Ronald Reagan Presidential Library Digital Library Collections

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

Collection: DeGraffenreid, Kenneth E.: Files Folder Title: [Legislation:] S. 1787 "Drug Tsar" Bill Box: RAC Box 17

To see more digitized collections visit: <u>https://reaganlibrary.gov/archives/digital-library</u>

To see all Ronald Reagan Presidential Library inventories visit: <u>https://reaganlibrary.gov/document-collection</u>

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

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

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

DEGRAFTERVER

NATIONAL SECURITY COUNCIL August 2, 1984

MEMORANDUM FOR JAMES C. MURR

FROM: ROBERT M. KIMMITT B.L.

SUBJECT: Department of Justice Letter on S. 1787, the "Drug Tsar" Bill

In answer to your request for comments concerning the Justice Department position on the drug tsar bill, the NSC Staff does not concur with the substantive points of the Justice Department letter. We continue to concur with the position of the Director of Central Intelligence opposing the provisions of S. 1787 discussed in John McMahon's May 17 letter to David Stockman.

Beyond the substantive points raised in the Justice Department letter, the final paragraph raises a tactical legislative point as to whether the legislation in its current form is the best compromise attainable and whether we might risk reviving a dormant legislative issue by specifically opposing the provisions to which the DCI objects. We do not feel confident in judging the merits of the Justice Department's tactical observation and suggest that the tactical decision of whether or not to actively oppose these provisions of the bill be coordinated with B. Oglesby's office. If a decision is warranted that active opposition to the objectionable provisions of this bill would not be prejudicial to the Administration's overall interests in the legislation at this time, then we would support such active opposition.

The Vice President's office concurs with this approach.

NATIONAL SECURITY COUNCIL

July 31, 1984

ACTION

MEMORANDUM FOR ROBERT M. KIMMITT

KENNETH deGRAFFENREIDK FROM:

Dispute Between Justice and CIA over "Drug Tsar" SUBJECT: Legislation

The Justice Department has responded (Tab III) to an earlier CIA letter to OMB which opposed S.1787 (the Drug Tsar bill). CIA maintains that the prerogative of CIA in determining its collection and production priorities could be jeopardized by the draft legislation. NSC staff concurred with CIA (Tab II).

Justice objects to the CIA view and to a CIA proposal excepting the intelligence community from the provisions of the bill. Justice also argues that the amended S.1787 is the most favorable bill we are likely to get and argues that we should avoid commenting on the intelligence issue for fear of arousing untoward interest.

Phil Dur, Phil Hughes, and I believe that there are two issues involved. On the substantive issue of intelligence involvement, we support the CIA. On the second issue of legislative judgment, we believe it is unclear on how all this would play and that this issue is best left to the legislative types.

The draft memorandum to OMB for your signature reflects this approach (Tab I). Phill the Vice President's office concur. Recommendation

That you sign the attached memorandum to James Murr (Tab I).

Approve L Disapprove _____

Attachments

Phil Hughes, OVP

Tab Tab		Memorandum to James Murr for signature NSC Staff concurrence, June 20, 1984
Tab	III	Incoming correspondence (legislative referral with DOJ memorandum to OMB (2 Jul 84))
cc:	Phil	Dur

5239

SIGNED

NATIONAL SECURITY COUNCIL

June 20, 1984

MEMORANDUM FOR JAMES C. MURR

FROM:

ROBERT M. KIMMITT

SUBJECT:

Central Intelligence Agency Views on S.1787, the "Drug Czar" Bill

The NSC Staff concurs in the CIA views on this subject conveyed in the letter from the Deputy Director of Central Intelligence dated May 17, 1984.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

June 15, 1984

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer

Department of Justice Department of the Treasury Department of Transportation National Security Council Department of Defense

SUBJECT:

Central Intelligence Agency views on S. 1787, the Drug Czar bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

June 22, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Jame's

Assistant Director for Legislative Reference

Enclosures

cc: Mike Uhlmann Adrian Curtis Karen Wilson Russ Neely Richard Williams



Washington D. C. 20505

17 May 1984

The Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

Senator Biden's Drug Czar Bill, S. 1787, is currently under consideration in the House of Representatives. While I certainly favor efforts to improve the Government's ability to cope with the drug problem, I am concerned that certain aspects of this Bill could inadvertently have a detrimental effect on intelligence activities.

Subsections 4 (a) (3) and 4 (b) (3) could be read as authorizing the Board and the Drug Czar to coordinate strategic narcotics intelligence activities abroad -- a responsibility currently exercised by the Director of Central Intelligence (DCI) in coordination with the Secretary of State. These activities are largely conducted by the same personnel who are engaged in other intelligence pursuits, and the establishment of a separate chain of authority for narcotics-related activities could disrupt other intelligence activities and interfere with liaison with foreign intelligence services and the conduct of foreign affairs. The Czar's authority to evaluate narcotics information might also be interpreted as entitling him to make determinations as to the use of narcotics intelligence outside of normal security channels independent of other intelligence concerns, thereby jeopardizing intelligence sources and methods.

Subsections 4 (a) (1) and 4 (c) (3) of the Bill could interfere with the formulation of the Intelligence Community budget by giving the Narcotics Board the power to fund narcotics efforts out of money appropriated for other intelligence projects vital to the security of this country. I believe that robbing Peter to pay Paul is not the answer to the drug enforcement problem. Instead, senior officials in federal agencies involved in drug enforcement should work closely with members of Congress to obtain the necessary funds to combat the drug problem. Finally, subsection 4 (c) (l) of the Bill would interfere with the DCI's responsibilities for allocating intelligence assets -- in this case, personnel. Because intelligence officers have multiple responsibilities, having them serve two masters would cause total confusion.

Although subsection 4 (d) provides that "notwithstanding the authority granted in [Section 4 (a)], the Board shall not interfere with routine law enforcement or intelligence decisions of any agency," it does not protect Intelligence Community interests because it covers only the Board's actions; the Czar apparently is not covered. Moreover, it protects from interference only routine intelligence decisions. Nonroutine, indeed significant, intelligence decisions could be compromised.

One way to avoid the potential problems outlined above would be to urge the Congress to consider expanding the scope of the noninterference provision by striking the reference to "intelligence decisions" in subsection 4 (d) and by adding a new provision as follows:

Nothing in section 4 shall limit-the authorities provided the Director of Central Intelligence by the National Security Act of 1947, as amended, the CIA Act of 1949, or any other statute or Executive Order.

I am open to any other suggestions regarding possible approaches to resolving the issues raised in this letter. I hope that by working together we can reach an agreement with the Congress that will improve the effectiveness of the Government's effort against drug trafficking and at the same time protect intelligence interests.

Sincerely,

I. Millelul

John N. McMahon Deputy Director of Central Intelligence

cc: Mr. Jay B. Stephens Deputy Associate Attorney General

NATIONAL SECURITY COUNCIL

June 20, 1984

ACTION

MEMORANDUM FOR ROBERT M. KIMMITT

PHILIP A. DUR

FROM:

SUBJECT: Central Intelligence Agency Views on S.1787, The "Drug Czar" Bill

At Tab I, OMB has requested NSC views on the CIA draft comments on the subject bill. The CIA position is consistent with NSC views that the prerogatives and decision latitude of the CIA in allocating and managing resources devoted to the collection and production of narcotics intelligence could be jeopardized if the draft legislation were passed as written.

Ken de Graffenreid, Chris Kerman, and Don Gregg concur.

RECOMMENDATION

That you sign the memorandum at Tab II to Jim Murr concurring in the CIA views on S,1787.

