OCA 3079-88

CENTRAL INTELLIGENCE AGENCY

Office of Congressional Affairs
Washington, D.C. 20505
Telephone: 482-6136

TO: Sven E. Holmes
Staff Director/General Counsel
Senate Select Committee on Intelligence

14 Sept 1988

Dear Mr. Holmes,

Enclosed are materials on the Alexander "Anti-Stonewalling" Amendment. We understand it may come up today or tomorrow on the Senate floor.

STAT

[redacted]
Legislation Division
Office of Congressional Affairs

FORM 2-86 **1533** OBSOLETE PREVIOUS EDITIONS. (40)

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OCA 3078-88

CENTRAL INTELLIGENCE AGENCY

Office of Congressional Affairs
Washington, D.C. 20505
Telephone: 482-6136

TO: Mr. L. Britt Snider
Minority Counsel
Senate Select Committee on Intelligence

14 Sept 1988

Dear Mr. Snider:

Enclosed are materials on the Alexander "Anti-Stonewalling" Amendment. We understand it may come up today or tomorrow on the House floor.

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least we have broken the logjam to give Members an opportunity here to have their say.

We are seeing the results of the hard work and dedication of the task force members, led by the gentleman from California, Mr. JERRY LEWIS, the gentleman from Oklahoma, Mr. MICKEY EDWARDS, on our side, the gentleman from Florida, Mr. BILL MCCOLLUM, two of the three are down on our convention on the platform currently.

Countless hours of dedicated work by Members and staff created this opportunity to pass quality legislation. While I cannot list the names of all these people, I think they know I mean them, when I express the gratitude of this side of the aisle for their hard work.

As I said, Mr. Speaker, I would have preferred an open rule, but I must add that the bipartisan spirit that has permeated this process is very much evident in the rule today. As a result of the cooperative spirit evidenced by our Speaker and majority leader and the Rules Committee, the content of the bill is not only comprehensive, but it is of high quality.

Surely we do not agree on everything in the bill, nor do we agree on all of the amendments, but we have enabled Members to address and debate these key issues when we resume in September.

So, Mr. Speaker, I want to again thank the Speaker and the majority leader and the distinguished chairman of the committee for his cooperation here, that when we do come back from our recess there will be probably three or more days involved in amending this comprehensive drug bill.

I urge the adoption of the rule, and thank the gentleman for yielding this time.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

(Mr. ALEXANDER asked and was given permission to revise and extend his remarks, and to include extraneous material.)

Mr. ALEXANDER. Mr. Speaker, I rise in support of the rule and to explain my amendment made in order under the rule.

Mr. Speaker, I first conducted a forum on drug abuse 16 years ago in order to attack a dilemma that was just beginning to invade some areas of my home State of Arkansas. Today, with Arkansas as well as the rest of the country seemingly no closer to solving the problem of drug abuse than in 1972, the question arises as to why America has been unable to deal with the scourge of drug abuse.

As we debate the rule on the omnibus antidrug bill today, we should recognize that there is no one simple answer to this question, but a major obstacle in attacking drug use is the absence of a clearly defined, unmistakable policy. In the void left by the lack of a clear policy, confusion reigns among the agencies that are charged with drug enforcement.

As a remedy to this situation, in September I plan to offer an antistonewalling amendment to the antidrug bill, which would require the sharing of information among certain Federal agencies about illegal foreign drug activities. My amendment would require that any executive branch official having information about such activities would transmit it to the heads of agencies involved in formulating U.S. foreign policy or enforcing Federal drug laws. The antistonewalling amendment would also require that such information be shared, when requested, with committees of Congress and the General Accounting Office.

A classic example of the difficulties that arise from the national policy vacuum in drug abuse occurred on July 12 when John Lawn, the head of the Drug Enforcement Administration, testified to a congressional subcommittee that he had written letters praising the alleged drug interdiction efforts of Gen. Manuel Noriega and the Panama Defense Forces. The DEA Administrator testified that at the time the letters were written he had not known about the criminal investigation into General Noriega's involvement with illegal importation of foreign drugs into the United States, because he was "left out of the loop" by U.S. intelligence agencies and never given hard evidence tying Noriega to narcotics traffickers.

That criminal investigation eventually led to Noriega's indictment, and was conducted by the Miami U.S. attorney general's office, which is a part of the Department of Justice. We must prevent this kind of confusion among agencies charged with drug laws enforcement in which the left hand of the Justice Department clearly didn't know what the right hand was doing.

A second example concerns an ongoing investigation by the General Accounting Office, undertaken at my request, which would examine how information about drug trafficking by high-level Government officials of other countries affects U.S. foreign policy decisions, using as a case study information concerning the drug trafficking activities of General Noriega of Panama.

GAO indicated in an August 9 letter to me that "since May 11, 1988 we have been formally trying to gain access to personnel and records at the Departments of State, Justice, and Defense." In late May, GAO was informed that the National Security Council would handle this assignment for the administration, and the Departments of State, Justice, and Defense were instructed by the NSC to cease cooperation in the investigation until NSC issued guidelines for GAO access to information. Repeated GAO requests for information were refused by State, Justice, and Defense, with each refusal being accompanied by a reference to the NSC stonewalling policy.

While it is perfectly justifiable to withhold certain types of information that would jeopardize law enforcement or intelligence activities, the GAO told me that "most of the information we need to examine should be considered to be releasable." GAO officials met with NSC officials and told them of "our previous experience on other successful assignments involving similarly sensitive information." There is no reason why the executive should not provide information on the basic objective of the GAO investigation, which is the organization and decision process for foreign policymaking when information is available on foreign officials' drug trafficking.

A series of questions remain unanswered about illegal drug trafficking in Central America. For example, in Arkansas serious questions continue to surface about allegations concerning Adler Berriman (Barry) Seal's gun running and drug smuggling. Seal, a DEA informant who was slain in Louisiana in 1986, was allegedly involved in an operation in which a plane loaded with guns to aid the Nicaraguan Contras flew from Mena, AR, down to Central America and then returned loaded with drugs. One of Seal's planes, a C-123K that had been serviced and parked at the Mena airport during much of 1984 and 1985, was shot down over Nicaragua in October 1986, while carrying supplies to the Contras, and an Arkansan, Wallace (Buzz) Sawyer, was killed in the crash. There have been local, State, and Federal investigations into the Mena operation, but many questions persist. A vital goal of the antistonewalling amendment is to ensure that all agencies are cooperating in giving and receiving the information they need to do their job.

