

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION COPY Personal Misfile
001. note	Personal (1 page)	04/01/1996	
002. memo	Alan Kreczko to Anthony Lake. Subject: Terrorism bill (2 pages)	03/14/1996	P5 6180

COLLECTION:

Clinton Presidential Records
Speechwriting
David Shipley
OA/Box Number: 12006

FOLDER TITLE:

Terrorism Radio Attack

Jamie Metrailler
2006-1734-F
jm397

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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March 14, 1996

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INFORMATION

MEMORANDUM FOR ANTHONY LAKE

FROM: ALAN KRECZKO^{sk}

SUBJECT: Terrorism Bill

The Barr Amendments to the Hyde Terrorism bill effectively gut an already-weakened anti-terrorism bill. In Hyde's own words, the bill has been "eviscerated . . . leaving it a faint representation of what started out as a robust answer to the threat of terrorism."

At Tab I is a short paper which lists the major elements of the Administration's proposal, and then identifies what was dropped from it, first by Hyde and then by Barr.

At Tab II is the AG's statement on the Barr bill.

At Tab III are DOJ talking points on the Barr bill.

At Tab IV is a three paragraph version of the talking points which might be used in the President's radio address.

Aside from what the House bill deletes from the Administration's bill, you should be aware that it adds three problematic items: (1) habeas corpus reform (shortening death row appeals) which I understand exceeds what the President is comfortable with; (2) a Blue Ribbon Commission, with subpoena power, to look into Justice Department activities; and (3) the Foreign Sovereign Immunities Act amendments.

This mix -- little gain on the terrorism side, and the three points of pain above -- has led some to suggest the President should say now that he would not sign the House version if presented to him. While that would send a strong signal to the conference, the difficulty is that the problems in the bill (habeas reform, FSIA) are popular and a veto might therefore need to be based on the fact Congress is giving him less than he asked for. A valid criticism, but it is unusual to veto legislation because it only gives you part of what you asked for. This might be discussed at tomorrow's 7:30 staff meeting.

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COPY**Attachments**

Tab I Major Elements of the Administration's Proposal
Tab II AG's Statement on the Barr Bill
Tab III DOJ Talking Points on the Barr Bill
Tab IV Draft Talking Points for President's Radio Address

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Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION COPY	
001. memo	Carol M. Browner to Vice President and Chief of Staff. Subject: Toxics Release Inventory (4 pages)	08/06/995	P5	6181 Dup.
002. fax	Phone No. (Partial) (1 page)	08/04/1995	P6/b(6)	
003. memo	Carol M. Browner to Vice President and Chief of Staff. Subject: Toxics Release Inventory (6 pages)	08/06/1995	P5	6181

COLLECTION:

Clinton Presidential Records
Speechwriting
David Shipley
OA/Box Number: 10709

FOLDER TITLE:

Right to Know [1]

Jamie Metrailler
2006-1734-F
jm330

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
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August 6, 1995

**MEMORANDUM FOR THE VICE PRESIDENT
THE CHIEF OF STAFF****COPY****FROM:** Carol M. Browner**SUBJECT:** Baltimore Budget Event/TRI Executive Orders**ISSUE**

Should the President issue two Executive Orders distinctly responding to all elements of the special interest appropriations rider threatening the Administration's commitment to Community Right-to-Know? The orders would (1) require federal contractor certification of compliance with Community Right-to-Know, and (2) protect EPA's ability to enhance public toxic chemical reporting if Congress eliminates the agency's existing authority.

The "two order" approach presented here was developed in direct response to concerns raised by the Chiefs of Staff for the President and the Vice President, the OMB Director, and others who believe that an Executive Order should not "leapfrog" the regulatory process, preclude full agency debate concerning the scope of new requirements, unduly burden the procurement process, or foreclose later policy options for the Administration in this area of environmental policy.

The first order merely prevents a dramatic rollback of existing regulations, and does not expand those requirements beyond current law. The second order takes effect only if the appropriations rider is enacted into law, and would only impose new requirements that are later developed through processes that include participation by OMB and other agencies. As modified, this "two order" approach therefore respects the regulatory process and preserves agencies' roles in that process to the extent possible. It is a significant compromise of EPA's initial proposal. Consequently, the recommendation below enjoys the strong support of CEQ, DOJ, EPA, DPC and a number of White House offices participating in the Budget Working Group.

