





PROHIBITION OF THREATS AGAINST THE PRESIDENTIAL CANDIDATES AND OTHER PERSONS NOT COVERED BY THE PRESIDENTIAL THREAT STATUTE

JAN 18 1963
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HEARING

BEFORE THE

SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS

U.S. Congress House

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 6168

PROHIBITION OF THREATS AGAINST THE PRESIDENTIAL CANDIDATES AND OTHER PERSONS NOT COVERED BY THE PRESIDENTIAL THREAT STATUTE

MAY 13, 1982

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PROHIBITION OF THREATS AGAINST PRESIDENTIAL CANDIDATES AND OTHER PERSONS NOT PRESENTLY COVERED BY THE PRESIDENTIAL THREAT STATUTE

THURSDAY, MAY 13, 1982

**HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ADMINISTRATIVE LAW AND
GOVERNMENTAL RELATIONS,
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.**

The subcommittee met, pursuant to call, at 9:20 a.m., in room 2237, Rayburn House Office Building, Hon. Sam B. Hall, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Hall, Mazzoli, McClory, Moorhead, and Kindness.

Staff present: William P. Shattuck, counsel; James Wade Harrison, assistant counsel; James B. McMahon, associate counsel; and Florence McGrady, legal assistant.

Mr. HALL. We have next H.R. 6168, to prohibit threats against Presidential candidates and other persons protected by the Secret Service not presently covered by the Presidential Threat Statute.

[A copy of H.R. 6168 follows:]

97TH CONGRESS
2D SESSION

H. R. 6168

To amend chapter 41 of title 18, United States Code, to prohibit threats against Presidential candidates and other persons protected by the Secret Service who are not presently covered by the Presidential threat statute, with the creation of a new section 879 for this purpose.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 1982

Mr. SAM B. HALL, JR., introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend chapter 41 of title 18, United States Code, to prohibit threats against Presidential candidates and other persons protected by the Secret Service who are not presently covered by the Presidential threat statute, with the creation of a new section 879 for this purpose.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (1) chapter 41 of title 18, United States Code, is
4 amended by adding at the end thereof the following new
5 section:

1 "§ 879. Threats against certain other United States Secret
2 Service protectees

3 "(a) Whoever knowingly and willfully threatens to kill,
4 kidnap, or inflict bodily harm upon a former President of the
5 United States; the spouse, widow, or minor child under the
6 age of sixteen years of a former President; a major candidate
7 or the spouse of a major candidate for the Office of the Presi-
8 dent or Vice President; or a member of the immediate family
9 of the President, the President-elect, the Vice President, the
10 Vice-President-elect, or a former Vice President any of
11 whom is receiving Secret Service protection, shall be fined
12 not more than \$1,000 or imprisoned not more than three
13 years, or both.

14 "(b) As used in this section—

15 "(1) 'major candidate or the spouse of a major
16 candidate for the Office of the President or Vice Presi-
17 dent' means any person receiving Secret Service pro-
18 tection pursuant to provisions of Public Law 90-331
19 (82 Stat. 170), as amended;

20 "(2) 'immediate family' includes—

21 "(A) any person who is related by blood,
22 marriage, or adoption to the President, President-
23 elect, the Vice President, or the Vice-President-
24 elect and who receives Secret Service protection;
25 or

1 “(B) any person to whom the President,
2 President-elect, Vice President, or Vice-Presi-
3 dent-elect stands in loco parentis and who re-
4 ceives Secret Service protection; and

5 “(3) ‘President-elect’ and ‘Vice-President-elect’
6 shall have the same meaning given those terms in sec-
7 tion 871(b) of this title.”.

8 (2) Section 3056(a) of title 18, United States Code, is
9 amended by striking out in the fifth clause the phrase “and
10 871” and inserting in lieu thereof “871, and 879”.

11 (3) The analysis for chapter 41 of title 18, United States
12 Code, is amended by adding at the end thereof the following
13 new item:

 “879. Threats against certain other United States Secret Service protectees.”.

