Exhibit 3

H.R. REP. 107-236(I), H.R. REP. 107-236, H.R. Rep. No. 236(I),
107TH Cong., 1ST Sess. 2001, 2001 WL 1205861 (Leg.Hist.)
P.L. 107-56, ***1** PROVIDE APPROPRIATE TOOLS REQUIRED TO
INTERCEPT AND OBSTRUCT TERRORISM (PATRIOT) ACT OF 2001

HOUSE REPORT NO. 107–236(I)

October 11, 2001

Mr. Sensenbrenner, from the Committee on the Judiciary,submitted the following

REPORT

[To accompany H.R. 2975]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2975) to combat terrorism, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

***2** The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001”.

SEC. 2. TABLE OF CONTENTS.

The following is the table of contents for this Act:

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

TITLE I–INTELLIGENCE GATHERING

Subtitle A–Electronic Surveillance

SEC. 101. MODIFICATION OF AUTHORITIES RELATING TO USE OF PEN REGISTERS AND TRAP AND TRACE DEVICES.

(a) General Limitation on Use by Governmental Agencies.–Section 3121(c) of title 18, United States Code, is amended–

(1) by inserting “or trap and trace device” after “pen register”;

(2) by inserting “, routing, addressing,” after “dialing”; and

(3) by striking “call processing” and inserting “the processing and transmitting of wire and electronic communications”.

(b) Issuance of Orders.–

(1) In general.–Subsection (a) of section 3123 of title 18, United States Code, is amended to read as follows:

“(a) In General.–

“(1) Upon an application made under section 3122(a)(1), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device anywhere within the United States, if the court finds that the attorney for the Government has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. The order shall, upon service thereof, apply to any person or entity providing wire or

electronic communication service in the United States whose assistance may facilitate the execution of the order. Whenever such an order is served on any person or entity not specifically named in ***4** the order, upon request of such person or entity, the attorney for the Government or law enforcement or investigative officer that is serving the order shall provide written or electronic certification that the assistance of the person or entity being served is related to the order.

"(2) Upon an application made under section 3122(a)(2), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device within the jurisdiction of the court, if the court finds that the State law-enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.".

(2) Contents of order.–Subsection (b)(1) of section 3123 of title 18, United States Code, is amended–

(A) in subparagraph (A)–

(i) by inserting "or other facility" after "telephone line"; and
(ii) by inserting before the semicolon at the end "or applied"; and
(B) by striking subparagraph (C) and inserting the following:

"(C) the attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied, and, in the case of an order authorizing installation and use of a trap and trace device under subsection (a)(2), the geographic limits of the order; and".

(3) Nondisclosure requirements.–Subsection (d)(2) of section 3123 of title 18, United States Code, is amended–

(A) by inserting "or other facility" after "the line"; and

(B) by striking ", or who has been ordered by the court" and inserting "or applied, or who is obligated by the order".

(c) Definitions.–

(1) Court of competent jurisdiction.–Paragraph (2) of section 3127 of title 18, United States Code, is amended by striking subparagraph (A) and inserting the following:

"(A) any district court of the United States (including a magistrate judge of such a court), or any United States court of appeals, having jurisdiction over the offense being investigated; or".

(2) Pen register.–Paragraph (3) of section 3127 of title 18, United States Code, is amended–

(A) by striking "electronic or other impulses" and all that follows through "is attached" and inserting "dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted (but not including the contents of such communication)"; and

(B) by inserting "or process" after "device" each place it appears.

(3) Trap and trace device.–Paragraph (4) of section 3127 of title 18, United States Code, is amended–

(A) by inserting "or process" after "a device"; and

(B) by striking "of an instrument" and all that follows through the end and inserting "or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication (but not including the contents of such communication);".

(4) Conforming amendment.–Section 3127(1) of title 18, United States Code, is amended–

(A) by striking "and"; and

(B) by inserting ", and 'contents"' after "'electronic communication service"'.

(d) No Liability for Internet Service Providers.–Section 3124(d) of title 18, United States Code, is amended by striking "the terms of".

SEC. 102. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT TO WARRANTS.

Title 18, United States Code, is amended–

(1) in section 2510–

(A) in paragraph (1), by striking all the words after "commerce"; and

(B) in paragraph (14), by inserting "wire or" after "transmission of"; and

(2) in section 2703–

(A) in the headings for subsections (a) and (b), by striking "Contents of electronic" and inserting "Contents of wire or electronic";

(B) in subsection (a), by striking "contents of an electronic" and inserting "contents of a wire or electronic" each place it appears; and

***5** (C) in subsection (b), by striking "any electronic" and inserting " any wire or electronic" each place it appears.

SEC. 103. AUTHORIZED DISCLOSURE.

Section 2510(7) of title 18, United States Code, is amended by inserting ", and (for purposes only of section 2517 as it relates to foreign intelligence information as that term is defined in section 101(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(e))) any Federal law enforcement, intelligence, national security, national defense, protective, immigration personnel, or the President or Vice President of the United States" after "such offenses".

SEC. 104. SAVINGS PROVISION.

Section 2511(2)(f) of title 18, United States Code, is amended–

(1) by striking "or chapter 121" and inserting ", chapter 121, or chapter 206"; and

(2) by striking "wire and oral" and inserting "wire, oral, and electronic".

SEC. 105. INTERCEPTION OF COMPUTER TRESPASSER COMMUNICATIONS.

Chapter 119 of title 18, United States Code, is amended–

(1) in section 2510–

(A) in paragraph (17), by striking “and” at the end;

(B) in paragraph (18), by striking the period and inserting a semi-colon; and

(C) by adding after paragraph (18) the following:

“(19) ‘protected computer’ has the meaning set forth in section 1030; and

“(20) ‘computer trespasser’ means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer.”;

(2) in section 2511(2), by inserting after paragraph (h) the following:

“(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser, if–

“(i) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

“(ii) the person acting under color of law is lawfully engaged in an investigation;

“(iii) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

“(iv) such interception does not acquire communications other than those transmitted to or from the computer trespasser.”; and

(3) in section 2520(d)(3), by inserting “or 2511(2)(i)” after “2511(3)”.

SEC. 106. TECHNICAL AMENDMENT.

Section 2518(3)(c) of title 18, United States Code, is amended by inserting “and” after the semicolon.

SEC. 107. SCOPE OF SUBPOENAS FOR RECORDS OF ELECTRONIC COMMUNICATIONS.

Section 2703(c)(1)(C) of title 18, United States Code, is amended–

(1) by striking “entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a” and inserting the following:

“entity the–

"(i) name;

"(ii) address;

"(iii) local and long distance telephone connection records, or records of session times and durations;

"(iv) length of service (including start date) and types of service utilized;

"(v) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

"(vi) means and source of payment (including any credit card or bank account number);

of a"; and

(2) by striking "and the types of services the subscriber or customer utilized," after "of a subscriber to or customer of such service".

SEC. 108. NATIONWIDE SERVICE OF SEARCH WARRANTS FOR ELECTRONIC EVIDENCE.

Chapter 121 of title 18, United States Code, is amended–

(1) in section 2703, by striking "under the ***6** Federal Rules of Criminal Procedure" each place it appears and inserting "using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation"; and

(2) in section 2711–

(A) in paragraph (1), by striking "and";

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(3) the term 'court of competent jurisdiction' has the meaning given that term in section 3127, and includes any Federal court within that definition, without geographic limitation.".

SEC. 109. CLARIFICATION OF SCOPE.

Section 2511(2) of title 18, United States Code, as amended by section 105(2) of this Act, is further amended by adding at the end the following:

"(j) With respect to a voluntary or obligatory disclosure of information (other than information revealing customer cable viewing activity) under this chapter, chapter 121, or chapter 206, subsections (c)(2)(B) and (h) of section 631 of the Communications Act of 1934 do not apply.".

SEC. 110. EMERGENCY DISCLOSURE OF ELECTRONIC COMMUNICATIONS TO PROTECT LIFE AND LIMB.

(a) Section 2702 of title 18, United States Code, is amended–

(1) by amending the heading to read as follows:

"S 2702. Voluntary disclosure of customer communications or records" ;

(2) in subsection (a)(2)(B) by striking the period and inserting "; and";

(3) in subsection (a), by inserting after paragraph (2) the following:

"(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.";

(4) in subsection (b), by striking "Exceptions.–A person or entity" and inserting "Exceptions for Disclosure of Communications.–A provider described in subsection (a)";

(5) in subsection (b)(6)–

(A) in subparagraph (A)(ii), by striking "or";

(B) in subparagraph (B), by striking the period and inserting "; or";

(C) by inserting after subparagraph (B) the following:

"(C) if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay."; and

(6) by inserting after subsection (b) the following:

"(c) Exceptions for Disclosure of Customer Records.–A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))–

"(1) as otherwise authorized in section 2703;

"(2) with the lawful consent of the customer or subscriber;

"(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

"(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

"(5) to any person other than a governmental entity.".

(b) Section 2703 of title 18, United States Code, is amended–

(1) so that the section heading reads as follows:

"S 2703. Required disclosure of customer communications or records";

(2) in subsection (c)(1)–

(A) in subparagraph (A), by striking "Except" and all that follows through "only when" in subparagraph (B) and inserting "A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications) only when";

(B) by striking "or" at the end of clause (iii) of subparagraph (B);

(C) by striking the period at the end of clause (iv) of subparagraph (B) and inserting "; or";

(D) by inserting after clause (iv) of subparagraph (B) the following:

"(v) seeks information pursuant to subparagraph (B).";

***7** (E) in subparagraph (C), by striking "(B)" and inserting "(A)"; and

(F) by redesignating subparagraph (C) as subparagraph (B); and

(3) in subsection (e), by striking "or certification" and inserting "certification, or statutory authorization".

(c) The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended so that the items relating to sections 2702 through 2703 read as follows:

"2702. Voluntary disclosure of customer communications or records.

"2703. Required disclosure of customer communications or records.".

(a) In General.–Section 2515 of title 18, United States Code, is amended–

(1) by striking "wire or oral" in the heading and inserting "wire, oral, or electronic";

(2) by striking "Whenever any wire or oral communication has been intercepted" and inserting "(a) Except as provided in subsection (b), whenever any wire, oral, or electronic communication has been intercepted, or any electronic communication in electronic storage has been disclosed";

(3) by inserting "or chapter 121" after "this chapter"; and

(4) by adding at the end the following:

"(b) Subsection (a) does not apply to the disclosure, before a grand jury or in a criminal trial, hearing, or other criminal proceeding, of the contents of a communication, or evidence derived therefrom, against a person alleged to have intercepted, used, or disclosed the communication in violation of this chapter, or chapter 121, or participated in such violation.".

(b) Section 2517.–Paragraphs (1) and (2) of section 2517 are each amended by inserting "or under the circumstances described in section 2515(b)" after "by this chapter".

(c) Section 2518.–Section 2518 of title 18, United States Code, is amended–

(1) in subsection (7), by striking "subsection (d)" and inserting "subsection (8)(d)"; and

(2) in subsection (10)–

(A) in paragraph (a)–

(i) by striking "or oral" each place it appears and inserting ", oral, or electronic";
(ii) by striking the period at the end of clause (iii) and inserting a semicolon; and
(iii) by inserting "except that no suppression may be ordered under the circumstances described in section 2515(b)." before "Such motion"; and
(B) by striking paragraph (c).

(d) Clerical Amendment.–The item relating to section 2515 in the table of sections at the beginning of chapter 119 of title 18, United States Code, is amended to read as follows:

"2515. Prohibition of use as evidence of intercepted wire, oral, or electronic communications.".

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

"(g) Reports Concerning the Disclosure of the Contents of Electronic Communications.–

"(1) By January 31 of each calendar year, the judge issuing or denying an order, warrant, or subpoena, or the authority issuing or denying a subpoena, under subsection (a) or (b) of this section during the preceding calendar year shall report on each such order, warrant, or subpoena to the Administrative Office of the United States Courts–

"(A) the fact that the order, warrant, or subpoena was applied for;

"(B) the kind of order, warrant, or subpoena applied for;

"(C) the fact that the order, warrant, or subpoena was granted as applied for, was modified, or was denied;

"(D) the offense specified in the order, warrant, subpoena, or application;

"(E) the identity of the agency making the application; and

"(F) the nature of the facilities from which or the place where the contents of electronic communications were to be disclosed.

"(2) In January of each year the Attorney General or an Assistant Attorney General specially designated by the Attorney General shall report to the Administrative Office of the United States Courts–

***8** "(A) the information required by subparagraphs (A) through (F) of paragraph (1) of this subsection with respect to each application for an order, warrant, or subpoena made during the preceding calendar year; and

"(B) a general description of the disclosures made under each such order, warrant, or subpoena, including–

"(i) the approximate number of all communications disclosed and, of those, the approximate number of incriminating communications disclosed;

"(ii) the approximate number of other communications disclosed; and

"(iii) the approximate number of persons whose communications were disclosed.

"(3) In June of each year, beginning in 2003, the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders, warrants, or subpoenas authorizing or requiring the disclosure of the contents of electronic communications pursuant to subsections (a) and (b) of this section and the number of orders, warrants, or subpoenas granted or denied pursuant to subsections (a) and (b) of this section during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by paragraphs (1) and (2) of this subsection. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by paragraphs (1) and (2) of this subsection.".

Subtitle B–Foreign Intelligence Surveillance and Other Information

SEC. 151. PERIOD OF ORDERS OF ELECTRONIC SURVEILLANCE OF NON-UNITED STATES PERSONS UNDER FOREIGN INTELLIGENCE SURVEILLANCE.

(a) Including Agents of a Foreign Power.–(1) Section 105(e)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)(1)) is amended by inserting "or an agent of a foreign power, as defined in section 101(b)(1)(A)," after "or (3),".

(2) Section 304(d)(1) of such Act (50 U.S.C. 1824(d)(1)) is amended by inserting "or an agent of a foreign power, as defined in section 101(b)(1)(A)," after "101(a),".

(b) Period of Order.–Such section 304(d)(1) is further amended by striking "forty-five" and inserting "90".

SEC. 152. MULTI-POINT AUTHORITY.

Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended by inserting ", or, in circumstances where the Court finds that the actions of the target of the electronic surveillance may have the effect of thwarting the identification of a specified person, such other persons," after "specified person".

SEC. 153. FOREIGN INTELLIGENCE INFORMATION.

Sections 104(a)(7)(B) and 303(a)(7)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804(a)(7)(B), 1823(a)(7)(B)) are each amended by striking "that the" and inserting "that a significant".

SEC. 154. FOREIGN INTELLIGENCE INFORMATION SHARING.

It shall be lawful for foreign intelligence information (as that term is defined in section 101(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(e)) obtained as part of a criminal investigation (including information obtained pursuant to chapter 119 of title 18, United States Code) to be provided to any Federal law-enforcement-, intelligence-, protective-, national-defense, or immigration personnel, or the President or the Vice President of the United States, for the performance of official duties.

SEC. 155. PEN REGISTER AND TRAP AND TRACE AUTHORITY.

Section 402(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(c)) is amended–

(1) in paragraph (1), by adding "and" at the end;

(2) in paragraph (2)–

(A) by inserting "from the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device" after "obtained"; and

***9** (B) by striking "; and" and inserting a period; and

(3) by striking paragraph (3).

SEC. 156. BUSINESS RECORDS.

(a) In General.–Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended to read as follows:

"ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN
INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

"Sec. 501. (a) In any investigation to gather foreign intelligence information or an investigation concerning international terrorism, such investigation being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General may approve pursuant to Executive Order No. 12333 (or a successor order), the Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) that are relevant to the investigation.

"(b) Each application under this section–

"(1) shall be made to–

"(A) a judge of the court established by section 103(a) of this Act; or

"(B) a United States magistrate judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

"(2) shall specify that the records concerned are sought for an investigation described in subsection (a).

"(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested requiring the production the tangible things sought if the judge finds that the application satisfies the requirements of this section.

"(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

"(d) A person who, in good faith, produces tangible things under an order issued pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.".

(b) Conforming Amendments.–(1) Section 502 of such Act (50 U.S.C. 1862) is repealed.

(2) Section 503 of such Act (50 U.S.C. 1863) is redesignated as section 502.

(c) Clerical Amendment.–The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking the items relating to title V and inserting the following:

"TITLE V–ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

"Sec. 501. Access to certain business records for foreign intelligence and international terrorism investigations.

