



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

NOV 26 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 12 - Executive Protective Service
Sponsor - Rep. Jones (D) Alabama and 2 others

Last Day for Action

December 3, 1975 - Wednesday

Purpose

To expand the size of the Executive Protective Service (EPS); to authorize the Secretary of the Treasury to assign EPS officers to several metropolitan areas to protect foreign missions; and to authorize the Secretary of the Treasury to reimburse State and local governments for services used in providing such protective assistance.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of the Treasury	Disapproval
Department of State	Disapproval (Veto message attached)
National Security Council	Disapproval
Department of Justice	No objection
Civil Service Commission	Approval

Discussion

Background

Public Law 91-217, approved March 19, 1970, established the Executive Protective Service (EPS) in Treasury to protect buildings, in which Presidential offices or members of his immediate family are located, and foreign missions in Washington, D. C. It also authorized the President to assign



EPS officers to other areas of the country on a case-by-case basis to safeguard foreign missions. In conferring the latter authority upon the President, the Congress stated its intention that it be exercised in unique situations:

"This authority extends only to situations of extraordinary gravity, where the local police force is totally incapable of providing a level of protection deemed essential to the international integrity of the U.S., or where the protection of the President himself, for example, would be involved. This additional authority is not, and may not be construed to be, a substitute for the responsibility of local police forces to provide protection for consulates, the United Nations, and similar foreign delegations within the U.S." (House Committee on Public Works report on H.R. 14944, December 8, 1969).

Since approval of P.L. 91-217, the authority of the President to assign EPS officers to augment local police protection has been used sparingly. However, a protective force of 40 EPS officers has been maintained at various Arab, Israeli, and other UN missions in New York City for two years.

The prior Administration proposed legislation during the 93rd Congress to increase the size of EPS from 850 to 1200 members, because currently authorized strength was insufficient to fulfill its existing responsibilities. This action was also a response to a growing number of requests by concerned foreign governments for EPS protection of diplomatic personnel and missions in Washington, D. C.

Summary of the enrolled bill

H.R. 12 would amend P.L. 91-217 in the following manner:

- increase EPS size from 850 to 1200 officers;
- authorize the Secretary of the Treasury to assign EPS officers to metropolitan areas, outside the Washington, D.C., area, to augment local police protection of foreign missions (including hotels or other temporary domiciles of foreign diplomatic officials visiting the U.S. on official business,



including attendance at the UN), provided that the following conditions are met:

- (1) Twenty or more missions, including consulates, are located in the metropolitan area (seven areas qualify -- New York City, Chicago, Los Angeles, New Orleans, Houston, San Francisco, and Miami);
 - (2) An extraordinary protective need exists (e.g., the November 1974 visit to New York City of Yasir Arafat, which cost New York City an estimated \$700,000 in additional service and precautionary measures);
 - (3) The metropolitan area requests assistance;
- as an alternative or supplement to assignment of EPS personnel by the President or the Secretary outside the Washington, D. C. area, authorize the Secretary to reimburse State and local governments for the utilization of their services, personnel, equipment and facilities. The enrolled bill authorizes an appropriation not to exceed \$3.5 million during any fiscal year for this purpose and is retroactive to July 1, 1974; and
- place the position of Director and Deputy Director, Secret Service, in Levels IV and V of the Executive Schedule, respectively.

The annual cost of this legislation is estimated to range between \$7 million and \$12 million, depending upon the number of new EPS officers hired and assuming no increase in the \$3.5 million ceiling authorized for reimbursement of State and local governments.

Previous Administration objections

In the course of the enrolled bill's consideration in both the House and Senate, the Department of the Treasury, on behalf of the Administration, opposed:

- statutory expansion of EPS responsibilities for protection of foreign missions in cities outside the Washington, D. C. metropolitan area unless the Secretary had exclusive authority to determine whether an extraordinary protective need exists; and



-- reimbursement of local governments and the retroactive date of July 1, 1974.

Analysis of issues

Arguments for both approval and veto of the enrolled bill are presented in summary fashion below:

Arguments for approval

1. An increase of EPS authorized personnel from 850 to 1200 is consistent with this Administration's views as given to Congress by the Treasury Department.
2. There have been indications that an increasing number of attacks against foreign diplomatic installations in the United States can be expected, especially in New York because of the presence of the UN. H.R. 12 would provide a way to assist seven U.S. cities in preventing or combatting such incidents.
3. The authority of the Secretary to assign EPS officers to foreign diplomatic missions outside of D.C. is adequately limited by the criterion of extraordinary protective need.
4. Failure to assure adequate protection of foreign missions and officials in the U.S. could lead to weakened protection of American diplomats abroad.
5. Use of the reimbursement provision of H.R. 12 could be less expensive than the temporary assignment of EPS officers to other cities either under the existing authority of PL 91-217 or the expanded assignment authority of H.R. 12.