14 (4) Section 871 of title 18, United States Code, is
15 amended by inserting the words “, to kidnap,” in subsection
16 (a) after the words “to take the life of”.

Mr. HALL. I believe we have witnesses from the Treasury Department, Mr. John Walker, the Assistant Secretary for Enforcement and Operations, and Mr. John Simpson, Director of the Secret Service.

You gentlemen may proceed as you see fit.

TESTIMONY OF JOHN M. WALKER, JR., ASSISTANT SECRETARY FOR ENFORCEMENT AND OPERATIONS, DEPARTMENT OF THE TREASURY; AND JOHN R. SIMPSON, DIRECTOR, U.S. SECRET SERVICE

Mr. WALKER. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee: I welcome the opportunity to appear before you today to present the Department of the Treasury's views on H.R. 6168, a bill expanding the threat prohibitions applicable to Secret Service protectees.

The Department fully endorses this proposal which we feel will enhance the overall effectiveness of the Secret Service's protective operations. The passage of this legislation will provide for the first time a capability within the Federal criminal justice system to respond directly to threats against Presidential candidates, former Presidents of the United States, and various other individuals determined by Congress to be the appropriate subjects of protection by the Secret Service.

For several years, Treasury and the Secret Service have recognized the need for this additional threat legislation. There has also been considerable support from the Congress, particularly Treasury's Senate Appropriations Subcommittee which held special hearings on the Secret Service's protective operations following the two assassination attempts against President Ford in September of 1975.

The subcommittee recommended, in comments set forth in Senate Report 94-511, that the provisions of sections 871 and 1751 of title 18, United States Code, be extended to cover all individuals receiving Secret Service protection. Furthermore, in this body, the House Select Committee on Assassinations recommended in 1979 that the Judiciary Committee address the question of further threat legislation. This bill, H.R. 6168, responds to those recommendations relating to threats made against protectees of the Secret Service, as well as to the Secret Service's clearly expressed need.

As you know, section 871 of title 18, United States Code, presently prohibits any threat to take the life of or to inflict bodily harm upon the President of the United States, the Vice President, or other officer next in the order of succession to the Office of President, the President-elect, or the Vice President-elect. Concurrently, the Secret Service provides protection to a number of other individuals in addition to those covered by the provisions of section 871. However, at this time it is not a violation of Federal law to threaten the majority of those persons receiving Secret Service protection.

A threat to harm any protectee of the Secret Service is a serious matter and one which demands a coordinated response on the part of the Federal Government. Threats against any individual being protected by the Secret Service receive a thorough and timely re-

sponse by that agency and are a matter of the highest priority until the threat is neutralized.

The absence of a chargeable Federal offense, of course, does not diminish in any way the necessity for this type of a response. The problem is that the lack of such an offense, however, does impair the ability of the Secret Service to do its job, in that it provides no clear avenue for responding to the threat as a Federal criminal offense for which arrest and possibly prosecution are available. The result, unfortunately, is often an effort to fit the crime into State statutory prohibitions which are rarely designed to meet this type of situation. Consequently, additional time and effort are expended by the Secret Service beyond that which would be required in a more traditional criminal case.

I do not, of course, mean to create the impression that this legislation is simply a matter of cost effectiveness in the view of the Treasury Department. Although that result of the proposed legislation is desirable, the substantive basis for the authority we are seeking goes far beyond that, to the heart of the protective responsibilities of the Secret Service.

The problem confronted by the Service is one of determining how best to create an environment of safety for all of its protectees. The demands made by our free society and the personal interests of these protectees dictate, to a substantial extent, the structure of this environment. The interest of the Department, the Secret Service and, we believe, the American public, is to see to it that the security of the environment is enhanced through all available legitimate means. The enactment of the proposal under consideration is a simple, realistic device which would be a substantial step toward fulfilling our obligation to the individuals under Secret Service protection as well as to the public.