One question that arises is whether Federal agencies were working at cross purposes during the period of Seal's activities as an informant. There is evidence that the CIA and the NSC both wanted to divulge Seal's involvement in a massive undercover drug investigation because of those agencies' interest in influencing the Contra aid debate that was taking place in Congress shortly before Seal's murder in February 1986; simultaneously, the DEA's primary interest was apparently the undercover effort to break up the Colombian drug cartel. A news leak by an unknown U.S. Government official resulted in articles alleging that the Sandinista government was involved in drug trafficking, and it blew the investigation. According to our distinguished colleague, Chairman BILL HUGHES of the House Judiciary Subcommittee on Crime, the politically motivated leak cost Seal his life.

While everyone respects the need to avoid disclosing information about the criminal investigation of Noriega, there are many other questions the

executive should be able to give the GAO, including:

First, what procedures are there for law enforcement agencies to communicate their intelligence needs to the intelligence community?

Second, how are law enforcement and/or foreign policymaking officials further up the chain of command provided intelligence information—what procedures are involved, what kind of information is provided?

Third, were any specific instructions or directives prepared requesting information on illegal drug-related activities in Panama or on Noriega's involvement in illegal activities?

Fourth, who received the raw information, what did they do with it, what studies, reports, or analyses were prepared on illegal activities in Panama or on Noriega?

Fifth, who were these reports sent to—especially, were any recipients in the law enforcement community or in foreign policymaking positions?

Sixth, how did the law enforcement recipients use the reports—did they do further analysis, did they use the intelligence as input to build or develop any criminal cases?

Seventh, how did the foreign policymaking recipients use the reports—did they discuss them, did they do further analyses, did they summarize for higher level recipients?

Mr. Speaker, there is no reason why the executive branch should withhold information on the primary focus of the GAO inquiry, which is the organization and decision process for foreign policymaking when information is available on foreign officials' drug trafficking. The antistonewalling amendment would focus only on information such as that involved in the GAO's investigation of Noriega and other officials, which legitimately can be provided; it would not require disclosure under three conditions:

First, when it would jeopardize a U.S. foreign intelligence or counterintelligence activity;

Second, when it would endanger a law enforcement investigation; and

Finally, when it may adversely affect U.S. defense or national security.

A decision not to share information could be made only by the head of an agency. If the President decided to withhold the information from a committee of Congress, he would have to provide the committee the reasons for such action. In the event that the information involved U.S. foreign intelligence or counterintelligence, the President would be required to promptly inform the chairman and ranking minority members of the House and Senate committees on intelligence.

Mr. Speaker, drug abuse is the most devastating plague confronting America today. In battling this evil, we cannot any longer tolerate the policy void in which agencies operate in ignorance of each other and occasionally even pursue contradictory objectives. We must replace the current vacuum with a clearly defined, unmistakable policy in which all agencies cooperate fully with each other in sharing information about illegal drug trafficking.

I further submit various copies of various letters from the GAO, the Department of State, the Department of Justice, the Department of Defense, and the National Security Council which further explains the need for the antistonewalling amendment.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, August 9, 1988.

Hon. BILL ALEXANDER,
Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies, Committee on Appropriations, House of Representatives.

DEAR MR. ALEXANDER: In May 1988 you asked us to review how information about drug trafficking by high-level government officials of nations friendly to the United States affects U.S. foreign policy decisions. Because the information required to successfully undertake this assignment would potentially involve information related to intelligence gathering and on-going law enforcement investigations which is difficult to obtain, we suggested, and you agreed, that we would explore the issue using as a case study the information concerning the drug trafficking activities of General Noriega of Panama. The following is a summary of the experience we have had so far in satisfying your request.

Since May 11, 1988, we have been formally trying to gain access to personnel and records at the Departments of State, Justice, and Defense. We were successful in gaining access to the Department of Defense and in fact performed a limited amount of audit work at that agency. In late May, we were advised that the National Security Council (NSC) would serve as the administration's focal point on this assignment. Concurrently, we were advised that the Departments of Justice and State had been instructed not to meet with the GAO staff or provide any information to GAO on this assignment until NSC issued guidelines concerning GAO access to information. The Department of Defense notified us on July 12, 1988, that it also was instructed by the NSC to cease cooperation with GAO until such guidelines are available. We have by letter and telephone discussions continued to try to obtain information and schedule meetings with the Departments of State, Defense, and Justice but these efforts have been refused, with each agency citing the NSC's direction as the reason for refusal.

We have been working with the NSC to facilitate access to agency personnel and records. We met with them on June 6, 1988 and June 22, 1988, and discussed at some length our approach to the work, our views about our access to information, and our previous experience on other successful assignments involving similarly sensitive information. On June 23, 1988, at NSC's request, we delivered a detailed letter to them giving further detail on the kinds of information we would be seeking. Although that letter identified some information which ultimately may not be made available, the information related to the primary focus of our work, that is, the organization and decision process for foreign policymaking when information is available on foreign officials' drug trafficking, would not uniformly be expected to raise similar concerns. Our normal procedures in such situations are to consider access questions on a case-by-case basis, following discussions with agency officials and examination of otherwise available records. NSC's actions to prohibit such preliminary discussions until after guidelines concerning access are established has foreclosed that approach.

On July 13, 1988, the NSC wrote in response to our June 23, 1988 letter that our request "seeks access to sensitive law enforcement and intelligence files covering a substantial period of time" and "raises important statutory and constitutional issues." The letter advised that the administration is analyzing those issues and would reply when its deliberations were completed. We have on several occasions, most recently yesterday, asked the NSC about the status of the operating guidelines. We continue to be told the issues are being analyzed and guidelines will be issued when the review is completed. NSC officials say they cannot provide a specific date when guidelines will be available.

We are not into the fifth month of our effort to address the issue you asked us to review, and it is difficult to predict how much further delay is likely. Although we have assembled some information available from public records, we have made essentially no progress on the audit itself. We believe it should be possible to reach agreement with the agencies involved, as we pursue our audit questions, that much of the information we need to examine should be considered to be releasable, and to discuss special arrangements for security of the information if such arrangements are warranted. In fact, we were successful in such an approach with the Department of Defense prior to July 12.

We will continue to keep you informed of the status of our efforts, and will discuss further steps which we believe may be appropriate, if any, after we have reviewed any guidelines issued by NSC.

Sincerely yours,

NANCY R. KINGSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, August 3, 1988.

Hon. BILL ALEXANDER,
House of Representatives.

DEAR MR. ALEXANDER: In May 1988, you asked us to review how information about drug trafficking by high-level government officials of nations friendly to the United States affects U.S. foreign policy decisions. Because the information required to successfully undertake this assignment would potentially involve information related to intelligence gathering and on-going law enforcement investigations which is difficult for the General Accounting Office to obtain under our access-to-records authorities, we suggested, and you agreed, that we would explore the issue using as a case study the information concerning the drug trafficking activities of General Noriega of Panama. As you requested at our meeting on August 2, 1988, we are providing a detailed summary on the experience we have had so far in attempting to obtain information on this assignment.

