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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 9, 1982

FOR: EDWIN L. HARPER
FROM: WILLIAM P. BARR *WPB*
SUBJECT: New Crime Package
(Ref. #085234)

If we want a new crime package next session, Mike and I think it should encompass at least three things:

1. Whatever we don't get in our crime package this year (e.g., exclusionary rule, death penalty).
2. A scheme for carrying on the desirable functions of LEAA.
3. Corrections system reforms.

Mike, Steve Galebach and I will be thinking about this in the weeks ahead. We will suggest to Jonathan Rose that he also get working on it.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 7/17/82 ACTION/CONCURRENCE/COMMENT DUE BY: 7/23/82

SUBJECT: Specter Bill - S. 1688

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
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DENEND	<input type="checkbox"/>	<input type="checkbox"/>	OTHER	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
✓ UHLMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

See attached comments.

Please return this tracking sheet with your response.

Edwin L. Harper
 Assistant to the President
 for Policy Development
 (x6515)

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

OFFICE OF
POLICY DEVELOPMENT
1982 JUL 15 A 12: 57

July 16, 1982

FOR: EDWIN L. HARPER
FROM: MICHAEL M. UHLMANN
SUBJECT: Specter Bill - S. 1688
Reference Number 085234

1. Instructions on the attached are confusing.
Am I or am I not to draft a response?
2. I never said S. 1688 was dead -- only (a) that it would not likely move out of Senate Judiciary without a big push from us and (b) that unless Meese, OMB, and DOJ change their minds, everyone down here seems to think that's the way we should leave it.
3. I gather that our "yet-to-be revealed crime package" is so secret that even we don't know about it yet. When I read the story, I assumed it was a mis-translation of something you said.

Why? The request to prepare a draft was crossed out.

EM3

→ This is something you should be thinking about. What should be in such a package?

3/

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 9, 1982

FOR: EDWIN L. HARPER
FROM: WILLIAM P. BARR *WPB*
SUBJECT: DOE Report on Title IX Efforts
(Ref. #085265 and #085148)

Both Mike Uhlmann and I have read the Department of Education's Title IX Report. We think Elizabeth Dole's comments are right on point. The paper is okay as a backgrounder but should definitely not be used as a "selling" paper.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 7/17/82 ACTION/CONCURRENCE/COMMENT DUE BY: 7/24/82
 SUBJECT: Year End Report on Title IX Efforts

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	OTHER	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
✓ UHLMANN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

How does this look from the women's point of view?

Please return this tracking sheet with your response.

Edwin L. Harper
 Assistant to the President
 for Policy Development
 (x6515)

→ Bell - Comments?

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 7/26/82 ACTION/CONCURRENCE/COMMENT DUE BY: FYI

SUBJECT: Assessment of Administration's responsivness to Title IX enforcement

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
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B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
UHLMANN	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Attached are comments from Elizabeth Dole.

Please return this tracking sheet with your response.


Edwin L. Harper
Assistant to the President
for Policy Development
(x6515)

THE WHITE HOUSE

WASHINGTON

July 26, 1982

MEMORANDUM FOR EDWIN HARPER

FROM: ELIZABETH H. DOLE 

SUBJECT: Department of Education - Title IX Report

Thank you for the opportunity to review the Department of Education Report for its applicability in the women's area.

The Report is well-written and does a good job of explaining a confusing topic to the lay person. As a background paper for the press and general public, it can be useful and informative.

We should not attempt to use this paper as a response to Title IX critics, however. The anecdotal style does not lend itself to the kind of hard data that Title IX supporters demand. The paper also only addresses the compliance issue, which is just one of several concerns. The activists are more interested in pressuring with regard to the actual programs in Title XV, Title IX, and WEAA in the face of budget cuts. Furthermore, they advocate an aggressive and confrontational approach to compliance, and are not supportive of the Administration's focus on voluntary compliance. The conservative women are more interested in curriculum content, textbook review and other program areas.

In summary, I would limit the use of this paper to background for the press and public. It should not be used as a "selling" paper on Title IX.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUMDATE: 7/12/82 ACTION/CONCURRENCE/COMMENT DUE BY: 7/17/82SUBJECT: Assessment of Administration's responsiveness to Title IX enforcement

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	OTHER	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>	<u>Elizabeth Dole</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
SMITH	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
UHLMANN	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

How do you think this will sell on the Women's Issues front?


