

M S M a i l

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**DATE-TIME** 30 January 95 09:50  
**FROM** Simon, Steven N.  
**CLASSIFICATION** UNCLASSIFIED  
**SUBJECT** [UNCLASSIFIED]Script  
**TO** Danvers, William C.  
**CARBON\_COPY** Clarke, Richard A.  
**TEXT\_BODY** [[ OMNIBUS1.DOC : 2388 in OMNIBUS1.DOC ]]

**ATTACHMENT  
FILE DATE** 30 January 95 9:48  
**ATTACHMENT  
FILE NAME** OMNIBUS1.DOC

#### TALKING POINTS

#### THE OMNIBUS COUNTERTERRORISM ACT OF 1995

ù This counterterrorism bill is a major step in the fight of the U.S. Government against international terrorism. It is a comprehensive effort, reflecting what we have learned from the World Trade Center bombing and other major terrorist attacks.

ù The bill was drafted carefully to protect both the Constitutional rights of individuals and the physical security of American society, which has been the deliberate target of terrorists in the World Trade Center bombing, over Lockerbie, in Lebanon, and on the high seas.

ù This bill will strengthen the ability of the United States to deter terrorist acts and punish these who engage in terrorism. It also corrects deficiencies and gaps in current law.

ù Among its most significant provisions, the bill:

provides clear federal criminal jurisdiction for any international terrorist attack which might occur in the United States

ù This proposal provides a more certain and comprehensive basis for

the Federal Government to respond to future acts of international terrorism carried out within the United States.

ù It creates a new federal crime relating to acts of international terrorism involving any of the following types of conduct occurring within the United States:

ù murder, kidnapping, maiming, assault resulting in serious bodily injury, assault with a dangerous weapon

ù destroying or damaging any structure, conveyance, or other real or personal property.

ù It allows the government to incorporate, for purposes of prosecution under this statute, any applicable federal or state criminal statute violated by the terrorist act, so long as any one of a variety of Jurisdictional bases can be established.

ù The Jurisdictional bases are drawn from existing federal criminal statutes and, therefore, do not represent a significant broadening of established concepts of federal jurisdiction.

ù The proposal also

ù facilitates pretrial detention for persons charged with this offense (by creating a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of the community and the appearance of the defendant) and

ù amends the federal electronic surveillance statute to facilitate the use of court-authorized roving electronic surveillance in investigating violations of this statute.

ù The proposal provides for stiff penalties which must be imposed consecutive to any other applicable penalties.

provides federal criminal jurisdiction over terrorists who use the United States as a place from which to plan terrorist attacks overseas

ù This provision addresses conspiracies undertaken within the United States to commit terrorist acts in foreign countries.

ù It makes it a crime for any person within the United States to undertake any act in furtherance of the following types of overseas criminal activity:

ù murdering, kidnapping or maiming; or

- ù injuring or destroying any railroad canal, bridge, airport or other public utility, public conveyance or public structure, or any religious, educational or cultural property.

- ù This provision substantially upgrades the coverage provided by Material Support for Terrorism provision passed as part of the 1994 Crime Bill.

- ù That provision applies only where the person within the United States is involved in the limited category of overseas terrorist acts over which the U.S. has prospective jurisdiction.

- ù In contrast, most terrorist acts overseas do not directly affect U.S. interests and therefore are not within our criminal justice jurisdiction.

- ù This provision, in combination with the terrorist fund raising and alien deportation provisions of this bill, will serve to ensure that the United States is not used as a support base for acts of terrorism carried out in other countries.

provides a workable mechanism to expeditiously depart alien terrorists without risking the disclosure of national security information or techniques

- ù This proposal contains comprehensive procedures to facilitate the expeditious deportation of alien terrorists.

- ù It provides a balanced set of procedures which both

- ù afford the alien fundamental fairness, and

- ù afford the government a reasonable basis to avoid the public disclosure of sensitive national security information.

- ù The proposal creates a special court made up of five U.S. district court judges appointed by the Chief Justice of the United States

- ù That court would be available to handle deportation actions where

- ù the alien "has engaged, is engaged, or at any time after entry engages in any terrorist activity," as defined by the Immigration and Nationality Act; and

- ù the government can establish that adherence to normal INS deportation procedures would pose a risk to national security.

- ù The alien would have the right to be represented by an attorney (at government expense, if necessary).

- ù The deportation proceeding would be open to the public.

- ù The judge would apply procedures designed to protect classified information.