RECOMMENDATION TO COUNTER CONGRESSIONAL ACTION

On July 31, 1995, the House of Representatives passed an appropriations bill with numerous specific environmental riders, including one that would limit community right-to-know about pollution. At the request of the White House Budget Working Group, EPA developed Executive Orders that would demonstrate strong, effective, responsible and decisive action by the President to protect the health and safety of the American public against the Congressional onslaught. EPA then made extensive modifications in the proposed orders to preserve as much of the regulated industry's and OMB's right to participate in on-going rule development as the rider would allow.

The proponents of an executive order approach favor issuing two Executive Orders to respond to all elements of the appropriations rider on Community Right-to-Know. The proponents oppose issuing a single executive order that merely restores the current chemical reporting requirements -- without addressing other elements of the rider, including its primary target, chemical use data -- as appearing weak and ineffective.

**BACKGROUND ON COMMUNITY RIGHT TO KNOW
AND CONGRESSIONAL ACTION:**

EPA's Community Right-to-Know program is an innovative means for achieving common-sense public health and environmental protection that works better and costs less.

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The Emergency Planning and Community Right-to-Know Act of 1986 ("EPCRA") requires companies to report accidental and routine releases of toxic chemicals on a facility by facility basis, creating the Toxics Release Inventory ("TRI"). It is not a regulatory program, but rather provides the basic informational tool to encourage informed community-based environmental decision making. TRI reporting has proven a strong incentive for businesses to find their own ways of preventing pollution in the first place; indeed, since its inception, reported releases have declined by 43%. In the 1992 campaign, the President pledged to use TRI to enhance the right to know. TRI has received wide public and industry support.

Existing law authorizes EPA's intended TRI expansion.

The Community Right-to-Know program initially applied to 311 chemicals and approximately 7% of industrial releases. Yet Congress has given EPA substantial authority under existing law to add: (1) new chemicals; (2) new classes of facilities; and (3) additional types of information. The Administration, in a 1994 EPA rulemaking, expanded the chemical list by 286. EPA has publicly made clear its intent to add key classes of industrial facilities in 1996 and information on chemical inputs, or "use". The House's proposed 50% cut in EPA's enforcement budget would virtually eliminate TRI enforcement.

The appropriations rider threatens all aspects of EPA's existing authorities under Community Right-to-Know.

The House's appropriations rider:

- 1) eliminates EPA's ability to require public reporting of toxic chemical use information (as opposed to releases), as EPA had intended;
- 2) bars the addition of any new chemicals, and threatens reporting on the 1994 additions to the chemicals list; and
- 3) may eliminate any listing of new classes of facilities for toxic chemicals reporting.

Under the rider, EPA would thus be unable to accomplish critical health protections through Community Right-to-Know that it otherwise could do. We believe that it is precisely because the Administration publicly indicated its intent to address each of these issues that the rider was put into place.

PROPOSED APPROACH:

First Executive Order

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The first Executive Order would take effect immediately and would:

- * respond to the rollback of toxic chemicals subject to TRI public reporting.
- * require that companies doing business with the government comply with the current TRI provisions regardless of Congressional attempts to interfere, by specifying that, to the greatest extent practicable, they report on all toxic chemicals released to the environment, including those added in 1994.

Second Executive Order

The second Executive Order, which would be signed contemporaneously, but would impose requirements on contractors only if the riders take effect, would:

- * safeguard the Administration's on-going efforts under TRI to consider including new categories of industrial facilities and collecting use information.
- * instruct EPA to continue its process for deciding the precise scope of new facility application and use information -- with OMB and public consultation;
- * establish a "safety net" if the rider became operative, by then putting the results of EPA's rule development efforts on new facilities and use information into effect with respect to federal contractors.
- * preserve, in response to OMB concerns, the full range of policy options for the Administration in any ultimate rulemaking on chemical use information. The order would reiterate the Administration's stated commitment to a dialogue and public rulemaking process for addressing these issues in view of the restrictions on the rider, and make clear that the order does not prejudice the outcome of any process. This would keep the focus of executive action on the **process** for addressing chemical use information, indicating that if Congress leaves the process intact, industry will have a full rulemaking opportunity, but if that process is no longer an option, then a strong outcome would be triggered.