In summary, although we were able to perform a limited amount of audit work at the Department of Defense in June, the National Security Council (NSC) has directed the other Executive Branch agencies involved not to meet with GAO staff or provide any information to GAO on this assignment until NSC issues guidelines concerning GAO access to information on the assignment. The NSC has informed us that it con-

siders our request for information concerning General Noriega's drug trafficking and other activities as raising "important statutory and constitutional issues."

As of August 1, 1988, the representative of NSC who has been our contact said that he could not tell us when the guidelines would be forthcoming, but he said that he expected them to be issued within, perhaps, a couple of weeks (that is, not within days, and not after months). We have made several attempts, by letter and through telephone discussions, to obtain information and schedule meetings with the Departments of State, Justice, and Defense, but these efforts have been refused, with each agency citing the NSC's direction as the reason for their refusal. We have also contracted the Central Intelligence Agency, where our request for information was also declined.

A detailed chronology of our efforts to meet with NSC and agency officials, and to obtain information, is provided in Enclosure I. Copies of the letters we sent to NSC and to the agencies are provided in Enclosure II. The NSC has provided one written interim response to our letters (Enclosure III); of the agencies, only the Central Intelligence Agency has responded in writing (Enclosure IV).

We are currently awaiting the NSC guidelines. We will continue to keep you informed of the status of our efforts, and will discuss further steps which we believe may be appropriate, if any, after we have reviewed any guidelines issued by NSC.

Sincerely yours,

NANCE R. KINGSBURY,
Associate Director.

ENCLOSURE I

CHRONOLOGICAL SUMMARY OF GAO CONTACTS WITH EXECUTIVE BRANCH AGENCIES AND OFFICIALS

May 11-16, 1988: We sent routine notification letters to the Departments of State, Justice, and Defense, and the National Security Council advising them of our review and identifying the subject and scope of our work. Letters were sent specifically within the Department of Justice to the Drug Enforcement Agency (DEA), the Executive Office for U.S. Attorneys, and Justice's Criminal Division.

May 23, 1988: We received our first response from the NSC. Mr. Nicolas Rostow, Special Assistant to the President and Legal Advisor, told us by telephone that he wanted to "think about it" before scheduling a meeting with us.

May 24, 1988: We sent a notification letter to the Central Intelligence agency asking for a meeting to discuss the issues.

May 30-June 1, 1988: We began contacting personnel at State and Justice to arrange for initial meetings to discuss the scope and depth of our audit. Mr. Manuel Rodriquez, U.S. Attorneys Office liaison who was coordinating the Justice Department components, declined to set up a meeting stating that NSC was coordinating the Administration's response to our notification and he was going to wait until he heard from NSC before proceeding. Mr. Bob Harris, from the Department of State, advised us that State would not deal with us on this assignment until we had discussed our work with the NSC.

June 1: We conducted our initial meeting with the Department of Defense. We performed work at the Defense Intelligence Agency (DIA) and the military departments until July 12, 1988.

June 6, 1988: We had our first meeting with Mr. Dan Levin, Deputy Legal Advisor, NSC. Mr. Levin stated he understood the purpose of our review, but wasn't sure we could have access to sensitive intelligence or law enforcement files. He promised to discuss access with the agencies involved and would get back to us quickly. We were officially notified that NSC would be our focal point on this assignment. We advised Mr. Levin that we preferred to deal with the agencies directly without having to clear everything with the NSC—our normal practice. Mr. Levin stated we are free to deal with each agency directly and that NSC would not be a bottleneck.

June 8-9, 1988: We again contacted the Departments of State and Justice to arrange for initial meetings. Despite Mr. Levin's statement that we could deal directly with the agencies, both Mr. Harris at State and Mr. Rodriquez at Justice advised us the NSC instructed them not to deal with us until NSC had developed operational guidelines on what to do and what not to do on this assignment.

June 13, 1988: Mr. John L. Helgerson, Director of Congressional Affairs, CIA, responded to our notification letter. He stated that all agency activities in Central America and information it gathers is under close and continuing scrutiny by the House and Senate Intelligence Committees. Furthermore, the CIA advised all policy-related questions should be directed to the appropriate components of the Executive Branch. It stated that therefore it could not be of help to us.

June 15-16, 1988: We began efforts to contact Mr. Levin, NSC, to determine when the NSC guidance would be issued and we could continue our review. Mr. Levin requested another meeting to learn more about the review.

June 16, 1988: We conducted an initial meeting with representatives of the Customs Service, Mr. Bill Rosenblatt, Assistant Commissioner for Enforcement, did not provide any information and said he wanted first for the U.S. Attorneys Office to establish ground rules as to how much of the information Customs has is covered by grand jury secrecy provisions and what information they can provide to us.

June 22, 1988: We held a second meeting with the NSC and White House staff personnel. Attending for the Executive Branch were Mr. Nicolas Rostow, Special Assistant to the President and Legal Advisor; Mr. Dan Levin, Deputy Legal Advisor, NSC; Mr. Jonathan Scharfman, Assistant Legal Advisor, NSC; Mr. Dan McGrath, Legal Counsel, White House Staff; Mr. Bob Harris, Department of State; and another official from the Department of Justice.

We reiterated our purpose, and our requirements in terms of access to personnel and documentation to the extent that we could. We explained that we needed to conduct initial meetings to more fully determine our documentation needs. We discussed the availability of documents used in the deliberative process, grand jury and other enforcement actions, foreign intelligence, and other types of documentation. Some were considered to fall under executive privilege and not available to GAO, according to the administration officials. We discussed in general terms our access experiences in other kinds of highly sensitive assignments and pointed out that special security arrangements could be agreed upon if circumstances warrant.

At the request of Mr. Levin, we agreed to submit in writing a more detailed explanation of the specific types of documents and information we wanted access to so they could more fully consider our request. They promised a prompt response. We asked for a response within one or two weeks. Mr. Levin was not willing to commit to a specific time period.

June 23, 1988: GAO hand delivered the explanatory letter to the NSC. The document explained that in order to accomplish our objectives, we planned to

(1) obtain agency briefings that describe the general organizational structure and the operational procedures related to the agency's data collection, analysis, and dissemination systems;

(2) interview relevant agency personnel who are responsible for defining agency information needs with regard to General Noriega and Panama, implementing the information collection process, collecting and reporting raw data, and analyzing and disseminating data on Panama and General Noriega;

(3) review documents to include specific directives, instructions, or taskings to collect data on General Noriega or alleged illegal activities involving General Noriega, cables and reports from field offices regarding General Noriega's involvement in or toleration of illegal activities, analyses or summaries of field reporting on General Noriega, and geographic/subject-area studies discussing the role or suspected role of General Noriega in illegal activities; and

(4) examine the use of information about General Noriega in the foreign policy process by identifying the agencies, organizations, and individuals who play a role in deciding national security and foreign policy issues with regard to Panama and interview each and review documents to determine whether information about General Noriega reached them and how that information was used in making decisions.