Please return this tracking
sheet with your response.Edwin L. Harper
Assistant to the President
for Policy Development
(x6515)

MEMORANDUM

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202

DATE: MAY 28 1982

TO: The Secretary
THROUGH: U _____
 ES _____

FROM:  Harry M. Singleton
 Acting Assistant Secretary
 for Civil Rights

SUBJECT: Year-End Report on Title IX Efforts

As you requested, we have prepared a report summarizing Title IX initiatives undertaken by OCR in our first year. It was prepared as a report to you with the understanding that the anecdotal style would be conducive to press and public interest. For this reason, the report does not include technical data or information that would be more applicable in a management report about OCR activity.

The report can be distributed to interested press with a note to editors stating that the attached report provides background information about the Department of Education's strategy in enforcing Title IX. It can also be used to answer public inquiries about Title IX as well as for use in drafting speeches. I will be happy to work with you and the Office of Legislation and Public Affairs to explore further possibilities for media exposure.

Attachment

*Gary -
The Secretary
approved the use of
this report for distribution
to media as background
material.
Mark S*

INTRODUCTION

In 1981, the Office for Civil Rights (OCR) undertook major initiatives to improve the enforcement of the civil rights laws. OCR has sought to reduce confrontation with the education community and enforce the civil rights laws in a climate of respect for the autonomy and mutual commitment of our educational partners. The new strategy emphasizes voluntary compliance through negotiation and cooperation rather than confrontation through court orders and lawsuits. Consistent with this goal, OCR has expanded its technical assistance program to help schools and state and local agencies understand their responsibilities under the civil rights laws.

The following is a brief report focusing on one of the statutes for which OCR has responsibility -- Title IX of the Education Amendments of 1972. It includes an overview of the new strategy and highlights of the efforts undertaken by OCR in the last year to carry out the objectives of this important civil rights law.

COMPLIANCE ACTIVITIES

OCR's primary enforcement activity is the investigation and resolution of complaints alleging discrimination. In 1981, OCR instituted two new procedures to improve the processing of complaints: early complaint resolution and pre-LOF (letter of findings) negotiation.

Early Complaint Resolution

Early complaint resolution is a process whereby OCR acts as a mediator between a complainant and representatives from the school or school district without conducting a formal investigation or determining the merits of the case.

Because a full-scale investigation by the Federal Government is time-consuming, delays in addressing the real concerns of the complainant are unavoidable. In addition, it generally sets an adversarial tone between the complainant and recipient which may impede the chances for the two parties to maintain a positive, continuing relationship. The early complaint process enables the parties involved to resolve the issues voluntarily between themselves.

OCR's role in the process is to help both parties understand the issues, their rights and responsibilities, and possible remedies available under the law. If the two parties reach a satisfactory resolution and the complainant withdraws the complaint, the case is closed. If no accord is achieved, OCR investigates the case.

The early complaint procedure was adopted for use on a national basis in the fall of 1981. It is being used in an attempt to resolve most types of complaints involving individual issues rather than class action complaints or those with class implications.

Pre-findings Negotiations

In 1981, OCR instituted a procedure called pre-findings negotiations to improve complaint processing as well as OCR's relationship with recipients. Using this procedure, OCR seeks to secure voluntary compliance by negotiating agreements with schools, colleges, or other recipients prior to issuing letters of violation. The purpose of the procedure is to ensure equal educational opportunity guaranteed by the civil rights laws in a manner that resolves the complaints amicably and avoids the stalemates and adversarial posturing that often occurred in the past.

This new approach was first employed when OCR began to resolve the numerous complaints of sex discrimination in college and university intercollegiate athletics programs. After conducting investigations of the athletics programs at universities where complaints had been lodged, OCR met with school representatives to explain the findings before formal determinations were made about the schools' compliance status. Under the former procedure a university would not have had this opportunity. Now, Federal and school officials have a chance to discuss the Title IX problems, any plans the schools are implementing, and any further steps the institutions are willing to take to correct the inequities found in their intercollegiate athletics programs.

A cooperative tone was established at these meetings, and the institutions were genuinely receptive to OCR's guidance in resolving the compliance problems. In all cases, the schools made substantial commitments to guarantee equity in the opportunities provided to male and female athletes. As a result, OCR was able to find numerous schools in compliance with Title IX and is now monitoring the implementation of these plans.