As I have noted, this bill would make it illegal to threaten to kill, kidnap or harm a protectee of the United States Secret Service. The persons receiving such protection do so because you, ladies and gentlemen, the lawmakers of the United States, have determined that this is necessary to insure the integrity of our political system. Presidential candidates, former Presidents, the immediate families of the President and Vice President, and other protectees all receive protection because of the harm that would befall the open American political system through harm to these persons. We believe that it follows ineluctably that our political process benefits by making it illegal to threaten these individuals.

On the technical side, I should point out that the decision was consciously made to seek the enactment of a new code section, 879, rather than amending the existing section 871. The rationale for this decision is one of seeking to retain the complete integrity of the existing prohibition against threatening the President. The proposal does also, however, amend section 871 slightly to make absolutely clear that the section does prohibit threats to kidnap the President. This change was necessitated by the incorporation of the kidnap terminology into the new section 879 prohibitions and its absence from the existing section. Also, it should be noted that although the Secret Service protects visiting heads of state and heads of Government, such officials are not included in the provisions of

section 879 because threats against them are covered elsewhere in title 18.

This concludes my statement, Mr. Chairman, in support of this bill, and I thank you for your attention. After Director Simpson of the Secret Service completes his remarks, we would be pleased to respond to any questions the committee might have.

STATEMENT OF HON. JOHN M. WALKER, JR., ASSISTANT SECRETARY FOR ENFORCEMENT AND OPERATIONS, DEPARTMENT OF THE TREASURY

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A threat to harm any protectee of the Secret Service is a serious matter, and one which demands a coordinated response on the part of the Federal government. Threats against any individual being protected by the Secret Service receive a thorough and timely response by that agency and are a matter of the highest priority until the threat is neutralized. The absence of a chargeable Federal offense, of course, does not diminish in any way the necessity for this type of a response. The problem is that the lack of such an offense, however, does impair the ability of the Secret Service to do its job, in that it provides no clear avenue for responding to the threat as a Federal criminal offense for which arrest and, possibly, prosecution are available. The result, unfortunately, is often an effort to fit the crime into state statutory prohibitions which are rarely designed to meet this type of situation. Consequently, additional time and effort are expended by the Secret Service beyond that which would be required in a more traditional criminal case.

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This concludes my statement in support of this bill, and I thank you for your attention. After Director Simpson completes his remarks, we would be pleased to respond to any questions.

Mr. SIMPSON. Mr. Chairman, I am pleased to appear before you and the members of this committee this morning. Assistant Secretary Walker has outlined the rationale for this proposal and I will try not to elaborate on ground which he has so aptly covered.

Currently the Secret Service affords protection to 19 permanent protectees. Of this group, there are specific Federal criminal statutes prohibiting threats against only the President and the Vice President. Although afforded Federal protection, the remaining individuals are not covered by a corresponding Federal threat statute.

During campaign years our protective responsibilities expand even further to include major candidates and their spouses for a part of the campaign. Subsequent to the election, we commence protection of the President-elect, the Vice President-elect, and their immediate families. Since the institution of our campaign-related protective responsibilities following the assassination of Robert Kennedy during the 1968 campaign, the extent of this coverage has increased dramatically. Unfortunately, the growth of our responsibilities has not been matched with a corresponding development in the statutory prohibitions necessary to support our goals. We must, as a result, now deal with a myriad of local statutes, such as threatening the life of a person, terrorist threats, extortion, et cetera, which may or may not be applicable.

We frequently are compelled to search for a State statute which most nearly fits the threat situation. Even when a State has adequate usable laws in this area, such laws may require that a local police officer be present before the statute can be applied. These situations make our job more difficult since we are dealing with extremely time-sensitive matters. Threats against political candidates may constitute a civil rights violation. This statute, however, requires written certification by the Attorney General or the Deputy Attorney General that it is being used in the public interest before it can be invoked. This is often a time-consuming process and it also does not lend itself to the vast majority of the situations which we face.

