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OLC: 78-3558
29 November 1978

MEMORANDUM FOR THE RECORD

VIA: Chief/Legislation Staff

FROM:
Assistant Legislative Counsel

SUBJECT: Meeting with FBI Legislative Affairs Officer
Parks H. Stearns

1. (U) On 13 November 1978 the undersigned met for a period of two hours with his counterpart at the FBI, Mr. Parks Stearns. The purpose of the meeting was to both cement a better working relationship between the two attorneys who had worked together during the 95th as well as to discuss legislation of mutual interest which will be facing both agencies during the 96th Congress.

2. (U/IUO) FEDERAL TORT CLAIMS ACT AMENDMENTS: Both attorneys agreed that the Federal Tort Claims Act Amendments would be reintroduced during the first few days of the 96th. Due to irreconcilable disagreement between the Carter Administration (which had introduced the original bill early in the 95th) and Senator Howard Metzenbaum (D., Ohio), the bill's chief sponsor in the Senate, the bill was allowed to die on the vine in the Senate Judiciary Committee.

3. (U/IUO) The bill would substitute as defendant the Federal Government for Federal employees in certain delineated cases wherein the Federal employee had, within the scope of his employment, committed a Constitutional tort against an American citizen, whether domestically or overseas.

4. (U/IUO) The bill, in its present form, would not provide the above stated protection to either former Federal employees (even though the tort had been committed by the person while employed by the Federal government) or to Presidential appointees. This was totally unacceptable to the Carter Administration and was, in major part, responsible

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for the bill's death during the 95th. Mr. Stearns informed me that the Department of Justice, having been tasked to carry the Administration ball, had now developed a compromise position on this issue which should be acceptable to both Administration and Congressional parties of interest.

5. (U/IUO) Senator Metzenbaum had argued vigorously for exclusion of former employees on the ground that in cases where the employee had erred, the Federal Government would be unable to take remedial action against the employee - i.e. even though the Government would pay the claim of the injured citizen the erring employee would, due to his retired status, get off without punishment or reprimand. Unlike for present employees, the bill did not establish any form of Agency sponsored disciplinary measures for guilty former employees. The Justice compromise, although still allowing a plaintiff to choose between suing either the Federal Government or the former employee, would allow the former employee to elect to have the Government substituted for him in any suit brought against him - assuming he, like present employees, met the other requirements of the bill. In return for this the former employee would agree to be subject to Agency disciplinary proceedings. If found guilty, the offending former employee could be fined in an amount not to exceed the equivalent of suspension without pay for a present employee for one month.

6. (U/IUO) It is believed that, if acceptable to Senator Metzenbaum, the above described provision would clear the way for solution of the other less difficult differences and pave the way for early passage of the bill during the first session of the 96th Congress.

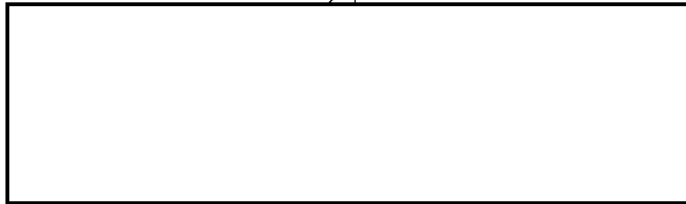
7. (U/IUO) FREEDOM OF INFORMATION ACT AMENDMENTS (FOIA): Although he did not go into great detail, Mr. Stearns allowed that the FBI fully intended to seek, during the 96th, substantive relief from the current requirements of the FOIA. Although Stearns will not himself be handling the account, he believed that one point which the FBI would press would call for a ten-year moratorium on any release of "Source informant" information.

8. (U/IUO) I asked Mr. Stearns to have their point man on FOIA (no one is yet selected) to contact me prior to commencement of the 96th. He agreed that this would be useful and added that he thought it might be a good idea

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if we worked together or, at the very least, coordinated strategy and, at the appropriate time, nose counts. Stearns speculated further that, although some would beg to argue, he believed chances for remedial legislation were good. He based this both on his reading of the more conservative composition of the 96th and, more importantly, on the number (unspecified) of requests which FBI had received during the 95th from members for FBI suggestions for relief. He stated that a coordinated attack by FBI-CIA would, at the very least, result in serious Congressional consideration of the problems - he termed them unintentional - which the legislation and its implementation had caused both agencies.

9. (U/IUO) As a closing item, it was interesting to note the fact that the FBI Congressional Affairs Office has seen a recent increase in manpower. The office presently employs six attorneys as compared with last session's four. Stearns also noted that there is presently some consideration being given to moving that office from its present administrative location to the Office of the Director. We agreed to meet at least once more prior to the commencement of the 96th.



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TO : Mr. Hitz		DATE OF REQUEST
FROM : 	30 Nov 1978	SUSPENSE DATE
SUBJECT: Meeting 		STAT
NOTES (see attached)		
<p><i>Change to MFR (put white out the heading & retype)</i></p>		
COORDINATED WITH (list names as well as offices)		
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ACTION REQUIRED BY GLC FYI		