Pre-findings negotiations in intercollegiate athletics have proven very successful -- both in securing the rights of the beneficiaries and in fostering a better working relationship between the Federal Government and the institutions. Thus, OCR's ten regional offices are now moving forward to resolve the outstanding complaints of sex discrimination in intercollegiate athletics at other institutions. This success has also led to the application of the approach to other types of Title IX compliance issues as well as those involving race and handicap discrimination.

For example, last year OCR found that a major university was discriminating against women in its admissions practices to a particular graduate program. When OCR presented the findings at a meeting with university officials, the school agreed to make significant changes in its admissions criteria. In addition, the school sent applications and brochures detailing the new requirements to all persons who had applied for the program over the last last three years.

In another instance, OCR assisted a large community college in addressing sex discrimination problems in its vocational education program. At the pre-findings meeting with university officials, OCR was able to help the school develop a comprehensive plan that would correct its practices and policies regarding accessibility, admissions, recruitment, and all aspects of job training and placement. The educational opportunities for some 1200 women students were improved expeditiously as a result of the compliance agreement.

Pre-findings negotiations have been especially helpful in resolving the sensitive complaints of sexual harassment. An additional by-product often results from these meetings: OCR has had the opportunity to help the schools develop internal grievance procedures for resolving future complaints.

At the elementary and secondary levels, many Title IX compliance problems have been resolved amicably as a result of negotiations prior to issuing formal letters of violation. Agreements have been reached which resulted in opening up physical education classes to both sexes, upgrading interscholastic athletic opportunities for female students, revising course descriptions and student handbooks to eliminate sex bias, and ensuring equitable treatment for pregnant students.

In one school district, for example, year-round coaching had been provided for seven boys' sports and only one girls' sport. As a result of the negotiated plan, four boys' and four girls' sports will receive the benefit of year-round coaching.

Another school district which previously had fielded no interscholastic sports for female students has now begun interscholastic girls' teams in volleyball, basketball, and track at seven high schools. The district has also made a commitment to offer tennis and golf if there is sufficient interest.

Post-findings Negotiations

In addition to these developments, OCR has also stepped up its efforts during the negotiation stage after letters of violation are issued. Because the ultimate goal of the civil rights laws is to protect students who attend public schools and postsecondary institutions, OCR believes that negotiating with recipients to produce the desired results holds more promise than the initiation of enforcement proceedings. Regardless of whether enforcement action leads to fund termination, a court order to comply

with the statutes, or eventual compliance by the recipient, it is nearly always more time-consuming than negotiations and generally causes undue strife and ill will within the community.

One example of successful negotiations involved a large school district that was discriminating against women in its vocational education and athletics programs. With the help of policy guidance and technical assistance from OCR, the school district developed a comprehensive plan to correct the disparities. The compliance agreement, which will benefit some 22,000 students, in part, called for extensive in-service training to help counselors, teachers, and administrators overcome sex stereotyping in career planning for male and female students. The district developed a directory of resource persons in nontraditional occupations and set up a career day for students to meet men and women engaged in careers generally underrepresented by members of their sex. All secondary schools in the district now conduct an annual assessment of students' athletic interests and develop a sports activities plan for each sex.

Another noteworthy Title IX plan developed through extensive negotiations involves interscholastic athletics for secondary students in one large State. Officials from OCR, the state, and the interscholastic federation worked out a compliance plan that establishes sex-neutral rules to benefit some 425,000 students participating in the program throughout the State. The plan corrects disparities found in the number of sports offered, scheduling of competitive events, length of the sports' seasons, assignment and compensation of officials, and athletic awards.

All three approaches -- early complaint resolution, pre-findings negotiations, and post-findings negotiations -- have been highly successful in

achieving the objectives of the civil rights laws and protecting the rights of students. This is due, in large part, to the fact that OCR recognizes the integrity and responsibility of State and local educators to work diligently to resolve difficult civil rights issues.

TECHNICAL ASSISTANCE

OCR's technical assistance efforts encourage voluntary compliance and extend the range of OCR's impact beyond those recipients who are directly covered by a complaint investigation or compliance review. Technical assistance produces long-term benefits to institutions, beneficiaries, and the Federal Government by preventing discriminatory practices and thereby eliminating the need for costly and time-consuming investigations.

To help recipients understand their civil rights obligations, OCR provides up-to-date policy information, resource materials, exemplary models and information about related Federal and state legislation affecting the civil rights of protected groups. Our efforts are coordinated with other Department of Education programs, state agencies, and national organizations.