Approve _

Disapprove

Attachments

Tab I - Murr Memo to NSC of June 15, 1984 Tab II - Kimmitt Memo to Murr

	•	NSC/S PROFILE	UNCLASSIE	IED	ID 8404861 [%]
*			· · ·	RECEIVED	18 JUN 84 19
TO	KIMMITT		IURR, J	DOCDATE	15 JUN 84
4 1 1					-
KEYWORDS	. DRUGS	I	EGISLATIVE REF	ERRAL	*
	*				
SUBJECT:	CIA VIEWS	ON S-1787 THE DRUG	CZAR BILL		
			· .		
ACTION:	COMMENTS/C	CONCURRENCE	DUE: 22 JUN	1 84 STATUS S	FILES WH
	FOR ACTION	na se e I	FOR CONCURRENC	CE	FOR INFO
	DUR	LEHMAN, C	2	T	HOMPSON
		×		S	ABLE
	*				
	•	r - 1			
COMMENTS					
REF#		LOG		NSCIFID	(V)
ACTION OF	FICER (S)	ASSIGNED AC	TION REQUIRED	DUE	COPIES TO
		62 Thomp	ming lu	£	PD, PT
				· · · · · · · · · · · · · · · · · · ·	
					:
DISPATCH	6/27 . 62		4	W/ATTCH FI	LE WIT Get

	National Security The White He	/ Council Duse	i.e.	-	0
		System #			
	ED	Package #	4861		
Ûn J	SEQUENCE TO	HAS ŞEEN	DISPOSITION		
ep. Exec. Sec'y	· (4	DISFOSITION		
ob Kimmitt					
hn Poindexter					
om Shull					
'ilma Hall	-				
d McFarlane					
b Kimmitt					
C Secretariat	2				
uation Room			P		
nformation (A = Action	R = Retain D = C				
VP Meese Bak	er Deaver Other _	the state of the s	further Action		
OMMENTS	Should be seen b				
	billedid be seen b		/Time)		
			t		



. .

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 6, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer

Central Intelligence Agency Department of Transportation Department of Defense Department of the Treasury National Security Council Department of State

SUBJECT: Department of Justice letter on S. 1787, the "drug tsar" bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

August 2, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Jame

Assistant Director for Legislative Reference

Enclosures

cc: Russ Neeley Adrian Curtis Richard Williams Mike Uhlmann Mike Horowitz



U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

11

Office of the Assistant Attorney General

Washington, D.C. 20530

0 2 JUL 1984

Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

This is in response to your request for the views of the Department of Justice with respect to the concerns raised in the May 17 letter of Deputy Director of Central Intelligence McMahon regarding S. 1787, the "drug tsar" bill.

By way of background, we would note that it was the Department of Justice which took the lead in urging disapproval by the President of H.R. 3963 of the 97th Congress which included a highly objectionable drug tsar measure. In view of the overwhelming support in the Congress for drug tsar legislation, we worked within the Administration to develop a version of such legislation that would be acceptable to all affected departments and agencies. Our suggested alternatives to S. 1787 were discussed on more than one occasion in the Cabinet Council on Legal Policy of which the Director of Central Intelligence (DCI) is a member.

After substantial effort, we were finally cleared by the Administration to submit to key Senators a substitute for S. 1787. A copy of that proposal, marked up to show the changes made by the Senate, is enclosed.

In summary, our proposal would effectively codify the existing Cabinet Council on Legal Policy, making the Attorney General the chairman of a "National Drug Policy Law Enforcement Board." Although the Senate expanded the powers of the Chairman and the Board beyond what we had proposed, the powers of the Board and the Chairman (the Attorney General) are so circumscribed that it hardly seems accurate to refer to the Board or the Chairman as a "drug tsar." In the House a far more onerous version has been reported out of the Judiciary Committee. We think it highly unlikely that a better bill can be secured from this Congress.

As for the specific objections which the Deputy Director of Central Intelligence has raised with respect to S. 1787, as approved by the Senate, we are frankly surprised by the objections to subsection 4(a)(3) and 4(b)(3). These subsections are unchanged from the version submitted by the Administration and we would thus suggest that the objections are untimely as they should have been raised when the issue was under review within the Administration last year. In addition, we simply cannot agree that these provisions create any potential for jeopardizing intelligence sources and methods. In this regard, it must be borne in mind that neither the Chairman of the Board nor the Board itself are strangers to intelligence activities. The Attorney General has responsibilities in the intelligence area which he exercises through the Department's Office of Intelligence Policy and Review, as well as the Federal Bureau of Investigation and the Drug Enforcement Administration, both of which agencies are part of the intelligence community. Moreover, the bill is written in such a way that the DCI would, by statute, be a member of the Board.

Concerning the objections to the budgetary review powers set out in subsections 4(a)(1) and 4(c)(3) of S. 1787, these powers were not in the Administration substitute but were added due to the strongly held view in the Congress that some coordinated Executive Branch review of drug enforcement related budgets is needed. While we do not favor the budgetary review provisions of S. 1787, we think it is unlikely that a more favorable arrangement can be obtained as the current provisions were added despite our strenuously stated objections. Moreover, we do not believe the limited budget review authority in S. 1787, as approved, presents the potential for mischief that CIA fears. Again, the Attorney General would be the Chairman of the Board and the DCI would be a member, along with the Secretary of State, the Secretary of Defense and others sensitive to intelligence needs.

Finally, CIA objects to subsection 4(c)(1) which, again, was part of the Administration proposal. Although this provision was modified by the Senate to give the Attorney General, rather than the Board, the powers described therein, we do not believe this change is significant. Again, the Attorney General is sensitive to intelligence concerns and is unlikely -- even in some future Administration -- to act contrary to the wishes of the Board which includes the DCI, Secretary of Defense and others among its membership.

CIA proposes a new provision totally excepting the intelligence community from the bill. We believe this would be an extremely unwise strategy move and an action which could well be counter-productive. In this regard, there is a perception among Congressional advocates of this legislation that intelligence agencies have not been sufficiently supportive of drug enforcement efforts. While we do not share this view, the fact remains that

coordination of drug-related intelligence efforts with those of other Executive Branch activities is one of the primary purposes of S. 1787. To suggest a total exception for intelligence agencies, therefore, is highly unlikely to be successful and may well trigger an amendment to increase rather than eliminate coordination of intelligence activities.

To reiterate, we think S. 1787, as approved by the Senate, is as favorable to the interests of the Administration as any legislation that we could realistically expect the Congress to accept. We strongly recommend against attacks on this bill. Moreover, we would note that Congressional interest in this issue has largely subsided, primarily because we are no longer voicing complaints about the bill. The best prospect for avoiding any legislation whatsoever in this area, therefore, would appear to be for us to avoid comment on the issue. To attempt to secure further amendments at this point will only serve to focus increased attention on an issue which has become virtually dormant.

Sincerely,

Charles Francis A. Million Reil

Robert A. McConnell Assistant Attorney General Office of Legislative and Intergovernmental Affairs

Enclosure

cc: John N. McMahon Deputy Director Central Intelligence Agency

NATIONAL SECURITY COUNCIL

July 31, 1984

ACTION

MEMORANDUM FOR ROBERT M. KIMMITT

FROM: KENNETH deGRAFFENREIDK

SUBJECT: Dispute Between Justice and CIA over "Drug Tsar" Legislation

The Justice Department has responded (Tab III) to an earlier CIA letter to OMB which opposed S.1787 (the Drug Tsar bill). CIA maintains that the prerogative of CIA in determining its collection and production priorities could be jeopardized by the draft legislation. NSC staff concurred with CIA (Tab II).