- ù Appeals from rulings by this court would be to the U.S. Court of Appeals for the District of Columbia Circuit.

provides a new mechanism for preventing fund raising in the United States that supports international terrorist activities overseas

- ù This provision authorizes the government to regulate or prohibit any person or organization within the United States from raising or providing funds for use by any foreign organization designated by the President as engaged in terrorist activities.

- ù The designation would be based on a Presidential finding that

- ù the organization functions substantially outside the United States;

- ù the organization engages in terrorist activity as defined in the Immigration and Nationality Act; and

- ù the organization's terrorist activities threaten the national security, foreign policy, or economy of the United States.

- ù The legislation provides a licensing mechanism under which funds can be transferred based on a showing that the money will be used exclusively for religious, charitable, literary, or educational purposes.

- ù Licenses would be issued on an exceptional basis, given the purpose of the statutory provisions. Any such fundraising transactions will be closely reviewed by the Treasury Department. License holders will be held to strict reporting and recordkeeping requirements to ensure that no diversion of funds occurs. In addition, licenses will only be granted where the organizations receiving the funds have agreed to make their books and records available for audit.

- ù It includes both administrative and judicial enforcement procedures, as well as a Classification Information Procedures Act (CIPA) type provision applicable to civil litigation undertaken

by the government under this provision, or the International Emergency Economic Powers Act (IEEPA).

ù This provision is an alternative to addressing fund raising under IEEPA. It is more specifically tailored to terrorism than is IEEPA, in that it

ù does not require a declaration of a national emergency;

ù reaches the collection, as well as transfer, of funds in support of terrorism;

ù includes specific licensing procedures for fund raising to support charitable activities; and

ù includes special subpoena and injunctive powers.

ù Financial institutions will be held particularly accountable to report to the Treasury Department any funds identified as representing the interest of a terrorist organization. This

requirement is similar to requirements now imposed on financial institutions under sanctions programs imposed pursuant to the International Emergency Economic Powers Act.

ù The statute includes a division of investigative responsibilities, whereby Treasury will monitor compliance of financial institutions with sanctions and investigate licensing requests and civil penalty activities; while Justice exercises its appropriate jurisdiction over criminal matters.

ù Both Treasury and Justice will have appropriate civil and criminal penalties available to punish violations and to deter funds transfers by individuals and organizations.

implements an international treaty requiring the insertion of a chemical agent into plastic explosive when manufactured to make them detectable

ù This provision implements the Convention on the Marking of Plastic Explosions for Purposes of Detection (March 1, 1991).

ù The Convention is an international response to the terrorist bombing of Pan Am Flight 103, designed to avert terrorist disasters.

ù The provision makes it unlawful

ù to manufacture any plastic explosive which does not contain a detection agent; and

- ù to receive, possess, or transfer any plastic explosive which does not contain a detection agent.

- ù The provision would take affect one year after enactment and would provide limited exceptions relating, for example, to plastic explosives produced prior to the effective date of the act.

- ù Violators are subject to criminal prosecution.

The bill also includes numerous relatively technical, but highly important, provisions which will facilitate investigations and prosecutions of terrorist crimes. These include --

- ù Addition of terrorism offenses to the list of statutes which are subject to court-authorized electronic surveillance.

- ù Increased penalties for conspiracies to commit terrorist offenses.

- ù Jurisdictional clarifications to ensure that, where a United States national is the victim or perpetrator of an extraterritorial terrorist offense the defendant can be charged prior to being present in the United States.

- ù Amendment of existing laws relating to attacks against federal employees to cover attacks against former employees where the offense is motivated by their prior performance of official duties.

## M S M a i l

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**DATE-TIME** 23 April 96 18:26  
**FROM** Simon, Steven N.  
**CLASSIFICATION** UNCLASSIFIED  
**SUBJECT** [UNCLASSIFIED]POTUS Terr Bill Briefer

**TO** Baker, James E.  
Baldwin, Kenneth  
Beers, Rand R.  
Bendick, Gordon L.  
Boynton, Peter J.  
Brown, Dallas  
Burrell, Christina L.  
Clarke, Richard A.  
Cullin, Brian P.  
Daadler, Ivo H.  
Danvers, William C.  
Davis, William K.  
Eddy, Randolph P.  
Eisenhower, James J.  
Fetig, James L.  
Hunerwadel, Joan S.  
Johnson, David T.  
Kreczko, Alan J.  
McClenny, M. Lee  
Naplan, Steven J.  
Ragan, Richard F.  
Rice, Susan E.  
Roundtree, Beverly J.  
Schuker, Jill A.  
Schwartz, Eric P.  
Sheehan, Michael A.  
Simon, Steven N.  
Verville, Elizabeth G.  
Wozniak, Natalie S.

