels, unnecessarily complicate and confuse the drug prevention education effort. The addition of new authorities, complex lines of authority, duplicative national versus State programs, and the like, combine to make it less likely that an effective, coherent drug prevention education strategy will result.

V. Rehabilitation and Treatment

A. AIDS Grant Program.

House Bill: Authorizes a new grant program for States to establish and operate programs for discouraging and treating intravenous drug abusers. Authorizes appropriations of \$250 million for this purpose for FY 1989.

Senate Bill: Authorizes \$95 million for FY 1989 to establish grants to States (and Puerto Rico) for projects designed to reduce the transmission of the AIDS virus in and by users of illegal intravenous drugs.

Administration Position: See IX, "Funding."

B. Alcohol and Drug Abuse Prevention, Treatment, and Rehabilitation Grant Program.

House Bill: Authorizes grants to States for planning and establishing programs for the prevention and treatment of drug and alcohol abuse. Authorizes appropriations of \$475 million for this purpose for FY 1989. Includes numerous set-aside provisions.

Senate Bill: Authorizes grants to States for planning and establishing programs for the prevention and treatment of drug and alcohol abuse. Authorizes appropriations of \$959 million for this purpose for FY 1989.

Administration Position: See IX, "Funding."

C. Mental Health Services.

House Bill: Authorizes grants to States to plan and provide community mental health services. Authorizes

appropriations of \$350 million for this purpose for FY 1989. Includes numerous set-aside provisions.

Senate Bill: Similar provisions. Authorizes appropriations of \$700 million for FY 1989. Five percent is to be specifically targeted to programs for women. Includes numerous set-aside provisions.

Administration Position: See IX, "Funding."

D. Counseling and Testing With Respect to AIDS.

House Bill: Provides that financial assistance may not be provided for AIDS counseling and testing unless the recipient agrees to ensure the confidentiality of information and records obtained. Requires that the recipient of assistance agree that, before testing a person for AIDS, such person receive certain specified information (e.g., measures for preventing the transmission of AIDS). Establishes numerous other requirements relating to AIDS testing and counseling, including standards for Federal certification of laboratories engaged in drug testing.

Senate Bill: No provision.

Administration Position: Position not clear.

E. Grants for Reducing Waiting Period for Drug Abuse Treatment.

House Bill: Authorizes a one-time appropriation of \$100 million for FY 1989 to expand the capacity of state and local governments to treat drug abusers. The President's FY 1989 budget does not request funds for this activity.

Senate Bill: No provision.

Administration Position: See IX, "Funding."

F. Funding for Office of Substance Abuse Prevention.

House Bill: Authorizes appropriations of \$75 million for FY 1989 for the Office of Substance Abuse Prevention and High Risk Youth demonstration projects.

Senate Bill: Similar provisions. Authorizes appropriations of \$91 million for FY 1989.

Administration Position: See IX, "Funding."

G. Mental Health Demonstration Projects.

House Bill: Authorizes appropriations of \$32 million for

each of FY's 1989 and 1990 for new demonstration projects to provide prevention services to the chronically mental ill and persons thought to be at risk of developing mental illness.

Senate Bill: Authorizes \$60 million for FY 1989 (18% of which is for the homeless) for Mental Health Service grants and demonstration projects targeted at mentally ill individuals, for suicide prevention, for those with depressive disorders, post legal adoption mental health counselling, and sex offense treatment and prevention.

Administration Position: See IX, "Funding."

H. Drug Abuse Treatment Demonstration Projects.

House Bill: No provision.

Senate Bill: Authorizes \$24 million for FY 1989 for demonstration projects providing drug treatment to adolescents, minorities, pregnant women, female addicts and their children, and residents of public housing projects.

Administration Position: See IX, "Funding."

I. Alternative Utilization of Military Facilities for Drug Treatment.

House Bill: No provision.

Senate Bill: Directs the Director of the National Institute on Drug Abuse to work with the Commission on Alternative Utilization of Military Facilities to identify potential space for drug treatment programs for nonviolent persons.

Administration Position: Unclear.

J. Data Collection/Technical Assistance.

House Bill: Data collection incorporated into the block grant provisions. No provision for technical assistance beyond levels currently provided by ADAMHA/HHS.

Senate Bill: Authorizes \$12 million for new evaluations of substance abuse education and prevention efforts. Evaluation of prevention activities currently funded through the Office of Substance Abuse Prevention annual appropriation of \$34 million for FY 1989. Authorizes \$15 million for technical assistance to States operating or establishing drug abuse prevention and treatment programs. Authorizes \$33 million for new data collections on drug, alcohol, and mental health services,

treatment and incidence of abuse and illness.

Administration Position: See IX, "Funding."