Justice objects to the CIA view and to a CIA proposal excepting the intelligence community from the provision of the bill. Justice also argues that the amended S.1787 is the most favorable bill we are likely to get and argues that we should avoid commenting on the intelligence issue for fear of arousing untoward interest.

Phil Dur, Phil Hughes, and I believe that there are two issues involved. On the substantive issue of intelligence involvement, we support the CIA. On the second issue of legislative judgment, we believe it is unclear on how all this would play and that this issue is best left to the legislative types.

The draft memorandum to OMB for your signature reflects this approach (Tab I).

Phil Dur and the Vice President's office concur.

Recommendation

That you sign the attached memorandum to James Murr (Tab I).

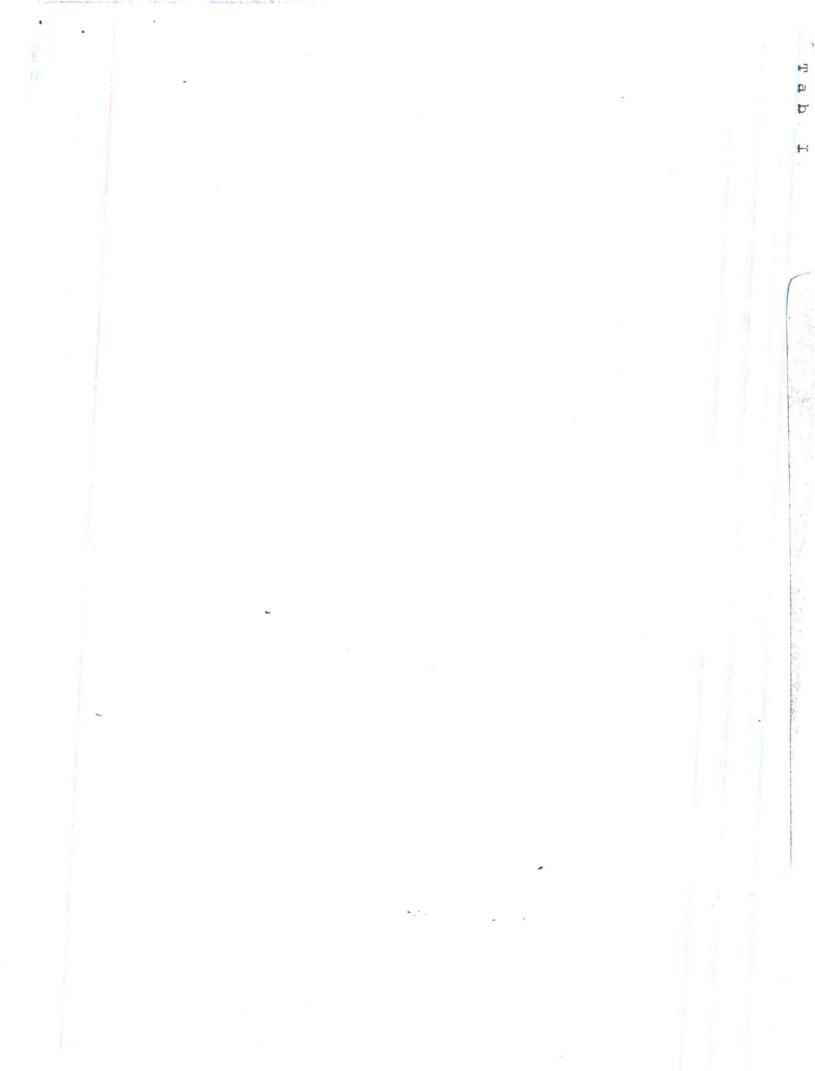
Approve

Disapprove

Attachments

Tab	I	Memorandum to James Murr for signature
Tab	II	NSC Staff concurrence, June 20, 1984
Tab	III	Incoming correspondence (legislative referral with
		DOJ memorandum to OMB (2 Jul 84))

cc: Phil Dur Phil Hughes, OVP



NATIONAL SECURITY COUNCIL

MEMORANDUM FOR JAMES C. MURR

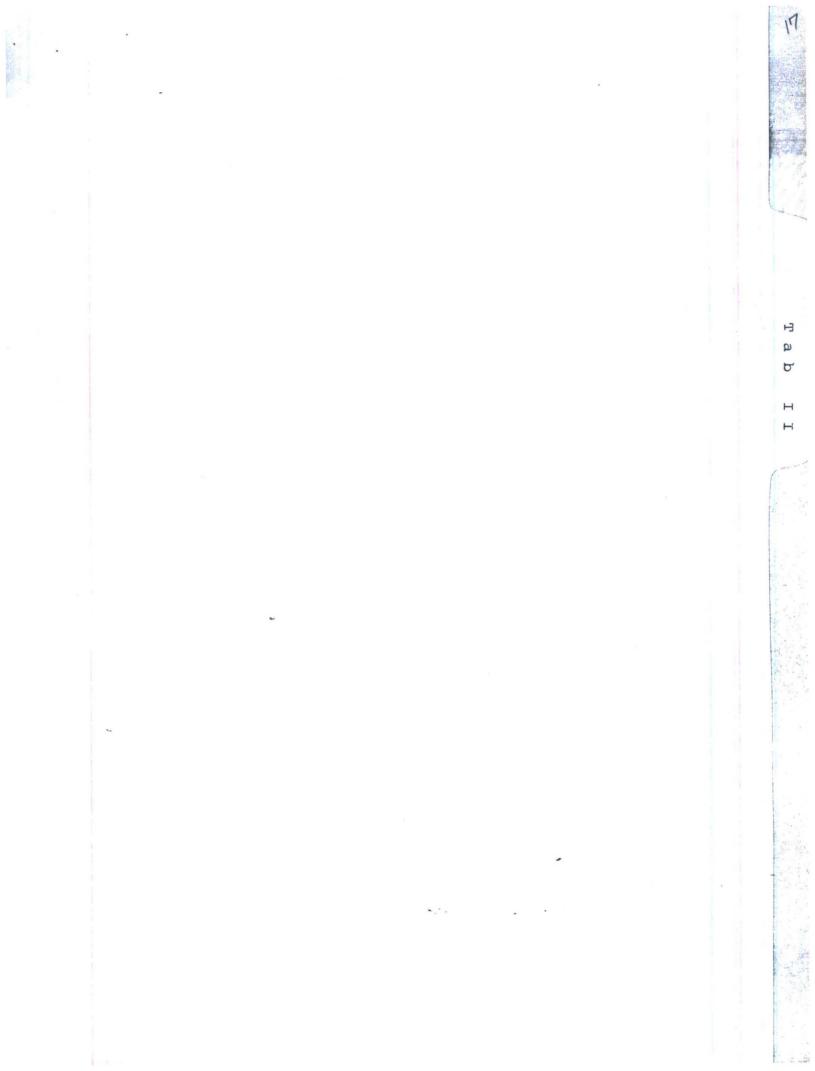
FROM: ROBERT M. KIMMITT

SUBJECT: Department of Justice Letter on S. 1787, the "Drug Tsar" Bill

In answer to your request for comments concerning the Justice Department position on the drug tsar bill, the NSC Staff does not concur with the substantive points of the Justice Department letter. We continue to concur with the position of the Director of Central Intelligence opposing the provisions of S. 1787 discussed in John McMahon's May 17 letter to David Stockman.

Beyond the substantive points raised in the Justice Department letter, the final paragraph raises a tactical legislative point as to whether the legislation in its current form is the best compromise attainable and whether we might risk reviving a dormant legislative issue by specifically opposing the provisions to which the DCI objects. We do not feel confident in judging the merits of the Justice Department's tactical observation and suggest that the tactical decision of whether or not to actively oppose these provisions of the bill be coordinated with B. Oglesby's office. If a decision is warranted that active opposition to the objectionable provisions of this bill would not be prejudicial to the Administration's overall interests in the legislation at this time, then we would support such active opposition.