ARGUMENTS SUPPORTING THE PROPOSED APPROACH:

- * The two Executive Orders distinctly address all three effects of the appropriations rider, so that the President would be perceived as taking effective action.
- * The two Executive Orders in combination would reflect a strong commitment to preserving Community Right-to-Know. TRI is innovative, incentive-driven, and widely praised.
- * The approach avoids being too overreactive or extreme, by not expanding TRI beyond where it would have been in the absence of the rider.
- * EPA substantially modified the orders to ensure that they do not "leapfrog" normal public notice and comment rulemaking procedures allowing for deliberate consideration of the complex issues concerning use information and facility categories. By deferring the details of new requirements -- such as specifying new classes of industrial facilities -- to administrative processes, the orders would preserve the ability of OMB and other agencies to debate the merits of particular requirements.
- * The second Executive Order creates an incentive for Congress and industry special interests not to interfere with the normal public administrative process for considering these issues and setting up a safety net if Congress does interfere. Because it would be extremely unlikely that this order would take effect, in view of the President's veto threat on the appropriations bill, the order may be more hard-hitting than the pure policy position the Administration might take in a different context.
- * The Executive Orders are moderate and limited in their approach. They do not require every bidder on a government contract to submit the TRI data, but only the actual awardee. The proposal addresses the major industry concerns about public reporting of confidential chemical use information. The orders do not suggest debarment for non-complying current contractors, as did the striker replacement Executive Order.
- * The Executive Orders respect the Administration's extensive efforts -- in which EPA has been very active -- to minimize unnecessary reporting and paperwork, particularly for small businesses. They preserve the NPR's simplified procurement procedures for small dollar amounts by not applying to contracts below \$100,000, and incorporate EPCRA's statutory exceptions for companies with few employees or low volumes of chemicals, as well as the simplified reporting requirements for small companies.
- * If, as we expect, the rider is not enacted into law, the procurement requirements would be inapplicable.

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#3 - Talking points

- We have seen 25 years of bipartisan progress. Nixon, Ford, Carter, Reagan, Bush, my Admin. Americans have joined together -- industries, communities, indivs. Government has been committed to providing protections. Our God-given land, our children's future. We should be proud. COPY *See Sheet #4*
- Now, polluters and Republican leaders have joined together to take away that progress, take away rights and protections. Quick list -- dirtier water, raw sewage, free ride for big industries.
- I will not let that happen.
- Today I am announcing that companies that do business with the federal government must report to the public about the pollution they release into our air, our water, our land.

Immediately, manufacturing companies that contract with fed govt and that already report to the public will be asked to certify the fact that they report.

Immediately, EPA will be asked to provide guidance about expanding reporting requirement to 1) other contractors (see sheet 2) and 2) onsite use, not just emissions.
- The American people have a right to know about pollution in their neighborhoods.
- That right is guaranteed by law. Today, manufacturing industries are required to report to the public about 651 toxic chemicals they emit into the environment.
- This is one of our most effective tools in cleaning up the environment and protecting public health. Communities across the country have worked with industry to reduce the risks to the public. Toxic emissions have declined by 43% since 1987 -- by millions of pounds of toxic chemicals.
- Collecting the data has helped companies. They have saved money by voluntarily reducing pollution, improved relations with community.
- My Administration has expanded the right to know. We doubled the list of chemicals on the list. We required federal facilities to report their toxic pollution -- to live by the same rules as private industry.
- But the polluters and the Republican leadership want to make sure people don't know about the pollution released into their neighborhoods. They want that pollution to be a closely held secret.

Polluters want to remove all pesticides from the list.

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more →

Page 2 of #3

BASF, a Louisiana chemical company, wants to remove N-M-2-P, a solvent used in manufacturing that causes miscarriage.

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Dole bill would widen opportunities for industry to take chemicals off the list, make it harder for EPA to expand program to cover new industries and new chemicals. More opportunities to drag issue into court.

House approps bill would block collection of any data about chemical use (as opposed to emissions) and possibly lead to removal of hundreds of chemicals from the current list.

- Whose interest does it serve to keep secrets about pollution? It is in the interest of America to let the sun shine in. Give all people the opportunity to work to reduce that pollution, find safer alternatives, protect the public.
- How about.... Use words to "America the Beautiful" to evoke our natural heritage. "God shed his grace on thee."

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