VI. Drug-Free Workplaces

A. Drug-Free Workplace Requirements.

House Bill: Requires Federal Government contractors and grantees to establish drug-free workplaces meeting specified criteria (e.g., by setting up a drug-free awareness program). Those who fail to comply may be suspended, terminated, or debarred, as appropriate. Limited waivers are available for individual contracts.

Senate Bill: Nearly identical provisions.

Administration Position: Support either House or Senate but prefer provisions be amended to allow for exemption for: (1) contracts and grants that are to be performed outside the U.S.; and (2) contracts under \$25,000. Would also like waiver authority to be extended to entire classes of contracts and grants, rather than only to individual contracts. And the "public interest" standard should be used for deciding on waivers of contracts as well as grants, rather than the "severely disrupt" requirement currently applied by the bills to contracts. In addition, the proscribed suspension and debarment procedures should be dropped in favor of those already in place at the agencies.

B. Employee Sanctions.

House Bill: Requires that a grantee or contractor take appropriate personnel action against employees convicted of drug violations.

Senate Bill: Identical provisions.

Administration Position: Support.

VII. Drug-Free Housing

A. Clearinghouse on Drug Abuse in Public Housing.

House Bill: Directs HUD to establish such a clearinghouse. Also requires HUD to establish a regional training program for public housing officials to combat drug abuse in public housing.

Senate Bill: No provision.

Administration Position: Oppose House provision.

B. Drug-Related Crime in Public Housing.

House Bill: Authorizes grants to public housing authorities to combat drug abuse-related crime in public housing.

Senate Bill: Similar grant provision (authorizes \$8.2M for 1989). Also provides that criminal activity shall be grounds for termination of public housing tenancy. Authorizes the hiring of individuals to investigate drug use and trafficking in public housing.

Administration Position: Support termination provision. Also, see IX, "Funding."

VIII. Denial of Benefits.

House Bill: In general, denies certain Federal benefits (e.g., eligibility for contracts, grants, and loans) with respect to any person convicted of drug trafficking or twice convicted of simple possession of illegal drugs.

Senate Bill: Requires the "drug czar" to submit to Congress within 12 months a list of any Federal privileges, benefits, grants and loans which, if withheld from individuals convicted of a Federal or State drug offense, would significantly deter the use of illegal drugs. The "czar" shall not include any grants, loans, and benefits that he determines to be essential to the health or well being of the recipient or beneficiary.

Administration Position: Support House bill.

IX. Funding

A. Totals.

House Bill: Authorizes appropriations of \$2.0 billion in budget authority (\$1.1 billion in outlays) over 1989 appropriated levels but provides no offsets or new revenues to pay for the bill.

Senate Bill: Authorizes appropriations of \$2.6 billion in budget authority (\$1.5 billion in outlays) over 1989 appropriated levels. It also fails to provide offsets, It does, however, contain a "sense of the Congress" provision stating that additional revenues generated by IRS agents and U.S. Attorneys should be used to pay for the bill. The sense of Congress provision also states that obligations should be limited to avoid triggering a G-R-H sequester, and that total authorizations in the bill and subsequent FY 1989 appropriations should dedicate 60 percent of the funds to demand reduction and treatment, and 40 percent to drug law enforcement

programs.

Administration Position: Any additional appropriations for anti-drug programs must be consistent with the Bipartisan Budget Agreement and must not result in a FY 1989 sequester under G-R-H.

Talking Points for the President
National Drug Policy Board
October, 3, 1988

- Thank you. Although we just finished lunch together, I wanted to stop by this Drug Policy Board meeting for several reasons.

- First, I want to welcome Dick Thornburgh as the new chairman. It goes without saying that he has my full support and confidence to continue the fine work of the Board. This Board has met 42 times since April 1985 when it was created. Under the Board we have achieved an unprecedented level of cooperation and coordination in the war on drugs on all levels of government.

-- I should also welcome Nick Brady, our new Secretary of Treasury, and Lauro Cavagos, who joins us as the new Secretary of Education.

- Most of you have heard my pitch on drugs before -- but let me say it one more time. I can't think of a bigger problem facing our communities, our families, and our nation than illegal drugs. Drugs are killing our youngsters and destroying our neighborhoods. These international outlaw traffickers are murdering the citizens of countries around the world.

-- Although we have done a great deal together over the last seven and a half years, there is much more we can do.

-- I'm not, and I know Dick Thornburgh won't, let you rest on your oars.

-- We need to continue to work together to find new ideas, new solutions, and new energy to finally lick this problem. As I've said our goal must be a drug-free America.

o Our friends on the other side have tried to make drugs an issue in the campaign this fall.