**CARBON\_COPY** NO CC's on THIS MESSAGE

**TEXT\_BODY**

[[ 2724A.DOC : 4621 in 2724A.DOC ]]

I have been tasked to do two "attachments" to a memo being prepared by Peter Jacoby for the President on the signing event tomorrow. ( I presume TL will be on the sending line, along with Don Baer, or whomever.) The attached draft fact "attachment" is done in no particular format on the assumption that it will be a tab of some kind. The subject is S. 735 and International Terrorism. It responds to bits of unrelated guidance given to me by Andy Sens, Peter Bass, Jill Schuker, Dick Clarke, etc.

I need your clearance/comments ASAP. Thanks,  
S

ATTACHMENT  
FILE DATE

23 April 96 16:33

ATTACHMENT  
FILE NAME

2724A.DOC

S. 735: Antiterrorism and Effective Death Penalty Act of 1996

This bill strengthens our ability to fight international terrorism.

It began as an Administration bill mostly concerned with international terrorism, which we submitted in February 1995. It was augmented after the Oklahoma City bombing to take into account the challenge of domestic terrorism, and resubmitted in May. The current version incorporates many of our original provisions. Some, however, were watered down, while others were dropped. Congress also inserted damaging provisions that we strongly opposed. (A thumbnail sketch of these provisions is included below.)

Despite its flaws, the bill is still a powerful statement of our determination to fight terrorism and develop the arsenal of laws we need to do so. Your signing statement (attached) acknowledges the defects in the bill, but describes it "as an important step forward" and expresses the hope that, in the future, we can remedy its defective provisions and act on Administration proposals that were dropped.

The signing statement singles out as positive the study of the use of taggants in explosives, controls over terrorist fundraising and possession of biological/chemical weapons, increased penalties for terrorist crimes, streamlining of exclusion and expulsion procedures for terrorists, aliens, and placement of chemical markers in plastic

explosives.

The statement criticizes failure to include proposals for roving wiretap and emergency wiretap authority, notes the failure to extend the statute of limitations for weapons possession, deplores the creation of an independent commission to study federal law enforcement, and characterizes as "ill-advised" changes to immigration procedures included in the bill. The statement also emphasizes the defects of the bill's Habeas corpus reform provision.

#### Implications for International Terrorism

Clearly, major provisions in the bill have nothing to do with international terrorism. The outcome for key provisions that will help--or hinder--our fight against international terrorism is described below.

#### Key Provisions: Positive Elements

**Federal Jurisdiction.** The bill provides clear-cut federal jurisdiction for conspiracy in the U.S. to commit terrorist acts abroad, or if the victim or perpetrator is a U.S. national, even if the terrorist act is committed abroad.

**Fundraising.** The conferees adopted a good provision, banning material support and funds for foreign terrorist organization so designated by the Secretary of State. The provision corrected flaws in earlier House and senate versions of the bill by allowing Treasury to freeze the assets of terrorist groups or their agents as soon as the group is designated and by providing a relatively workable judicial review procedure. The main flaw of the provision is that, while it criminalizes the provision of funds or material support, it does not criminalize the activity of fund raising. The fundraising provision will help us in our campaign to get other countries to adopt similar legislation.

**Material Support.** The conferees improved a 1994 crime bill provision, making it a criminal offense to provide material support

for specific acts of terrorism, whether or not the terrorist belong to a designated organization. The conferees also deleted a subsection of the 1994 provision which saddled FBI with unduly rigorous standards for opening an investigation.

Exclusion of Alien Terrorists. The conferees adopted our expanded definition of representatives of terrorist groups to include any person who counsels or induces an organization or members to engage in terrorist activities, (the "Blind Sheikh" provision).

Consistent with our wishes, the final version of the bill does not include a House provision allowing unprecedented judicial review of the consular officer decisions that lead to terrorist designations.

Alien Deportation. The final version of the bill takes a compromise approach, which allows deportation of aliens to be done on the basis of an unclassified summary of the evidence to protect sensitive sources. In all cases a summary would have to be provided or the case would have to be dropped. But the standard for the special judge in assessing the deportation case would be based on the "preponderance" of evidence rather than "clear and convincing" evidence. In addition, the bill enhances authority to deny visas to terrorist aliens.