During Fiscal Year 1981, over 370,000 persons were reached by technical assistance materials, workshops, and on-site visits.

In recent years, technical assistance focused primarily on handicap concerns. Technical assistance contracts were extended last year to include issues in both race and sex discrimination, with OCR awarding two Title IX contracts in September of 1981. One addresses the problem of sexual harassment in higher education; the other addresses discrimination in vocational education programs.

Specifically, one contract helps higher education personnel understand and prevent sexual harassment and establish model grievance procedures. Ten regional workshops are being conducted to inform some 600 administrators, faculty, students, and other interested persons about the Title IX regulation, sexual harassment and its consequences, and ways to reduce the likelihood of its occurrence. The contractor will develop a pamphlet on the issue and distribute copies to two and four-year institutions throughout the Nation.

The other contract was designed to help state departments of education comply with the nondiscrimination guidelines for vocational education programs. Through this effort, ten workshops are being conducted to train state educators about their responsibilities in reviewing and monitoring the practices of the local education agencies.

REGIONAL GUIDANCE

OCR's regional staff carry out the activities connected with complaint investigations, negotiations, compliance reviews, and monitoring. OCR headquarters provides policy guidance to the ten regions to ensure that these functions are performed consistently and that the statutes and regulations are applied in a uniform way.

In 1981, OCR developed guidelines for the regions on several important compliance issues related to Title IX, including sexual harassment, student financial assistance, recruitment at graduate and professional schools, and assessment of coaching services in secondary schools.

The memoranda provide background information on the subjects and explain the statutory and regulatory basis for Title IX jurisdiction in these areas. They also describe information that should be collected during investigations, standards of analysis, and methods for assessing compliance.

Supplemental information for the regions is being prepared on writing the letters of findings in intercollegiate athletics cases and assessing complaints in the areas of employment and admissions to undergraduate and graduate programs.

In summary, OCR undertook major initiatives in 1981 to improve the enforcement of Title IX and achieve the goal of educational equity for women. Our work is far from done, however, and we will continue to seek new ways to carry out our Congressional mandate and guarantee the civil rights of women in our Nation's schools and colleges.

OFFICE OF POLICY DEVELOPMENT

STAFFING MEMORANDUM

DATE: 8/9/82 ACTION/CONCURRENCE/COMMENT DUE BY: 8/12/82

SUBJECT: Legal Services Meeting 3:00 pm Friday - Ed Meese's office

	ACTION	FYI		ACTION	FYI
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	DRUG POLICY	<input type="checkbox"/>	<input type="checkbox"/>
PORTER	<input type="checkbox"/>	<input type="checkbox"/>	TURNER	<input type="checkbox"/>	<input type="checkbox"/>
BARR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	D. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>
BAUER	<input type="checkbox"/>	<input type="checkbox"/>	OFFICE OF POLICY INFORMATION		
BOGGS	<input type="checkbox"/>	<input type="checkbox"/>	GRAY	<input type="checkbox"/>	<input type="checkbox"/>
BRADLEY	<input type="checkbox"/>	<input type="checkbox"/>	HOPKINS	<input type="checkbox"/>	<input type="checkbox"/>
CARLESON	<input type="checkbox"/>	<input type="checkbox"/>	PROPERTY REVIEW BOARD	<input type="checkbox"/>	<input type="checkbox"/>
DENEND	<input type="checkbox"/>	<input type="checkbox"/>	OTHER	<input type="checkbox"/>	<input type="checkbox"/>
FAIRBANKS	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
FERRARA	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
GUNN	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
B. LEONARD	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
MALOLEY	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
MONTOYA	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
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UHLMANN	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
ADMINISTRATION	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Ed Meese has asked that you prepare a briefing memo in preparation for the Legal Services Meeting scheduled for 3:00 pm on Friday.

The memo should analyze the pending legislation which is supposed to reform legal services. Could I have this by Noon, Thursday,

Edwin L. Harper
Assistant to the President
for Policy Development
(x6515)

Please return this tracking sheet with your response.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 12, 1982

FOR: KENNETH CRIBB
FROM: BILL BARR *WBB*
SUBJECT: Legal Services Corp. Authorization Bill

As you requested, attached is a brief overview of the substantive provisions of the LSC Authorization Bill, which recently passed the House.