Enactment of the proposed legislation would extend to various other protectees of the Secret Service the same type of protection against threats of physical harm which is presently afforded to the President, the Vice President, or the officer next in the order of succession to the Office of the President. This expansion of threat prohibitions is seen as an operational necessity. It would give the Service a firm foundation in Federal law to investigate and, more importantly, to respond in an affirmative fashion to such threats.

An integral part of the protective mission is the identification and subsequent investigation of individuals who intend to do physical harm to those being protected. Such an investigation permits the Service to look at the source of the threat, evaluate that person, and, if warranted, take steps to neutralize the danger posed to the security of the protectee. History has demonstrated that many individuals who have made threats subsequently have attempted to carry them out.

It goes without saying that the Secret Service has to date been conducting appropriate investigations in support of our protective mission. The situation is one, however, in which our responsibilities could be more readily met through the enactment of this legislation. In conjunction with these responsibilities, the Service does investigate cases of individuals or groups who threaten or otherwise express an unusual interest in any of its protectees. This is done even though there may now be no Federal statute specifically prohibiting the threats or authorizing the investigation and prosecution of persons making such threats. Pursuant to our protective responsibilities under section 3056 of title 18, U.S.C., we do have the authority to evaluate the threat, but without Federal jurisdiction, prosecution in such instances becomes awkward, if not impossible.

With the proposed legislation to provide the Secret Service with the primary jurisdiction to investigate, as well as seek prosecution for threats against certain individuals, such situations could be handled more effectively. This would eliminate any confusion which might arise over jurisdiction. Since, as a matter of course, we have been conducting these investigations previously, there is no indication that a greater investigative workload and/or budget increase would be involved.

Even without the enactment of this proposal, we will be obligated to continue our investigative effort when a threat is made in order to adequately evaluate the situation.

I feel strongly about the need for this legislation. As long as the Secret Service is required by law to protect various categories of individuals, we need such a statute. It has been determined that these persons are public figures requiring this protection because of the impact which harm to them would cause to the United States. We feel that a corresponding criminal statute is essential to facilitate these protective efforts.

This legislation, if enacted, may act as a deterrent to those who would make such threats. It would enhance our ability to neutralize individuals intending harm to protectees through the use of the Federal criminal justice process.

The Secret Service will gladly provide any materials which your subcommittee feels will assist in your deliberations. I would like to take this opportunity to thank you, Mr. Chairman, and the other

members of the subcommittee for their interest and support in this matter.

That completes my statement, sir.

STATEMENT OF JOHN R. SIMPSON, DIRECTOR, U.S. SECRET SERVICE

I am pleased to appear today before this subcommittee.

Assistant Secretary Walker has outlined the rationale for this proposal and I will try not to elaborate on ground which he has so aptly covered.

Currently, the Secret Service affords protection to 19 "permanent" protectees. Of this group, there are specific Federal criminal statutes prohibiting threats against only the President and the Vice President. Although afforded Federal protection, the remaining individuals are not covered by a corresponding Federal threat statute.

During campaign years our protective responsibilities expand even further to include major candidates and their spouses for a part of the campaign. Subsequent to the election, we commence protection of the President-elect, the Vice President-elect, and their immediate families. Since the institution of our campaign-related protective responsibilities following the assassination of Robert Kennedy during the 1968 campaign, the extent of this coverage has increased dramatically. Unfortunately, the growth of our responsibilities has not been matched with a corresponding development in the statutory prohibitions necessary to support our goals. We must, as a result, now deal with a myriad of local statutes, such as threatening the life of a person, terrorist threats, extortion, etc., which may or may not be applicable. We frequently are compelled to search for a state statute which most nearly fits the threat situation. Even when a state has adequate usable laws in this area, such laws may require that a local police officer be present before the statute can be applied. These situations make our job more difficult since we are dealing with extremely time-sensitive matters. Threats against political candidates may constitute a civil rights violation. This statute, however, requires written certification by the Attorney General or the Deputy Attorney General that it is being used in public interest before it can be invoked. This is often a time-consuming process and it also does not lend itself to the vast majority of the situations which we face.