#### Key Provisions: Problem Elements

Foreign Sovereign Immunities. We strongly opposed the provisions in both bills that expand the ability of U.S. citizens to sue foreign governments for, inter alia, torture, extra-judicial murder, and terrorism. The conferees ultimately limited such suits to civil cases against states already on the list of state supporters of terrorism, such as Libya and Iran. The provision was made somewhat more palatable by language permitting Justice to withhold from evidence from those carrying out lawsuits in order to protect the evidence for use in ongoing criminal cases. This, however, could be reversed if Biden and others succeed in getting a technical amendment adopted.

Transfer of Defense Equipment. The bill prohibits the provision

of  
defense articles and services to countries that you determine are  
not  
"cooperating fully" with our counter-terrorism efforts.  
Decisions  
on transfers and licensing of defense equipment and services  
already  
take into account this sort of cooperation. Legislating the  
criteria, in our view, would impede conduct of foreign policy  
without  
helping our counter terrorism efforts. Despite our opposition,  
the  
provision was kept in.

Posse Comitatus. Your bill included a provision that would have  
provided new authority for the military to provide technical  
assistance to civilian law enforcement in terrorist incidents  
involving chemical or biological weapons. This authority already  
exists for contingencies involving nuclear devices. Lack of this  
authority will complicate our ability to manage the consequences  
of a  
devastating terrorist attack using weapons of mass destruction.  
Nonetheless, sensitivity over domestic use of the military led  
conferees to drop this from the bill.

Taggants. We wanted taggants to be incorporated into explosives  
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enable investigators to trace bombs used in a terrorist attack.  
This  
was watered down by conferees to a long term study provision.

Expanded Wire Tap Authority. FBI wanted this to make it possible  
to  
monitor "roving" conversations, and to get expedited permission  
for  
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telephone technologies, which make monitoring difficult. This  
provision was intended to put our law enforcement on a more equal  
footing with users of these technologies. Conferees, however,  
dropped  
it from the bill.

M S M a i l

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**DATE-TIME** 23 April 96 19:04  
**FROM** Schuker, Jill A.  
**CLASSIFICATION** UNCLASSIFIED  
**SUBJECT** counter-terrorism info [UNCLASSIFIED]  
**TO** Simon, Steven N.  
**CARBON\_COPY** Naplan, Steven J.  
**TEXT\_BODY**  
[[ 2724A.DOC : 4934 in 2724A.DOC ]]  
with my suggested changes  
thanks  
  
**ATTACHMENT  
FILE DATE** 23 April 96 19:3  
**ATTACHMENT  
FILE NAME** 2724A.DOC

S. 735: Antiterrorism and Effective Death Penalty Act of 1996

This bill strengthens our ability to fight international terrorism.

It began as an Administration bill concerned primarily with international terrorism when sent to Congress February 1995. It was augmented after the Oklahoma City bombing to respond to the challenge of domestic terrorism, and resubmitted in May 1995. The current version incorporates many of our original provisions. Some, however, were diluted, while others were dropped. Congress also inserted damaging provisions we strongly opposed. (A thumbnail sketch of these provisions is included below.)

Despite its flaws, the bill remains a powerful statement of our determination to fight terrorism and develop the arsenal of laws we need to do so. Your signing statement (attached), while acknowledging the bill's defects describes it "as an important step forward" and expresses the determination that, in the future, we can remedy its defective provisions and act on Administration proposals that were dropped.

The signing statement singles out as positive elements of the legislation: the study of the use of taggants in explosives,

controls  
over terrorist fundraising and possession of biological/chemical weapons, increased penalties for terrorist crimes, streamlining of  
exclusion and expulsion procedures for terrorists aliens, and placement of chemical markers in plastic explosives.

The statement also: criticizes the failure to include proposals for  
roving wiretap and emergency wiretap authority, notes the failure to  
extend the statute of limitations for weapons possession, deplores  
the creation of an independent commission to study federal law enforcement, and characterizes as "ill-advised" changes to immigration  
procedures included in the bill. The statement also emphasizes the  
defects of the bill's Habeas corpus reform provision.

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#### Key Provisions: Positive Elements

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the terrorist act is committed abroad.

Fundraising. The conferees adopted a good provision, banning material support and funds for foreign terrorist organizations so designated by the Secretary of State. The provision corrected flaws  
in earlier House and Senate versions of the bill by allowing Treasury to freeze the assets of terrorist groups or their agents as  
soon as the group is formally designated and by providing a relatively workable judicial review procedure. The main flaw of

this provision is that, while it criminalizes the provision of funds or material support, it does not criminalize the activity of fundraising. The fundraising provision will help us in our campaign to get other countries to adopt similar legislation.