My understanding is that the meeting will focus principally on personnel matters and legislative strategy and that you wanted this paper in the event the substantive provisions of the bill were raised. I assume that Duberstein's shop is preparing the necessary material on legislative strategy.

cc: Ed Harper
Roger Porter

BRIEFING PAPER
ON LEGAL SERVICES CORPORATION
AUTHORIZATION LEGISLATION

On June 18, 1982, the House of Representatives, by a vote of 245-137, passed H.R. 3480.

This bill:

(1) provides authorization for appropriations for the legal Services Corporation in the amount of \$241 million for FY 1983; and

(2) amends the Legal Services Corporation Act to impose restrictions on LSC activities; to increase sanctions and streamline procedures for enforcement of the Act, and to offer an increased role to the private bar in the delivery of legal services and in the supervision and governance of recipient organizations.

Overview of Bill

Restrictions

- o Limits recipients to persons and organizations which have as their sole purpose furnishing legal services to eligible clients. (Sec. 3)
- o Prohibits strikes by LSC and recipient employees. (Sec. 4(d))
- o Strictly curtails lobbying by LSC and recipient employees. (Sec. 5)
- o Prohibits class actions against Federal, State, or local government. (Sec. 6)
- o Permits award of attorneys' fees against LSC for unfounded lawsuits. (Sec. 7)
- o Requires settlement negotiations before suits may be filed. (Sec. 8)
- o Requires recipients who receive attorneys' fees to turn them over to LSC. (Sec. 10)
- o Bars use of funds for protecting homosexuality. (Sec. 13, 14(a)(b))
- o Prohibits training and dissemination of information on political activism techniques. (Sec. 14)

- o Bars use of funds for proceedings relating to abortions. (Sec. 14)
- o Strictly limits assistance to aliens. (Sec. 14)
- o Prohibits giving of legal advice on desegregation. (Sec. 14)

Oversight and Enforcement

- o Requires advisory councils in each state with oversight responsibilities. (Sec. 2)
- o Streamlines procedures for cutting-off funding to recipients. (Sec. 4)
- o Requires recipients to keep records showing eligibility of every person served and requires LSC to regularly review such records. (Sec. 15)
- o Grants GAO audit authority over LSC. (Sec. 17)
- o Authorizes LSC and U.S. to bring suits to enforce contracts with recipients and compliance with Act. (Sec. 16)

Private Bar Involvement

- o Requires that majority of board of directors of recipient organizations be attorneys appointed by bar associations representing majority of attorneys in areas served. (Sec. 3)
- o Encourages use of LSC funds for providing pro bono and less-than-usual fee services by private attorneys. (Sec. 9)
- o Requires LSC to fund at least one open panel private bar component in each state. (Sec. 12)

Conclusions

The policies reflected in the bill are generally sound.

From a technical standpoint, some amendments would be desirable to eliminate ambiguities.

However, even if enacted by the Senate as is, H.R. 3480 would not create any significant problems for us.

SECTION-BY-SECTION ANALYSIS

Section 2 -- Oversight by State Advisory Councils

Mandates the establishment of state advisory councils in every state and would expand their oversight functions. If governor fails to appoint members, LSC Board does so. LSC must ask councils for comments and recommendations before approving grant applications, entering into contracts or initiating projects.

Section 3 -- Qualified Recipients

Limits eligible recipients of LSC funds to: (1) private attorneys (for the sole purpose of furnishing legal assistance to eligible clients); and (2) nonprofit organizations chartered by the state for the sole purpose of furnishing legal assistance to eligible clients.

Requires that majority of board of directors of recipient nonprofit organization be attorneys appointed by bar associations which represent a majority of attorneys in the service area.

Eliminates LSC current authority to "make such other grants and contracts as are necessary to carry out the purposes and provisions of this title."

Section 4 -- Enforcement and Sanctions

Existing law essentially creates a presumption that recipient programs are entitled to continued funding and makes it difficult to terminate funding. Section 4 eliminates this presumption and makes it easier to terminate funding.

- o Requires LSC to promulgate regulations within 30 days of enactment, providing for (i) immediate suspension of assistance; (ii) suspension or termination of LSC employees; (iii) suspension or termination of recipient employees by recipient; (iv) reduction or termination of assistance for violations of Act.
- o Repeals Section 1011 of Act, thus removing recipient rights to:
 - notice and opportunity to show cause why assistance should not be suspended for less than 30 days;
 - notice and opportunity for a "timely, full and fair hearing" prior to denial of refunding application;
 - request independent hearing examiner.