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I feel strongly about the need for this legislation.

As long as the Secret Service is required by law to protect various categories of individuals, we need such a statute. It has been determined that these persons are public figures requiring this protection because of the impact which harm to them could cause to the United States. We feel that a corresponding criminal statute is essential to facilitate these protective efforts.

This legislation, if enacted, may act as a deterrent to those who would make such threats. It would enhance our ability to neutralize individuals intending harm to protectees through the use of the Federal criminal justice process.

The Secret Service will gladly provide any materials which your subcommittee feels will assist in your deliberation. I would like to take this opportunity to thank the subcommittee for their interest and support in this matter.

Mr. HALL. Thank you, Mr. Walker and Mr. Simpson.

There are one or two questions I would like to ask. Mr. Simpson, you state in your statement that, "Currently the Secret Service affords protection to 19 'permanent' protectees. Of this group, there are specific Federal criminal statutes prohibiting threats against only the President and the Vice President."

Did I understand you to say that under the existing law threats against the President and the Vice President are the only persons covered by existing law?

Mr. SIMPSON. Current law prohibits threats against the President, the Vice President or the officer next in the order of succession to the Office of the President, the President-elect, and the Vice President-elect.

Mr. HALL. Well, if there is a threat made, under existing law, against a wife of a President or a Vice President, is that covered under existing law?

Mr. SIMPSON. No, sir.

Mr. HALL. Would it be covered under H.R. 6168?

Mr. SIMPSON. Yes, sir, it would be.

Mr. HALL. Now, on page 2 you talk about the time-consuming process of getting written certification by the Attorney General or the Deputy Attorney General to investigate, I presume, possible civil rights violations?

Mr. SIMPSON. Yes, sir.

Mr. HALL. Would the passage of H.R. 6168 make it unnecessary to go through that route?

Mr. SIMPSON. Yes, sir, it would.

Mr. HALL. I am asking these questions with reference to a statement you made on page 3, that "the Service does investigate cases of individuals or groups who threaten or otherwise express an unusual interest in any of its protectees." That is a very broad statement.

Could you not have someone who may or may not express an interest, not so much as a threat? Where would you draw the line here? I don't want to see us become a police state in which someone who may, "show an unusual interest" in one of your protectees is brought under the surveillance of the Secret Service or FBI or some other agency. Where do you draw the line on what amounts of "unusual interest" in one of your protectees?

Mr. SIMPSON. It depends upon what the unusual interest is, Mr. Chairman.

What we are talking about basically are those individuals whose activities would indicate that they might intend bodily harm to our protectees or that they would actually attempt to carry out a

threat that they have indicated either by letter, telephone call, or any other means of communication. We would not surveil every person who shows an unusual interest. We evaluate individuals and if they show no interest in the sense of any kind of violence intended towards a protectee, we would not have any ongoing interest with that particular person.

Mr. HALL. Would this bill cover a person only after an overt threat had been expressed?

Mr. SIMPSON. Yes, sir. That is the only time when we really know that a threat is made. Unfortunately, we don't have the ability to get inside a person's psyche to find out when they intend any violence toward our protectees.

Mr. HALL. Don't you have the authority at the present time, if the President goes into an area—and I'm thinking particularly now of Dallas in 1963—does not the Secret Service have the authority presently to either detain or in some way keep known criminals or persons who may or may not have made an overt or an implied threat to a President away from that particular person as they journey through a city?

Mr. SIMPSON. In 1963 we didn't have that particular authority.

Mr. HALL. Do you now?

Mr. SIMPSON. In a general sense we have it for the President and Vice President under section 1752 of title 18, however, that involves the total exclusion of the general public. We also could surveil an individual who has either indicated presently or in the past that he intends to do some type of harm to a protectee.

Mr. HALL. Mr. Walker, if this legislation is enacted, I believe you stated it would provide for the first time to respond directly to threats against Presidential candidates, former Presidents of the United States, and various other individuals determined by Congress to be the appropriate subjects of protection.