Arguments for veto

1. Instituting Federal reimbursement of State and local governments for protective assistance, which is a historic part of their duty under our Federal system of government, is contrary to the cooperative nature of law enforcement in the United States and would establish an unwise and expensive precedent. It would be extremely difficult to resist future demands of State and local governments for reimbursement for other services either provided for foreign missions (e.g., fire protection) or for other Federal/State functions, (e.g., protection of the President and Presidential candidates). The existing \$3.5 million ceiling could be removed or increased substantially.



2. Except in the special circumstances of Washington, D.C., protection of foreign dignitaries and diplomats is an established responsibility of local law enforcement agencies. The bill's broadening of the circumstances under which EPS officers could be assigned to protect foreign missions in other U.S. cities could be a step toward eroding distinctions between Federal and local responsibility.

3. H.R. 12 is unnecessary since PL 91-217 already provides authority for the President, on a case-by-case basis, to provide EPS protection to foreign missions in any area of the United States.

4. Authorizing retroactive reimbursement to July 1, 1974, is, implicitly, preferential treatment for New York City to compensate for its expenses during Yasir Arafat's November 1974 visit.

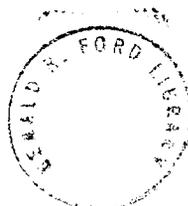
5. Deployment of EPS officers to other U.S. cities would dilute the benefits gained from increasing EPS size to meet current manpower demands in the Washington, D. C., area and could jeopardize other important EPS duties.

Agency views

The Executive Branch agencies principally concerned--State and Treasury--recommend disapproval of H.R. 12. OMB and NSC join in this recommendation. We believe the possibility that this bill would lead to future expansion of Federal responsibility for what have previously been local police functions and to large Federal expenditures is especially troubling. We have prepared the attached draft of a veto message for your consideration.

The House passed its version of H.R. 12, which did not include the \$3.5 million authorization limitation, by a vote of 276-123; subsequently, the House passed the enrolled version of the bill by a voice vote. There was only one Senate roll call vote; an amendment to strike all but the increase in the size of the EPS was defeated 57-33.

The Department of State recommends that, in your veto message, you propose alternative legislation to the Congress, and has enclosed with its views letter a draft message, which we do not recommend be used. That legislation would expand EPS authority so that it could respond to "any need for protection of any diplomatic installation in the United States." Such legislation



would be directly counter to the reasons for vetoing H.R. 12. An inter-agency meeting to discuss the State alternative, including, State, Treasury, Justice, OMB, and NSC, concluded that the situation was as follows:

- . The two problems that require solution are (a) the need of EPS for extra personnel for its current responsibilities; and (b) assurance of adequate protection to foreign missions accredited to the UN in New York.
- . All concur with legislation that would increase the size of EPS.
- . There are three major alternatives to resolving the New York-UN problem:
 - (1) Continue temporary duty assignment, on a rotating basis, of EPS officers to New York City under the case-by-case authority of the President in P.L. 91-217.
 - (2) Have either State or Treasury reimburse the New York authorities for their expenses in providing the protection to the foreign missions accredited to the UN now being provided by the EPS.
 - (3) Expand the authority of EPS to provide the necessary protection in New York on a permanent basis.

None of these options is mutually acceptable to all the agencies. Neither State nor Treasury wishes to have the authority to reimburse New York City (Option 2). Treasury believes strongly that the stationing of EPS officers outside Washington, D.C., except on a temporary basis, whether under the existing law or through an expansion of authority, is unwise and results in personnel problems and a weakened ability of EPS to perform its protective functions (Options 1 and 3). All the other agencies believe that State's proposed nationwide expansion of EPS authority is unwise and much too broad a grant of authority to meet the specific New York City problem (State's views letter).

Under the circumstances, we do not believe an Administration alternative can be proposed to the Congress in the context of a veto message. In any event, we understand that the relevant Congressional committees, because of their crowded calendars,



would not act on any further EPS legislation in this session of Congress. However, the issue does need to be resolved. In coordination with NSC, we shall prepare, before the next session of the Congress, a decision memorandum for you on this matter analyzing the alternatives and reflecting the views of State, Treasury, and Justice.



Director

Enclosures