June 27, 1988: We contacted Mr. Levin at NSC on the status of its response to our June 23 letter. He said they were preparing a response and it would be provided "promptly."

July 1, 1988: We called Mr. Levin again at NSC. He said they hoped to have a response soon. We inquired about who in the White House or the NSC is making the decisions and what the specific problems or objections are, and Mr. Levin declined to provide any information.

July 5, 1988: We again called Mr. Levin at NSC. He advised us that a letter was "in for signature," but he declined to predict when it would be signed. He also would not say what position the response would take or who it was with for signature. He said he would not "sit on" a signed response and that he would call us when it is signed.

July 7, 1988: We called Mr. Bob Harris, State Department, in another attempt to gain cooperation and were told State would not meet with us until it hears from NSC. We advised Mr. Harris that we planned to send a second letter to them specifically asking for an initial meeting and access to documents.

July 8, 1988: We called Mr. Paul Prise, DEA, asking to meet. He told us that NSC gave instructions not to meet with us until NSC gives the "go ahead." We advised a second letter was coming.

July 12, 1988: We sent a second letter, more detailed in what we requested in the way of cooperation to the Departments of State and Justice (DEA, Criminal Division and the U.S. Attorneys Office), and the NSC.

July 12, 1988: We attempted to continue our work at the Department of Defense. Up to this point, we had conducted a series of interviews with personnel involved in intelligence gathering and analysis in Latin America. We had identified and requested about 100 documents, files, reports, cables, etc., that we felt were relevant to our review. We

had some additional meetings scheduled with agency personnel. We were advised by Mr. Nacho Morales, Army Intelligence and Security Command, that NSC directed DOD to postpone any meetings with us on the assignment. Mr. Craig Campbell, a GAO liaison official with the DOD/IG, confirmed that DOD was told to withhold contacts with us. Mr. Martin Sheina, DIA, told us he could not provide documents we had requested until NSC provides guidance.

July 13, 1988: We sent a letter to the Department of Defense, similar to those sent to State and Justice on July 12, 1988, asking for a resumption of cooperation—i.e., to provide the requested documents and to continue meeting with us.

July 13, 1988: Mr. Don Schramak, Justice liaison, said that the Justice General Counsel staff had been working with NSC to develop a response, and indicated that it would be sent within a day or so.

July 18, 1988: We received a letter from Mr. Nicolas Rostow, NSC, dated July 13, 1988 which expressed his disappointment that we had not narrowed the scope of the information we wanted and stated that the administration is still considering our request

August 1, 1988: We telephoned Mr. Levin at NSC asking for the status of the response. He said it was being reviewed at the Department of Justice and there was no definite date it would be issued. He hoped it would be issued by the week of August 8, 1988.

August 2, 1988: We advised Mr. Levin, NSC, that Senator Kerry's staff had informed us that Senator Kerry is prepared to hold a press conference about the lack of cooperation with GAO. I advised Mr. Levin that the Senator's staff had stated that if we did not have guidelines by 9 o'clock a.m., August 8, 1988, or at least a definite delivery date, Senator Kerry would hold a press conference.

GENERAL ACCOUNTING OFFICE,
GENERAL GOVERNMENT DIVISION,
Washington, DC, May 11, 1988.

Mr. PETER P. GRUDEN,
Assistant Administrator, Planning and Inspection Division, Drug Enforcement Administration, Department of Justice.

DEAR MR. GRUDEN: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group, National Security and International Affairs Division.

The work will be conducted in Washington at the Drug Enforcement Administration, the Department of State, the Department of Defense, the Department of the Treasury, and other federal agencies. We will advise you of any need to visit facilities outside the Washington area.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

ARNOLD P. JONES,
Senior Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVSION,
Washingon, DC, May 12, 1988.

Hon. FRANK C. CARLUCCI,
The Secretary of Defense.

Attention: DOD Office of the Inspector General, Deputy Assistant Inspector General for GAO Report Analysis.

DEAR MR. SECRETARY: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

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The work will be conducted in Washington at the Department of Defense, the Department of State, the Department of Justice, and other federal agencies. We will advise you of any need to visit Department facilities outside the Washington area.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

NANCY R. KINSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, May 13, 1988.

Mr. PAUL SCHOTT STEVENS,
Executive Secretary, National Security Council, Old Executive Office Bldg., Washington, DC.

DEAR MR. STEVENS: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decision-makers, and (4) the role that such information played in decisions on U.S. foreign policy.

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The work will be conducted at the National Security Council, the Department of State, the Department of Defense, the Department of Justice, and other federal agencies.

We appreciate any assistance you can provide to our staff. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

JOSEPH E. KELLY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, May 13, 1988.

Hon. GEORGE P. SHULTZ,
The Secretary of State.

(Attention: GAO Liaison, Office of the Comptroller.)

DEAR MR. SECRETARY: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

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The work will be conducted in Washington at the Department of State, the Department of Defense, the Department of Justice, and other federal agencies. We will advise you of any need to visit State Department facilities outside the Washington area.

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Sincerely yours,

JOSEPH E. KELLY,
Associate Director.

GENERAL ACCOUNTING OFFICE,
GENERAL GOVERNMENT DIVISION,
Washington, DC, May 16, 1988.

Mr. JOHN C. KEENEY,
Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

DEAR MR. KEENEY: The General Accounting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group, National Security and International Affairs Division.

We would like to meet with knowledgeable Criminal Division officials. We also plan to conduct work at other Department of Justice offices, the Department of Defense, the Department of State, and other federal agencies.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact

Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

ARNOLD P. JONES,
Senior Associate Director.

GENERAL ACCOUNTING OFFICE,
GENERAL GOVERNMENT DIVISION,
Washington, DC, May 16, 1988.

Mr. MANUEL RODRIQUEZ,
Legal Counsel, Executive Office for U.S. Attorneys, Department of Justice.

DEAR MR. RODRIQUEZ: The General Accouting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) the broad parameters of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group, National Security and International Affairs Division.

We would like to meet with the U.S. Attorneys in both Miami and Tampa, Florida, who have brought indictments against Gen. Noriega to discuss the genesis of the indictments, identify other people that we should talk with, and obtain information about the cases. We also plan to conduct work at other Department of Justice offices, the Department of Defense, the Department of State, and other federal agencies.