Mr. WALKER. That's correct.

Mr. HALL. Would this still cover the wives of ex-Presidents, children under 16 years of age, widows who have remained unmarried? What would it add that you don't have now with reference to those people?

Mr. WALKER. It would provide a legislative basis for investigation and prosecution of persons who threatened these people who are not covered under the present section 871, which is the Presidential threat statute. It specifically would cover the spouse—well, a former President of the United States, a spouse, widow or minor child of a former President, a major candidate or the spouse of a major candidate, or the office of the President or Vice President, a member of the immediate family of the President, the President-elect, the Vice President, the Vice President-elect, or a former Vice President who is still receiving Secret Service protection.

So there are quite a few people that would be covered under this who are currently under the protection of the Secret Service but are not protected in the sense of having a specific Federal threat statute applicable to them.

Mr. HALL. Is it a fair statement to say H.R. 6168 will provide a threat statute in addition to all of the protective provisions that you now have?

Mr. WALKER. That's correct.

Mr. HALL. It just adds the threat?

Mr. WALKER. That is correct. What it does essentially is it makes applicable to all of these other individuals the same kind of legislative threat statute that is presently applicable to the President, Vice President, President-elect and Vice President-elect. It just carries on the same logic that applies and section 871 is carried forward in this statute to the other individuals.

Mr. HALL. Presently, protection is extended to all of the surviving widows of Presidents?

Mr. WALKER. That is correct.

Mr. HALL. Suppose today, before the enactment of 6168, or whenever it may occur, a threat is made against, say, Mrs. Truman. You have people there in that area guarding, or whatever you do, threats against that person. What, if anything, would you do presently with a person who had exercised that threat?

Mr. WALKER. The Service would probably, before going into the particular area—in this case we're really talking about Missouri—would be aware of whatever the State statute is. But we run the risk that the State statute which that legislature enacted at some point in the past wasn't designed for this particular kind of situation. But we would look currently at the State law to see whether there was some kind of a basis for acting against the individual, and then we would have to coordinate our activities with the local and State authorities.

The trouble is, of course, that we're dealing with 50 different States here.

Mr. HALL. Well, there are very few states that do not have a threat statute.

Mr. WALKER. That's true, but it is time-consuming and it is difficult. Of course, if you have a Presidential candidate that is moving from State to State, you are putting quite a burden on the Secret Service to get up on and keep current on what the laws are in every State that the candidate moves through. So this would alleviate that problem.

Mr. SIMPSON. This would be a much cleaner situation for us, Mr. Chairman. It articulates, without any kind of cloudiness, what type of conduct is prohibited.

In some States the law is a bit muddy in the sense that a statute might require the presence of a local police officer in order to make this type of arrest, and you might not have that kind of time. So this particular legislation would clear away this type of difficulty and would create a uniform defense.

Mr. WALKER. There are a limited number of States that have accorded peace officer status to the Secret Service for purposes of administering State law. Many States, most States, do not accord the Secret Service that status.

Mr. HALL. All right. Thank you. Mr. Mazzoli, the gentleman from Kentucky is recognized.

Mr. MAZZOLI. I have no questions, Mr. Chairman.

Mr. HALL. Mr. McClory. The gentleman from Illinois is recognized.

Mr. McCLORY. Thank you, Mr. Chairman.

First of all, Mr. Chairman, I want to welcome you as the new chairman of this subcommittee and I look forward to us working

very productively on the subcommittee on important legislative assignments, including some of the measures that are here before us this morning.

I think it is all well and good that we should expand the authority and the role of the Secret Service, but particularly there is a need to expand their role with regard to Presidential and Vice Presidential candidates and to enlarge their responsibility with regard to threats, threats of kidnapping and other types of apparent endangerment of the lives and safety of the President and others that are included in the various categories.

In expanding the authority and responsibility, it also seems to me it must mean we expand the size and the personnel of the Secret Service in order to take on this kind of an added role. Is that not correct, and if it is correct, is there adequate in the budget to take care of the Secret Service expansion that would necessarily follow?