The Vice President's office concurs with this approach.



NATIONAL SECURITY COUNCIL

June 20, 1984

4861

MEMORANDUM FOR JAMES C. MURR

ROBERT M. KIMMITT

SUBJECT:

FROM:

Central Intelligence Agency Views on S.1787, the "Drug Czar" Bill

The NSC Staff concurs in the CIA views on this subject conveyed in the letter from the Deputy Director of Central Intelligence dated May 17, 1984.

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

June 15, 1984

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer

Department of Justice Department of the Treasury Department of Transportation National Security Council Department of Defense

SUBJECT:

Central Intelligence Agency views on S. 1787, the Drug Czar bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

June 22, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Jame's с. Mu

Assistant Director for Legislative Reference

Enclosures

cc: Mike Uhlmann Adrian Curtis Karen Wilson Russ Neely Richard Williams



Washington D.C. 20505

17 May 1984

The Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

Senator Biden's Drug Czar Bill, S. 1787, is currently under consideration in the House of Representatives. While I certainly favor efforts to improve the Government's ability to cope with the drug problem, I am concerned that certain aspects of this Bill could inadvertently have a detrimental effect on intelligence activities.

Subsections 4 (a) (3) and 4 (b) (3) could be read as authorizing the Board and the Drug Czar to coordinate strategic narcotics intelligence activities abroad -- a responsibility currently exercised by the Director of Central Intelligence (DCI) in coordination with the Secretary of State. These activities are largely conducted by the same personnel who are engaged in other intelligence pursuits, and the establishment of a separate chain of authority for narcotics-related activities could disrupt other intelligence activities and interfere with liaison with foreign intelligence services and the conduct of foreign affairs. The Czar's authority to evaluate narcotics information might also be interpreted as entitling him to make determinations as to the use of narcotics intelligence outside of normal security channels independent of other intelligence concerns, thereby jeopardizing intelligence sources and methods.

Subsections 4 (a) (1) and 4 (c) (3) of the Bill could interfere with the formulation of the Intelligence Community budget by giving the Narcotics Board the power to fund narcotics efforts out of money appropriated for other intelligence projects vital to the security of this country. I believe that robbing Peter to pay Paul is not the answer to the drug enforcement problem. Instead, senior officials in federal agencies involved in drug enforcement should work closely with members of Congress to obtain the necessary funds to combat the drug problem. Finally, subsection 4 (c) (1) of the Bill would interfere with the DCI's responsibilities for allocating intelligence assets -- in this case, personnel. Because intelligence officers have multiple responsibilities, having them serve two masters would cause total confusion.

Although subsection 4 (d) provides that "notwithstanding the authority granted in [Section 4 (a)], the Board shall not interfere with routine law enforcement or intelligence decisions of any agency," it does not protect Intelligence Community interests because it covers only the Board's actions; the Czar apparently is not covered. Moreover, it protects from interference only routine intelligence decisions. Nonroutine, indeed significant, intelligence decisions could be compromised.

One way to avoid the potential problems outlined above would be to urge the Congress to consider expanding the scope of the noninterference provision by striking the reference to "intelligence decisions" in subsection 4 (d) and by adding a new provision as follows:

Nothing in section 4 shall limit-the authorities provided the Director of Central Intelligence by the National Security Act of 1947, as amended, the CIA Act of 1949, or any other statute or Executive Order.

I am open to any other suggestions regarding possible approaches to resolving the issues raised in this letter. I hope that by working together we can reach an agreement with the Congress that will improve the effectiveness of the Government's effort against drug trafficking and at the same time protect intelligence interests.

Sincerely,

111011 P.

21

John N. McMahon Deputy Director of Central Intelligence

cc: Mr. Jay B. Stephens Deputy Associate Attorney General

NATIONAL SECURITY COUNCIL

ACTION

MEMORANDUM FOR ROBERT M. KIMMITT

PHILIP A. DUR

FROM:

SUBJECT: Central Intelligence Agency Views on S.1787, The "Drug Czar" Bill

At Tab I, OMB has requested NSC views on the CIA draft comments on the subject bill. The CIA position is consistent with NSC views that the prerogatives and decision latitude of the CIA in allocating and managing resources devoted to the collection and production of narcotics intelligence could be jeopardized if the draft legislation were passed as written.

Ken de Graffenreid, Chris Herman, and Don Gregg concur.

RECOMMENDATION

That you sign the memorandum at Tab II to Jim Murr concurring in the CIA views on S.1787.

Approve R

Disapprove

Attachments

Tab I - Murr Memo to NSC of June 15, 1984 Tab II - Kimmitt Memo to Murr NSC/S PROFILE UNCLASSIFIED

ID 8404861

RECEIVED 18 JUN 84 19

KIMMITT

MURR, J

DOCDATE 15 JUN 84

KEYWORDS. DRUGS

TO

LEGISLATIVE REFERRAL

SUBJECT: CIA VIEWS ON S-1787 THE DRUG CZAR BILL

ACTION: COMMENTS/CONCURRENCE DUE: 22 JUN 84 STATUS S FILES WH FOR ACTION FOR CONCURRENCE FOR INFO LEHMAN, C DUR THOMPSON

SABLE

COMMENTS REF# LOG NSCIFID (V ACTION OFFICER (S) ASSIGNED ACTION REQUIRED DUE COPIES TO · tiz DISPATCH W/ATTCH FILE

N	lational Securit The White H	y Council ouse	Lea	-	24
		System #			
· ·	Ē	Package #	4861	_	
84 JUN	SEQUENCE TO			т.	
ep. Exec. Sec'y	· (HAS SEEN	DISPOSITION	F	
ob Kimmitt					
hn Poindexter					
m Shull					
ilma Hall					
d McFarlane					
o Kimmitt					
Secretariat			D		
ation Room			У.		
nformation A = Action	R = Retain D = 1	Dispatch N = No	further Action		
VP Meese Baker	Deaver Other_				
OMMENTS	Should be seen b				
	be be seen b		e/Time)		



5239

26



TO:

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 6, 1984

LEGISLATIVE REFERRAL MEMORANDUM

Legislative Liaison Officer

Central Intelligence Agency Department of Transportation Department of Defense Department of the Treasury National Security Council Department of State

SUBJECT:

Department of Justice letter on S. 1787, the "drug tsar" bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

August 2, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

James Mur

Assistant Director for Legislative Reference

Enclosures

cc: Russ Neeley Adrian Curtis Richard Williams Mike Uhlmann

Mike Horowitz

E

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

0 2 JUL 1984

Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

This is in response to your request for the views of the Department of Justice with respect to the concerns raised in the May 17 letter of Deputy Director of Central Intelligence McMahon regarding S. 1787, the "drug tsar" bill.

By way of background, we would note that it was the Department of Justice which took the lead in urging disapproval by the President of H.R. 3963 of the 97th Congress which included a highly objectionable drug tsar measure. In view of the overwhelming support in the Congress for drug tsar legislation, we worked within the Administration to develop a version of such legislation that would be acceptable to all affected departments and agencies. Our suggested alternatives to S. 1787 were discussed on more than one occasion in the Cabinet Council on Legal Policy of which the Director of Central Intelligence (DCI) is a member.

After substantial effort, we were finally cleared by the Administration to submit to key Senators a substitute for S. 1787. A copy of that proposal, marked up to show the changes made by the Senate, is enclosed.