We appreciate your assistance in notifying the appropriate officials of the assignment. If you have any questions, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

JOHN ANDERSON,
ARNOLD P. JONES.
Senior Associate Director.

GENERAL ACCOUTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, May 24, 1988.

Hon. WILLIAM H. WEBSTER,
Director, Central Intelligence Agency.

Attention: Director, Office of Legislative Liaison.

DEAR MR. WEBSTER: The General Accouting Office, has been requested to undertake a study of Panamanian leader Gen. Manuel Noriega's alleged drug activities. The study, under code 472165, will examine (1) selected aspects of U.S.-Panamanian relations over the past 20 years, (2) the type of information about Noriega developed by various intelligence and law-enforcement agencies, (3) the extent to which this information reached foreign policy decisionmakers, and (4) the role that such information played in decisions on U.S. foreign policy.

This work will be performed under the direction of Nancy R. Kingsbury, Associate Director by Mr. Donald L. Patton, Group Director; Mr. James O. Benone, Evaluator-in-Charge; and Mr. Jon Chasson; of our Foreign Economic Assistance Group.

The work will be conducted in Washington at the Department of State, the Department of Defense, the Department of Justice, and other federal agencies.

We would like to meet with Agency representatives to discuss these issues and obtain the Agency's perspective on them. We appreciate any assistance you can provide to our staff in this regard. If you have any questions, please contact Mr. Patton or Mr. Benone at 275-5790.

Sincerely yours,

FRANK C. CONAHAN,
Assistant Comptroller General.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, June 23, 1988.

Mr C. NICHOLAS ROSTOW,
Special Assistant to the President and Legal Advisor, National Security Council.

DEAR MR. ROSTOW: As you are aware, Senator John Kerry, Chairman of the Subcommittee on Terrorism, Narcotics, and International Operations and Representative Bill Alexander, are concerned that information about illegal activities by high-level officials of other nations may not be adequately considered in U.S. foreign policy decisions. At their request, the General Accounting Office is undertaking an initial case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama.

To satisfy this request, we will:

(1) Obtain an agency overview. At each agency that develops relevant information on General Noriega or his possible involvement in illegal activities, we will receive a briefing that outlines the general organizational structure and the operational procedures related to the agency's data collection, analysis, and dissemination systems.

(2) Interview relevant personnel. Once we understand the basic organizational structure, we will then interview key personnel responsible for (1) defining agency information needs with regard to Noriega and Panama, (2) implementing the information collection process, (3) collecting and reporting raw data, and (4) analyzing and disseminating data on Panama and Noriega.

(3) Review documents. As we learn more about each agency's collection and reporting processes, we will request relevant documents. We anticipate that these will include: specific directives, instructions, or taskings to collect data on Noriega or alleged illegal activities involving Noriega, cables and reports from field offices regarding Noriega's involvement in or toleration of illegal activities, analyses or summaries of field reporting on Noriega, and geographic/subject-area studies discussing the role or suspected role of Noriega in illegal activities.

(4) Examine the use of information about Noriega in the foreign policy process. After completing a systematic review at each agency, we will attempt to determine how agency reporting on Noriega may have influenced foreign policy decisions on Panama. We will first identify the agencies, organizations, and individuals who play a role in deciding national security and foreign policy issues with regard to Panama. Through interviews and a review of relevant documents, we will determine whether information about Noriega reached them, and how that information was used in making decisions.

As part of our review, we will contact appropriate officials of the National Security Council who are now or were in the past involved in policy decisions regarding Panama. We intend to discuss their knowledge and utilization of information concerning General Noriega's illegal activities.

We understand that this review will involve potentially sensitive material that may require special controls and safeguards. We are willing to discuss this issue with you and take appropriate precautions.

Mr. Levin indicated that you would handle this request expeditiously, and I look forward to hearing from you early next week. If you have any additional questions about our review, please contact Mr. Patton at 275-1898 or Mr. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 12, 1988.

Mr. LAWRENCE S. MCWHORTER,
Director, Executive Office for U.S. Attorneys, Department of Justice, Washington, DC.

DEAR MR. MCWHORTER: As we informed your staff in our letter of May 16, 1988, the General Accounting Office is undertaking a case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. As agreed with your staff, we initially postponed audit work at the Justice Department until we had met with National Security Council officials to more fully explain our review objectives and give them an opportunity to coordinate agency participation in our review. However, because the National Security Council has not acted, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that you provide us with the following:

1. Documents outlining the organizational components involved in, and the operational procedures related to the U.S. Attorney requests for and analysis of foreign intelligence data.

2. Documents relating to the investigations of alleged drug trafficking by General Noriega conducted by the U.S. Attorneys in Miami and Tampa.

3. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the office of the U.S. Attorneys which discuss allegations of illegal activities by General Noriega, and interagency communications on these matters.

We anticipate that as our review progresses, we will make additional requests for documentation.

To facilitate our review, we request that appropriate officials meet with us at an opening conference no later than July 20. At that time, we will establish a schedule for obtaining the needed documents.

With the input and cooperation of U.S. Attorney officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 12, 1988.

Mr. EDWARD S. DENNIS,
Assistant Attorney General, Criminal Division, Department of Justice, Washington, DC.

DEAR MR. DENNIS: As we informed your staff in our letter of May 16, 1988, the General Accounting Office is undertaking a case study of how information about General

Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. We initially postponed audit work at the Justice Department and several other government agencies until we had met with National Security Council officials to more fully explain our review objectives and had given them an opportunity to coordinate agency participation in our review. However, because the National Security Council has not acted, and because of the high level congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that you provide us with the following.

1. Documents outlining the organizational components involved in, and the operational procedures related to, the Criminal Division's development of law enforcement information and its requests for and analysis of foreign intelligence data provided by the various collection agencies.

2. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the Division which discuss allegations of illegal activities by General Noriega or the possible impact of such activities on U.S. relations with Panama.

We anticipate that as our review progresses, we will make additional requests for documentation.

To facilitate our review, we request that appropriate officials meet with us at an opening conference no later than July 20. At that time, we will establish a schedule for obtaining the needed documents.

With the input and cooperation of Criminal Division officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 12, 1988.

MR. JOHN C. LAWN,
Drug Enforcement Administration,
Washington, DC.

DEAR MR. LAWN: As we informed your staff in our letter of May 11, 1988, the General Accounting Office is undertaking a case study, under code 472165, of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. At the request of your staff, we initially postponed audit work at the Drug Enforcement Administration until we had explained our review objectives to the National Security Council and had given them an opportunity to coordinate the executive agency participation in our review. However, because the National Security Council has not acted, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that DEA provide us with:

1. Documents outlining the organizational structure and the operational procedures related to DEA's development of law enforcement information and its foreign intelligence data collection analysis, and dissemination systems.

