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THE WHITE HOUSE

WASHINGTON

November 15, 1988

*Drug Signing*

*Drug laundry  
Strategy  
but not confidential*

MEMORANDUM FOR RHETT B. DAWSON  
ASSISTANT TO THE PRESIDENT  
FOR OPERATIONS

FROM: ARTHUR B. CULVAHOUSE, JR.  
COUNSEL TO THE PRESIDENT

*PDB for  
Original Signed by ABC*

SUBJECT: Enrolled Bill H.R. 5210 -- Anti-Drug Abuse  
Act of 1988 and Proposed Signing Statement

At your request, we have reviewed the attached OMB enrolled bill memorandum and proposed signing statement on H.R. 5210 -- the Anti-Drug Abuse Act of 1988. We understand that the decision to sign this bill has already been made and that a public signing ceremony is planned for Friday, at which time the President is expected to deliver essentially laudatory remarks about the bill. Accordingly, we have reviewed these materials with two basic questions in mind: (1) whether there are legal issues which need to be addressed in a signing statement and (2) assuming such problems exist, whether it is possible to include those comments in the President's spoken remarks at Friday's ceremony or whether a separate written statement is appropriate.

While we have identified a number of legal issues which might be worthy of comments in other circumstances, we believe that for various reasons only the constitutional concern raised by provisions purporting to require international negotiations need be noted in a signing statement. Because this concern can be articulated in a relatively brief fashion, and in order to avoid the pressure to catalogue additional problems that would result if a separate written statement were issued, we recommend that suitable language, along the following lines, be included in the President's spoken remarks:

I note that several provisions of H.R. 5210, such as those concerning the formation of a multinational force in the Western Hemisphere and the adoption of currency reporting requirements abroad, instruct the President, or his subordinates, to undertake particular international negotiations. In light of the President's Article II plenary authority to conduct such negotiations, these provisions shall be construed and applied consistent with those constitutional authorities.

We note that the proposed OMB signing statement describes a number of grievances against the bill which -- although not strictly legal in nature -- should be considered in drafting the

President's spoken remarks. In particular, the OMB statement laments the deletion from the bill of exclusionary rule reform and requested DOJ funding and complains about the enactment of the "drug czar" apparatus. We recommend that at least the references to Congress' failure to amend the exclusionary rule and to enact meaningful habeas corpus reform be included in the President's spoken remarks. It may be possible to note all of these concerns in a single sentence or paragraph, e.g., "I am deeply disappointed that Congress missed this opportunity to enact meaningful habeas corpus and exclusionary rule reform and also failed to provide necessary resources to key components of the Justice Department." In this regard, we recommend that a draft of the remarks be provided to the Attorney General's office for comment.

Attachment

cc: Danny Crippen  
Alan M. Kranowitz