-- That's just fine with me -- we need to simply remind the people what our liberal friends would do if they had another chance -- my predecessor's drug advisor thought cocaine was a recreational drug and they consistently cut the budgets for law enforcement -- this year is no exception.

o That's enough from me, I don't want to preach to the choir! You know the facts. The American people see drugs as one of our biggest problems and are looking to us for answers. We have declared drug trafficking as a national security threat

and we must treat it that way with all the resources and talent we can bring to bear on the problem.

- I would simply ask that each of you go back and look again at what more your departments can do or contribute to these efforts. I approved your recommendations you sent to me in June and expect them to be implemented -- Dick, I'd like to hear from you on how those initiatives are going and any others that we can do.
- Nancy and I will do our share and continue to speak out on the problems even after we leave Washington.
- Now let me get out of your way so you can go back to work.
- Thank you Dick, for letting me stop by and I am looking forward to hearing from you on what the Board's plans are for the future.



Sept 30

MEMORANDUM FOR JOHN TUCK

FROM: CRAIG COY

Craig Coy
file

Here are suggested talking points for the President to use at Monday's Drug Policy Board meeting. The Attorney General has seen these and would like you and Len D. to review them for the President.

Thanks.

Talking Points for the President
National Drug Policy Board
October, 3, 1988

- Thank you. Although we just finished lunch together, I wanted to stop by this Drug Policy Board meeting for several reasons.

- First, I want to welcome Dick Thornburgh as the new chairman. It goes without saying that he has my full support and confidence to continue the fine work of the Board. This Board has met 42 times since April 1985 when it was created. Under the Board we have achieved an unprecedented level of cooperation and coordination in the war on drugs on all levels of government.
 - I should also welcome Nick Brady, our new Secretary of Treasury, and Lauro Cavagos, who joins us as the new Secretary of Education.

- Most of you have heard my pitch on drugs before -- but let me say it one more time. I can't think of a bigger problem facing our communities, our families, and our nation than illegal drugs. Drugs are killing our youngsters and destroying our neighborhoods. These international outlaw traffickers are murdering the citizens of countries around the world.

-- Although we have done a great deal together over the last seven and a half years, there is much more we can do.

-- I'm not, and I know Dick Thornburgh won't, let you rest on your oars.

-- We need to continue to work together to find new ideas, new solutions, and new energy to finally lick this problem. As I've said our goal must be a drug-free America.

o Our friends on the other side have tried to make drugs an issue in the campaign this fall.

-- That's just fine with me -- we need to simply remind the people what our liberal friends would do if they had another chance -- my predecessor's drug advisor thought cocaine was a recreational drug and they consistently cut the budgets for law enforcement -- this year is no exception.

o That's enough from me, I don't want to preach to the choir! You know the facts. The American people see drugs as one of our biggest problems and are looking to us for answers. We have declared drug trafficking as a national security threat

and we must treat it that way with all the resources and talent we can bring to bear on the problem.

- I would simply ask that each of you go back and look again at what more your departments can do or contribute to these efforts. I approved your recommendations you sent to me in June and expect them to be implemented -- Dick, I'd like to hear from you on how those initiatives are going and any others that we can do.
- Nancy and I will do our share and continue to speak out on the problems even after we leave Washington.
- Now let me get out of your way so you can go back to work.
- Thank you Dick, for letting me stop by and I am looking forward to hearing from you on what the Board's plans are for the future.

THE WHITE HOUSE

Office of the Press Secretary

*Drug
file*

For Immediate Release

September 29, 1988

STATEMENT BY THE PRESIDENT

The 100th Congress is drawing rapidly to a close. I hope to receive from the Congress the remaining fiscal year 1989 appropriations bills no later than tomorrow, when the current fiscal year ends.

A legislative agenda item of extreme importance to the well-being of the Nation remains unenacted -- a bill to strengthen our ability to combat the production, trafficking and use of illegal drugs.

On September 22, the House of Representatives passed a bill containing a number of essential provisions. Of particular importance, the House-passed bill permits the Federal death penalty for drug-related murders; significantly improves the search for truth in the criminal justice system by reforming the exclusionary rule; establishes requirements for drug-free workplaces; and increases the accountability of drug users to society for their drug abuse.

The Senate has not scheduled drug legislation for consideration. I strongly urge the Senate to schedule the drug bill for consideration forthwith to ensure that effective legislation to combat illegal drugs is enacted before Congress adjourns. The health and safety of Americans depends upon it.