**Material Support.** The conferees improved a 1994 crime bill provision, making it a criminal offense to provide material support for specific acts of terrorism, whether or not the terrorist belongs to a designated organization. The conferees also deleted a subsection of the 1994 provision which saddled the FBI with unduly rigorous standards for opening an investigation.

**Exclusion of Alien Terrorists.** The conferees adopted our expanded definition of representatives of terrorist groups to include any person who counsels or induces an organization or members to engage in terrorist activities, (the "Blind Sheikh" provision). Consistent with our wishes, the final version of the bill does not include a House provision allowing unprecedented judicial review of consular officer decisions that lead to terrorist designations.

**Alien Deportation.** The final version of the bill takes a compromise approach, which allows deportation of aliens to be done on the basis of an unclassified summary of the evidence to protect sensitive sources. In all cases a summary would have to be provided or the case would have to be dropped. But the standard for the special judge in assessing the deportation case would be based on the "preponderance" of evidence rather than "clear and convincing" evidence. In addition, the bill enhances authority to deny visas to terrorist aliens.

#### Key Provisions: Problem Elements

**Foreign Sovereign Immunities.** We strongly opposed the provisions in both House and Senate versions of the bill (??) that expand the ability of U.S. citizens to sue foreign governments for, inter

alia,  
torture, extra-judicial murder, and terrorism. The conferees ultimately limited such suits to civil cases against states already on the list of state supporters of terrorism, such as Libya and Iran. The provision was made somewhat more palatable by language permitting Justice to withhold evidence from those carrying out lawsuits in order to protect the evidence for use in ongoing criminal cases. This, however, could be reversed if Biden and others succeed in getting a technical amendment adopted.

Transfer of Defense Equipment. The bill prohibits the provision of defense articles and services to countries the President determines are not "cooperating fully" with our counter-terrorism efforts. Decisions on transfers and licensing of defense equipment and services already take into account this sort of cooperation. Legislating the criteria, in our view, would impede conduct of foreign policy without helping our counter terrorism efforts. Despite our opposition, the provision was kept in.

Posse Comitatus. Your bill included a provision that would have provided new authority for the military to provide technical assistance to civilian law enforcement in terrorist incidents involving chemical or biological weapons. This authority already exists for contingencies involving nuclear devices. Lack of this authority will complicate our ability to manage the consequences of a devastating terrorist attack using weapons of mass destruction. Nonetheless, sensitivity over domestic use of the military led conferees to drop this from the bill.

Taggants. We wanted taggants to be incorporated into explosives to enable investigators to trace bombs used in a terrorist attack. This was watered down by conferees to a long term study provision.

Expanded Wire Tap Authority. FBI wanted this to make it possible to monitor "roving" conversations, and to get expedited permission for emergency wiretaps. Terrorists are making increased use of new telephone technologies, which make monitoring difficult. This provision was intended to put our law enforcement on a more equal

footing with users of these technologies. Conferees, however, dropped it from the bill.

M S M a i l

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**DATE-TIME** 23 April 96 20:24  
**FROM** Simon, Steven N.  
**CLASSIFICATION** UNCLASSIFIED  
**SUBJECT** [UNCLASSIFIED]Attachment for POTUS signing memo

**TO** Baker, Jane E.  
Dohse, Fred J.  
Friedrich, M. K.  
Harmon, Joyce A.  
Hilliard, Brenda I.  
Joshi, M. Kay  
Kessinger, Jodi  
Millison, Cathy L.  
Sens, Andrew D.

**CARBON\_COPY** NO CC's on THIS MESSAGE

**TEXT\_BODY**

[[ 2724AX.DOC : 5144 in 2724AX.DOC ]]

The attached is the second of two attachments I was tasked to do. First was list of invitees. That attachment was already sent to EXECSEC.

This one was supposed to be substantive and focus on the int'l terrorism aspects of the bill. It may well duplicate, rather than complement, Jacoby's memo, which i haven't been privileged to see. In any case, I have made all the changes that Bill Danvers, Alan Kreczko, Randy Beers, Dick Clarke and Jill Schuker required for their clearance, so over to you..

I will be leaving shortly, but will be on beeper.