2. Documents which establish DEA's procedures for (a) defining foreign intelligence information needs with regard to General Noriega and Panama, (b) implementing the information collection, process, (c) collecting and reporting raw data, and (d) analyzing and disseminating data on Panama and General Noriega.

3. Specific directives, instructions, or taskings to collect data on General Noriega or his alleged illegal activities, cables and reports from field offices regarding his involvement in or toleration of illegal activities, analyses or summaries of field reporting on him, and geographic/subject-area studies discussing his role or suspected role in illegal activities.

To facilitate our review, we are requesting an opening conference with appropriate officials no later than July 20. At that time, we will more fully discuss the specific parameters of our audit work and establish a schedule for obtaining the needed documents.

With the input and cooperation of DEA officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sinceerly yours.

NANCY R. KINGSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 12, 1988.

MR. PAUL SCHOTT STEVENS,
Executive Secretary, National Security Council, Old Executive Office Building, Washington, DC.

DEAR MR. STEVENS: As we informed you in our letter of May 13, 1988, and Mr. Rostow in our letter of June 23, the General Accounting Office is undertaking a case study of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. At the request of the National Security Council staff, we initially postponed audit work at the Council and several other government agencies until we had met with them to more fully explain our review objectives and had given them an opportunity to coordinate agency participation in our review. However, because we have not received a response to our letter of June 23, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We have sent requests to each agency, asking that appropriate officials meet with us to establish a timetable for collecting and reviewing relevant documents. We ask that the National Security Council provide us with:

1. Documents outlining the organizational structure and the operational procedures related to the National Security Council's requests for and analysis of foreign intelligence data provided by the various collection agencies.

2. Any memos, reports, analyses, studies, briefing papers, meeting records, or other documents generated by the National Security Council staff which discuss allegations of illegal activities by General Noriega and the possible impact of such activities on U.S. relations with Panama.

We anticipate that as our review progresses, we will make additional requests for documentation.

To facilitate our review, we request that appropriate officials meet with us at an opening conference no later than July 20. At that time, we will establish a schedule for obtaining the needed documents.

With the input and cooperation of National Security Council officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours.

NANCY R. KINGSBURY,
Associate Director

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVSION,
Washington, DC, July 12, 1988.

Hon. GEORGE P. SHULTZ,
The Secretary of State.
(Attention: GAO Liaison, Office of the Comptroller.)

DEAR MR. SECRETARY: As we informed you in our letter of May 13, 1988, the General Accounting Office is undertaking a case study, under code 472165, of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. At the request of your staff, we initially postponed audit work at the State Department until we had explained our review objectives to the National Security Council and had given them an opportunity to coordinate the executive agency participation in our review. However, because the National Security Council has not acted, and because of the high level of congressional interest in this assignment, we must now implement our review independently at each agency.

We are therefore requesting that the State Department provide us with:

1. Documents outlining the organizational structure and the operational procedures related to the State Department's foreign intelligence data collection, analysis, and dissemination systems.

2. Documents which establish the State Department's procedures for (a) defining foreign intelligence information needs with regard to General Noriega and Panama, (b) implemening the information collection process, (c) collecting and reporting raw data, and (d) analyzing and disseminating data on Panama and General Noriega.

3. Specific directives, instructions, or taskings to collect data on General Noriega or his alleged illegal activities, cables and reports from embassies regarding his involvement in or toleration of illegal activities, analyses or summaries of field reporting on him, and geographic/subject-area studies discussing his role or suspected role in illegal activities.

We anticipate that many of these documents are available within the Offices of the Assistant Secretary of State for Inter-American Affairs, the Assistant Secretary for Intelligence and Research, and the Assistant Secretary for Narcotics Matters.

To facilitate our review, we are requesting an opening conference with appropriate officials no later than July 20. At that time, we will more fully discuss the specific parameters of our audit work and establish a schedule for obtaining the needed documents.

With the input and cooperation of State Department officials, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,
Associate Director.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, July 13, 1988.

Hon. FRANK C. CARLUCCI,
The Secretary of Defense.
(Attention: DOD Office of the Inspector General, Deputy Assistant Inspector General for GAO Report Analysis).

DEAR MR. SECRETARY: As we informed you in our letter of May 12, 1988, the General Accounting Office is undertaking a case study, under code 472165, of how information about General Noriega was developed by various government agencies, and what role such information played in policy decisions regarding Panama. With the cooperation of Department of Defense officials, including those from the military services and other Defense agencies, we have already made substantial progress toward achieving our review objectives. However, we were advised on July 12, 1988, that these officials have been directed to postpone meeting with us and providing us with documents until the National Security Council provides guidance on the extent that the Department should participate in our review.

Since initiating this review, we have fully briefed the National Security Council staff on our review objectives and methodology and allowed them time to provide guidance to executive branch agencies. However, because the Council has not issued such guidance and because of the high level of congressional interest in this assignment, we have advised the Council that we must now implement our review independently at each agency.

We are therefore requesting that the Department resume cooperating with us on this assignment and provide us with documents we need to accomplish our review objectives. In addition to the documents that we already have requested, we need to obtain:

1. Cables and intelligence reports generated by, or in the possession of, the Department of Defense and its various components which discuss General Noriega and his alleged illegal activities.

2. Any other memos, reports, analyses, studies, briefing papers, meeting records, other documents, or recorded information generated by, or in the possession of, the Department or its components which discuss allegations of illegal activities by General Noriega and the possible impact of such activities on U.S. relations with Panama.

To facilitate our review, we would appreciate being advised in writing no later than July 20, 1988, of your intended action on this matter.

With the Department's renewed cooperation, I am confident that we can successfully complete our review in a timely manner.

If you have any additional questions about our review, please contact Mr. Donald L. Patton at 275-1898 or Mr. James O. Benone at 275-7487.

Sincerely yours,

NANCY R. KINGSBURY,
Associate Director.

ENCLOSURE III

NATIONAL SECURITY COUNCIL,
Washington, DC, July 13, 1988.

MS. NANCY R. KINGSBURY,
Associate Director, National Security and International Affairs Division, General Accounting Office, Washington, DC.

DEAR MS. KINGSBURY: I am writing in response to your request concerning a study of the alleged drug activities of Manuel Noriega, and the role information about such activities played in decisions about U.S. foreign policy (Study #472165).