In summary, our proposal would effectively codify the existing Cabinet Council on Legal Policy, making the Attorney General the chairman of a "National Drug Policy Law Enforcement Board." Although the Senate expanded the powers of the Chairman and the Board beyond what we had proposed, the powers of the Board and the Chairman (the Attorney General) are so circumscribed that it hardly seems accurate to refer to the Board or the Chairman as a "drug tsar." In the House a far more onerous version has been reported out of the Judiciary Committee. We'think it highly unlikely that a better bill can be secured from this Congress.

A. * ..

As for the specific objections which the Deputy Director of Central Intelligence has raised with respect to S. 1787, as approved by the Senate, we are frankly surprised by the objections to subsection 4(a)(3) and 4(b)(3). These subsections are unchanged from the version submitted by the Administration and we would thus suggest that the objections are untimely as they should have been raised when the issue was under review within the Administration last year. In addition, we simply cannot agree that these provisions create any potential for jeopardizing intelligence sources and methods. In this regard, it must be borne in mind that neither the Chairman of the Board nor the Board itself are strangers to intelligence activities. The Attorney General has responsibilities in the intelligence area which he exercises through the Department's Office of Intelligence Policy and Review, as well as the Federal Bureau of Investigation and the Drug Enforcement Administration, both of which agencies are part of the intelligence community. Moreover, the bill is written in such a way that the DCI would, by statute, be a member of the Board.

Concerning the objections to the budgetary review powers set out in subsections 4(a)(1) and 4(c)(3) of S. 1787, these powers were not in the Administration substitute but were added due to the strongly held view in the Congress that some coordinated Executive Branch review of drug enforcement related budgets is needed. While we do not favor the budgetary review provisions of S. 1787, we think it is unlikely that a more favorable arrangement can be obtained as the current provisions were added despite our strenuously stated objections. Moreover, we do not believe the limited budget review authority in S. 1787, as approved, presents the potential for mischief that CIA fears. Again, the Attorney General would be the Chairman of the Board and the DCI would be a member, along with the Secretary of State, the Secretary of Defense and others sensitive to intelligence needs.

Finally, CIA objects to subsection 4(c)(l) which, again, was part of the Administration proposal. Although this provision was modified by the Senate to give the Attorney General, rather than the Board, the powers described therein, we do not believe this change is significant. Again, the Attorney General is sensitive to intelligence concerns and is unlikely -- even in some future Administration -- to act contrary to the wishes of the Board which includes the DCI, Secretary of Defense and others among its membership.

CIA proposes a new provision totally excepting the intelligence community from the bill. We believe this would be an extremely unwise strategy move and an action which could well be counter-productive. In this regard, there is a perception among Congressional advocates of this legislation that intelligence agencies have not been sufficiently supportive of drug enforcement efforts. While we do not share this view, the fact remains that coordination of drug-related intelligence efforts with those of other Executive Branch activities is one of the primary purposes of S. 1787. To suggest a total exception for intelligence agencies, therefore, is highly unlikely to be successful and may well trigger an amendment to increase rather than eliminate coordination of intelligence activities.

To reiterate, we think S. 1787, as approved by the Senate, is as favorable to the interests of the Administration as any legislation that we could realistically expect the Congress to accept. We strongly recommend against attacks on this bill. Moreover, we would note that Congressional interest in this issue has largely subsided, primarily because we are no longer voicing complaints about the bill. The best prospect for avoiding any legislation whatsoever in this area, therefore, would appear to be for us to avoid comment on the issue. To attempt to secure further amendments at this point will only serve to focus increased attention on an issue which has become virtually dormant.

Sincerely,

CALLERY FRANCE A. MCLORINEI

Robert A. McConnell Assistant Attorney General Office of Legislative and Intergovernmental Affairs

Enclosure

cc: John N. McMahon Deputy Director Central Intelligence Agency

July 27, 1984

MEMORANDUM FOR JAMES C. MURR Executive Office of the President Office of Management and Budget

FROM: Robert Kimmitt Executive Secretary National Security Council Staff

SUBJECT: Department of Justice Letter on S. 1787, the "drug tsar" Bill

In answer to your request for comments concerning the Justice Department position on the drug tsar bill, the NSC Staff does not concur with the substantive points of the Justice Department letter. We continue to concur with the position of the Director of Central Intelligence opposing the provisions of S. 1787 discussed in John McMahon's May 17 letter to David Stockman.

Beyond the substantive points raised in the Justice Department letter, the final paragraph raises a tactical legislative point as to whether the legislation in its current form is the best compromise attainable and whether we might risk reviving a dormant legislative issue by specifically opposing the provisions to which the DCI objects. We do not feel confident in judging the merits of the Justice Department's tactical observation and suggest that the tactical decision of whether or not to actively oppose these provisions of the bill be coordinated with B. Oglesby's office. If a decision is warranted that active opposition to the objectionable provisions of this bill would not be prejudicial to the Administration's overall interests in the legislation at this time, then we would support such activite opposition.

The Vice President's office concurs with this approach.



EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

July 6, 1984

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer

Central Intelligence Agency Department of Transportation Department of Defense Department of the Treasury National Security Council Department of State

SUBJECT: Department of Justice letter on S. 1787, the "drug tsar" bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views/is needed no later than

August 2, 1984,

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Mirry Jame

Assistant Director for Legislative Reference

Enclosures

cc: Russ Neeley Adrian Curtis Richard Williams Mike Uhlmann Mike Horowitz Phil Hughes

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

0 2 JUL 1984

Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

This is in response to your request for the views of the Department of Justice with respect to the concerns raised in the May 17 letter of Deputy Director of Central Intelligence McMahon regarding S. 1787, the "drug tsar" bill.

By way of background, we would note that it was the Department of Justice which took the lead in urging disapproval by the President of H.R. 3963 of the 97th Congress which included a highly objectionable drug tsar measure. In view of the overwhelming support in the Congress for drug tsar legislation, we worked within the Administration to develop a version of such legislation that would be acceptable to all affected departments and agencies. Our suggested alternatives to S. 1787 were discussed on more than one occasion in the Cabinet Council on Legal Policy of which the Director of Central Intelligence (DCI) is a member.

After substantial effort, we were finally cleared by the Administration to submit to key Senators a substitute for S. 1787. A copy of that proposal, marked up to show the changes made by the Senate, is enclosed.

In summary, our proposal would effectively codify the existing Cabinet Council on Legal Policy, making the Attorney General the chairman of a "National Drug Policy Law Enforcement Board." Although the Senate expanded the powers of the Chairman and the Board beyond what we had proposed, the powers of the Board and the Chairman (the Attorney General) are so circumscribed that it hardly seems accurate to refer to the Board or the Chairman as a "drug tsar." In the House a far more onerous version has been reported out of the Judiciary Committee. We think it highly unlikely that a better bill can be secured from this Congress.

As for the specific objections which the Deputy Director of Central Intelligence has raised with respect to S. 1787, as approved by the Senate, we are frankly surprised by the objections to subsection 4(a)(3) and 4(b)(3). These subsections are unchanged from the version submitted by the Administration and we would thus suggest that the objections are untimely as they should have been raised when the issue was under review within the Administration last year. In addition, we simply cannot agree that these provisions create any potential for jeopardizing intelligence sources and methods. In this regard, it must be borne in mind that neither the Chairman of the Board nor the Board itself are strangers to intelligence activities. The Attorney General has responsibilities in the intelligence area which he exercises through the Department's Office of Intelligence Policy and Review, as well as the Federal Bureau of Investigation and the Drug Enforcement Administration, both of which agencies are part of the intelligence community. Moreover, the bill is written in such a way that the DCI would, by statute, be a member of the Board.