- o Instead of Section 1011 procedures, this section requires only that assistance cannot be suspended or terminated for more than 30 days unless recipient has an "opportunity for a fair hearing".
- o Eliminates requirement in existing law that, while refunding application is pending, recipient must receive interim funding "necessary to maintain its current activities". Requires interim funding only to the extent sufficient to allow continuation of representation that has already been initiated.

Section 4(d) -- Strikes by Employees

Eliminates the right of LSC and recipient employees to strike, even on their own behalf.

Section 5 -- Lobbying

Broadens the scope of permissible LSC lobbying, but substantially narrows the scope of recipient lobbying.

Removes bar against LSC lobbying at state and local level, and permits LSC officials to communicate with Congress "through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business".

Prohibits recipients from engaging in any administrative advocacy to influence any federal, state or local agency except "on a particular application, claim, or case" directly involving a client's legal rights.

Prohibits recipients from engaging in any legislative advocacy except in response to official legislative requests on matters "pertaining to the authorization or appropriations of funds or oversight measures directly affecting the operation of the program involved".

Section 6 -- Limitation on Class Actions

Prohibits class actions against the Federal government, or any State or local government.

Section 7 -- Liability for Attorneys' Fees

This section authorizes a court, in actions brought either by LSC or by a recipient, to award legal fees against LSC and if it finds that "the action had no reasonable basis in law or fact".

Under existing law, attorneys' fees can be awarded against LSC only where action was brought "for the sole purpose of harassment" or where plaintiff "maliciously abused legal process". The amendment sets a much lower standard and should provide a powerful deterrent to ill-considered litigation.

NOTE: There is no specific provision allowing LSC to shift ultimate responsibility for fees to the recipient program. There is also no express requirement for notifying LSC when attorneys' fees are sought against it.

Section 8 -- Negotiation Requirement

Requires recipients to attempt negotiated settlements before filing suit, unless circumstances require immediate filing to protect a client's interests.

Section 9 -- Private Bar Involvement

Provides that, to the extent feasible, LSC is to make available substantial amounts of funds to provide the opportunity for legal assistance to be rendered to eligible clients by private attorneys.

This is intended to encourage use of full range of delivery methods, including pro bono and less-than-customary fee services.

Section 10 -- Award of Attorneys' Fees

Requires recipients who receive an award of attorneys' fees to transfer such fees to LSC.

Section 11 -- Allocation of Funding

Requires LSC to allocate basic field grants so as to insure that no greater level of access to LSC funded legal assistance is available to any part of the country than is available to all parts of the country, unless minimum access is available in all parts of the country.

Section 12 -- Private Bar Components

Requires LSC to fund at least one open panel private bar component in each state, unless it can be shown that the private bar refuses or is unable to provide services through such a component.

Section 13 -- Homosexuality

Prohibits use of LSC funds "to provide legal assistance to promote, defend, or protect homosexuality" or to promulgate or enforce any LSC rule which would prohibit discrimination in employment on the basis of sexual orientation.

Section 14 -- Additional Restrictions

- o Prohibits use of LSC funds for (1) training for purposes of advocating political activities, labor or anti-labor activities, boycotts, picketing, strikes and demonstrations, and dissemination of information about such activities.
- o Prohibits use of LSC funds to provide legal assistance with respect to any proceeding or litigation relating to abortion, unless such abortion is necessary to save the life of the mother.
- o Prohibits recipients from giving legal advice concerning desegregation.
- o Prohibits use of LSC funds "to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality".
- o Prohibits use of LSC funds to provide services to an alien unless the alien is a resident of U.S. and is (i) a permanent resident alien; (ii) spouse, parent, or minor child of U.S. citizen with pending permanent-resident application; or (iii) refugee or asylee.

Section 15 -- Documentation of Eligibility

Requires recipients maintain documentation demonstrating the eligibility of each person provided legal assistance and of any legislative or administrative advocacy undertaken.

Directs LSC to periodically review such documentation.

Requires that representation of any group or entity is to be limited to eligible clients.

Section 16 -- Suits to Enforce Act or Recipient Contracts

Authorizes the Corporation to bring an action in United States District Court to compel specific performance of agreements between the Corporation and any recipient.

Authorizes both the United States and the Corporation to bring an action for a temporary or permanent injunction or other appropriate relief to compel recipient compliance with the LSC Act or any rules, regulations, or guidelines promulgated under the Act.