"Sec. 502. Congressional oversight.".

(a) Section 2709(b) of title 18, United States Code, is amended–

(1) in paragraph (1)–

(A) by inserting ", or electronic communication transactional records" after "toll billing records"; and

(B) by striking "made that" and all that follows through the end of such paragraph and inserting "made that the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and"; and

(2) in paragraph (2), by striking "made that" and all that follows through the end of such paragraph and inserting "made that the information sought is relevant to an authorized foreign counterintelligence investigation.".

(b) Section 624 of the Fair Credit Reporting Act (Public Law 90–321; 15 U.S.C. 1681u), as added by section 601(a) of the Intelligence Authorization Act for Fiscal Year 1996 (P.L. 104993; 110 Stat. 974), is amended–

(1) in subsection (a), by striking "writing that" and all that follows through the end and inserting "writing that such information is necessary for the conduct of an authorized foreign counterintelligence investigation.";

(2) in subsection (b), by striking "writing that" and all that follows through the end and inserting "writing that such information is necessary for the conduct of an authorized foreign counterintelligence investigation."; and

***10** (3) in subsection (c), by striking "camera that" and all that follows through "States." and inserting "camera that the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation.".

SEC. 158. PROPOSED LEGISLATION.

Not later than August 31, 2003, the President shall propose legislation relating to the provisions set to expire by section 160 of this Act as the President may judge necessary and expedient.

SEC. 159. PRESIDENTIAL AUTHORITY.

Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) is amended in subsection (a)(1)–

(1) in subparagraph (A)–

(A) in clause (ii), by adding "or" after "thereof,"; and

(B) by striking clause (iii) and inserting the following:

"(iii) the importing or exporting of currency or securities,

by any person, or with respect to any property, subject to the jurisdiction of the United States;";

(2) by striking after subparagraph (B), "by any person, or with respect to any property, subject to the jurisdiction of the United States.";

(3) in subparagraph (B)–

(A) by inserting after "investigate" the following: ", block during the pendency of an investigation for a period of not more than 90 days (which may be extended by an additional 60 days if the President determines that such blocking is necessary to carry out the purposes of this Act)"; and

(B) by striking "interest;" and inserting "interest, by any person, or with respect to any property, subject to the jurisdiction of the United States; and"; and

(4) by adding at the end the following new subparagraph:

"(C) when a statute has been enacted authorizing the use of force by United States armed forces against a foreign country, foreign organization, or foreign national, or when the United States has been subject to an armed attack by a foreign country, foreign organization, or foreign national, confiscate any property, subject to the jurisdiction of the United States, of any foreign country, foreign organization, or foreign national against whom United States armed forces may be used pursuant to such statute or, in the case of an armed attack against the United States, that the President determines has planned, authorized, aided, or engaged in such attack; and

"(i) all right, title, and interest in any property so confiscated shall vest when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time,

"(ii) upon such terms and conditions as the President may prescribe, such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, except that the proceeds of any such liquidation or sale, or any cash assets, shall be segregated from other United States Government funds and shall be used only pursuant to a statute authorizing the expenditure of such proceeds or assets, and

"(iii) such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.".

SEC. 160. CLARIFICATION OF NO TECHNOLOGY MANDATES.

Nothing in this Act shall impose any additional technical obligation or requirement on a provider of wire or electronic communication service or other person to furnish facilities, services, or technical assistance.

SEC. 161. CIVIL LIABILITY FOR CERTAIN UNAUTHORIZED DISCLOSURES.

(a) Chapter 119.–Section 2520 of title 18, United States Code, is amended–

(1) by redesignating paragraph (2) of subsection (c) as paragraph (3);

(2) by inserting after paragraph (1) of subsection (c) the following:

"(2) In an action under this section by a citizen or legal permanent resident of the United States against the United States or any Federal investigative or law enforcement officer (or against any State investigative or law enforcement officer for disclosure or unlawful use of information obtained from Federal investigative or law enforcement officers), the court may assess as damages whichever is the greater of–

"(A) the sum of actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000."; and

(3) by adding at the end the following:

***11** "(f) Improper Disclosure Is Violation.–Any disclosure or use by an investigative or law enforcement officer of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2520(a).

"(g) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, he or she shall report his or her conclusions and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

"(h) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.".

(b) Chapter 121.–Section 2707 of title 18, United States Code, is amended–

(1) in subsection (c), by inserting "(1)" before "The court";

(2) by adding at the end of subsection (c) the following:

"(2) In an action under this section by a citizen or legal permanent resident of the United States against the United States or any Federal investigative or law enforcement officer (or against any State investigative or law enforcement officer for disclosure or unlawful use of information obtained from Federal investigative or law enforcement officers), the court may assess as damages whichever is the greater of–

"(A) the sum of actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(B) statutory damages of $10,000."; and

(3) by adding at the end the following:

"(f) Improper Disclosure Is Violation.–Any disclosure or use by an investigative or law enforcement officer of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2707(a).

"(g) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, he or she shall report his or her conclusions and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

"(h) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.".

(c) Chapter 206.–

(1) In general.–Chapter 206 of title 18, United States Code, is amended by adding at the end the following:

"S 3128. Civil action

"(a) Cause of Action.–Except as provided in subsections (d) and (e) of section 3124, any person aggrieved by any violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) Relief.–In any action under this section, appropriate relief includes–

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) Damages.–In any action under this section, the court may assess as damages whichever is the greater of–

"(1) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(2) statutory damages of $10,000.

***12** "(d) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

"(e) Improper Disclosure Is Violation.–Any disclosure or use by an investigative or law enforcement officer of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 3128(a).

"(f) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, he or she shall report his or her conclusions and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

"(g) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.".

(2) Clerical Amendment.–The table of sections at the beginning of chapter 206 of title 18, United States Code, is amended by adding at the end the following new item:

"3128. Civil action.".

(d) Foreign Intelligence Surveillance Act of 1978.–(1) Section 110 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1810) is amended–

(A) by inserting "(a)" before "Civil Action.–";

(B) by inserting "or entity" after "shall have a cause of action against any person";

(C) by striking "(a) actual" and inserting "(1) actual";

(D) by striking "(b) punitive" and inserting "(2) punitive";

(E) by striking "(c) reasonable" and inserting "(3) reasonable";

(F) by striking "$1,000" and inserting "$10,000"; and

(G) by adding at the end the following new subsections:

"(b) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

"(c) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or ***13** employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, the head shall report conclusions for the determination and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

"(d) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.".

(2) Section 308 of the the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1828) is amended–

(A) by inserting "(a) Civil Action.–" before "An aggrieved person,";

(B) by inserting "or entity" after "shall have a cause of action against any person";

(C) by striking "$1,000" and inserting "$10,000"; and

(D) by adding at the end the following new subsections:

"(b) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

"(c) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, the head shall report the conclusions for the determination and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

"(d) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.".

(3)(A) Title IV of the the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1841 et seq.) is amended by adding at the end the following new sections:

"PENALTIES

"Sec. 407. (a) Prohibited activities.–A person is guilty of an offense if the person intentionally–

"(1) installs or uses a pen register or trap and trace device under color of law except as authorized by statute; or

"(2) discloses or uses information obtained under color of law by using a pen register or trap and trace device, knowing or having reason to know that the information was obtained through using a pen register or trap and trace device not authorized by statute.

"(b) Defense.–It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the pen register or trap and trace device was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

"(c) Penalties.–An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

"(d) Federal Jurisdiction .–There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

"CIVIL LIABILITY

"Sec. 408. (a) Civil Action.–An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101(a) or (b)(1)(A), respectively, who has been subjected to a pen register or trap and trace device or about whom information obtained by a pen register or trap and trace device has been disclosed or used in violation of section 407 shall have a cause of action against any person or entity who committed such violation and shall be entitled to recover–

"(1) actual damages, but not less than liquidated damages of $10,000, whichever is greater;

"(2) punitive damages; and

"(3) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

"(b) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

"(c) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, the head shall report the conclusions for the determination and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

"(d) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.".

(B) The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by adding at the end of the items relating to title IV the following new items:

"Sec. 407. Penalties.

"Sec. 408. Civil liability.".

***14** This title and the amendments made by this title (other than sections 106 (relating to technical amendment), 109 (relating to clarification of scope), and 159 (relating to presidential authority)) and the amendments made by those sections shall take effect on the date of enactment of this Act and shall cease to have any effect on December 31, 2003.

TITLE II–ALIENS ENGAGING IN TERRORIST ACTIVITY

Subtitle A–Detention and Removal of Aliens Engaging in Terrorist Activity

SEC. 201. CHANGES IN CLASSES OF ALIENS WHO ARE INELIGIBLE FOR ADMISSION AND DEPORTABLE DUE TO TERRORIST ACTIVITY.

(a) Aliens Ineligible for Admission Due to Terrorist Activities.–Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended–

(1) in clause (i)–

(A) in subclauses (I), (II), and (III), by striking the comma at the end and inserting a semicolon;

(B) by amending subclause (IV) to read as follows:

"(IV) is a representative of–
"(a) a foreign terrorist organization, as designated by the Secretary of State under section 219; or
"(b) a political, social, or other similar group whose public endorsement of terrorist activity the Secretary of State has determined undermines the efforts of the United States to reduce or eliminate terrorist activities;";

(C) in subclause (V), by striking any comma at the end, by striking any "or" at the end, and by adding "; or" at the end; and

(D) by inserting after subclause (V) the following:

"(VI) has used the alien's prominence within a foreign state or the United States to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines the efforts of the United States to reduce or eliminate terrorist activities;";

(2) in clause (ii)–

(A) in the matter preceding subclause (I), by striking "(or which, if committed in the United States," and inserting "(or which, if it had been or were to be committed in the United States,"; and

(B) in subclause (V)(b), by striking "explosive or firearm" and inserting "explosive, firearm, or other object";

(3) by amending clause (iii) to read as follows:

"(iii) Engage in terrorist activity defined.–As used in this Act, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization–
"(I) to commit a terrorist activity;
"(II) to plan or prepare to commit a terrorist activity;
"(III) to gather information on potential targets for a terrorist activity;
"(IV) to solicit funds or other things of value for–
"(a) a terrorist activity;
"(b) an organization designated as a foreign terrorist organization under section 219; or
"(c) a terrorist organization described in clause (v)(II), but only if the solicitor knows, or reasonably should know, that the solicitation would further a terrorist activity;
"(V) to solicit any individual–
"(a) to engage in conduct otherwise described in this clause;
"(b) for membership in a terrorist government;
"(c) for membership in an organization designated as a foreign terrorist organization under section 219; or
***15** "(d) for membership in a terrorist organization described in clause (v)(II), but only if the solicitor knows, or reasonably should know, that the solicitation would further a terrorist activity; or
"(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, and radiological weapons), explosives, or training–
"(a) for the commission of a terrorist activity;
"(b) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;
"(c) to an organization designated as a foreign terrorist organization under section 219; or

"(d) to a terrorist organization described in clause (v)(II), but only if the actor knows, or reasonably should know, that the act would further a terrorist activity."; and

(4) by adding at the end the following:

"(v) Terrorist organization defined.–As used in this subparagraph, the term 'terrorist organization' means–

"(I) an organization designated as a foreign terrorist organization under section 219; or

"(II) with regard to a group that is not an organization described in subclause (I), a group of 2 or more individuals, whether organized or not, which engages in, or which has a significant subgroup which engages in, the activities described in subclause (I), (II), or (III) of clause (iii).

"(vi) Special rule for material support.–Clause (iii)(VI)(b) shall not be construed to include the affording of material support to an individual who committed or planned to commit a terrorist activity, if the alien establishes by clear and convincing evidence that such support was afforded only after such individual permanently and publicly renounced, rejected the use of, and had ceased to engage in, terrorist activity.".

(b) Aliens Ineligible for Admission Due to Endangerment.–Section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)) is amended by adding at the end the following:

"(F) Endangerment.–Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.".

(c) Aliens Deportable Due to Terrorist Activities.–Section 237(a)(4)(B) of the Immigration and Nationality (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

"(B) Terrorist activities.–Any alien is deportable who–

"(i) has engaged, is engaged, or at any time after admission engages in terrorist activity (as defined in section 212(a)(3)(B)(iii));

"(ii) is a representative (as defined in section 212(a)(3)(B)(iv)) of–

"(I) a foreign terrorist organization, as designated by the Secretary of State under section 219; or

"(II) a political, social, or other similar group whose public endorsement of terrorist activity–

"(a) is intended and likely to incite or produce imminent lawless action; and

"(b) has been determined by the Secretary of State to undermine the efforts of the United States to reduce or eliminate terrorist activities; or

"(iii) has used the alien's prominence within a foreign state or the United States–

"(I) to endorse, in a manner that is intended and likely to incite or produce imminent lawless action and that has been determined by the Secretary of State to undermine the efforts of the United States to reduce or eliminate terrorist activities, terrorist activity; or

***16** "(II) to persuade others, in a manner that is intended and likely to incite or produce imminent lawless action and that has been determined by the Secretary of State to undermine the efforts of the United States to reduce or eliminate terrorist activities, to support terrorist activity or a terrorist organization (as defined in section 212(a)(3)(B)(v)).".

(d) Retroactive Application of Amendments.–

(1) In general.–The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to–

(A) actions taken by an alien before such date, as well as actions taken on or after such date; and

(B) all aliens, without regard to the date of entry or attempted entry into the United States–

(i) in removal proceedings on or after such date (except for proceedings in which there has been a final administrative decision before such date); or

(ii) seeking admission to the United States on or after such date.

(2) Special rule for aliens in exclusion or deportation proceedings.–Notwithstanding any other provision of law, the amendments made by this section shall apply to all aliens in exclusion or deportation proceedings on or after the date of the enactment of this Act (except for proceedings in which there has been a final administrative decision before such date) as if such proceedings were removal proceedings.

(3) Special rule for section 219 organizations.–

(A) In general.–Notwithstanding paragraphs (1) and (2), no alien shall be considered inadmissible under section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)), or deportable under section 237(a)(4)(B) of such Act (8 U.S.C. 1227(a)(4)(B)), by reason of the amendments made by subsection (a), on the ground that the alien engaged in a terrorist activity described in subclause (IV)(b), (V)(c), or (VI)(c) of section 212(a)(3)(B)(iii) of such Act (as so amended) with respect to a group at any time when the group was not a foreign terrorist organization designated by the Secretary of State under section 219 of such Act (8 U.S.C. 1189).

(B) Construction.–Subparagraph (A) shall not be construed to prevent an alien from being considered inadmissible or deportable for having engaged in a terrorist activity–

(i) described in subclause (IV)(b), (V)(c), or (VI)(c) of section 212(a)(3)(B)(iii) of such Act (as so amended) with respect to a foreign terrorist organization at any time when such organization was designated by the Secretary of State under section 219 of such Act; or

(ii) described in subclause (IV)(c), (V)(d), or (VI)(d) of section 212(a)(3)(B)(iii) of such Act (as so amended) with respect to any group described in any of such subclauses.

SEC. 202. CHANGES IN DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS.

(a) Designation of Foreign Terrorist Organizations.–Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)) is amended–

(1) in paragraph (1)–

(A) in subparagraph (B), by striking "212(a)(3)(B));" and inserting "212(a)(3)(B)), engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the capability and intent to engage in terrorist activity or to engage in terrorism (as so defined);"; and

(B) in subparagraph (C), by inserting "or terrorism" after "activity";

(2) in paragraph (2)–

(A) by amending subparagraph (A) to read as follows:

"(A) Notice.–

"(i) In general.–Seven days before a designation is made under this subsection, the Secretary of State shall, by classified communication, notify the Speaker and minority leader of the House of Representatives, the President pro tempore, majority leader, and minority leader of the Senate, the members of the relevant committees, and the Secretary of the Treasury,

in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor.