Thx  
S

**ATTACHMENT  
FILE DATE** 23 April 96 20:18

**ATTACHMENT  
FILE NAME** 2724AX.DOC

S. 735: Antiterrorism and Effective Death Penalty Act of 1996

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The statement also criticizes failure to include proposals for roving wiretap and emergency wiretap authority, notes the failure to extend the statute of limitations for weapons possession, deplores the creation of an independent commission to study federal law enforcement, and characterizes as "ill-advised" changes to immigration procedures included in the bill. The statement also emphasizes the defects of the bill's Habeas corpus reform provision.

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Exclusion of Alien Terrorists. The conferees adopted our expanded definition of representatives of terrorist groups to include any person who counsels or induces an organization or members to engage in terrorist activities, (the "Blind Sheikh" provision). Consistent with our wishes, the final version of the bill does not include a House provision allowing unprecedented judicial review of consular officer decisions that lead to terrorist designations.

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it from the bill.

## M S M a i l

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**DATE-TIME** 26 June 96 10:25  
**FROM** Naplan, Steven J.  
**CLASSIFICATION** UNCLASSIFIED  
**SUBJECT** CT w/blue-lines [UNCLASSIFIED]  
**TO** Eddy, Randolph P.  
**CARBON\_COPY** NO CC's on THIS MESSAGE  
**TEXT\_BODY** [[ 2724A.DOC : 2579 in 2724A.DOC ]]

**ATTACHMENT  
FILE DATE** 23 April 96 19:3  
**ATTACHMENT  
FILE NAME** 2724A.DOC

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funds or material support, it does not criminalize the activity of fundraising. The fundraising provision will help us in our campaign to get other countries to adopt similar legislation.

**Material Support.** The conferees improved a 1994 crime bill provision, making it a criminal offense to provide material support for specific acts of terrorism, whether or not the terrorist belongs to a designated organization. The conferees also deleted a subsection of the 1994 provision which saddled the FBI with unduly rigorous standards for opening an investigation.

**Exclusion of Alien Terrorists.** The conferees adopted our expanded definition of representatives of terrorist groups to include any person who counsels or induces an organization or members to engage in terrorist activities, (the "Blind Sheikh" provision). Consistent with our wishes, the final version of the bill does not include a House provision allowing unprecedented judicial review of consular officer decisions that lead to terrorist designations.

**Alien Deportation.** The final version of the bill takes a compromise approach, which allows deportation of aliens to be done on the basis of an unclassified summary of the evidence to protect sensitive sources. In all cases a summary would have to be provided or the case would have to be dropped. But the standard for the special judge in assessing the deportation case would be based on the "preponderance" of evidence rather than "clear and convincing" evidence. In addition, the bill enhances authority to deny visas to terrorist aliens.

#### Key Provisions: Problem Elements

**Foreign Sovereign Immunities.** We strongly opposed the provisions in both House and Senate versions of the bill (??) that expand the ability of U.S. citizens to sue foreign governments for, inter alia,

torture, extra-judicial murder, and terrorism. The conferees ultimately limited such suits to civil cases against states already on the list of state supporters of terrorism, such as Libya and Iran.

The provision was made somewhat more palatable by language permitting

Justice to withhold evidence from those carrying out lawsuits in order to protect the evidence for use in ongoing criminal cases.

This, however, could be reversed if Biden and others succeed in getting a technical amendment adopted.

Transfer of Defense Equipment. The bill prohibits the provision of

defense articles and services to countries the President determines are not "cooperating fully" with our counter-terrorism efforts. Decisions on transfers and licensing of

defense equipment and services already take into account this sort of

cooperation. Legislating the criteria, in our view, would impede conduct of foreign policy without helping our counter terrorism efforts. Despite our opposition, the provision was kept in.

Posse Comitatus. Your bill included a provision that would have provided new authority for the military to provide technical assistance to civilian law enforcement in terrorist incidents involving chemical or biological weapons. This authority already exists for contingencies involving nuclear devices. Lack of this authority will complicate our ability to manage the consequences of a

devastating terrorist attack using weapons of mass destruction. Nonetheless, sensitivity over domestic use of the military led conferees to drop this from the bill.

Taggants. We wanted taggants to be incorporated into explosives to

enable investigators to trace bombs used in a terrorist attack.

This

was watered down by conferees to a long term study provision.

Expanded Wire Tap Authority. FBI wanted this to make it possible to

monitor "roving" conversations, and to get expedited permission for

emergency wiretaps. Terrorists are making increased use of new telephone technologies, which make monitoring difficult. This provision was intended to put our law enforcement on a more equal footing with users of these technologies. Conferees, however,

dropped  
it from the bill.