Section 17 -- Audits

Grants the Comptroller General and the GAO the same authorities with respect to LSC audits as those offices have with respect to audits of "all departments and agencies of the United States, including the authority to settle and adjust the accounts of the Corporation".

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 9, 1982

FOR: EDWIN L. HARPER
FROM: GARY L. BAUER
WILLIAM P. BARR
SUBJECT: Presidential Themes

In the months between now and November, we believe it is important for the President through speeches and other public statements to emphasize themes in addition to economic/budget matters. Some areas that warrant special treatment are:

1. Crime. Although we have a crime package, public awareness of our efforts in this area appear to be slim. At the same time, crime as an issue is growing in importance and, in fact, may be a major issue in the California races this year as well as others. Tough talk and action on crime places our liberal opponents in the position of opposing popular proposals or joining in the passage of our program. Women and the aged are two groups particularly vulnerable to crime and also two groups where we face political difficulties. Any discussion of crime should include the pornography issue. An entire speech should be devoted to this issue. (You may note Mondale's efforts at co-opting this issue began over the weekend.)

2. Family. The President has talked a great deal about the private sector and volunteerism. It is time for him to pay homage to the institution which is at the core of all of our day-to-day lives. Liberals have for years been on an individualism theme. Programs in recent years passed by Congress emphasize various groupings we belong to but none emphasize the most important -- the family. The President can touch on what he is doing to aid the family -- decrease in inflation, tuition tax credits to provide more parental choice, tax decreases, etc. But the main theme should be that the family is the backbone of American life and that government owes it a debt of gratitude. The President should show how liberal programs over the past two decades have contributed to the breakdown of the family and how our ERP will help relieve the pressure on families.

3. Neighborhood. The next building block up from family is neighborhood. Strong neighborhoods are a feature in many areas across the country. No better example exists of people uniting together to handle their problems without government. There are specific neighborhoods in America that the President can cite as examples for the rest of the country. He should emphasize local

control over education, our opposition to busing, cooperative crime control efforts, etc.

4. Civil Rights. The entire debate on this issue has been set by our opponents with the result that a President who does not have a discriminatory bone in his body is pictured as being a closet racist or is suspected of having surrounded himself with racists. There is a conservative vision of a free and just society for all that we have failed to communicate. We want to hasten the day when every man and woman is judged on the basis of their talents; we want a color blind society. We do not, for that very reason, embrace the kind of social engineering that calls for quotas, preferential hiring and the other approaches that do nothing but aim discrimination at other racial groups. Most Americans support our ideals but, at this point, I doubt if many know our views on the matter. A major speech would make clear his abhorrence of discrimination and also make clear his resistance to the idea that there is something wrong in a society if most concert violinists are Jews and most NBA players are black.

5. City on a Hill. The theme of a "shining city on a hill" was used again and again by the President during the campaign. It never has been developed fully, however. We believe one of the reasons Ronald Reagan won in November 1980 is that many Americans believed he had a vision of what America should be in the years ahead that coincided with their own visions. Many Americans have been terribly uncomfortable with the direction that nation has moved morally, socially, and ethically. Although government cannot do much about these trends, Presidential leadership in pointing to what we should strive for is important. The President has made it clear in the past that he perceives us to be a special nation with a mission in history. He needs to talk more about where he believes we are going.

6. Peace/Defense. We have all but surrendered the field to our enemies on this issue. The consensus we forged during the campaign is in danger of evaporating. The President must do some forceful education. He must point out that, while the arms race is unfortunate, World War III has been avoided for the past 35 years because America has maintained its strength. He must convey to the American people the awesome magnitude of the Soviet buildup over the past 10 years and the sorry extent to which U.S. defenses have suffered under the Carter Administration.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 9, 1982

FOR: EDWIN L. HARPER

FROM: GARY L. BAUER
WILLIAM P. BARR

SUBJECT: Wirthlin Polling Questions

As a follow-up to our August 6 meeting, we think that it would be advisable for the White House to examine more closely the apparent drop-off of support from self-identified conservatives for the President.

The following information would be of interest and assist us in developing policy and strategy in the months ahead.

