



THE ROCKEFELLER UNIVERSITY

1230 YORK AVENUE

NEW YORK, NY 10021

JOSHUA LEDERBERG

August 10, 1989

PRESIDENT

Senator Herb Kohl
United States Senate
Committee on the Judiciary
Washington, D.C. 20510-6275

Dear Senator Kohl:

Thank you for inviting me to comment on Senate Bill 993. I am sorry that I was out of the country until just a few days ago but I will take this opportunity to make a few observations now.

I believe it would be very desirable to enact legislation that would implement the BW convention. I support that very strongly. There are nevertheless complications and difficulties in translating treaty obligations, which apply among sovereign states, to governing the acts of individuals. There are also severe definitional problems that I know will get your very careful attention. The term "weapons of mass destruction" appears in the preamble to the BW Convention but not in its text: as it has not been well defined I do not think it belongs in the legislation.

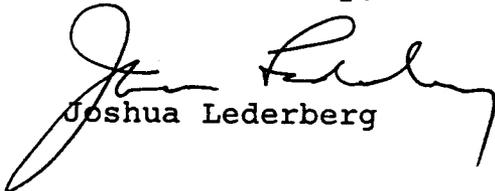
I have a radical suggestion to cover what we are looking for with respect to sanctions on individual behavior: Make it a federal crime for an individual to release or threaten to release an infectious biological agent with the intention of assault: of doing harm to any individual or individuals, to assist others to do the same, or to conspire to perpetrate such acts. Besides its relationship to the BWC, such crimes are a matter of federal interest because they go beyond other forms of personal assault and homicide by endangering the community at large. While this may seem to be at a different vector than your bill - S. 993, I believe that it would actually encompass all of the

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realistic cases that could be envisaged, including individual homicide, terrorism, and military acts in violation of the BWC. Terrorist acts could after all be directed at individuals or small numbers of individuals, not necessarily acts of "mass destruction". There are many other loose ends in the Convention but I urge you not to try to address them in legislation: they are already troublesome in international discussion, like the definition of "toxins". These are better coordinated with chemical weapons and their control.

As to the seizure and destruction of dangerous material, that ought to be embraced under existing law as (a) material evidence (b) environmental safety and (c) interstate transport and export of dangerous material.

Yours sincerely,



Joshua Lederberg