"(ii) Publication of designation.–The Secretary of State shall publish the designation in the Federal Register seven days after providing the notification under clause (i).";

***17** (B) in subparagraph (B), by striking "(A)." and inserting "(A) (ii).''; and

(C) in subparagraph (C), by striking "paragraph (2)," and inserting "subparagraph (A)(i),";

(3) in paragraph (3)(B), by striking "subsection (c)." and inserting "subsection (b).';

(4) in paragraph (4)(B), by inserting after the first sentence the following: "The Secretary may also redesignate such organization at the end of any 2-year redesignation period (but not sooner than 60 days prior to the termination of such period) for an additional 2-year period upon a finding that the relevant circumstances described in paragraph (1) still exist. Any redesignation shall be effective immediately following the end of the prior 2-year designation or redesignation period unless a different effective date is provided in such redesignation.";

(5) in paragraph (6)–

(A) in subparagraph (A)–

(i) in the matter preceding clause (i), by inserting "or a redesignation made under paragraph (4)(B)" after "paragraph (1)";
(ii) in clause (i)–
(I) by inserting "or redesignation" after "designation" the first place it appears; and
(II) by striking "of the designation;" and inserting a semicolon; and
(iii) in clause (ii), by striking "of the designation." and inserting a period;
(B) in subparagraph (B), by striking "through (4)" and inserting "and (3)"; and

(C) by adding at the end the following:

"(C) Effective date.–Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.";

(6) in paragraph (7), by inserting ", or the revocation of a redesignation under paragraph (6)," after "(5) or (6)"; and

(7) in paragraph (8)–

(A) by striking "(1)(B)," and inserting "(2)(B), or if a redesignation under this subsection has become effective under paragraph (4)(B)";

(B) by inserting "or an alien in a removal proceeding" after "criminal action"; and

(C) by inserting "or redesignation" before "as a defense".

(b) Authority to Initiate Designations, Redesignations, and Revocations.–Section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), as amended by subsection (a), is further amended–

(1) by striking "Secretary" each place such term appears, excluding subparagraphs (A) and (C) of subsection (a)(2), and inserting "official specified under subsection (d)";

(2) in subsection (c)–

(A) in paragraph (2), by adding "and" at the end;

(B) in paragraph (3), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (4); and

(3) by adding at the end the following:

"(d) Implementation of Duties and Authorities.–

"(1) By secretary or attorney general.–Except as otherwise provided in this subsection, the duties under this section shall, and authorities under this section may, be exercised by–

"(A) the Secretary of State–

"(i) after consultation with the Secretary of the Treasury and with the concurrence of the Attorney General; or
"(ii) upon instruction by the President pursuant to paragraph (2); or
"(B) the Attorney General–

"(i) after consultation with the Secretary of the Treasury and with the concurrence of the Secretary of State; or
"(ii) upon instruction by the President pursuant to paragraph (2).
"(2) Concurrence.–The Secretary of State and the Attorney General shall each seek the other's concurrence in accordance with paragraph (1). In any case in which such concurrence is denied or withheld, the official seeking the concurrence shall so notify the President and shall request the President to make a determination as to how the issue shall be resolved. Such notification and request of the President may not be made before the earlier of–

***18** "(A) the date on which a denial of concurrence is received; or

"(B) the end of the 60-day period beginning on the date the concurrence was sought.

"(3) Exception.–It shall be the duty of the Secretary of State to carry out the procedural requirements of paragraphs (2)(A) and (6)(B) of subsection (a) in all cases, including cases in which a designation or revocation is initiated by the Attorney General.".

SEC. 203. MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW.

(a) In General.–The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 236 the following:

"MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

"Sec. 236A. (a) Detention of Terrorist Aliens.–

"(1) Custody.–The Attorney General shall take into custody any alien who is certified under paragraph (3).

"(2) Release.–Except as provided in paragraphs (5) and (6), the Attorney General shall maintain custody of such an alien until the alien is removed from the United States or found not to be inadmissible or deportable, as the case may be. Except as provided in paragraph (6), such custody shall be maintained irrespective of any relief from removal for which the alien may be eligible, or any relief from removal granted the alien, until the Attorney General determines that the alien is no longer an alien who may be certified under paragraph (3).

"(3) Certification.–The Attorney General may certify an alien under this paragraph if the Attorney General has reasonable grounds to believe that the alien–

"(A) is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii), 212(a)(3)(B), 237(a)(4)(A)(i), 237(a)(4)(A)(iii), or 237(a)(4)(B); or

"(B) is engaged in any other activity that endangers the national security of the United States.

"(4) Nondelegation.–The Attorney General may delegate the authority provided under paragraph (3) only to the Deputy Attorney General. The Deputy Attorney General may not delegate such authority.

"(5) Commencement of proceedings.–The Attorney General shall place an alien detained under paragraph (1) in removal proceedings, or shall charge the alien with a criminal offense, not later than 7 days after the commencement of such detention. If the requirement of the preceding sentence is not satisfied, the Attorney General shall release the alien.

"(6) Limitation on indefinite detention.–An alien detained under paragraph (1) who has been ordered removed based on one or more of the grounds of inadmissibility or deportability referred to in paragraph (3)(A), who has not been removed within the removal period specified under section 241(a)(1)(A), and whose removal is unlikely in the reasonably foreseeable future, may be detained for additional periods of up to six months if the Attorney General demonstrates that the release of the alien will not protect the national security of the United States or adequately ensure the safety of the community or any person.

"(b) Habeas Corpus and Judicial Review.–Judicial review of any action or decision relating to this section (including judicial review of the merits of a determination made under subsection (a)(3) or (a)(6)) is available exclusively in habeas corpus proceedings initiated in the United States District Court for the District of Columbia. Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, except as provided in the preceding sentence, no court shall have jurisdiction to review, by habeas corpus petition or otherwise, any such action or decision.".

(b) Clerical Amendment.–The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 236 the following:

"Sec. 236A. Mandatory detention of suspected terrorists; habeas corpus; judicial review.".

(c) Reports.–Not later than 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, with respect to the reporting period, on–

(1) the number of aliens certified under section 236A(a)(3) of the Immigration and Nationality Act, as added by subsection (a);

(2) the grounds for such certifications;

(3) the nationalities of the aliens so certified;

***19** (4) the length of the detention for each alien so certified; and

(5) the number of aliens so certified who–

(A) were granted any form of relief from removal;

(B) were removed;

(C) the Attorney General has determined are no longer an alien who may be so certified; or

(D) were released from detention.

(a) In General.–Section 208(b)(2)(A)(v) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is amended–

(1) by striking "inadmissible under" each place such term appears and inserting "described in"; and

(2) by striking "removable under" and inserting "described in".

(b) Retroactive Application of Amendments.–The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to–

(1) actions taken by an alien before such date, as well as actions taken on or after such date; and

(2) all aliens, without regard to the date of entry or attempted entry into the United States, whose application for asylum is pending on or after such date (except for applications with respect to which there has been a final administrative decision before such date).

SEC. 205. MULTILATERAL COOPERATION AGAINST TERRORISTS.

Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is amended–

(1) by striking "The records" and inserting "(1) Subject to paragraphs (2) and (3), the records";

(2) by striking "United States," and all that follows through the period at the end and inserting "United States."; and

(3) by adding at the end the following:

"(2) In the discretion of the Secretary of State, certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.

"(3)(A) Subject to the provisions of this paragraph, the Secretary of State may provide copies of records of the Department of State and of diplomatic and consular offices of the United States (including the Department of State's automated visa lookout database) pertaining to the issuance or refusal of visas or permits to enter the United States, or information contained in such records, to foreign governments if the Secretary determines that it is necessary and appropriate.

"(B) Such records and information may be provided on a case-by-case basis for the purpose of preventing, investigating, or punishing acts of terrorism. General access to records and information may be provided under an agreement to limit the use of such records and information to the purposes described in the preceding sentence.

"(C) The Secretary of State shall make any determination under this paragraph in consultation with any Federal agency that compiled or provided such records or information.

"(D) To the extent possible, such records and information shall be made available to foreign governments on a reciprocal basis.".

SEC. 206. REQUIRING SHARING BY THE FEDERAL BUREAU OF INVESTIGATION OF CERTAIN CRIMINAL RECORD EXTRACTS WITH OTHER FEDERAL AGENCIES IN ORDER TO ENHANCE BORDER SECURITY.

(a) In General.–Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105), is amended–

(1) in the section heading, by adding "and data exchange" at the end;

(2) by inserting "(a) Liaison With Internal Security Officers.–" after "105.";

(3) by striking "the internal security of" and inserting "the internal and border security of"; and

(4) by adding at the end the following:

"(b) Criminal History Record Information.–The Attorney General and the Director of the Federal Bureau of Investigation shall provide the Secretary of State and the Commissioner access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index, Wanted Persons File, and to any other files maintained by the National Crime Information Center that may be mutually agreed upon by the Attorney General and the official ***20** to be provided access, for the purpose of determining whether a visa applicant or applicant for admission has a criminal history record indexed in any such file. Such access shall be provided by means of extracts of the records for placement in the Department of State's automated visa lookout database or other appropriate database, and shall be provided without any fee or charge. The Director of the Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon by the Attorney General and the official provided access. Upon receipt of such updated extracts, the receiving official shall make corresponding updates to the official's databases and destroy previously provided extracts. Such access to any extract shall not be construed to entitle the Secretary of State to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Secretary of State shall submit the applicant's fingerprints and any appropriate fingerprint processing fee authorized by law to the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

"(c) Reconsideration.–The provision of the extracts described in subsection (b) may be reconsidered by the Attorney General and the receiving official upon the development and deployment of a more cost-effective and efficient means of sharing the information.

"(d) Regulations.–For purposes of administering this section, the Secretary of State shall, prior to receiving access to National Crime Information Center data, promulgate final regulations–

"(1) to implement procedures for the taking of fingerprints; and

"(2) to establish the conditions for the use of the information received from the Federal Bureau of Investigation, in order–

"(A) to limit the redissemination of such information;

"(B) to ensure that such information is used solely to determine whether to issue a visa to an individual;

"(C) to ensure the security, confidentiality, and destruction of such information; and

"(D) to protect any privacy rights of individuals who are subjects of such information.".

(b) Clerical Amendment.–The table of contents of the Immigration and Nationality Act is amended by amending the item relating to section 105 to read as follows:

"Sec. 105. Liaison with internal security officers and data exchange.".

(c) Effective Date and Implementation.–The amendments made by this section shall take effect on the date of the enactment of this Act and shall be fully implemented not later than 18 months after such date.

(d) Reporting Requirement.–Not later than 2 years after the date of the enactment of this Act, the Attorney General and the Secretary of State, jointly, shall report to the Congress on the implementation of the amendments made by this section.

(e) Construction.–Nothing in this section, or in any other law, shall be construed to limit the authority of the Attorney General or the Director of the Federal Bureau of Investigation to provide access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index, or to any other information maintained by such center, to any Federal agency or officer authorized to enforce or administer the immigration laws of the United States, for the purpose of such enforcement or administration, upon terms that are consistent with sections 212 through 216 of the National Crime Prevention and Privacy Compact Act of 1998 (42 U.S.C. 14611 et seq.).

(a) Amendment to Immigration and Nationality Act.–Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following:

"(I) Money laundering.–Any alien–

"(i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments); or

"(ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense which is described in such section;

is inadmissible.".

(b) Money Laundering Watchlist.–Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall develop, implement, and certify ***21** to the Congress that there has been established a money laundering watchlist, which identifies individuals worldwide who are known or suspected of money laundering, which is readily accessible to, and shall be checked by, a consular or other Federal official prior to the issuance of a visa or admission to the United States. The Secretary of State shall develop and continually update the watchlist in cooperation with the Attorney General, the Secretary of the Treasury, and the Director of Central Intelligence.

SEC. 208. PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS.

(a) Changes in Deadlines.–Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended–

(1) in subsection (f), by striking "Not later than 4 years after the commencement of the program established under subsection (a)," and inserting "Not later than 120 days after the date of the enactment of the PATRIOT Act of 2001,"; and

(2) in subsection (g)(1), by striking "12 months" and inserting "120 days".

(b) Increased Fee for Certain Students.–Section 641(e)(4)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e)(4)(A)) is amended by adding at the end the following: "In the case of an alien who is a national of a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism, the Attorney General may impose on, and collect from, the alien a fee that is greater than that imposed on other aliens described in paragraph (3).".

(c) Data Exchange.–Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372) is amended–

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

"(h) Data Exchange.–Notwithstanding any other provision of law, the Attorney General shall provide to the Secretary of State and the Director of the Federal Bureau of Investigation the information collected under subsection (a)(1).".

SEC. 209. PROTECTION OF NORTHERN BORDER.

There are authorized to be appropriated–

(1) such sums as may be necessary to triple the number of Border Patrol personnel (from the number authorized under current law) in each State along the northern border;

(2) such sums as may be necessary to triple the number of Immigration and Naturalization Service inspectors (from the number authorized under current law) at ports of entry in each State along the northern border; and

(3) an additional $50,000,000 to the Immigration and Naturalization Service for purposes of enhancing technology for security and enforcement at the northern border, such as infrared technology and technology that enhances coordination between the Governments of Canada and the United States generally and specifically between Canadian police and the Federal Bureau of Investigation.

Subtitle B–Preservation of Immigration Benefits for Victims of Terrorism

SEC. 211. SPECIAL IMMIGRANT STATUS.

(a) In General.–For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Attorney General may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a(27)), if the alien–

(1) files with the Attorney General a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) Aliens Described.–

(1) Principal aliens.–An alien is described in this subsection if–

(A) the alien was the beneficiary of–

(i) a petition that was filed with the Attorney General on or before September 11, 2001–

***22** (I) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or

(II) under section 214(d) (8 U.S.C. 1184(d)) of such Act to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or

(ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and

(B) such petition or application was revoked or terminated (or otherwise rendered null), either before or after its approval, due to a specified terrorist activity that directly resulted in–

(i) the death or disability of the petitioner, applicant, or alien beneficiary; or

(ii) loss of employment due to physical damage to, or destruction of, the business of the petitioner or applicant.

(2) Spouses and children.–

(A) In general.–An alien is described in this subsection if–

(i) the alien was, on September 10, 2001, the spouse or child of a principal alien described in paragraph (1); and

(ii) the alien–

(I) is accompanying such principal alien; or

(II) is following to join such principal alien not later than September 11, 2003.

(B) Construction.–For purposes of construing the terms “accompanying” and “following to join” in subparagraph (A)(ii), any death of a principal alien that is described in paragraph (1)(B)(i) shall be disregarded.

(3) Grandparents of orphans.–An alien is described in this subsection if the alien is a grandparent of a child, both of whose parents died as a direct result of a specified terrorist activity, if either of such deceased parents was, on September 10, 2001, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) Priority Date.–Immigrant visas made available under this section shall be issued to aliens in the order in which a petition on behalf of each such alien is filed with the Attorney General under subsection (a)(1), except that if an alien was assigned a priority date with respect to a petition described in subsection (b)(1)(A)(i), the alien may maintain that priority date.

(d) Numerical Limitations.–For purposes of the application of sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section.

SEC. 212. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) Automatic Extension of Nonimmigrant Status.–

(1) In general.–Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), in the case of an alien described in paragraph (2) who was lawfully present in the United States as a nonimmigrant on September 10, 2001, the alien may remain lawfully in the United States in the same nonimmigrant status until the later of–

(A) the date such lawful nonimmigrant status otherwise would have terminated if this subsection had not been enacted; or

(B) 1 year after the death or onset of disability described in paragraph (2).

(2) Aliens described.–

(A) Principal aliens.–An alien is described in this paragraph if the alien was disabled as a direct result of a specified terrorist activity.

(B) Spouses and children.–An alien is described in this paragraph if the alien was, on September 10, 2001, the spouse or child of–

(i) a principal alien described in subparagraph (A); or
(ii) an alien who died as a direct result of a specified terrorist activity.

(3) Authorized employment.–During the period in which a principal alien or alien spouse is in lawful nonimmigrant status under paragraph (1), the alien shall be provided an "employment authorized" endorsement or other appropriate ***23** document signifying authorization of employment not later than 30 days after the alien requests such authorization.

(b) New Deadlines for Extension or Change of Nonimmigrant Status.–

(1) Filing delays.–In the case of an alien who was lawfully present in the United States as a nonimmigrant on September 10, 2001, if the alien was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified terrorist activity, the alien's application shall be considered timely filed if it is filed not later than 60 days after it otherwise would have been due.

(2) Departure delays.–In the case of an alien who was lawfully present in the United States as a nonimmigrant on September 10, 2001, if the alien is unable timely to depart the United States as a direct result of a specified terrorist activity, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on September 11, 2001, and ending on the date of the alien's departure, if such departure occurs on or before November 11, 2001.