Concerning the objections to the budgetary review powers set out in subsections 4(a)(1) and 4(c)(3) of S. 1787, these powers were not in the Administration substitute but were added due to the strongly held view in the Congress that some coordinated Executive Branch review of drug enforcement related budgets is needed. While we do not favor the budgetary review provisions of S. 1787, we think it is unlikely that a more favorable arrangement can be obtained as the current provisions were added despite our strenuously stated objections. Moreover, we do not believe the limited budget review authority in S. 1787, as approved, presents the potential for mischief that CIA fears. Again, the Attorney General would be the Chairman of the Board and the DCI would be a member, along with the Secretary of State, the Secretary of Defense and others sensitive to intelligence needs.

Finally, CIA objects to subsection 4(c)(1) which, again, was part of the Administration proposal. Although this provision was modified by the Senate to give the Attorney General, rather than the Board, the powers described therein, we do not believe this change is significant. Again, the Attorney General is sensitive to intelligence concerns and is unlikely -- even in some future Administration -- to act contrary to the wishes of the Board which includes the DCI, Secretary of Defense and others among its membership.

CIA proposes a new provision totally excepting the intelligence community from the bill. We believe this would be an extremely unwise strategy move and an action which could well be counter-productive. In this regard, there is a perception among Congressional advocates of this legislation that intelligence agencies have not been sufficiently supportive of drug enforcement efforts. While we do not share this view, the fact remains that coordination of drug-related intelligence efforts with those of other Executive Branch activities is one of the primary purposes of S. 1787. To suggest a total exception for intelligence agencies, therefore, is highly unlikely to be successful and may well trigger an amendment to increase rather than eliminate coordination of intelligence activities.

To reiterate, we think S. 1787, as approved by the Senate, is as favorable to the interests of the Administration as any legislation that we could realistically expect the Congress to accept. We strongly recommend against attacks on this bill. Moreover, we would note that Congressional interest in this issue has largely subsided, primarily because we are no longer voicing complaints about the bill. The best prospect for avoiding any legislation whatsoever in this area, therefore, would appear to be for us to avoid comment on the issue. To attempt to secure further amendments at this point will only serve to focus increased attention on an issue which has become virtually dormant.

Sincerely,

Connell Robert A. McConnell

Robert A. McConnell Assistant Attorney General Office of Legislative and Intergovernmental Affairs

Enclosure

cc: John N. McMahon Deputy Director Central Intelligence Agency



.

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

June 15, 1984

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer

Department of Justice-dom Clear - con 161 Department of the Treasury Department of Transportation National Security Council Department of Defense AND WILles

Central Intelligence Agency views on S. 1787, SUBJECT: the Drug Czar bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

June 22, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

James C. Murr for

Assistant Director for Legislative Reference

Enclosures cc: Mike Uhlmann Adrian Curtis Russ Neely

Karen Wilson

Richard Williams Phil Hughes



Washington, D. C. 20505

17 May 1984

The Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

Senator Biden's Drug Czar Bill, S. 1787, is currently under consideration in the House of Representatives. While I certainly favor efforts to improve the Government's ability to cope with the drug problem, I am concerned that certain aspects of this Bill could inadvertently have a detrimental effect on intelligence activities.

Subsections 4 (a) (3) and 4 (b) (3) could be read as authorizing the Board and the Drug Czar to coordinate strategic narcotics intelligence activities abroad -- a responsibility currently exercised by the Director of Central Intelligence (DCI) in coordination with the Secretary of State. These activities are largely conducted by the same personnel who are engaged in other intelligence pursuits, and the establishment of a separate chain of authority for narcotics-related activities could disrupt other intelligence activities and interfere with liaison with foreign intelligence services and the conduct of foreign affairs. The Czar's authority to evaluate narcotics information might also be interpreted as entitling him to make determinations as to the use of narcotics intelligence outside of normal security channels independent of other intelligence concerns, thereby jeopardizing intelligence sources and methods.

Subsections 4 (a) (1) and 4 (c) (3) of the Bill could interfere with the formulation of the Intelligence Community budget by giving the Narcotics Board the power to fund narcotics efforts out of money appropriated for other intelligence projects vital to the security of this country. I believe that robbing Peter to pay Paul is not the answer to the drug enforcement problem. Instead, senior officials in federal agencies involved in drug enforcement should work closely with members of Congress to obtain the necessary funds to combat the drug problem. Finally, subsection 4 (c) (1) of the Bill would interfere with the DCI's responsibilities for allocating intelligence assets -- in this case, personnel. Because intelligence officers have multiple responsibilities, having them serve two masters would cause total confusion.

Although subsection 4 (d) provides that "notwithstanding the authority granted in [Section 4 (a)], the Board shall not interfere with routine law enforcement or intelligence decisions of any agency," it does not protect Intelligence Community interests because it covers only the Board's actions; the Czar apparently is not covered. Moreover, it protects from interference only routine intelligence decisions. Nonroutine, indeed significant, intelligence decisions could be compromised.

One way to avoid the potential problems outlined above would be to urge the Congress to consider expanding the scope of the noninterference provision by striking the reference to "intelligence decisions" in subsection 4 (d) and by adding a new provision as follows:

Nothing in section 4 shall limit the authorities provided the Director of Central Intelligence by the National Security Act of 1947, as amended, the CIA Act of 1949, or any other statute or Executive Order.

I am open to any other suggestions regarding possible approaches to resolving the issues raised in this letter. I hope that by working together we can reach an agreement with the Congress that will improve the effectiveness of the Government's effort against drug trafficking and at the same time protect intelligence interests.

Sincerely,

Tulullelul

John N. McMahon Deputy Director of Central Intelligence

cc: Mr. Jay B. Stephens Deputy Associate Attorney General

NATIONAL SECURITY COUNCIL

July 10, 1984

TO: PHIL HUGHES

FROM:

KEN deGRAFFENREID

We have a rapidly escalating issue here between CIA and AG. Would very much appreciate your view and help in resolving this disagreement.

Attachment DOJ letter to Stockman (S.1787 - drug tsar bill), 2 July 1984



TO:

÷ .

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

July 6, 1984

LEGISLATIVE REFERRAL MEMORANDUM

Legislative Liaison Officer

Central Intelligence Agency Department of Transportation Department of Defense Department of the Treasury Mational Security Council Department of State

SUBJECT:

Department of Justice letter on S. 1787, the "drug tsar" bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

August 2, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Jame

Assistant Director for Legislative Reference

Enclosures

cc: Russ Neeley Adrian Curtis Richard Williams Mike Uhlmann

Mike Horowitz



Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

0 2 JUL 1984

Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

This is in response to your request for the views of the Department of Justice with respect to the concerns raised in the May 17 letter of Deputy Director of Central Intelligence McMahon regarding S. 1787, the "drug tsar" bill.

By way of background, we would note that it was the Department of Justice which took the lead in urging disapproval by the President of H.R. 3963 of the 97th Congress which included a highly objectionable drug tsar measure. In view of the overwhelming support in the Congress for drug tsar legislation, we worked within the Administration to develop a version of such legislation that would be acceptable to all affected departments and agencies. Our suggested alternatives to S. 1787 were discussed on more than one occasion in the Cabinet Council on Legal Policy of which the Director of Central Intelligence (DCI) is a member.

After substantial effort, we were finally cleared by the Administration to submit to key Senators a substitute for S. 1787. A copy of that proposal, marked up to show the changes made by the Senate, is enclosed.

In summary, our proposal would effectively codify the existing Cabinet Council on Legal Policy, making the Attorney General the chairman of a "National Drug Policy Law Enforcement Board." Although the Senate expanded the powers of the Chairman and the Board beyond what we had proposed, the powers of the Board and the Chairman (the Attorney General) are so circumscribed that it hardly seems accurate to refer to the Board or the Chairman as a "drug tsar." In the House a far more onerous version has been reported out of the Judiciary Committee. We think it highly unlikely that a better bill can be secured from this Congress.