As described in Mr. Kelly's May 13, 1988, letter to Paul Stevens and your June 23, 1988, letter to me, your request seeks access to sensitive law enforcement and intelligence files covering a substantial period of time. In our meeting, your staff confirmed that your three areas of interest were intelligence files, law enforcement files, and the deliberative process of the Executive branch, including internal communications and deliberations leading to Executive branch actions taken pursuant to the President's constitutional authority. I was disappointed that your letter did not contain any narrowing of the request. The request raises important statutory and constitutional issues. The Administration is anlayzing them now, and when its deliberation is complete, I shall reply further to your letter of June 23, 1988.

Sincerely,

NICHOLAS ROSTOW,
Special Assistant to the President and Legal Adviser.

ENCLOSURE IV

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, June 13, 1988.

MR. FRANK C. CONAHAN,
Assistant Comptroller General, National Security and International Affairs Divisions, General Accounting Office, Washington, DC.

DEAR MR. CONAHAN: The Director has asked me to respond to your letter of 24 May 1988 that described the General Accounting Office's investigation of allegations made against General Noriega of Panama.

All Agency activities in central America, as well as information we receive concerning other U.S. Government activities in the region, are subject to close and continuing scrutiny by the House and Senate Intelligence Committees. Furthermore, any assessment of policy-related questions should be directed to the appropriate components of the Executive Branch, such as the Departments of State and Defense.

I am sorrry that we cannot be more helpful in this case.

Sincerely,

JOHN L. HELGERSON,
Director of Congressional Affairs.

DEPARTMENT OF STATE,
Washington, DC, August 2, 1988.

NANCY KINGSBURY,
Associate Director, General Accounting Office, National Security and International Affairs Division.

DEAR MS. KINGSBURY: I am pleased to respond to your July 12 letter on the proposed care study your office is undertaking about how U.S. government agencies used information about General Noriega in its policy decisions regarding Panama.

As you are aware, the National Security Council staff and the Office of White House counsel have been working closely with your office on this investigation. All executive branch agencies have been instructed by the White House not to take any action on your request until various legal issues have been analyzed by the Administration. Accordingly, at the present time it will not be possible for the Department to meet with your staff or produce information until this examination is completed. For the time being, Nicholas Rostow, Legal Adviser to the National Security Council, is acting as the administration's point of contact on this matter.

Sincerely,

ROGER B. FELDMAN,
Comptroller.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I passed an amendment in the Crime Subcommittee and in the full Judiciary Committee that was bipartisan, and noncontroversial, about these clandestine drug labs, which are a particular problem in my beautifull State of California. Due to California's size and its ability to grow almost anything, the domestic growing of illegal crops has become a real problem. More ominous though are the hidden drug labs that sometimes are defended with booby traps, including high explosives. It is a tragic situation, recognized by all to the extent that everybody on the subcommittee and on the major committee said that my legislation on clandestine labs was fine and desparately needed.

Because of a jurisdictional dispute, and only because of that, my language was taken out of the final bill produced by the Rules Committee.

Last night, however, in the Rules Committee they agreed to allow me to offer my language again as an amendent, when we take this bill up again in September. I am still put at a disadvantage by these actions, however, as it will appear that I am trying to alter the original language of the bill. This is always an uphill battle.

I would just like to read a statement that I put out to the Rules Committee yesterday explaining my point of view.

□ 1115

This was hand delivered last night to Hon. CLAUDE PEPPER:

DEAR MR. CHAIRMAN: Only moments ago, I became aware that the Rules Committee will drop my language regarding Clandestine Drug Laboratories, in Subtitle B of title VI. This language was accepted by the majority staff of the Crime Subcommittee even before subcommittee markup occurred. This language then survived markup before the full Judiciary Committee without amendment. In short, Mr. Chairman, this provision to establish a Task Force on Clandestine Drug Laboratories has always enjoyed a significant bipartisan support in Congress and within the Drug Enforcement Agency.

Let me add that the DEA is anxious, very anxious to get this language in the legislation, since they are the major repository of the chemicals used in these drug labs:

I am disappointed, to say the least, that the Rules Committee would circumvent the committee process which I have followed so diligently.

I am grateful to the Rules Committee that this was corrected:

It is my understanding that the language will be allowed as an amendment to the drug bill during floor debate. I would certainly hope that I would at least be granted this opportunity.

Mr. Chairman, I certainly hope that you can see your way clear to either reinstating my language. • • •

And he did that. I would like to thank him for it. I look forward to offering it on the floor in September.

100TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 100-861
Part 2

PROVIDING FOR THE CONSIDERATION OF A BILL RELATING TO THE OMNIBUS DRUG INITIATIVE

SEPTEMBER 6, 1988.—Ordered to be printed

Mr. PEPPER, from the Committee on Rules, submitted the following

SUPPLEMENTAL REPORT

[To accompany H. Res. 521 and to supersede H. Rept. 100-861]

The Committee on Rules, having had under consideration House Resolution 521, by nonrecord vote, report the same to the House with the recommendation that the resolution do pass.

The following are the amendments made in order under House Resolution 521.

An amendment to be offered by Representative Wortley of New York or his designee to be debatable for not to exceed 10 minutes, equally divided and controlled by the proponent of the amendment and a member opposed thereto.

Page 11, after line 15, insert the following new section:

SEC. 1010. TRANSFER BY GOVERNMENT AGENCY OF RECORDS TO THE DEPARTMENT OF JUSTICE FOR CRIMINAL INVESTIGATION.

Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(f) Nothing in this title shall apply when financial records obtained by an agency or department of the United States are disclosed or transferred to the Attorney General upon the certification by a supervisory level official of the transferring agency or department that there is reason to believe that the records may be relevant to a violation of Federal criminal law. Records so transferred shall be used only for criminal investigative or prosecutive purposes by the Department of Justice and shall, upon completion of the investigation or prosecution (including any appeal), be returned only to the transferring agency or department.".

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Page 341, strike line 14 and all that follows through page 356, line 5, and insert the following:

SEC. 10006. DRUG TESTING CERTIFICATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a procedure to be used to (1) certify certain clinical laboratories that analyze and determine the results of drug tests conducted by other entities or individuals, and (2) ensure that such laboratories maintain high quality and appropriate security concerning the results of such tests.

(b) REQUIREMENTS.—Under the procedures established under subsection (a), a laboratory that conducts drug testing shall, as determined under guidelines prescribed by the Secretary of Health and Human Services—

(1) meet the mandatory guidelines, or be determined by the Secretary of Health and Human Services to have met the mandatory guidelines, established by the Secretary under subclauses (I) and (III) of section 503(a)(1)(A)(ii) of the Supplemental Appropriations Act, 1987, or

(2) have been inspected and accredited by a national accrediting body approved for such purpose by the Secretary.