(3) Special rule for aliens unable to return from abroad.–

(A) Principal aliens.–In the case of an alien who was in a lawful nonimmigrant status on September 10, 2001, but who was not present in the United States on such date, if the alien was prevented from returning to the United States in order to file a timely application for an extension of nonimmigrant status as a direct result of a specified terrorist activity–

(i) the alien's application shall be considered timely filed if it is filed not later than 60 days after it otherwise would have been due; and
(ii) the alien's lawful nonimmigrant status shall be considered to continue until the later of–
(I) the date such status otherwise would have terminated if this subparagraph had not been enacted; or
(II) the date that is 60 days after the date on which the application described in clause (i) otherwise would have been due.

(B) Spouses and children.–In the case of an alien who is the spouse or child of a principal alien described in subparagraph (A), if the spouse or child was in a lawful nonimmigrant status on September 10, 2001, the spouse or child may remain lawfully in the United States in the same nonimmigrant status until the later of–

(i) the date such lawful nonimmigrant status otherwise would have terminated if this subparagraph had not been enacted; or

(ii) the date that is 60 days after the date on which the application described in subparagraph (A) otherwise would have been due.

(c) Diversity Immigrants.–

(1) Waiver of fiscal year limitation.–Notwithstanding section 203(e)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(e)(2)), an immigrant visa number issued to an alien under section 203(c) of such Act for fiscal year 2001 may be used by the alien during the period beginning on October 1, 2001, and ending on April 1, 2002, if the alien establishes that the alien was prevented from using it during fiscal year 2001 as a direct result of a specified terrorist activity.

(2) Worldwide level.–In the case of an alien entering the United States as a lawful permanent resident, or adjusting to that status, under paragraph (1), the alien shall be counted as a diversity immigrant for fiscal year 2001 for purposes of section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)), unless the worldwide level under such section for such year has been exceeded, in which case the alien shall be counted as a diversity immigrant for fiscal year 2002.

(3) Treatment of family members of certain aliens.–In the case of a principal alien issued an immigrant visa number under section 203(c) of the Immigration and Nationality Act (8 U.S.C. 1153(c)) for fiscal year 2001, if such principal alien died as a direct result of a specified terrorist activity, the aliens who were, on September 10, 2001, the spouse and children of such principal alien shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c) of section 203 of such Act, be entitled to the same status, and the same order of consideration, that would have been provided to such alien spouse or child under section 203(d) of such Act if the principal alien were not deceased.

(d) Extension of Expiration of Immigrant Visas.–Notwithstanding the limitations under section 221(c) of the Immigration and Nationality Act (8 U.S.C. 1201(c)), in the case of any immigrant visa issued to an alien that expires or expired before December 31, 2001, if the alien was unable to effect entry to the United States as a direct result of a specified terrorist activity, then the period of validity ***24** of the visa is extended until December 31, 2001, unless a longer period of validity is otherwise provided under this subtitle.

(e) Grants of Parole Extended.–In the case of any parole granted by the Attorney General under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) that expires on a date on or after September 11, 2001, if the alien beneficiary of the parole was unable to return to the United States prior to the expiration date as a direct result of a specified terrorist activity, the parole is deemed extended for an additional 90 days.

(f) Voluntary Departure.–Notwithstanding section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), if a period for voluntary departure under such section expired during the period beginning on September 11, 2001, and ending on October 11, 2001, such voluntary departure period is deemed extended for an additional 30 days.

SEC. 213. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING SPOUSES AND CHILDREN.

(a) Treatment as Immediate Relatives.–Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen died as a direct result of a specified terrorist activity, the alien (and each child of the alien) shall be considered, for purposes

of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries.

(b) Spouses, Children, Unmarried Sons and Daughters of Lawful Permanent Resident Aliens.–

(1) In general.–Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien before September 11, 2001, shall be considered (if the spouse, child, son, or daughter has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for preference status under such section with the same priority date as that assigned prior to the death described in paragraph (3)(A). No new petition shall be required to be filed. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(2) Self-petitions.–Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act may file a petition for such classification with the Attorney General, if the spouse, child, son, or daughter was present in the United States on September 11, 2001. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(3) Aliens described.–An alien is described in this paragraph if the alien–

(A) died as a direct result of a specified terrorist activity; and

(B) on the day of such death, was lawfully admitted for permanent residence in the United States.

(c) Applications for Adjustment of Status by Surviving Spouses and Children of Employment-Based Immigrants.–

(1) In general.–Any alien who was, on September 10, 2001, the spouse or child of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(A), may have such application adjudicated as if such death had not occurred.

(2) Aliens described.–An alien is described in this paragraph if the alien–

(A) died as a direct result of a specified terrorist activity; and

(B) on the day before such death, was–

(i) an alien lawfully admitted for permanent residence in the United States by reason of having been allotted a visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)); or

(ii) an applicant for adjustment of status to that of an alien described in clause (i), and admissible to the United States for permanent residence.

(d) Waiver of Public Charge Grounds.–In determining the admissibility of any alien accorded an immigration benefit under this section, the grounds for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply.

***25** SEC. 214. “AGE-OUT” PROTECTION FOR CHILDREN.

For purposes of the administration of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), in the case of an alien–

(1) whose 21st birthday occurs in September 2001, and who is the beneficiary of a petition or application filed under such Act on or before September 11, 2001, the alien shall be considered to be a child for 90 days after the alien's 21st birthday for purposes of adjudicating such petition or application; and

(2) whose 21st birthday occurs after September 2001, and who is the beneficiary of a petition or application filed under such Act on or before September 11, 2001, the alien shall be considered to be a child for 45 days after the alien's 21st birthday for purposes of adjudicating such petition or application.

SEC. 215. TEMPORARY ADMINISTRATIVE RELIEF.

The Attorney General, for humanitarian purposes or to ensure family unity, may provide temporary administrative relief to any alien who–

(1) was lawfully present in the United States on September 10, 2001;

(2) was on such date the spouse, parent, or child of an individual who died or was disabled as a direct result of a specified terrorist activity; and

(3) is not otherwise entitled to relief under any other provision of this subtitle.

SEC. 216. EVIDENCE OF DEATH, DISABILITY, OR LOSS OF EMPLOYMENT.

(a) In General.–The Attorney General shall establish appropriate standards for evidence demonstrating, for purposes of this subtitle, that any of the following occurred as a direct result of a specified terrorist activity:

(1) Death.

(2) Disability.

(3) Loss of employment due to physical damage to, or destruction of, a business.

(b) Waiver of Regulations.–The Attorney General shall carry out subsection (a) as expeditiously as possible. The Attorney General is not required to promulgate regulations prior to implementing this subtitle.

SEC. 217. NO BENEFITS TO TERRORISTS OR FAMILY MEMBERS OF TERRORISTS.

Notwithstanding any other provision of this subtitle, nothing in this subtitle shall be construed to provide any benefit or relief to–

(1) any individual culpable for a specified terrorist activity; or

(2) any family member of any individual described in paragraph (1).

SEC. 218. DEFINITIONS.

(a) Application of Immigration and Nationality Act Provisions.–Except as otherwise specifically provided in this subtitle, the definitions used in the Immigration and Nationality Act (excluding the definitions applicable exclusively to title III of such Act) shall apply in the administration of this subtitle.

(b) Specified Terrorist Activity.–For purposes of this subtitle, the term "specified terrorist activity" means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.10/4/01 12:35:00 PM - F: V7 100401 100401V7 100401100401.0F3 Created by: SEFleish

TITLE III–CRIMINAL JUSTICE

Subtitle A–Substantive Criminal Law

SEC. 301. STATUTE OF LIMITATION FOR PROSECUTING TERRORISM OFFENSES.

(a) In General.–Section 3286 of title 18, United States Code, is amended to read as follows:

"S 3286. Terrorism offenses

"(a) An indictment may be found or an information instituted at any time without limitation for any Federal terrorism offense or any of the following offenses:

"(1) A violation of, or an attempt or conspiracy to violate, section 32 (relating to destruction of aircraft or aircraft facilities), 37(a)(1) (relating to violence at international airports), 175 (relating to biological weapons), 229 (relating to chemical weapons), 351(a)–(d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 791 (relating to harboring terrorists), 831 (relating to nuclear materials), 844(f) or (i) when it relates to bombing (relating to arson and bombing of certain property), 1114(1) (relating to protection of officers and employees of the United States), 1116, if the offense involves murder (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1751(a)–(d) (relating ***26** to Presidential and Presidential staff assassination and kidnaping), 2332(a)(1) (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries) of this title.

"(2) Section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284);

"(3) Section 601 (relating to disclosure of identities of covert agents) of the National Security Act of 1947 (50 U.S.C. 421).

"(4) Section 46502 (relating to aircraft piracy) of title 49.

"(b) An indictment may be found or an information instituted within 15 years after the offense was committed for any of the following offenses:

"(1) Section 175b (relating to biological weapons), 842(m) or (n) (relating to plastic explosives), 930(c) if it involves murder (relating to possessing a dangerous weapon in a Federal facility), 956 (relating to conspiracy to injure property of a foreign government), 1030(a)(1), 1030(a)(5)(A), or 1030(a)(7) (relating to protection of computers), 1362 (relating to destruction of communication lines, stations, or systems), 1366 (relating to destruction of an energy facility), 1992 (relating to trainwrecking), 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime

fixed platforms), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture).

"(2) Any of the following provisions of title 49: the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3), (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved, or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.".

(b) Clerical Amendment.–The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by amending the item relating to section 3286 to read as follows:

"3286. Terrorism offenses.".

(c) Application.–The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of enactment of this section.

Section 3559 of title 18, United States Code, is amended by adding after subsection (d) the following:

"(e) Authorized Terms of Imprisonment for Terrorism Crimes.–A person convicted of any Federal terrorism offense may be sentenced to imprisonment for any term of years or for life, notwithstanding any maximum term of imprisonment specified in the law describing the offense. The authorization of imprisonment under this subsection is supplementary to, and does not limit, the availability of any other penalty authorized by the law describing the offense, including the death penalty, and does not limit the applicability of any mandatory minimum term of imprisonment, including any mandatory life term, provided by the law describing the offense.".

SEC. 303. PENALTIES FOR TERRORIST CONSPIRACIES.

Chapter 113B of title 18, United States Code, is amended–

(1) by inserting after section 2332b the following:

"S 2332c. Attempts and conspiracies

"(a) Except as provided in subsection (c), any person who attempts or conspires to commit any Federal terrorism offense shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"(b) Except as provided in subsection (c), any person who attempts or conspires to commit any offense described in section 25(2) shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

"(c) A death penalty may not be imposed by operation of this section."; and

(2) in the table of sections at the beginning of the chapter, by inserting after the item relating to section 2332b the following new item:

"2332c. Attempts and conspiracies.".

***27** Section 1961(1) of title 18, United States Code, is amended–

(1) by striking "or (F)" and inserting "(F)"; and

(2) by striking "financial gain." and inserting "financial gain, or (G) any act that is a Federal terrorism offense or is indictable under any of the following provisions of law: section 32 (relating to destruction of aircraft or aircraft facilities), 37(a)(1) (relating to violence at international airports), 175 (relating to biological weapons), 229 (relating to chemical weapons), 351(a)–(d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f) or (i) when it involves a bombing (relating to arson and bombing of certain property), 930(c) when it involves an attack on a Federal facility, 1114 when it involves murder (relating to protection of officers and employees of the United States), 1116 when it involves murder (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1362 (relating to destruction of communication lines, stations, or systems), 1366 (relating to destruction of an energy facility), 1751(a)–(d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to trainwrecking), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title; section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or section 46502 (relating to aircraft piracy) or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49;".

SEC. 305. BIOLOGICAL WEAPONS.

Chapter 10 of title 18, United States Code, is amended–

(1) in section 175–

(A) in subsection (b)–

(i) by striking, "section, the" and inserting "section–
"(1) the";

(ii) by striking "does not include" and inserting "includes";
(iii) by inserting "other than" after "system for"; and
(iv) by striking "purposes." and inserting "purposes, and
"(2) the terms biological agent and toxin do not encompass any biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.";

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

"(b) Additional Offense.–Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both.";

(2) by inserting after section 175a the following:

"S 175b. Possession by restricted persons

"(a) No restricted person described in subsection (b) shall ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and is not exempted under subsection (h) of such section 72.6, or Appendix A of part 72 of such title; except that the term select agent does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

"(b) As used in this section, the term 'restricted person' means an individual who–

"(1) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

"(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

"(3) is a fugitive from justice;

***28** "(4) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(5) is an alien illegally or unlawfully in the United States;

"(6) has been adjudicated as a mental defective or has been committed to any mental institution; or

"(7) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination that remains in effect that such country has repeatedly provided support for acts of international terrorism.

"(c) As used in this section, the term 'alien' has the same meaning as that term is given in section 1010(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)), and the term 'lawfully' admitted for permanent residence has the same meaning as that term is given in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

"(d) Whoever knowingly violates this section shall be fined under this title or imprisoned not more than ten years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized governmental activity under title V of the National Security Act of 1947."; and

(3) in the table of sections in the beginning of such chapter, by inserting after the item relating to section 175a the following:

"175b. Possession by restricted persons.".

Section 2339A of title 18, United States Code, is amended–

(1) in subsection (a)–

(A) by striking “a violation” and all that follows through “49” and inserting “any Federal terrorism offense or any offense described in section 25(2)”; and

(B) by striking “violation,” and inserting “offense,”; and

(2) in subsection (b), by inserting “expert advice or assistance,” after “training,”.

SEC. 307. PROHIBITION AGAINST HARBORING.

(a) Title 18, United States Code, is amended by inserting before section 792 the following:

“S 791. Prohibition against harboring

“Whoever harbors or conceals any person who he knows has committed, or is about to commit, an offense described in section 25(2) or this title shall be fined under this title or imprisoned not more than ten years or both. There is extraterritorial Federal jurisdiction over any violation of this section or any conspiracy or attempt to violate this section. A violation of this section or of such a conspiracy or attempt may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.”.

(b) The table of sections at the beginning of chapter 37 of title 18, United States Code, is amended by inserting before the item relating to section 792 the following:

“791. Prohibition against harboring.”.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

“(j) Supervised Release Terms for Terrorism Offenses.–Notwithstanding subsection (b), the authorized terms of supervised release for any Federal terrorism offense are any term of years or life.”.

SEC. 309. DEFINITION.

(a) Chapter 1 of title 18, United States Code, is amended–

(1) by adding after section 24 a new section as follows:

“S 25. Federal terrorism offense defined

“As used in this title, the term ‘Federal terrorism offense’ means an offense that is–

“(1) is calculated to influence or affect the conduct of government by intimidation or coercion; or to retaliate against government conduct; and

“(2) is a violation of, or an attempt or conspiracy to violate-section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at ***29** international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175, 175b (relating to biological weapons), 229 (relating to chemical weapons), 351(a)–(d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 791 (relating to harboring terrorists), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f) or (i) (relating to arson and bombing of certain

property), 930(c), 956 (relating to conspiracy to injure property of a foreign government), 1030(a)(1), 1030(a)(5)(A), or 1030(a)(7) (relating to protection of computers), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751(a)–(d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992, 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

"(3) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284);

"(4) section 601 (relating to disclosure of identities of covert agents) of the National Security Act of 1947 (50 U.S.C. 421); or

"(5) any of the following provisions of title 49: section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3), (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved, or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49."; and

(2) in the table of sections in the beginning of such chapter, by inserting after the item relating to section 24 the following:

"25. Federal terrorism offense defined.".

(b) Section 2332b(g)(5)(B) of title 18, United States Code, is amended by striking "is a violation" and all that follows through "title 49" and inserting "is a Federal terrorism offense".

(c) Section 2331 of title 18, United States Code, is amended–

(1) in paragraph (1)(B)–

(A) by inserting "(or to have the effect)" after "intended"; and

(B) in clause (iii), by striking "by assassination or kidnapping" and inserting "(or any function thereof) by mass destruction, assassination, or kidnapping (or threat thereof)";

(2) in paragraph (3), by striking "and";

(3) in paragraph (4), by striking the period and inserting "; and"; and

(4) by inserting the following paragraph (4):

"(5) the term 'domestic terrorism' means activities that–

"(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; and

"(B) appear to be intended (or to have the effect)–

"(i) to intimidate or coerce a civilian population;
"(ii) to influence the policy of a government by intimidation or coercion; or
"(iii) to affect the conduct of a government (or any function thereof) by mass destruction, assassination, or kidnapping (or threat thereof).".
Section 2707(c) of title 18, United States Code, is amended by striking "$1,000" and inserting "$10,000".