As for the specific objections which the Deputy Director of Central Intelligence has raised with respect to S. 1787, as approved by the Senate, we are frankly surprised by the objections to subsection 4(a)(3) and 4(b)(3). These subsections are unchanged from the version submitted by the Administration and we would thus suggest that the objections are untimely as they should have been raised when the issue was under review within the Administration last year. In addition, we simply cannot agree that these provisions create any potential for jeopardizing intelligence sources and methods. In this regard, it must be borne in mind that neither the Chairman of the Board nor the Board itself are strangers to intelligence activities. The Attorney General has responsibilities in the intelligence area which he exercises through the Department's Office of Intelligence Policy and Review, as well as the Federal Bureau of Investigation and the Drug Enforcement Administration, both of which agencies are part of the intelligence community. Moreover, the bill is written in such a way that the DCI would, by statute, be a member of the Board.

Concerning the objections to the budgetary review powers set out in subsections 4(a)(1) and 4(c)(3) of S. 1787, these powers were not in the Administration substitute but were added due to the strongly held view in the Congress that some coordinated Executive Branch review of drug enforcement related budgets is needed. While we do not favor the budgetary review provisions of S. 1787, we think it is unlikely that a more favorable arrangement can be obtained as the current provisions were added despite our strenuously stated objections. Moreover, we do not believe the limited budget review authority in S. 1787, as approved, presents the potential for mischief that CIA fears. Again, the Attorney General would be the Chairman of the Board and the DCI would be a member, along with the Secretary of State, the Secretary of Defense and others sensitive to intelligence needs.

Finally, CIA objects to subsection 4(c)(1) which, again, was part of the Administration proposal. Although this provision was modified by the Senate to give the Attorney General, rather than the Board, the powers described therein, we do not believe this change is significant. Again, the Attorney General is sensitive to intelligence concerns and is unlikely -- even in some future Administration -- to act contrary to the wishes of the Board which includes the DCI, Secretary of Defense and others among its membership.

CIA proposes a new provision totally excepting the intelligence community from the bill. We believe this would be an extremely unwise strategy move and an action which could well be counter-productive. In this regard, there is a perception among Congressional advocates of this legislation that intelligence agencies have not been sufficiently supportive of drug enforcement efforts. While we do not share this view, the fact remains that coordination of drug-related intelligence efforts with those of other Executive Branch activities is one of the primary purposes of S. 1787. To suggest a total exception for intelligence agencies, therefore, is highly unlikely to be successful and may well trigger an amendment to increase rather than eliminate coordination of intelligence activities.

To reiterate, we think S. 1787, as approved by the Senate, is as favorable to the interests of the Administration as any legislation that we could realistically expect the Congress to accept. We strongly recommend against attacks on this bill. Moreover, we would note that Congressional interest in this issue has largely subsided, primarily because we are no longer voicing complaints about the bill. The best prospect for avoiding any legislation whatsoever in this area, therefore, would appear to be for us to avoid comment on the issue. To attempt to secure further amendments at this point will only serve to focus increased attention on an issue which has become virtually dormant.

Sincerely,

Children Francis A. Huchannell

Robert A. McConnell Assistant Attorney General Office of Legislative and Intergovernmental Affairs 11

Enclosure

cc: John N. McMahon Deputy Director Central Intelligence Agency

Mtg: Philip Hughes 4 riday 11:00 Am. Toro Am. Rm 300

24 July 87 424 One you going to do lefore anything with this lefore your vacation Ken,

5239

NATIONAL SECURITY COUNCIL

July 10, 1984

TO: PHIL HUGHES

FROM: KEN deGRAFFENREID

We have a rapidly escalating issue here between CIA and AG. Would very much appreciate your view and help in resolving this disagreement.

Attachment DOJ letter to Stockman (S.1787 - drug tsar bill), 2 July 1984



TO:

EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET

5239

WASHINGTON, D.C. 20503

July 6, 1984

LEGISLATIVE REFERRAL MEMORANDUM

Legislative Liaison Officer

Central Intelligence Agency Department of Transportation Department of Defense Department of the Treasury National Security Council Department of State

SUBJECT: Department of Justice letter on S. 1787, the "drug tsar" bill.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

August 2, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Jame

Assistant Director for Legislative Reference

Enclosures cc: Russ Neeley Adrian Curtis

Richard Williams Mike Uhlmann

Mike Horowitz



U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

0 2 JUL 1984

Honorable David A. Stockman Director Office of Management and Budget Washington, D.C. 20503

Dear Mr. Stockman:

This is in response to your request for the views of the Department of Justice with respect to the concerns raised in the May 17 letter of Deputy Director of Central Intelligence McMahon regarding S. 1787, the "drug tsar" bill.

By way of background, we would note that it was the Department of Justice which took the lead in urging disapproval by the President of H.R. 3963 of the 97th Congress which included a highly objectionable drug tsar measure. In view of the overwhelming support in the Congress for drug tsar legislation, we worked within the Administration to develop a version of such legislation that would be acceptable to all affected departments and agencies. Our suggested alternatives to S. 1787 were discussed on more than one occasion in the Cabinet Council on Legal Policy of which the Director of Central Intelligence (DCI) is a member.

After substantial effort, we were finally cleared by the Administration to submit to key Senators a substitute for S. 1787. A copy of that proposal, marked up to show the changes made by the Senate, is enclosed.

In summary, our proposal would effectively codify the existing Cabinet Council on Legal Policy, making the Attorney General the chairman of a "National Drug Policy Law Enforcement Board." Although the Senate expanded the powers of the Chairman and the Board beyond what we had proposed, the powers of the Board and the Chairman (the Attorney General) are so circumscribed that it hardly seems accurate to refer to the Board or the Chairman as a "drug tsar." In the House a far more onerous version has been reported out of the Judiciary Committee. We think it highly unlikely that a better bill can be secured from this Congress.

As for the specific objections which the Deputy Director of Central Intelligence has raised with respect to S. 1787, as approved by the Senate, we are frankly surprised by the objections to subsection 4(a)(3) and 4(b)(3). These subsections are unchanged from the version submitted by the Administration and we would thus suggest that the objections are untimely as they should have been raised when the issue was under review within the Administration last year. In addition, we simply cannot agree that these provisions create any potential for jeopardizing intelligence sources and methods. In this regard, it must be borne in mind that neither the Chairman of the Board nor the Board itself are strangers to intelligence activities. The Attorney General has responsibilities in the intelligence area which he exercises through the Department's Office of Intelligence Policy and Review, as well as the Federal Bureau of Investigation and the Drug Enforcement Administration, both of which agencies are part of the intelligence community. Moreover, the bill is written in such a way that the DCI would, by statute, be a member of the Board.

Concerning the objections to the budgetary review powers set out in subsections 4(a)(1) and 4(c)(3) of S. 1787, these powers were not in the Administration substitute but were added due to the strongly held view in the Congress that some coordinated Executive Branch review of drug enforcement related budgets is needed. While we do not favor the budgetary review provisions of S. 1787, we think it is unlikely that a more favorable arrangement can be obtained as the current provisions were added despite our strenuously stated objections. Moreover, we do not believe the limited budget review authority in S. 1787, as approved, presents the potential for mischief that CIA fears. Again, the Attorney General would be the Chairman of the Board and the DCI would be a member, along with the Secretary of State, the Secretary of Defense and others sensitive to intelligence needs.