1. Does our polling confirm the CBS/New York Times polls of the last 18 months in showing a substantial drop in conservative support for the President?
2. If so, can we determine the following;
 - a. What kind of conservative is jumping ship? Conservative Republicans? Religious fundamentalists? Urban Catholics? Ticket splitters?
 - b. What is the source of the dissatisfaction? Slowness to move on the social issues? Concern over our economic policies? Perceived inaction on certain foreign policy issues?
 - c. Is the President still thought of as a conservative? How does the public perceive the President's philosophy compared to how they perceived him in 1980? Is the President still perceived as a strong leader by conservatives?
 - d. Are there any signs that dissatisfaction among conservatives will result in a lower turnout of our type of voter in November?
 - e. Are we picking up support in any other voter block that would help offset losses at our base? Is President viewed as favoring rich over "common man"?

3. It would also be of interest if we could determine how much the criticism from Washington conservative organizations is contributing to or causing the erosion of our base. Can Wirthlin determine if those polled have read conservative publications critical of the President and whether that has impacted their thinking?

4. Ask self-described conservatives to name what policy initiatives the President could take in order to renew their support for him.

cc: Roger Porter
Michael Uhlmann

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 9, 1982

FOR: EDWIN L. HARPER
FROM: WILLIAM P. BARR *WPB*
SUBJECT: Gun Control Proposition in California --
Possible Presidential Comment

On the California ballot for November is Proposition 15, a measure that would require registration of all handguns and freeze the number of handguns in California to the number in circulation on April 30, 1983.

Before Mike Uhlmann left on vacation, he had lunch with the new Executive Director of NRA, J. Warren Cassidy.

Cassidy thinks that Proposition 15 will be beaten. He suggested that we may want to consider having the President make a comment against the initiative at some point before November. He was not insistent about it, but simply thought it would be good for the President.

This may be worth considering. Given the President's past position on gun control, there is little downside in his casual reiteration of it in connection with the California measure.

If you think this is worth pursuing, we should check with Rollins to get a fix on the posture of Wilson, Dukemajian, and the other major local candidates.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 11, 1982

FOR: ROGER PORTER
FROM: BILL BARR *WPB*
SUBJECT: Simpson-Mazzoli Immigration Bill

Your understanding is generally correct.

The Administration supports the disaggregated corporate liability amendment.

This provision is in the House bill, and we are fairly confident that we can keep it there.

There is no such provision in the Senate bill, and Senator Simpson is resisting any amendment along this line.

If a floor amendment is made, we will support it. Otherwise, we hope we can get the Senate to accept the House provision in conference.

The Roundtable no doubt wants us to push for an amendment much more forcefully in the Senate. However, there are other amendments we are seeking that are far more important for us, particularly legalization. We don't want to overload the system.

Attached is a recent status report on the legislation prepared for CCLP.

THE WHITE HOUSE

WASHINGTON

August 11, 1982

MEMORANDUM FOR WILLIAM P. BARR

FROM: ROGER B. PORTER *RBP*
SUBJECT: Simpson-Mazzoli Immigration Bill

I am anxious to know where we stand on this legislation. One report that I heard earlier today was that the Business Roundtable's support of this bill is conditional on a number of amendments, the most important of which is an amendment allowing for disaggregated corporate liability in determining the number of violations a corporation has incurred.

Do we have an Administration position on this particular amendment? My understanding is that this provision is in the House bill that has been marked up by the Immigration Subcommittee of the House Judiciary Committee. Is this understanding correct?

I am also told that the Department of Justice has no problem with the Administration supporting the disaggregated corporate liability amendment.

I would appreciate very much you checking this out as quickly as possible and getting back to me later today.

Thanks very much for your help on the Civil Rights Commission drill this morning. I spoke with Clarence Pendelton before he went into the Senate hearing and then right after. He said that it went well and that we should not get any negative publicity out of it.

COMMUNICATIONS MEETING
August 13, 1982

Cabinet Council on Legal Policy

- o Abortion: On Monday (August 16) Senator Helms will introduce anti-abortion amendment to debt ceiling bill. Cloture vote may be taken as early as mid-week.
- o Tuition Tax Credits: Senate Finance will hold "final" mark-up on either Monday or Tuesday morning. We expect much discussion on adequacy of anti-discrimination provisions. Brad Reynolds will appear.
- o School Prayer: On Wednesday (August 18) Ted Olson is testifying before Senate Judiciary on School Prayer Amendment.
- o Law of the Sea: On Monday (August 16) Senate Foreign Relations will hold hearing on Law of the Sea. Attacks on President's position on Treaty expected.