***30** Subtitle B–Criminal Procedure

SEC. 351. SINGLE-JURISDICTION SEARCH WARRANTS FOR TERRORISM.

Rule 41(a) of the Federal Rules of Criminal Procedure is amended by inserting after "executed" the following: "and (3) in an investigation of domestic terrorism or international terrorism (as defined in section 2331 of title 18, United States Code), by a Federal magistrate judge in any district court of the United States (including a magistrate judge of such court), or any United States Court of Appeals, having jurisdiction over the offense being investigated, for a search of property or for a person within or outside the district".

SEC. 352. DNA IDENTIFICATION OF TERRORISTS.

Section 3(d)(1) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)(1)) is amended–

(1) by redesignating subparagraph (G) as subparagraph (H); and

(2) by inserting after subparagraph (F) the a new subparagraph as follows:

"(G) Any Federal terrorism offense (as defined in section 25 of title 18, United States Code).".

SEC. 353. GRAND JURY MATTERS.

Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure is amended–

(1) by adding after clause (iv) the following:

"(v) when permitted by a court at the request of an attorney for the government, upon a showing that the matters pertain to international or domestic terrorism (as defined in section 2331 of title 18, United States Code) or national security, to any Federal law enforcement, intelligence, national security, national defense, protective, immigration personnel, or to the President or Vice President of the United States, for the performance of official duties.";
(2) by striking "or" at the end of clause (iii); and

(3) by striking the period at the end of clause (iv) and inserting "; or".

SEC. 354. EXTRATERRITORIALITY.

Chapter 113B of title 18, United States Code, is amended–

(1) in the heading for section 2338, by striking "Exclusive";

(2) in section 2338, by inserting "There is extraterritorial Federal jurisdiction over any Federal terrorism offense and any offense under this chapter, in addition to any extraterritorial jurisdiction that may exist under the law defining the offense, if the person committing the offense or the victim of the offense is a national of the United States (as defined in section 101 of the Immigration and Nationality Act) or if the offense is directed at the security or interests of the United States." before "The district courts"; and

(3) in the table of sections at the beginning of such chapter, by striking "Exclusive" in the item relating to section 2338.

SEC. 355. JURISDICTION OVER CRIMES COMMITTED AT UNITED STATES FACILITIES ABROAD.

Section 7 of title 18, United States Code, is amended by adding at the end the following:

"(9)(A) With respect to offenses committed by or against a United States national, as defined in section 1203(c) of this title–

"(i) the premises of United States diplomatic, consular, military, or other United States Government missions or entities in foreign states, including the buildings, parts of buildings, and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities; and

"(ii) residences in foreign states and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities, except that this paragraph does not supercede any treaty or international agreement in force on the date of the enactment of this paragraph.

"(B) This paragraph does not apply with respect to an offense committed by a person described in section 3261(a).".

SEC. 356. SPECIAL AGENT AUTHORITIES.

(a) General Authority of Special Agents.–Section 37(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)) is amended–

(1) by striking paragraph (2) and inserting the following:

"(2) in the course of performing the functions set forth in paragraphs (1) and (3), obtain and execute search and arrest warrants, as well as obtain and ***31** serve subpoenas and summonses, issued under the authority of the United States;";

(2) in paragraph (3)(F) by inserting "or President-elect" after "President"; and

(3) by striking paragraph (5) and inserting the following:

"(5) in the course of performing the functions set forth in paragraphs (1) and (3), make arrests without warrant for any offense against the United States committed in the presence of the special agent, or for any felony cognizable under the laws of the United States if the special agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.".

(b) Crimes.–Section 37 of such Act (22 U.S.C. 2709) is amended by inserting after subsection (c) the following new subsections:

"(d) Interference With Agents.–Whoever knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged in the performance of the protective functions authorized by this section shall be fined under title 18 or imprisoned not more than one year, or both.

"(e) Persons Under Protection of Special Agents.–Whoever engages in any conduct–

"(1) directed against an individual entitled to protection under this section, and

"(2) which would constitute a violation of section 112 or 878 of title 18, United States Code, if such individual were a foreign official, an official guest, or an internationally protected person, shall be subject to the same penalties as are provided for such conduct directed against an individual subject to protection under such section of title 18.".

TITLE IV–FINANCIAL INFRASTRUCTURE

SEC. 401. LAUNDERING THE PROCEEDS OF TERRORISM.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "or 2339B" after "2339A".

SEC. 402. MATERIAL SUPPORT FOR TERRORISM.

Section 2339A of title 18, United States Code, is amended–

(1) in subsection (a), by adding at the end the following "A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law."; and

(2) in subsection (b), by striking "or other financial securities" and inserting "or monetary instruments or financial securities".

SEC. 403. ASSETS OF TERRORIST ORGANIZATIONS.

Section 981(a)(1) of title 18, United States Code, is amended by inserting after subparagraph (F) the following:

"(G) All assets, foreign or domestic–

"(i) of any person, entity, or organization engaged in planning or perpetrating any act of domestic terrorism or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

"(ii) acquired or maintained by any person for the purpose of supporting, planning, conducting, or concealing an act of domestic terrorism or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property; or

"(iii) derived from, involved in, or used or intended to be used to commit any act of domestic terrorism or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property.".

SEC. 404. TECHNICAL CLARIFICATION RELATING TO PROVISION OF MATERIAL SUPPORT TO TERRORISM.

No provision of title IX of Public Law 106–387 shall be understood to limit or otherwise affect section 2339A or 2339B of title 18, United States Code.

SEC. 405. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

(a) Disclosure Without a Request of Information Relating to Terrorist Activities, Etc.–Paragraph (3) of ***32** section 6103(i) of the Internal Revenue Code of 1986 (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

"(C) Terrorist activities, etc.–

"(i) In general.–Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

"(ii) Disclosure to the department of justice.–Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

"(iii) Taxpayer identity.–For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(iv) Termination.–No disclosure may be made under this subparagraph after December 31, 2003.".

(b) Disclosure Upon Request of Information Relating to Terrorist Activities, Etc.–Subsection (i) of section 6103 of such Code (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) Disclosure upon request of information relating to terrorist activities, etc.–

"(A) Disclosure to law enforcement agencies.–

"(i) In general.–Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of terrorist incidents, threats, or activities.

"(ii) Disclosure to state and local law enforcement agencies.–The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

"(iii) Requirements.–A request meets the requirements of this clause if–

"(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and

"(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iv) Limitation on use of information.–Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

"(B) Disclosure to intelligence agencies.–

"(i) In general.–Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning terrorists and terrorist organizations and activities. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

"(ii) Requirements.–A request meets the requirements of this subparagraph if the request–

***33** "(I) is made by an individual described in clause (iii), and

"(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

"(iii) Requesting individuals.–An individual described in this subparagraph is an individual–

"(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

"(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning terrorists and terrorist organizations and activities.

"(iv) Taxpayer identity.–For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(C) Disclosure under ex parte orders.–

"(i) In general.–Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist activity or threats. Return or return information opened pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to any such terrorist activity or threat.

"(ii) Application for order.–The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that–

"(I) there is reasonable cause to believe, based upon information believed to be reliable, that the taxpayer whose return or return information is to be disclosed may be connected to a terrorist activity or threat,

"(II) there is reasonable cause to believe that the return or return information may be relevant to a matter relating to such terrorist activity or threat, and

"(III) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning terrorist activity, terrorist threats, or terrorist organizations.

"(D) Special rule for ex parte disclosure by the irs.–

"(i) In general.–Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subclauses (I) and (II) of subparagraph (C)(ii) are met.

"(ii) Limitation on use of information.–Information disclosed under clause (i)–

"(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

"(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning terrorist activity, terrorist threats, or terrorist organizations.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.
"(E) Termination.–No disclosure may be made under this paragraph after December 31, 2003.".

(c) Conforming Amendments.–

***34** (1) Section 6103(a)(2) of such Code is amended by inserting "any local law enforcement agency receiving information under subsection (i)(7) (A)," after "State,".

(2) The heading of section 6103(i)(3) of such Code is amended by inserting "or terrorist" after "criminal".

(3) Paragraph (4) of section 6103(i) of such Code is amended–

(A) in subparagraph (A) by inserting "or (7)(C)" after "paragraph (1)", and

(B) in subparagraph (B) by striking "or (3)(A)" and inserting "(3)(A) or (C), or (7)".

(4) Paragraph (6) of section 6103(i) of such Code is amended–

(A) by striking "(3)(A)" and inserting "(3)(A) or (C)", and

(B) by striking "or (7)" and inserting "(7), or (8)".

(5) Section 6103(p)(3) of such Code is amended–

(A) in subparagraph (A) by striking "(7)(A)(ii)" and inserting "(8) (A)(ii)", and

(B) in subparagraph (C) by striking "(i)(3)(B)(i)" and inserting "(i) (3)(B)(i) or (7)(A)(ii)".

(6) Section 6103(p)(4) of such Code is amended–

(A) in the matter preceding subparagraph (A)–

(i) by striking "or (5)," the first place it appears and inserting "(5), or (7),", and
(ii) by striking "(i)(3)(B)(i)" and inserting "(i)(3)(B)(i) or (7)(A)(ii)", and
(B) in subparagraph (F)(ii) by striking "or (5)," the first place it appears and inserting "(5) or (7),".

(7) Section 6103(p)(6)(B)(i) of such Code is amended by striking "(i) (7)(A)(ii)" and inserting "(i)(8)(A)(ii)".

(8) Section 7213(a)(2) of such Code is amended by striking "(i)(3)(B)(i)," and inserting "(i)(3)(B)(i) or (7)(A)(ii),".

(e) Effective Date.–The amendments made by this section shall apply to disclosures made on or after the date of the enactment of this Act.

SEC. 406. EXTRATERRITORIAL JURISDICTION.

Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(h) Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b) of this section, shall be subject to the fines, penalties, imprisonment, and forfeiture provided in this title if–

"(1) the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

"(2) the person transports, delivers, conveys, transfers to or through, or otherwise stores, secrets, or holds within the jurisdiction of the United States, any article used to assist in the commission of the offense or the proceeds of such offense or property derived therefrom.".

TITLE V–EMERGENCY AUTHORIZATIONS

SEC. 501. OFFICE OF JUSTICE PROGRAMS.

(a) In connection with the airplane hijackings and terrorist acts (including, without limitation, any related search, rescue, relief, assistance, or other similar activities) that occurred on September 11, 2001, in the United States, amounts transferred to the Crime Victims Fund from the Executive Office of the President or funds appropriated to the President shall not be subject to any limitation on obligations from amounts deposited or available in the Fund.

(b) Section 112 of title I of section 101(b) of division A of Public Law 105–277 and section 108(a) of the Departments of Commerce, Justice, and State, The Judiciary, and Related Agencies Appropriations Act, 2000 (H.R. 3421 of the 106th Congress, as enacted into law by section 1000(a)(1) of Public Law 106–113; Appendix A; 113 Stat. 1501A–20) are amended–

(1) after "that Office", each place it occurs, by inserting "(including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title I of Public Law 90–351)"; and

(2) by inserting "functions, including any" after "all".

***35** (c) Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603b) is amended by inserting ", to victim service organizations, to public agencies (including Federal, State, or local governments), and to non-governmental organizations that provide assistance to victims of crime," after "programs".

(d) Section 1 of Public Law 107–37 is amended–

(1) by inserting "(containing identification of all eligible payees of benefits under section 1201)" before "by a";

(2) by inserting "producing permanent and total disability" after "suffered a catastrophic injury"; and

(3) by striking "1201(a)" and inserting "1201".

SEC. 502. ATTORNEY GENERAL'S AUTHORITY TO PAY REWARDS.

(a) In General.–(1) Title 18, United States Code, is amended by striking sections 3059 through 3059B and inserting the following:

"S 3059. Rewards and appropriations therefor

"(a) In General.–Subject to subsection (b), the Attorney General may pay rewards in accordance with procedures and regulations established or issued by the Attorney General.

"(b) Limitations.– The following limitations apply with respect to awards under subsection (a):

"(1) No such reward, other than in connection with a terrorism offense or as otherwise specifically provided by law, shall exceed $2,000,000.

"(2) No such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President.

"(3) The Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and the House of Representatives not later than 30 days after the approval of a reward under paragraph (2);

"(4) Any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards.

"(5) Neither the failure to make or authorize such a reward nor the amount of any such reward made or authorized shall be subject to judicial review.

"(c) Definition.–In this section, the term 'reward' means a payment pursuant to public advertisements for assistance to the Department of Justice.".

(2) The items relating to sections 3059A through 3059B in the table of sections at the beginning of chapter 203 of title 18, United States Code, are repealed.

(b) Conforming Amendments.—

(1) Section 3075 of title 18, United States Code, and that portion of section 3072 of title 18, United States Code, that follows the first sentence, are repealed.

(2) Public Law 101–647 is amended–

(A) in section 2565 (12 U.S.C. 4205)–

(i) by striking all the matter after "section 2561," in subsection (c)(1) and inserting "the Attorney General may, in the Attorney General's discretion, pay a reward to the declaring."; and
(ii) by striking subsection (e); and
(B) by striking section 2569 (12 U.S.C. 4209).

SEC. 503. LIMITED AUTHORITY TO PAY OVERTIME.

The matter under the headings "Immigration And Naturalization Service: Salaries and Expenses, Enforcement And Border Affairs" and "Immigration And Naturalization Service: Salaries and Expenses, Citizenship And Benefits, Immigration Support And Program Direction" in the Department of Justice Appropriations Act, 2001 (as enacted into law by Appendix

B (H.R. 5548) of Public Law 106–553 (114 Stat. 2762A–58 to 2762A–59)) is amended by striking each place it occurs: "Provided" and all that follows through "That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2001:".

SEC. 504. DEPARTMENT OF STATE REWARD AUTHORITY.

(a) Changes in Reward Authority.–Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended–

(1) in subsection (b)–

(A) by striking "or" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ", including by dismantling an organization in whole or significant part; or"; and

***36** (C) by adding at the end the following new paragraph:

"(6) the identification or location of an individual who holds a leadership position in a terrorist organization.";

(2) in subsection (d), by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (2); and

(3) by amending subsection (e)(1) to read as follows:

"(1) Amount of award.–

"(A) Except as provided in subparagraph (B), no reward paid under this section may exceed $10,000,000.

"(B) The Secretary of State may authorize the payment of an award not to exceed $25,000,000 if the Secretary determines that payment of an award exceeding the amount under subparagraph (A) is important to the national interest of the United States.".

(b) Sense of Congress Regarding Rewards Relating to the September 11, 2001 Attack.–It is the sense of the Congress that the Secretary of State should use the authority of section 36 of the State Department Basic Authorities Act of 1956, as amended by subsection (a), to offer a reward of $25,000,000 for Osama bin Laden and other leaders of the September 11, 2001 attack on the United States.

SEC. 505. AUTHORIZATION OF FUNDS FOR DEA POLICE TRAINING IN SOUTH AND CENTRAL ASIA.

In addition to amounts otherwise available to carry out section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291), there is authorized to be appropriated to the President not less than $5,000,000 for fiscal year 2002 for regional antidrug training in the Republic of Turkey by the Drug Enforcement Administration for police, as well as increased precursor chemical control efforts in the South and Central Asia region.

SEC. 506. PUBLIC SAFETY OFFICER BENEFITS.

(a) In General.–Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking "$100,000" and inserting "$250,000".

(b) Effective Date.–The amendment made by this section shall apply to any death or disability occurring on or after January 1, 2001.

TITLE VI–DAM SECURITY

SEC. 601. SECURITY OF RECLAMATION DAMS, FACILITIES, AND RESOURCES.

Section 2805(a) of the Reclamation Recreation Management Act of 1992 (16 U.S.C. 460*l*–33(a)) is amended by adding at the end the following:

"(3) Any person who violates any such regulation which is issued pursuant to this Act shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which such judge was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18, United States Code.

"(4) The Secretary may–

"(A) authorize law enforcement personnel from the Department of the Interior to act as law enforcement officers to maintain law and order and protect persons and property within a Reclamation project or on Reclamation lands;

"(B) authorize law enforcement personnel of any other Federal agency that has law enforcement authority, with the exception of the Department of Defense, or law enforcement personnel of any State or local government, including Indian tribes, when deemed economical and in the public interest, and with the concurrence of that agency or that State or local government, to act as law enforcement officers within a Reclamation project or on Reclamation lands with such enforcement powers as may be so assigned them by the Secretary to carry out the regulations promulgated under paragraph (2);

"(C) cooperate with any State or local government, including Indian tribes, in the enforcement of the laws or ordinances of that State or local government; and

"(D) provide reimbursement to a State or local government, including Indian tribes, for expenditures incurred in connection with activities under subparagraph (B).