Finally, CIA objects to subsection 4(c)(1) which, again, was part of the Administration proposal. Although this provision was modified by the Senate to give the Attorney General, rather than the Board, the powers described therein, we do not believe this change is significant. Again, the Attorney General is sensitive to intelligence concerns and is unlikely -- even in some future Administration -- to act contrary to the wishes of the Board which includes the DCI, Secretary of Defense and others among its membership.

CIA proposes a new provision totally excepting the intelligence community from the bill. We believe this would be an extremely unwise strategy move and an action which could well be counter-productive. In this regard, there is a perception among Congressional advocates of this legislation that intelligence agencies have not been sufficiently supportive of drug enforcement efforts. While we do not share this view, the fact remains that coordination of drug-related intelligence efforts with those of other Executive Branch activities is one of the primary purposes of S. 1787. To suggest a total exception for intelligence agencies, therefore, is highly unlikely to be successful and may well trigger an amendment to increase rather than eliminate coordination of intelligence activities.

To reiterate, we think S. 1787, as approved by the Senate, is as favorable to the interests of the Administration as any legislation that we could realistically expect the Congress to accept. We strongly recommend against attacks on this bill. Moreover, we would note that Congressional interest in this issue has largely subsided, primarily because we are no longer voicing complaints about the bill. The best prospect for avoiding any legislation whatsoever in this area, therefore, would appear to be for us to avoid comment on the issue. To attempt to secure further amendments at this point will only serve to focus increased attention on an issue which has become virtually dormant.

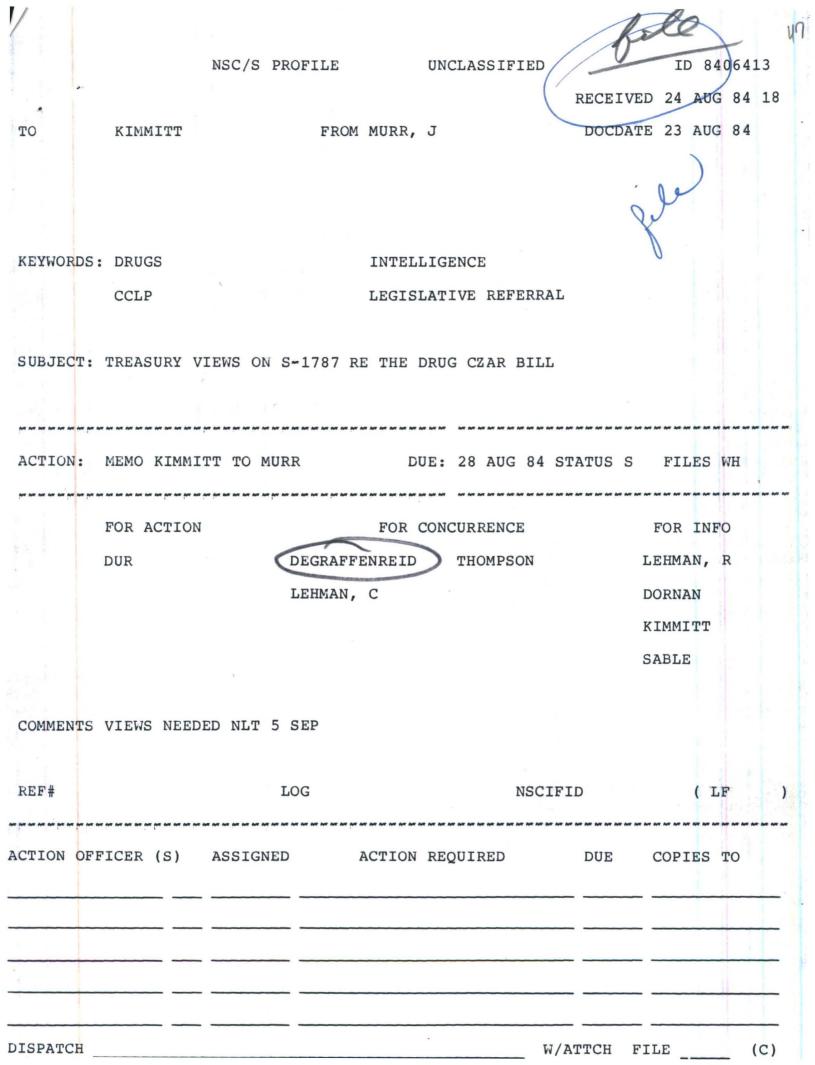
Sincerely,

Charles Francis A. McConnell

Robert A. McConnell Assistant Attorney General Office of Legislative and Intergovernmental Affairs

Enclosure

cc: John N. McMahon Deputy Director Central Intelligence Agency





EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

August 23, 1984

SPECIAL

LEGISLATIVE REFERRAL MEMORANDUM

TO:

Legislative Liaison Officer

Department of Justice Central Intelligence Agency Department of Defense Mational Security Council Department of Transportation

SUBJECT:

Department of the Treasury views on S. 1787.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than

September 5, 1984

Questions should be referred to Gregory Jones (395-3856), the legislative analyst in this office.

Murr James

Assistant Director for Legislative Reference

Enclosures

cc: Richard Williams Frank Kalder Russ Neeley

R 5-6/83.2 Joner

DEPARTMENT OF THE TREASURY OFFICE OF THE GENERAL COUNSEL WASHINGTON, D.C. 20220

AUG 20 1984

Director, Office of Management and Budget Executive Office of the President Washington, DC 20503

Attention: Assistant Director for Legislative Reference

Dear Sir:

This responds to your request for the Treasury Department's views on the Department of Justice's letter on S. 1787.

The Department of the Treasury continues to oppose legislation that would create a new bureaucracy with policy and budgetary control over the departments and agencies with major responsibilities in the fight against drug abuse and drug trafficking. To this end, we have previously objected to H.R. 4028 which, like S. 1787, would supplant some of the existing coordination mechanisms that this Administration has initiated in its overall drug strategy.

While we can understand the Department of Justice's view that S. 1787 may be the lesser of two evils, we nevertheless believe that the bill should be considered on its own. We strongly object to S. 1787 because it would authorize an unnecessary intrusion into the budgetary, and hence policy, decisions of other departments and agencies. We take specific exception to Section 4(c)(3), which alters the existing review procedure for budgetary decision-making with regard to reprogramming.

The changes in authority that S. 1787 would accomplish are unnecessary ones. The existing coordination mechanisms, such as the Cabinet Council on Legal Policy (CCLP), the Drug Supply Reduction Work Group of the CCLP, the Organized Crime Drug Enforcement Task Forces, and the National Narcotics Border Interdiction System, all of which this Administration has carefully developed over the last three and a half years, are now providing the necessary policy review functions that S. 1787 endeavors to create. What is more, these coordinating mechanisms accomplish their purpose in a way that allows each department and agency the degree of autonomy necessary to carry out the functions it is charged by law to perform. As a further indication that the intent of this bill is misguided, the major Federal initiatives directed against drug-related crime in the past three years have been pursuant to an overall strategy, approved at the White House level, that recognizes and utilizes the unique contributions that each department and agency brings to the overall effort.

The carefully-struck balance between the degree of interagency coordination and the retention of the ability of each participating entity to determine, within broad policy goals established by the President, how to apply its resources, has been a central principle of this Administration's drug enforcement strategy to date. It would be unwise to risk upsetting this balance in the manner proposed by S. 1787.

For these reasons, Treasury cannot agree with the position taken by the Justice Department with respect to S. 1787 and recommends that this Administration strenously oppose this bill, as well as any legislation that would similarly compromise the authority of Federal departments and agencies with responsibilities in drug enforcement.

Sincerely yours,

Margery Waxman

Margery Waxman Deputy General Counsel