(c) SPENDING RESTRICTION.—

(1) The Secretary of Health and Human Services may not expend any Federal funds for any part of the certification of laboratories to conduct drug testing of Federal employees. Costs associated with such certifications shall be the responsibility of the laboratories seeking the certification.

(2) Paragraph (1) does not limit the authority of the Secretary to expend Federal funds to administer and provide oversight of the clinical laboratory certification process.

An amendment to be offered by Representative Alexander of Arkansas or his designee to be debatable for not to exceed 20 minutes, equally divided and controlled by the proponent of the amendment and a member opposed thereto.

Page 375, after line 21, insert the following new title:

TITLE XI—INTERAGENCY COOPERATION RELATING TO INFORMATION ON ILLEGAL FOREIGN DRUG ACTIVITIES

SEC. 11001. SHORT TITLE.

This title may be cited as the "Anti-Stonewalling Act of 1988".

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SEC. 11002. INTERAGENCY COOPERATION RELATING TO INFORMATION ON ILLEGAL FOREIGN DRUG ACTIVITIES.

(a) IN GENERAL.—Any officer or employee in the executive branch of the Government, who, in the course of the official duties of such officer or employee, obtains information about illegal foreign drug activities shall promptly furnish such information through the head of the agency in which the officer or employee serves or is employed—

(1) to the head of any other agency designated under subsection (b); and

(2) upon request of a committee of the Congress or of the Comptroller General, as the case may be, to such committee or to the Comptroller General.

(b) DESIGNATIONS.—Not later than 60 days after the date of the enactment of this Act, the President shall—

(1) designate agencies involved in the formulation of United States foreign policy or the enforcement of Federal drug laws to receive information under subsection (a)(1); and

(2) notify the Speaker and the minority leader of the House of Representatives, the President pro tempore and the minority leader of the Senate, and the Comptroller General of such designations.

The President shall review such designations once each year and may, on the basis of the review, change any designation, with notification as provided in paragraph (2).

(c) NONDISCLOSURE.—Except with respect to the disclosure of information to the General Accounting Office, notwithstanding subsection (a), the head of an agency may withhold the disclosure of information that, as determined by the head of the agency—

(1) may jeopardize a United States foreign intelligence or counterintelligence activity or source;

(2) may jeopardize a law enforcement investigation; or

(3) may adversely affect the national defense or security of the United States.

The authority to make such a determination may not be delegated. Any such determination shall be communicated in writing to the President, who may direct the head of the agency to furnish the information under such procedures and safeguards as the President may specify.

(d) APPLICABILITY OF SECTION 716 OF TITLE 31, UNITED STATES CODE.—If information requested by the Comptroller General under subsection (a) is not furnished within a reasonable time, section 716 of title 31, United States Code, shall apply to such request.

(e) DUTY OF THE PRESIDENT.—In the event the President withholds information from a committee of the Congress for any of the reasons set forth in subsection (c), the President shall transmit in writing to the chairman and ranking minority party member of such committee a statement of the reasons for the decision. If the information concerns a United States foreign intelligence or counterintelligence

activity or source, the President shall promptly inform the chairman and ranking minority party member of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of the nature of the information withheld. This section does not waive or otherwise alter any right or procedure that the Congress or any committee of the Congress may otherwise have to receive such information.

(f) DEFINITIONS.—As used in this section—

(1) the term "officer or employee in the executive branch of the Government" means an appointed officer in the executive branch of the Government, an employee in the executive branch of the Government, and a member of a uniformed service; and

(2) the term "agency" means a department, agency, or establishment in the executive branch of the Government.

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Office of the Attorney General
Washington, D. C. 20530

8 September 1988

The Honorable Jim Wright
Speaker
House of Representatives
Washington, D. C. 20515

Dear Mr. Speaker:

The Administration strongly supports and urges Congress to act swiftly to adopt effective and responsible legislation to combat drug abuse. United States law enforcement and intelligence agencies have devoted and will continue to devote substantial efforts toward achievement of the vital national objective of halting the flow of illegal drugs.

The amendment proposed to be offered by Congressman Bill Alexander to the Omnibus Drug Initiative Act of 1988 (H.R. 5210) will weaken the hand of the United States in the battle against illegal drugs. The Alexander Amendment is both unwise and impermissibly encroaches on the President's constitutional authority.

The amendment requires Executive Branch personnel obtaining information about "illegal foreign drug activities" to forward such information promptly to the head of their agencies. In turn, the agency heads must furnish it to law enforcement agencies specially designated by the President and, upon request, to any committee of the Congress or the General Accounting Office (GAO). If the agency head personally determines that disclosure of the information risks specified damage to national security or law enforcement interests, he need not disclose the demanded information to a congressional committee, but he nevertheless must furnish it to the GAO. The amendment also provides for lawsuits by the GAO against Federal agencies to secure information covered by its provisions.

The Alexander amendment would diminish the ability of the United States to collect narcotics intelligence. Sources of foreign narcotics intelligence, including cooperating foreign government agencies, would be less likely to share sensitive narcotics intelligence with U.S. agencies if it must be disseminated on demand to the General Accounting Office and, in

many cases, to multiple congressional committees. The proper executive-legislative arrangements for handling sensitive narcotics intelligence in a responsible and secure fashion are those specified by Title V of the National Security Act of 1947, under which the Director of Central Intelligence and the heads of intelligence agencies keep the congressional intelligence committees fully and currently informed of intelligence activities, including narcotics intelligence.

The prospect of lawsuits between the GAO and intelligence agencies over some of the most sensitive national security information in the possession of the United States presents a substantial danger of unauthorized disclosure of sensitive information. Congress recognized this danger when it enacted the General Accounting Office Act of 1980 that provided for the exemption of intelligence information from the GAO's current authority to bring suits to obtain information.

The inter-agency reporting requirements established by the amendment will disrupt effective, carefully crafted mechanisms for secure dissemination of narcotics intelligence within the U.S. Government. These mechanisms ensure that sensitive narcotics intelligence is disseminated to law enforcement agencies and that the information is properly protected from unauthorized disclosure.

In addition to its practical flaws, the amendment impermissibly encroaches on the powers of the President under the Constitution to faithfully execute the laws, to supervise his subordinates in the Executive Branch, to preserve the integrity of executive deliberations, and to protect national security information.

We urge the House not to adopt the Alexander Amendment.

Sincerely,

William H. Webster
Director of Central Intelligence

Dick Thornburgh
Attorney General

cc: The Honorable Bill Alexander

Office of the Attorney General
Washington, D. C. 20530

8 September 1988

The Honorable Robert H. Michel
Minority Leader
U. S. House of Representatives
Washington, D. C. 20515

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