"(5) Officers or employees designated or authorized by the Secretary under paragraph (4) are authorized to–

***37** "(A) carry firearms within a Reclamation project or on Reclamation lands and make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony, and if such arrests occur within a Reclamation project or on Reclamation lands or the person to be arrested is fleeing therefrom to avoid arrest;

"(B) execute within a Reclamation project or on Reclamation lands any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law for an offense committed within a Reclamation project or on Reclamation lands; and

"(C) conduct investigations within a Reclamation project or on Reclamation lands of offenses against the United States committed within a Reclamation project or on Reclamation lands, if the Federal law enforcement agency having investigative jurisdiction over the offense committed declines to investigate the offense or concurs with such investigation.

"(6)(A) Except as otherwise provided in this paragraph, a law enforcement officer of any State or local government, including Indian tribes, designated to act as a law enforcement officer under paragraph (4) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, employment discrimination, leave, unemployment compensation, and Federal benefits.

"(B) For purposes of chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act, a law enforcement officer of any State or local government, including Indian tribes, shall, when acting as a designated law enforcement officer under paragraph (4) and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be considered a Federal employee.

"(C) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or local government, including Indian tribes, shall, when acting as a designated law enforcement officer under paragraph (4) and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be deemed a civil service employee of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, and the provisions of that subchapter shall apply. Benefits under this subchapter shall be reduced by the amount of any entitlement to State or local workers' compensation benefits arising out of the same injury or death.

"(7) Nothing in paragraphs (3) through (9) shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal law enforcement agency, or to affect any existing right of a State or local government, including Indian tribes, to exercise civil and criminal jurisdiction within a Reclamation project or on Reclamation lands.

"(8) For the purposes of this subsection, the term 'law enforcement personnel' means employees of a Federal, State, or local government agency, including an Indian tribal agency, who have successfully completed law enforcement training approved by the Secretary and are authorized to carry firearms, make arrests, and execute service of process to enforce criminal laws of their employing jurisdiction.

"(9) The law enforcement authorities provided for in this subsection may be exercised only pursuant to rules and regulations promulgated by the Secretary and approved by the Attorney General.".

TITLE VII–MISCELLANEOUS

SEC. 701. EMPLOYMENT OF TRANSLATORS BY THE FEDERAL BUREAU OF INVESTIGATION.

(a) Authority.–The Director of the Federal Bureau of Investigation is authorized to expedite the employment of personnel as translators to support counterterrorism investigations and operations without regard to applicable Federal personnel requirements and limitations.

(b) Security Requirements.–The Director of the Federal Bureau of Investigation shall establish such security requirements as are necessary for the personnel employed as translators.

(c) Report.–The Attorney General shall report to the Committees on the Judiciary of the House of Representatives and the Senate on–

(1) the number of translators employed by the FBI and other components of the Department of Justice;

***38** (2) any legal or practical impediments to using translators employed by other Federal State, or local agencies, on a full, part-time, or shared basis; and

(3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs.

SEC. 702. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) Appointment of Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.–The Inspector General of the Department of Justice shall appoint a Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation (hereinafter in this section referred to as the "Deputy").

(b) Civil Rights and Civil Liberties Review.–The Deputy shall–

(1) review information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by government employees and officials including employees and officials of the Department of Justice;

(2) make public through the Internet, radio, television, and newspaper advertisements information on the responsibilities and functions of, and how to contact, the Deputy; and

(3) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate on a semi-annual basis a report on the implementation of this subsection and detailing any abuses described in paragraph (1), including a description of the use of funds appropriations used to carry out this subsection.

(c) Inspector General Oversight Plan for the Federal Bureau of Investigation.–Not later than 30 days after the date of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Congress a plan for oversight of the Federal Bureau of Investigation. The Inspector General shall consider the following activities for inclusion in such plan:

(1) Financial systems.–Auditing the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation.

(2) Programs and processes.–Auditing and evaluating programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action.

(3) Internal affairs offices.–Reviewing the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility.

(4) Personnel.–Investigating allegations of serious misconduct by personnel of the Federal Bureau of Investigation.

(5) Other programs and operations.–Reviewing matters relating to any other program or and operation of the Federal Bureau of Investigation that the Inspector General determines requires review.

(6) Resources.–Identifying resources needed by the Inspector General to implement such plan.

(d) Review of Investigative Tools.–Not later than August 31, 2003, the Deputy shall review the implementation, use, and operation (including the impact on civil rights and liberties) of the law enforcement and intelligence authorities contained in title I of this Act and provide a report to the President and Congress.

SEC. 703. FEASIBILITY STUDY ON USE OF BIOMETRIC IDENTIFIER SCANNING SYSTEM WITH ACCESS TO THE FBI INTEGRATED AUTOMATED FINGERPRINT IDENTIFICATION SYSTEM AT OVERSEAS CONSULAR POSTS AND POINTS OF ENTRY TO THE UNITED STATES.

(a) In General.–The Attorney General, in consultation with the Secretary of State and the Secretary of Transportation, shall conduct a study on the feasibility of utilizing a biometric identifier (fingerprint) scanning system, with access to the database of the Federal Bureau of Investigation Integrated Automated Fingerprint Identification System, at consular offices abroad and at points of entry into the United States to enhance the ability of State Department and immigration officials to identify aliens who may be wanted in connection with criminal or terrorist investigations in the United States or abroad prior to the issuance of visas or entry into the United States.

(b) Report to Congress.–Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit a report summarizing the findings of the study authorized under subsection (a) to the Committee on International Relations and the Committee on the Judiciary of the House of Representatives and the Committee on Foreign Relations and the Committee on the Judiciary of the Senate.

***39** SEC. 704. STUDY OF ACCESS.

(a) In General.–Not later than December 31, 2002, the Federal Bureau of Investigation shall study and report to Congress on the feasibility of providing to airlines access via computer to the names of passengers who are suspected of terrorist activity by Federal officials.

(b) Authorization.–There are authorized to be appropriated for fiscal years 2002 though 2003 not more than $250,000 to carry out subsection (a).

SEC. 705. ENFORCEMENT OF CERTAIN ANTI-TERRORISM JUDGMENTS.

(a) Short Title.–This section may be cited as the “Justice for Victims of Terrorism Act”.

(b) Definition.–

(1) In general.–Section 1603(b) of title 28, United States Code, is amended–

(A) in paragraph (3) by striking the period and inserting “; and”;

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively (and by moving the margins 2 em spaces to the right);

(C) by striking “(b)” through “entity–” and inserting the following:

“(b) An ‘agency or instrumentality of a foreign state’ means–

“(1) any entity–”; and

(D) by adding at the end the following:

“(2) for purposes of sections 1605(a)(7) and 1610(a)(7) and (f), any entity as defined under subparagraphs (A) and (B) of paragraph (1), and subparagraph (C) of paragraph (1) shall not apply.”.

(2) Technical and conforming amendment.–Section 1391(f)(3) of title 28, United States Code, is amended by striking "1603(b)" and inserting "1603(b)(1)".

(c) Enforcement of Judgments.–Section 1610(f) of title 28, United States Code, is amended–

(1) in paragraph (1)–

(A) in subparagraph (A) by striking "(including any agency or instrumentality or such state)" and inserting "(including any agency or instrumentality of such state), except to the extent of any punitive damages awarded"; and

(B) by adding at the end the following:

"(C) Notwithstanding any other provision of law, moneys due from or payable by the United States (including any agency or instrumentality thereof) to any state against which a judgment is pending under section 1605(a)(7) shall be subject to attachment and execution with respect to that judgment, in like manner and to the same extent as if the United States were a private person, except to the extent of any punitive damages awarded."; and

(2) by striking paragraph (3) and adding the following:

"(3)(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

"(B) A waiver under this paragraph shall not apply to–

"(i) if property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

"(ii) if any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

"(C) In this paragraph, the term 'property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' and the term 'asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

"(4) For purposes of this subsection, all assets of any agency or instrumentality of a foreign state shall be treated as assets of that foreign state.".

(d) Effective Date.–The amendments made by this section shall apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of the enactment of this Act.

***40** (e) Paygo Adjustment.–The Director of the Office of Management and Budget shall not make any estimates of changes in direct spending outlays and receipts under section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(d)) for any fiscal year resulting from the enactment of this section.

TITLE VIII–PRIVATE SECURITY OFFICER QUALITY ASSURANCE

SEC. 801. SHORT TITLE.

This title may be cited as the "Private Security Officer Quality Assurance Act of 2001".

SEC. 802. FINDINGS.

Congress finds that–

(1) employment of private security officers in the United States is growing rapidly;

(2) the private security industry provides numerous opportunities for entry-level job applicants, including individuals suffering from unemployment due to economic conditions or dislocations;

(3) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are only supplemented by private security officers who provide prevention and reporting services in support of, but not in place of, regular sworn police;

(4) given the growth of large private shopping malls, and the consequent reduction in the number of public shopping streets, the American public is more likely to have contact with private security personnel in the course of a day than with sworn law enforcement officers;

(5) regardless of the differences in their duties, skill, and responsibilities, the public has difficulty in discerning the difference between sworn law enforcement officers and private security personnel; and

(6) the American public demands the employment of qualified, well-trained private security personnel as an adjunct, but not a replacement for sworn law enforcement officers.

SEC. 803. BACKGROUND CHECKS.

(a) In General.–An association of employers of private security officers, designated for the purpose of this section by the Attorney General, may submit fingerprints or other methods of positive identification approved by the Attorney General, to the Attorney General on behalf of any applicant for a State license or certificate of registration as a private security officer or employer of private security officers. In response to such a submission, the Attorney General may, to the extent provided by State law conforming to the requirements of the second paragraph under the heading "Federal Bureau of Investigation" and the subheading "Salaries and Expenses" in title II of Public Law 92–544 (86 Stat. 1115), exchange, for licensing and employment purposes, identification and criminal history records with the State governmental agencies to which such applicant has applied.

(b) Regulations.–The Attorney General may prescribe such regulations as may be necessary to carry out this section, including measures relating to the security, confidentiality, accuracy, use, and dissemination of information and audits and recordkeeping and the imposition of fees necessary for the recovery of costs.

(c) Report.–The Attorney General shall report to the Senate and House Committees on the Judiciary 2 years after the date of enactment of this Act on the number of inquiries made by the association of employers under this section and their disposition.

SEC. 804. SENSE OF CONGRESS.

It is the sense of Congress that States should participate in the background check system established under section 803.

SEC. 805. DEFINITIONS.

As used in this title–

(1) the term “employee” includes an applicant for employment;

(2) the term “employer” means any person that–

(A) employs one or more private security officers; or

(B) provides, as an independent contractor, for consideration, the services of one or more private security officers (possibly including oneself);

(3) the term “private security officer”–

(A) means–

***41** (i) an individual who performs security services, full or part time, for consideration as an independent contractor or an employee, whether armed or unarmed and in uniform or plain clothes whose primary duty is to perform security services, or

(ii) an individual who is an employee of an electronic security system company who is engaged in one or more of the following activities in the State: burglar alarm technician, fire alarm technician, closed circuit television technician, access control technician, or security system monitor; but

(B) does not include–

(i) sworn police officers who have law enforcement powers in the State,

(ii) attorneys, accountants, and other professionals who are otherwise licensed in the State,

(iii) employees whose duties are primarily internal audit or credit functions,

(iv) persons whose duties may incidentally include the reporting or apprehension of shoplifters or trespassers, or

(v) an individual on active duty in the military service;

(4) the term “certificate of registration” means a license, permit, certificate, registration card, or other formal written permission from the State for the person to engage in providing security services;

(5) the term “security services” means the performance of one or more of the following:

(A) the observation or reporting of intrusion, larceny, vandalism, fire or trespass;

(B) the deterrence of theft or misappropriation of any goods, money, or other item of value;

(C) the observation or reporting of any unlawful activity;

(D) the protection of individuals or property, including proprietary information, from harm or misappropriation;

(E) the control of access to premises being protected;

(F) the secure movement of prisoners;

(G) the maintenance of order and safety at athletic, entertainment, or other public activities;

(H) the provision of canine services for protecting premises or for the detection of any unlawful device or substance; and

(I) the transportation of money or other valuables by armored vehicle; and

(6) the term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

PURPOSE AND SUMMARY

H.R. 2975, the “Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001,” provides enhanced investigative tools and improves information sharing for the law enforcement and intelligence communities to combat terrorism and terrorist-related crimes. The enhanced law enforcement tools and information sharing-provisions will assist in the prevention of future terrorist activities and the preliminary acts and crimes which further such activities. To protect the delicate balance between law enforcement and civil liberties, the bill provides additional government reporting requirements, disciplinary actions for abuse, and civil penalties.

BACKGROUND AND NEED FOR THE LEGISLATION

On September 11, 2001, the United States was attacked by terrorist. After the attacks the country became aware of the need to better defend and protect the nation, liberty and citizens within our own borders. There are several key legislative changes needed to mobilize the nation against terrorism and to assist law enforcement and the intelligence community to determine who carried out the ***42** horrific acts of Tuesday, September 11, 2001, and to bring our criminal investigative capabilities to prevent future attacks.

HEARINGS

On September 24, 2001, the Committee on the Judiciary held one hearing on the Administration's proposed legislation the “Mobilization Against Terrorism Act of 2001,” which formed the basis of H.R. 2975, the “Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001.” Testimony was received from four witnesses, representing the Department of Justice. The witnesses were: The Honorable John Aschroft, Attorney General; Honorable Michael Chertoff, Assistant Attorney General for the Criminal Division; Honorable Larry Thompson, Deputy Attorney General; and Honorable Viet Dinh, Assistant Attorney General for Legal Policy.

COMMITTEE CONSIDERATION

On October 3, 2001, the Committee met in open session and ordered favorably reported the bill H.R. 2975, as amended, by a 36–0 vote, a quorum being present.

VOTES OF THE COMMITTEE

(1) An amendment was offered by Mr. Boucher (for himself, Mr. Goodlatte, and Mr. Cannon) to insert language at the end of title I that states “Nothing in this Act shall impose any additional technical obligation or requirement on a provider of wire or electronic communication service or other person to furnish facilities, services or technical assistance.” The amendment passed by voice vote.

(2) An amendment was offered by Mr. Frank to provide increased civil liability for unlawful disclosures of information obtained by wire or electronic interception, access to electronically-stored communications, pen register and trap trace, or the Foreign Intelligence Surveillance Act of 1978 (FISA) intelligence gathering and to provide administrative discipline for intentional violations and to provide procedures for actions against the United States. The amendment passed by voice vote.

(3) An amendment was offered by Mr. Berman to sections 103 and 154, clarifying that the term "foreign intelligence information" is the same term that is defined under section 1801(e) of title 50, the Foreign Intelligence Surveillance Act. The amendment passed by voice vote.

(4) Amendments were offered en bloc by Mr. Sensenbrenner (for himself, Mr. Conyers, Mr. Hyde, and Mr. Berman) to, among other things, clarify that upon request, those being served with the generic pen/trap order created under this section shall receive written or electronic certification that the assistance provided related to the order; to authorize five million dollars to be appropriated for antidrug training for South and Central Asia police; to establish a feasibility study on the use of a biometric identifier scanning system with access to the FBI Integrated Automated Fingerprint Identification system at overseas consular posts and points of entry to the United States; to clarify that a court of competent jurisdiction for nationwide search warrants must have jurisdiction over the offense being investigated; and to modify the current designation ***43** process by allowing either the Secretary of State or the Attorney General to determine designation of a foreign terrorist organization and if they fail to agree, the President shall make such determination. The amendment passed by voice vote.

(5) An amendment was offered by Mr. Hyde to make inadmissible any alien who the government knows or has reason to believe is a money launderer. The Secretary of State shall create a watchlist, to be checked before the issuance of a visa or admission of an alien into the U.S., which identifies persons who are known or suspected of money laundering. The amendment passed by voice vote.

(6) An amendment was offered by Mr. Nadler (for himself and Ms. Jackson Lee) to provide that the U.S. government can only seek information from the home government about an asylum applicant who is a suspected terrorist if the U.S. government does not disclose the fact that the alien has applied for asylum nor any information sufficient to give rise to an inference that the applicant has applied for asylum. Mr. Bachus offered an amendment to the amendment to strike the base provision–section 205(b)–from the bill. Both amendments passed by voice vote.