Mr. SIMPSON. Mr. McClory, the legislation that we are addressing would not require any expansion of the Secret Service. The Service is already charged with the responsibility of protecting these individuals. What this legislation would do would be to provide a statutory basis, for prosecuting threats of this nature. The responsibility for conducting such investigations already exists.

Mr. McCLORY. Have you documented the threats so that we know what kind of numbers we are talking about?

Mr. SIMPSON. I can give you the numbers for 1980, Mr. McClory. For instance, during the campaign of 1980, 40 percent of the threats were against those individuals who were campaigning either for the Presidency or the Vice Presidency. There were approximately 1,316 threats—and by a threat, I mean where they said they would kill the particular individual or cause him or her bodily harm—

Mr. McCLORY. Could I just interrupt for a minute?

Are these threats by telephone or by letter, or verbal, overheard threats?

Mr. SIMPSON. It could be all of the above, sir. It could be verbal, telephone, or by letter.

Mr. McCLORY. Actually, are the threats of kidnaping—I think we are adding the category of kidnaping.

Mr. SIMPSON. With the present tenor of the times, I think that we would be remiss if we did not ask to have that included.

Mr. McCLORY. A part of the reorganization proposed by the administration includes assigning the investigation of firearms violations, that the responsibility of the Bureau of Alcohol, Tobacco and Firearms is assigned to the Secret Service. I am told that when the Secret Service is not busy during a political campaign, or not as busy, that it would release Secret Service personnel to review the firearms violations, and then at the same time during a political campaign, for instance, we would have increased numbers of Secret Service personnel to protect the President and Vice President and other political candidates.

Would you have a comment on that?

Mr. WALKER. I think what you have said is certainly accurate as being among the many good law enforcement benefits that we think would flow from a combination of the firearms, arson and ex-

plosives functions, personnel and resources of ATF with the present jurisdiction, functions, and personnel of the Secret Service.

Mr. McCLORY. I am not one of the beloved objects of the NRA, but has the NRA come around to support that change?

Mr. WALKER. I think it is fair to say at this stage that they are deliberating it, and we are discussing it with them.

Mr. McCLORY. Thank you, Mr. Chairman.

Mr. MAZZOLI. Mr. Chairman.

Mr. HALL. Mr. Mazzoli.

Mr. MAZZOLI. Thank you very much.

Just very quickly—I was on the phone, and I am not sure if the question has been asked, and if so, I apologize—but were you asked why you still feel it is necessary to protect, say, Bess Truman?

Mr. WALKER. I don't think there is any discretion on the part of the Secret Service on that score. That is mandated by statute at the present time.

Mr. MAZZOLI. Have you ever had occasion to say whether you think it ought to be continued or whether it ought to be deleted?

Mr. SIMPSON. There is presently legislation pending, Mr. Mazzoli, on that very issue. I believe it was introduced in the early part of this session.

Mr. MAZZOLI. As to widows?

Mr. SIMPSON. Yes, sir.

Mr. WALKER. Yes. It would provide for protection of widows for only a 6-month period after the death of the former President. But it would not apply to the presently protected widows nor would it apply to the wife of the President of the United States. In other words, there would be a "grandmother" provision in there.

Mr. MAZZOLI. In just quickly looking over this, I guess if we ever have a woman President we have to revise the law, because it says something about just a male President and a widow, rather than a widower. So I guess we would probably have to think about de-sexing this law.

One last question, Mr. Chairman. You are the Secret Service and yet you're not secret in a sense—I mean, is your membership known? Are you like the CIA and other groups that actually are not listed in certain governmental reports? And if you are listed, then why do you call yourselves the Secret Service?

Mr. SIMPSON. That came about in 1865, when they founded the Secret Service. It developed from the fact that in the early years of the organization, the utilization of our employees in an undercover capacity was quite common.

Mr. MAZZOLI. Thank you very much, Mr. Chairman.