#

THE WHITE HOUSE
WASHINGTON

Drug fake

August 25, 1988

MEMORANDUM FOR THOMAS M. BOYD
ACTING ASSISTANT ATTORNEY GENERAL
FOR LEGISLATIVE AFFAIRS

JOHN L. HELGERSON
DIRECTOR OF CONGRESSIONAL AFFAIRS
CENTRAL INTELLIGENCE AGENCY

FROM: DAVID S. ADDINGTON *DS*
DEPUTY ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

SUBJECT: The "Anti-Stonewalling Act" Amendment to the Omnibus
Drug Bill

When the House begins consideration of the "Omnibus Drug Initiative Act of 1988" (H.R. 5210) immediately upon its return from the August recess, Congressman Bill Alexander (D-AR) plans to offer an amendment entitled the "Anti-Stonewalling Act of 1988." The amendment deals with (1) access by Congressional committees and the General Accounting Office to information possessed by executive agencies concerning illegal foreign drug activities and (2) inter-agency sharing of such information.

We would appreciate it if the Justice Department and the CIA would prepare joint letters to the House leadership and Congressman Alexander from the Attorney General and the Director of Central Intelligence expressing the Administration's views on the proposed amendment. The letters should address the intelligence and law enforcement operational concerns with the amendment, its constitutional and other legal flaws, and the continuing actions of the Administration to combat international narcotics production and trafficking.

I will ask the Office of Management and Budget to expedite the Circular A-19 clearance process for the letters to ensure that they can be transmitted no later than September 6th.

cc: Arthur B. Culvahouse, Jr.
Colin L. Powell

House Report
100-861

ALEXANDER
AMDT.



54

(2) Paragraph (1) does not limit the authority of the Secretary to expend Federal funds to administer and provide oversight of the clinical laboratory certification process.

An amendment to be offered by Representative Alexander of Arkansas or his designee to be debatable for not to exceed 20 minutes, equally divided and controlled by the proponent of the amendment and a member opposed thereto.

Page 402, after line 25, insert the following:

TITLE XI—INTERAGENCY COOPERATION RELATING TO INFORMATION ON ILLEGAL FOREIGN DRUG ACTIVITIES

SEC. 11001. SHORT TITLE.

This title may be cited as the "Anti-Stonewalling Act of 1988".

SEC. 11002. INTERAGENCY COOPERATION RELATING TO INFORMATION ON ILLEGAL FOREIGN DRUG ACTIVITIES.

(a) **IN GENERAL.**—Any officer or employee in the executive branch of the Government, who, in the course of the official duties of such officer or employee, obtains information about illegal foreign drug activities shall promptly furnish such information through the head of the agency in which the officer or employee serves or is employed—

(1) to the head of any other agency designated under subsection (b); and

(2) upon request of a committee of the Congress or of the Comptroller General, as the case may be, to such committee or to the Comptroller General.

(b) **DESIGNATIONS.**—Not later than 60 days after the date of the enactment of this Act, the President shall—

(1) designate agencies involved in the formulation of United States foreign policy or the enforcement of Federal drug laws to receive information under subsection (a)(1); and

(2) notify the Speaker and the minority leader of the House of Representatives, the President pro tempore and the minority leader of the Senate, and the Comptroller General of such designations.

The President shall review such designations once each year and may, on the basis of the review, change any designation, with notification as provided in paragraph (2).

(c) **NONDISCLOSURE.**—Except with respect to the disclosure of information to the General Accounting Office, notwithstanding subsection (a), the head of an agency may withhold the disclosure of information that, as determined by the head of the agency—

(1) may jeopardize a United States foreign intelligence or counterintelligence activity or source;

(2) may jeopardize a law enforcement investigation; or

(3) may adversely affect the national defense or security of the United States.

The authority to make such a determination may not be delegated. Any such determination shall be communicated in writing to the President, who may direct the head of the agency to furnish the information under such procedures and safeguards as the President may specify.

55

(d) **APPLICABILITY OF SECTION 716 OF TITLE 31, UNITED STATES CODE.**—If information requested by the Comptroller General under subsection (a) is not furnished within a reasonable time, section 716 of title 31, United States Code, shall apply to such request.

(e) **DUTY OF THE PRESIDENT.**—In the event the President withholds information from a committee of the Congress for any of the reasons set forth in subsection (c), the President shall transmit in writing to the chairman and ranking minority party member of such committee a statement of the reasons for the decision. If the information concerns a United States foreign intelligence or counterintelligence activity or source, the President shall promptly inform the chairman and ranking minority party member of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of the nature of the information withheld. This section does not waive or otherwise alter any right or procedure that the Congress or any committee of the Congress may otherwise have to receive such information.

(f) **DEFINITIONS.**—As used in this section—

(1) the term "officer or employee in the executive branch of the Government" means an appointed officer in the executive branch of the Government, an employee in the executive branch of the Government, and a member of a uniformed service; and

(2) the term "agency" means a dependent, agency, or establishment in the executive branch of the Government.