(7) Amendments were offered en bloc by Mr. Sensenbrenner (for himself, Mr. Conyers, Mr. Scott, Mr. Weiner, Mr. Issa, Mr. Keller, Mr. Barr, Mr. Cannon, Mr. Nadler and Ms. Jackson Lee). Mr. Scott offered an amendment to exclude military and military personnel from the provisions regarding extraterritorial jurisdiction in the bill who are already covered under the Military Extraterritorial Jurisdiction Act of 2000. Mr. Weiner and Mr. Issa offered amendments to increase the amount paid to public safety officers disabled or killed in the line of duty from $100,000 to $250,000. An amendment offered by Mr. Keller would authorize $250,000 to require the FBI to study the feasibility of providing the airlines access to information regarding suspected terrorists. One of the amendments, offered by Mr. Barr, provided that the Attorney General and the Deputy Attorney General may, with no further delegation, certify an alien as an terrorist for purposes of mandatory detention. The bill had provided this authority to the Attorney General and the INS Commissioner. An amendment offered by Mr. Barr would allow an association of employers of private security officers to submit fingerprints or other methods of identification to the Attorney General for purposes of State licensing or certification. Another of the amendments, offered by Mr. Cannon (for himself and Mr. Issa), amends current law to revise the definition of "agency or instrumentality of a foreign state" for purposes of provisions regarding exceptions to: 1) the jurisdictional immunity of a foreign state where money damages are sought against the state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources for such an act; and 2) the immunity from attachment or execution where the judgment relates to a claim for which the foreign state is not immune. Another of the amendments, to be offered by Mr. Nadler (for himself and Ms. Jackson Lee), amends the section of the bill providing for mandatory detention of alien terrorists by providing that if an alien detained pursuant to the section was ordered removed as a terrorist (or on the other grounds allowing certification) and had not been removed ***44** within 90 days and was unlikely to be removed in the reasonably foreseeable future, the alien

could be detained for additional periods of up to 6 months if the Attorney General demonstrated that release would not protect the national security of the United States or ensure the public's safety. The en bloc amendment passed by voice vote.

(8) An amendment was offered by Ms. Lofgren to sunset most of the changes made to current immigration law by title II(a) of the bill. The amendment failed by voice vote.

(9) An amendment was offered by Mr. Weiner to amend the foreign student tracking system created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 by advancing the date by which the system must be fully operational, providing that students who are nationals of countries that have repeatedly provided support for acts of international terrorism may be assessed a higher fee than other foreign students, and providing that the Attorney General shall provide to the Secretary of State and the Director of the FBI the information collected by the system. The amendment passed by a rollcall vote of 25–8.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

***45** (10) An amendment was offered by Ms. Jackson Lee to provide funds for enhanced technology for security and enforcement at the northern border. The amendment passed by voice vote.

(11) An amendment was offered by Mr. Scott to narrow the list of persons restricted from possessing biological agents. Mr. Scott's amendment changed definition of persons restricted due to the indictment for a crime, to those persons indicted for a Federal terrorism offense. The amendment failed by voice vote.

(12) An amendment was offered by Mr. Scott to tighten the intent requirement to require actual intent instead of apparent intent for the definition of “domestic terrorism.” The amendment failed by voice vote.

(13) Vote on final passage was adopted by a rollcall vote of 36–0.

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities ***46** under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

The bill is intended to: (1) improve the government's ability to identify, dismantle, disrupt and punish terrorist organizations for terrorist and related criminal activities by enhancing and clarifying law enforcement investigative tools and by improving information sharing between law enforcement and government agencies that have responsibilities related to protecting the Nation against terrorism; and (2) to protect the balance between civil liberties and law enforcement by requiring new reporting obligations and administrative oversight.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures. This bill does provide new budgetary authority.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2975, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 10, 2001.

Hon. F. James Sensenbrenner, Jr., Chairman,
Committee on the Judiciary,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2975, the Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz and Lanette Walker (for Federal costs), who can be reached at 226–2860, Victoria Heid Hall (for the impact on state, local, and tribal governments), who can be reached at 225–3220, and Paige Piper/Bach (for the impact on the private sector), who can be reached at 226–2940.

Sincerely,

Dan L. Crippen, Director.

Enclosure

cc:

Honorable John Conyers Jr.

Ranking Member

***47** H.R. 2975–Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001.

SUMMARY

H.R. 2975 would expand the powers of Federal law enforcement agencies to investigate and prosecute terrorist acts, establish new Federal crimes, and increase penalties for acts of terrorism. The bill would allow certain victims of Iranian terrorism who have won judgments against Iran in U.S. court to collect monetary damages from the U.S. government. H.R. 2975 also would increase the payments to families of public safety officers who have died as a result of injuries incurred in the line of duty. Finally, the bill would authorize funding for the Immigration and Naturalization Service (INS), the Drug Enforcement Administration (DEA), and the Department of the Interior (DOI) to undertake activities to combat terrorism.

CBO estimates that enacting the bill would increase direct spending for payments to victims of terrorism and death benefits for public safety officers by a total of $107 million in fiscal year 2002 and by about $20 million in each year thereafter. Because this legislation would affect direct spending and receipts, pay-as-you-go procedures would apply. Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 2975 would cost about $1 billion over the 2002–2006 period, mostly for additional INS personnel.

Two provisions of H.R. 2975 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates, however, that the cost of those mandates would fall well below the thresholds established in UMRA ($56 million for intergovernmental mandates and $113 million for private-sector mandates in 2001, adjusted annually for inflation).

The remaining provisions of the bill are either excluded from UMRA because they are necessary for the national security or contain no mandates.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2975 is shown in the following table. The costs of this legislation falls within budget functions 150 (international affairs), 300 (natural resources and environment), and 750 (administration of justice).s,d358

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

***48** BASIS OF ESTIMATE

***49** DIRECT SPENDING AND RECEIPTS

***50** SPENDING SUBJECT TO APPROPRIATION

PAY-AS-YOU-GO CONSIDERATIONS

***51** INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

ESTIMATE PREPARED BY:

ESTIMATE APPROVED BY:

CONSTITUTIONAL AUTHORITY STATEMENT

***52** SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title

This Act may be cited as the “Provide Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001.”

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TITLE I–INTELLIGENCE GATHERING

SUBTITLE A–ELECTRONIC SURVEILLANCE

Section 101. Modification of Authorities Relating to Use of Pen Registers and Trap and Trace Devices

Under 18 U.S.C. S 3121(b), law enforcement may obtain authorization from a court, upon certification that the information to be obtained is relevant to a pending criminal investigation, to install and use a “pen register” device that identifies the telephone numbers dialed or pulsed from (outgoing calls) or a “trap and trace” device that identifies the telephone numbers to a particular telephone (incoming calls). These court authorizations do not permit capturing or recording of the content of any such communication under the terms of the court order.

Currently, the government must apply for a new pen/trap order in every jurisdiction where the target telephone is located. This can cause serious delays that could be devastating to an investigation, particularly where additional criminal or terrorist acts are planned.

Section 101 does not change the requirement under 18 U.S.C. S 3121 that law enforcement seek a court order to install and use pen registers/trap and trace devices. It does not change the law requiring that the attorney for the government certify to the court that the information sought is relevant to an ongoing criminal investigation.

This section does change the current law requiring the government to obtain the order in the jurisdiction where the telephone (or its equivalent) is located. This section authorizes the court with jurisdiction over the offense of the investigation to issue the order, thus streamlining an investigation and eliminating the need to intrude upon the resources of courts and prosecutors with no connection to the investigation.

Under the bill, 18 U.S.C. S 3123(a) would authorize courts to issue a single pen register/trap and trace order that could be executed in multiple jurisdictions anywhere in the United States. The bill divides the existing 18 U.S.C. S 3123(a) into two paragraphs. The new subsection (a)(1) applies to Federal investigations and provides that the order may be issued to any provider of communication services within the United States whose assistance is appropriate to the effectuation of the order. Subsection (a)(2) applies to State law enforcement and does not change the current authority granted to State officials.

This section updates the language of the statute to clarify that the pen/register authority applies to modern communication technologies. Current statutory references to the target "line," for example, are revised to encompass a "line or other facility." Such a ***53** facility includes: a cellular telephone number; a specific cellular telephone identified by its electronic serial number (ESN); an Internet user account or e-mail address; or an Internet Protocol (IP) address, port number, or similar computer network address or range of addresses. In addition, because the statute takes into account a wide variety of such facilities, section 3123(b)(1)(C) allows applicants for pen register or trap and trace orders to submit a description of the communications to be traced using any of these or other identifiers.

Moreover, the section clarifies that orders for the installation of pen register and trap and trace devices may obtain any non-content information–"dialing, routing, addressing, and signaling information"–utilized in the processing or transmitting of wire and electronic communications. [1] Just as today, such an order could not be used to intercept the contents of communications protected by the wiretap statute. The amendments reinforce the statutorily prescribed line between a communication's contents and non-content information, a line identical to the constitutional distinction drawn by the U.S. Supreme Court in Smith v. Maryland, 442 U.S. 735, 741–43 (1979).

Thus, for example, an order under the statute could not authorize the collection of email subject lines, which are clearly content. Further, an order could not be used to collect information other than "dialing, routing, addressing, and signaling" information, such as the the portion of a URL (Uniform Resource Locator) specifying Web search terms or the name of a requested file or article.

This concept, that the information properly obtained by using a pen register or trap and trace device is non-content information, applies across the board to all communications media, and to actual connections as well as attempted connections (such as busy signals and similar signals in the telephone context and packets that merely request a telnet connection in the Internet context).

Further, because the pen register or trap and trace "device" is often incapable of being physically "attached" to the target facility due to the nature of modern communication technology, section 101 makes two other related changes. First, in recognition of the fact that such functions are commonly performed today by software instead of physical mechanisms, the section allows the pen register or trap and trace device to be "attached or applied" to the target facility. Likewise, the definitions of "pen register" and "trap and trace device" in section 3127 are revised to include an intangible "process" (such as a software routine) which collects the same information as a physical device.

Section 101(c) amends the definition section to include a new nexus standard under S 3127(2)(A) to provide that the issuing court must have jurisdiction over the crime being investigated rather than the communication line upon which the device is to be installed. This section is also amended to account for the new technologies relating to the different modes of communication.

Section 101(d) amends section 3124(d) to ensure that communication providers continue to be covered under that section. Technology providers are concerned that the single order provisions of ***54** section 101 of the bill eliminates the protection of S 3124(d) of title 18 that provides that "no cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order." Once there is a nation-wide order it will not specify the provider and thus, the providers believe they could become liable upon compliance with the order. The intent of the current statutory language is to protect providers who comply with court orders, which direct them to assist law enforcement in obtaining the non-content information. The bill removes the phrase "the terms of" so that the phrase reads "in accordance with a court order." This will keep the requirement of a court order but protect the providers even when that order does not specify the provider.

Current practice includes compliance with pen registers and trap and trace orders by the service provider using its systems and technologies to provide the government all non-content information ordered by the order without the installation of an additional device by the government to capture that order. It is intended that these alternative compliance procedures should continue when the provider is willing and technologically able to comply with the order by these means in an efficient, complete and timely manner.

Additionally, this section clarifies that upon request, those being served with the generic pen/trap order created under this section shall receive written or electronic certification from the serving officer or official stating that the assistance provided is related to the order.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 102. Seizure of Voice-Mail Messages Pursuant to Warrants

This section requires a court to issue an order authorizing law enforcement to seize voice mail messages pursuant to a search warrant upon a showing of probable cause. The Committee recognizes that voice mail is a stored electronic communication and should be treated accordingly. Thus, this section harmonizes all criminal provisions dealing with obtained stored electronic communication–requiring a warrant issued by a judge after establishing probable cause.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 103. Authorized Disclosure

This provision will allow law enforcement to share "title III" (Wiretap Statute) information with specified government agencies to further intelligence or national security investigations. Under current law, 18 U.S.C. S 2517(1) allows any investigative or law enforcement officer who obtains information under the Wiretap Statute to disclose the information to the extent that the information assists a criminal investigation to another investigative or law enforcement officer. The current statutory language has hampered law enforcement in sharing information or receiving information from other government agencies outside of law enforcement that perform official duties that might nevertheless relate to terrorist activities or the national security. This section of the bill would ***55** amend the definition under S 2510(7) of "investigative or law enforcement officer" to include any member of Federal law enforcement, intelligence, national security, national defense, protective, immigration personnel, or the President or Vice President of the United States for the purposes only of S 2517 when it relates to foreign intelligence information as defined under title 50 U.S.C. S 1801(e) of the Foreign Intelligence Surveillance Act.

As with current law, the disclosure or sharing of information must be made to persons within these agencies who are engaged in the performance of the official duties of the official making or receiving the information.

The bill also limits the information to that which relates to foreign intelligence information. This language narrows that which was proposed by the Administration that would have authorized disclosure to "any officer or employee of the executive branch."

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 104. Savings Provision

This section is a technical and conforming amendment that would add chapter 206 (relating to pen registers/trap and trace orders) to section S 2511(f) of the Wiretap Statute. Section 2511(f) provides that nothing in chapter 119 (relating to the interception of communications), chapter 121 (relating to stored wire and electronic communications and transactional records access), or section 705 of the Communications Act of 1934, "shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law. . . ." The bill would include chapter 206 under that S 2511(f).

This section also updates the language to include electronic communications.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 105. Interception of Computer Trespasser Communications

Cyberattacks may be the work of terrorists or criminals. These attacks come in many forms that cost companies and citizens millions of dollars and endanger public safety. For instance, the denial-of-service attacks, where the objective of the attack is to disable the computer system, can shut down businesses or emergency responders or national security centers. This type of attack causes the target site's servers to run out of memory and become incapable of responding to the queries of legitimate customers or users. The victims of these computer trespasser's should be able to authorize law enforcement to intercept the trespassers communications. Section 105 amends current law to clarify that law enforcement may intercept such communications when authorized by the victims, under limited circumstances.

Section 105(1) of the bill adds to the definitions under 18 U.S.C. S 2510 the term: (1) "protected computer" and provides that the term has the same meaning set forth in S 1030 of title 18; and (2) the term "computer trespasser" means a person who is accessing a protected computer without authorization and thus has no reasonable ***56** expectation of privacy in any communication transmitted to, through, or from the protected computer.

Section 105(2) of the bill amends current law to allow victims of computer intrusions to authorize law enforcement to intercept the communications of a computer trespasser, under limited circumstances. The circumstances are: (1) the owner or operator of the protected computer must authorize the interception of the trespasser's communications; (2) the person who intercepts the communication must be lawfully engaged in an investigation; (3) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communication to be intercepted will be relevant to the investigation; and (4) the investigator may only intercept communications of the computer trespasser.

Section 105(3) would update the "good faith reliance" defense in section 2520(d), so that the computer trespasser situation is also covered. Current law provides that a communications provider that relies in good faith on:

(1) a court warrant or order, a grand jury subpoena, or a statutory authorization; (2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or (3) a good faith determination that section 2511(3) of this title permitted the conduct complained of; [has] a complete defense against civil or criminal action brought under this chapter or any other law."

Section 105(3) clarifies that communications providers assisting law-enforcement under this section will continue to be covered by the good faith reliance defense under 2320(d).

The Committee does not intend that section 105 (Interception of Computer Trespasser Communications) apply to persons who access a computer (as defined in 18 U.S.C. 1030 (e)(1)), protected computer (as defined in 18 U.S.C. 1030 (e)(2)), computer system, or computer network, for the purpose of testing the security and reliability of such computer, protected computer, computer system, or computer network. Furthermore, the Committee believes that critical infrastructures (as defined in Executive Order 13010, 61 F.R. 37347, 42 U.S.C. 5195) should undergo automated electronic testing of their internal and external network assets, on a frequent and recurring basis.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 106. Technical Amendment

Title 18 U.S.C. Section 2518(3) provides four criteria upon which a judge may enter an ex parte order authorizing the interception of wire, oral, or electronic communications. Section 2518(3)(c) is missing a coordinating conjunction. This section simply adds the coordinating conjunction "and" to 18 U.S.C. S 2518(3)(c).