Mr. HALL. Mr. Moorhead, do you have any questions you would like to ask on these matters?

Mr. MOORHEAD. Not right now, thank you, Mr. Chairman.

Mr. HALL. One thought came to my mind during Mr. Walker's testimony. Under this 6168, it would be threats against the Presidential candidates, former Presidents of the United States, and various other individuals as determined by Congress.

Is that a good provision, leaving it up to the Congress to make a determination as to who should or should not be under this threat statute?

Mr. WALKER. Mr. Chairman, the actual language of the proposed statute spells out the people who would be protected. In my statement I was just referring to the fact that Congress has designated in the applicable section—I think it's 3056—the various people who are protected. That was just a shorthand way in the statement of referring to those people.

But the people are spelled out in great detail in section 3056, which authorizes the protection, and this would also track that language by specifying in detail who these people are.

Initially, of course, the protection only applied to certain limited people, the President and Vice President and so forth; and recently it has been expanded to cover others including candidates and members of the Vice President's family. That is all spelled out in the statute.

Mr. HALL. Do you know of any group or persons who are opposed to this legislation?

Mr. WALKER. I do not.

Mr. HALL. It has the approval of all of the people downtown?

Mr. WALKER. Yes.

Mr. SIMPSON. Yes, sir. I know of no one who has any opposition to it.

Mr. HALL. Thank you very much.

Mr. Moorhead.

Mr. MOORHEAD. What criteria do you use to distinguish political hyperbole from what would be a material threat? You know, in campaigns you get all kinds of aggressive—

Mr. SIMPSON. Usually, Mr. Congressman, when the indication is they intend to cause any type of physical or bodily harm to the individual, or that they would commit some heinous act on the person, then that would raise our awareness to the point where we think, whether it is couched in political hyperbole or whatever, that the individual might intend to do something of a dramatic nature to whomever and we feel as though we have to act upon that.

Mr. MOORHEAD. Does this legislation in any way preempt State law that is already in place?

Mr. WALKER. No, it does not preempt State law, but it would deal with a specific situation where a threat is made against one of these individuals. We are not saying that would not be covered under State law. Indeed, some of the threat provisions in State law would cover the same conduct here. But the problem is, as far as the Secret Service is concerned in investigating and prosecuting these cases, it is undesirable to have the Secret Service have to depend upon the vagaries of State law in different States.

For instance, if a candidate is traveling through eight different States on a particular campaign swing and threats are made, it is cumbersome and very burdensome on the Secret Service to (a) have to find out whether there is a provision in the State law that would apply, and (b) find out whether they are authorized to act under State law, whether they are designated peace officers or not under State law, and finally, (c) whether or not the provision may be ambiguous and it may not have been designed for this particular situation.

So when you take 50 States into account, we think it is better for us to have a Federal statute to cover this particular kind of situation.

Mr. MOORHEAD. Is there any other Federal law the legislation would overlap with?

Mr. WALKER. No. It really fills in a gap that exists in Federal law at the present time. Section 871 does provide for—does make it a crime to threaten the President, the Vice President, the President-elect and the Vice President-elect and successors to the Presidency, and section 878 of title 18 makes it a crime to threaten foreign dignitaries and foreign-protected individuals. But there is no current provision which makes it a crime to threaten other Secret Service protectees other than the ones I just mentioned, which includes the families and former Presidents and their spouses.

Mr. MOORHEAD. Is it your interpretation of this legislation that it gives you the right of physical surveillance or electronic surveillance other than what you already have?

Mr. WALKER. No, it does not do that. It doesn't expand any powers in that regard.

Mr. MOORHEAD. Thank you, Mr. Chairman.

Mr. HALL. Gentlemen, thank you for your testimony. This is a very interesting question, and we appreciate your being here.

Mr. WALKER. Thank you, Mr. Chairman.

Mr. SIMPSON. Thank you.

[Whereupon, at 10 a.m., the subcommittee proceeded to other business.]





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