Section 107. Scope of Subpoenas for Record of Electronic Communications

Terrorists and other criminals often use aliases in registering for Internet and telephone services. This creates a problem for law enforcement attempting to identify the suspects of terrorist acts or ***57** criminal acts that often support the terrorists. While the government currently can subpoena electronic communications or a remote computing services provider for the name, address and length of service of a suspect, this information does not help when the suspected terrorist or criminal lies about his or her identity. Permitting investigators to obtain credit card and other payment information by a subpoena, along with subscriber information (already permitted to be obtained under current law), will help law enforcement track a suspect and establish his or her true identity.

This section would amend 18 U.S.C. S 2703(c) to authorize a subpoena for transactional records to include information regarding the form of payment in order to assist law enforcement in determining the user's identity.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 108. Nationwide Service of Search Warrants for Electronic Evidence

Title 18 U.S.C. S 2703(a) requires a search warrant to compel service providers to disclose unopened e-mails. This section does not affect the requirement for a search warrant, but rather attempts to address the investigative delays caused by the cross-jurisdictional nature of the Internet. Currently, Federal Rules of Criminal Procedure 41 requires that the "warrant" be obtained "within the district" where the property is located. An investigator, for example, located in Boston who is investigating a suspected terrorist in that city, might have to seek a suspect's electronic e-mail from an Internet service provider (ISP) account located in California. The investigator would then need to coordinate with agents, prosecutors and judges in the district in California where the ISP is located to obtain a warrant to search. These time delays could be devastating to an investigation, especially where additional criminal or terrorist acts are planned.

Section 108 amends S 2703 to authorize the court with jurisdiction over the investigation to issue the warrant directly, without requiring the intervention of its counterpart in the district where the ISP is located.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 109. Clarification of Scope

This section amends S 2511(2) of title 18 to clarify that when a cable company is providing the services of a telephone company or Internet service provider, that cable company must comply with the same laws governing the interception and disclosure of wire and electronic communications that currently apply to all other telephone companies or Internet service providers. The amendment does not affect the current prohibition under 631(h) of the Communication Act concerning the released records that reveal what a customer chooses to view, for example what particular premium channels or "pay per view" shows the customer selects.

Under current law, the Communications Act as amended (passed at a time when cable companies provided only television viewing services on cable lines) prohibits a cable operator, with certain exceptions, from disclosing personally identifiable information concerning ***58** any subscriber without prior written or electronic notice to the subscriber concerned. At the same time, criminal laws governing the interception and disclosure of wire and electronic communications permit the court to order non-disclosure of the government interception. [2] The section will end this perceived conflict in current law that has placed cable companies in the awkward position of trying to follow conflicting provisions of law.

Section 110. Emergency Disclosure of Electronic Communications to Protect Life and Limb

This section amends 18 U.S.C. S 2702 to authorize electronic communications service providers to disclose the communications (or records relating to such communications) of their customers or subscribers if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure of the information without delay.

This section would also amend the law to allow communications providers to disclose non-content information (such as the subscriber's login records). Under current law, the communications provider is expressly permitted to disclose content information but not expressly permitted to provide non-content information. This change would cure this problem and would permit the disclosure of the less-protected information, parallel to the disclosure of the more protected information.

Additionally, this section would ensure that providers of communications remain covered under S1A2703(e), the no cause of action provision, when assisting law enforcement with an investigation. Under current law, there is a "no cause of action against providers disclosing information . . . in accordance with the terms of a court order, warrant, subpoena, or certification under [chapter 121]." This section would add information disclosed under "statutory authorization," to cover providers that contact authorities in emergency situations.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 111. Use as Evidence

This section extends the statutory exclusionary rule in 18 U.S.C. S 2515 to electronic communications by amending the statutory suppression of evidence rule under the 1968 Wiretap Statute providing that illegally intercepted wire or oral communications cannot be used in court or in agency hearings under section 2515. The extension covers both real-time and stored communications. The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 112. Reports Concerning the Disclosure of the Contents of Electronic Communications

This section amends 18 U.S.C. S 2703, et. seq., which governs access to stored wire and electronic communications to require the government to compile and publish annual reports of data regarding the government's acquisition of this type of information. The criminal wiretap and pen/trap statutes already require reporting. ***59** The sunset provision in section 162 would sunset this section on December 31, 2003.

The Committee recognizes that this bill imposes reporting requirements on the Administrative Office of the U.S. Courts that will require the hiring of additional analysts. This Committee urges Congress to appropriate sufficient funds for the Administrative Office of the U.S. Courts to comply with the reporting requirements contained in this bill.

TITLE I–INTELLIGENCE GATHERING

SUBTITLE B–FOREIGN INTELLIGENCE SURVEILLANCE AND CLASSIFIED INFORMATION

Section 151. Period of Orders of Electronic Surveillance of Non-United States Persons Under Foreign Intelligence Surveillance

This section amends S 1805(e)(1) of title 50, (Foreign Intelligence Surveillance Act (FISA)), to extend the FISA court authorized maximum period for electronic surveillance of officers and employees of foreign powers and of members of international terrorist cells from 90 days to a year. This section also amends S 1824(d) of title 50, to extend the FISA court authorized maximum period for a physical search targeted against officers and employees of foreign powers and members of international terrorist cells from 45 days to 90 days.

Under current law, the government may go back to the FISA court after the 90- or 45-day period to get an extension on the same basis as the original order application. The Committee recognizes, however, that it often takes longer than the established periods to get on the premises or to conduct electronic surveillance and that the delay in reapplying poses a threat to our national security.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 152. Multi-Point Authority

Section 1805(c)(2)(B) of title 50, permits the FISA court to order third parties, like common carriers, custodians, landlords and others, who are specified in the order, (specified persons) to provide assistance and information to law enforcement authorities in the installation of a wiretap or the collection of information related to a foreign intelligence investigation.

Section 152 amends 1805(c)(2)(B) to insert language that permits the FISA court to direct the order to “other persons” if the court finds that the “actions of the target of the application may have the effect of thwarting the identification of a specified person,” who would be required to assist in the installation of any court-authorized intercept. This amendment is intended to expand the existing authority to allow for circumstances where the court finds that the actions of a target may thwart the identification of a specified person in the order. This is usually accomplished by the target moving his location. The move necessitates the use of third parities other than those specified in the original order to assist in installation of the listening device.

This amendment allows the FISA court to compel any such new necessary parties to assist in the installation and to furnish all information, facilities, or technical assistance necessary without specifically ***60** naming such persons. Nevertheless, the target of the electronic surveillance must still be identified or described in the order as under existing law.

For example, international terrorists and foreign intelligence officers are trained to thwart surveillance by changing hotels, cell phones, Internet accounts, etc. just prior to important meetings or communications. Under present law, each time this happens the government must return to the FISA court for a new order just to change the name of the third party needed to assist in the new installation. The amendment permits the court to issue a generic order that can be presented to the new carrier, landlord or custodian directing their assistance to assure that the surveillance may be undertaken as soon as technically feasible.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 153. Foreign Intelligence Information

Under 50 U.S.C. S 1804(a)(7)(B) and 50 U.S.C. S 1823(a)(7)(B) a FISA application requires certification, among other things, that "the purpose" of surveillance or search is to obtain foreign intelligence information. The certification for an order against any person who knowingly engages in espionage or terrorism may only be made upon written request of an official designated by the President. The Attorney General must personally review the application.

Presently, a FISA certification request can only be used where foreign intelligence gathering is the sole or primary purpose of the investigation as interpreted by the courts. This requires law enforcement to evaluate constantly the relative weight of criminal and intelligence purposes when seeking to open a FISA investigation and thereafter as it proceeds.

Section 153 amends 50 U.S.C. S 1804(a)(7)(B) and 1823(a)(7)(B) to require that certain officials (designated by the President) certify that obtaining foreign intelligence information is "a significant purpose" of the investigation.

This bill language represents a compromise between current law and what the Administration had proposed.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 154. Foreign Intelligence Information Sharing

Currently, the Wiretap Statute (18 U.S.C. S 2510 et. seq.) limits disclosure and dissemination of information obtained for law enforcement purposes. Section 154 of the bill makes it lawful for foreign intelligence information, as defined in FISA, that is obtained as a result of a criminal investigation to be shared with specified law-enforcement, intelligence, protective, immigration, or national-defense personnel where they are performing official duties.

Under current law, it is impossible for law enforcement or criminal investigators and the intelligence community to share foreign intelligence information collected under a criminal wiretap without seeking court authority. This limitation can adversely affect a criminal or counter-terrorism investigation where time is of the essence in preventing further deadly actions. This section makes it clear that law-enforcement and the intelligence community may ***61** share foreign intelligence information in the performance of their official duties without seeking a subpoena or court authority.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 155. Pen Register and Trap and Trace Authority

Section 155 amends section 1842(c) of FISA (50 U.S.C. S 1842(c)) (the pen register and trap and trace provisions) to mirror similar provisions currently exist in criminal law (18 U.S.C. S 3121 et. seq.). Currently, the "pen register and trap and trace" provisions of FISA go beyond the criminal law requirement of certification of relevance, and require that the communication instrument (e.g., a telephone line) has been used to contact a "foreign power" or agent of a foreign power. This is a greater burden than exists in even a minor criminal investigation.

Section 155 clarifies that an application for pen register and trap and trace authority under FISA will be the same as the pen register and trap and trace authority defined in the criminal law. It will require the attorney for the government to certify to the court that the information sought is relevant to an ongoing FISA investigation. The current statutory burden of having to show that the telephone line has been, or is about to be used to contact a foreign power or terrorist is eliminated to conform to the existing and less burdensome criminal standards. The attorney for the government still must certify the information sought is relevant to an ongoing FISA investigation which continues to be directed at an agent of a foreign power.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 156. Business Records

The Administration had sought administrative subpoena authority without having to go to court. Instead, section 156 amends title 50 U.S.C. S 1861 by providing for an application to the FISA court for an order directing the production of tangible items such as books, records, papers, documents and other items upon certification to the court that the records sought are relevant to an ongoing foreign intelligence investigation. The amendment also provides a good faith defense for persons producing items pursuant to this section which does not constitute a waiver of any privilege in any other proceeding.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 157. Miscellaneous National Security Authorities

Section 2709 of title 18 permits the Director of the Federal Bureau of Investigation to request, through a National Security Letter (NSL), subscriber information and toll billing records of a wire or electronic communication service provider. The request must certify (1) that the information sought is relevant to an authorized foreign counterintelligence investigation; and (2) there are specific and articulable facts that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in FISA. This requirement is more burdensome than the corresponding criminal authorities, which require only a certification ***62** of relevance. The additional requirement of documentation of specific and articulable facts showing the person or entity is a foreign power or an agent of a foreign power cause substantial delays in counterintelligence and counterterrorism investigations. Such delays are unacceptable as our law enforcement and intelligence community works to thwart additional terrorist attacks that threaten the national security of the United States and her citizens' lives and livelihoods.

Section 157 amends title 18 U.S.C. S 2709 to mirror criminal subpoenas and allow a NSL to be issued when the FBI certifies, the information sought is “relevant to an authorized foreign counterintelligence investigation.” This harmonizes this provision with existing criminal law where an Assistant United States Attorney may issue a grand jury subpoena for all such records in a criminal case.

The sunset provision in section 162 would sunset this section on December 31, 2003.

Section 158. Proposed Legislation

Section 158 of the bill provides that no later than August 31, 2003, the President shall propose legislation, with regard to the provisions set to expire under section 162 of this Act, if the President judges it to be necessary and expedient.

Section 159. Presidential Authority

Section 203 of the International Emergency Economic Powers Act (50 U.S.C. S 1702) grants to the President the power to exercise certain authorities relating to commerce with foreign nations upon his determination that there exits an unusual and extraordinary threat to the United States. Under this authority, the President may, among other things, freeze certain foreign assets within the jurisdiction of the United States. A separate law, the Trading With the Enemy Act, authorizes the President to take title to enemy assets when Congress has declared war.

Section 159 of this bill amends section 203 of the International Emergency Economic Powers Act to provide the President with authority similar to what he currently has under the Trading With the Enemy Act in circumstances where there has been an armed attack on the United States, or where Congress has enacted a law authorizing the President to use armed force against a foreign country, foreign organization, or foreign national. The proceeds of any foreign assets to which the President takes title under this authority must be placed in a segregated account can only be used in accordance with a statute authorizing the expenditure of such proceeds.

Section 159 also makes a number of clarifying and technical changes to section 203 of the International Emergency Economic Powers Act, most of which will not change the way that provision currently is implemented.

Section 160. Clarification of No Technology Mandates.

Current law requires communications service providers to furnish "all information, facilities, and technical assistance necessary to accomplish . . ." the execution of the court order (18 U.S.C. 3124(a)). This Act is not intended to affect obligations under the ***63** Communications Assistance for Law Enforcement Act[3], nor does the Act impose any additional technical obligation or requirement on a provider of wire or electronic communication service or other person to furnish facilities or technical assistance.

Section 161. Civil Liability for Certain Unauthorized Disclosures

This section increases the civil liability for unlawful disclosures of information obtained by wire or electronic intercepts, access to electronically-stored communications, pen register and trap and trace, and FISA intelligence. This section also provides administrative discipline for intentional violations and affords procedures for actions against the United States.

Section 162. Sunset

This section would sunset the provisions of this title (other than section 109 and 159 relating to the Communications Act) on December 31, 2003.

TITLE II–ALIENS ENGAGING IN TERRORIST ACTIVITY

SUBTITLE A–DETENTION AND REMOVAL OF ALIENS ENGAGING IN TERRORIST ACTIVITY

Section 201: Changes in Classes of Aliens who Are Ineligible for Admission and Deportable Due to Terrorist Activity

Under current law, unless otherwise specified, an alien is inadmissible and deportable for engaging in terrorist activity only when the alien has used explosives or firearms. The Act eliminates this limitation. A terrorist can use any object–including a knife, a box-cutter, or an airplane–in a terrorist act.

Under current law, there is no general prohibition against an alien contributing funds or other material support to a terrorist organization, while there is a prohibition against soliciting membership in or funds from others for a terrorist organization. The Act provides that an alien is inadmissible and deportable for contributing funds or material support to, or soliciting funds for or

membership in, an organization that has been designated as a terrorist organization by the Secretary of State, or for contributing to, or soliciting in or for, any non-designated terrorist organization if the alien knows or reasonably should know that the funds, material support or solicitation will further terrorist activity.

Current immigration law does not define “terrorist organization” for purposes of making an alien inadmissible and deportable. The Act defines such an organization to include 1) an organization so designated by the Secretary of State (under a process provided for under current law) and 2) any group of two of more individuals which commits terrorist activities or plans or prepares to commit (including locating targets for) terrorist activities. This latter category includes any group which has a significant subgroup that carries out such activities.

The Act provides that an alien will not be admitted into the United States if the alien is a representative of a political, social or other similar group whose public endorsement of terrorism undermines the effort of the U.S. to eliminate or reduce terrorism. Also inadmissable will be an alien who has used his or her prominence ***64** to endorse or espouse terrorism or to persuade others to support terrorism if this would undermine the efforts of the U.S. to reduce or eliminate terrorism, and an alien who is associated with a terrorist organization and intends while in the U.S. to engage in activities that could endanger the welfare, safety, or security of the U.S. These provisions are similar to current law's “foreign policy” ground of inadmissibility, barring entry to an alien whose entry or proposed activities in the U.S. would have potentially serious adverse foreign policy consequences for the U.S.

The Act makes deportable an alien who is a representative of a terrorist organization so designated by the Secretary of State. It also makes deportable a representative of a political, social or other similar group who publicly endorses terrorism only if the endorsement undermines the effort of the U.S. to eliminate or reduce terrorism and is intended and likely to incite or produce imminent lawless action. Also deportable is an alien who has used his or her prominence to endorse terrorism or to persuade others to support terrorism only if this will undermine the efforts of the U.S. to reduce or eliminate terrorism and is intended and likely to incite or produce imminent lawless action.

The intent of the bill is to make an alien inadmissible and deportable who has provided any material support to an organization designated as a “foreign terrorist organizations” by the Secretary of State pursuant to 8 U.S.C. sec. 1189. However, with respect to terrorist organizations which have not been so designated, and to organizations prior to their designation, the provision of material support, the soliciting of funds, and the soliciting for members is not a deportable or inadmissible offense unless the alien knew or reasonably should have known that the act would further terrorist activity. Thus, in such cases, support given to non-designated organizations for purposes of humanitarian aid is permitted. This presumes that the alien does not provide material support for a so-called humanitarian “front” group of a terrorist organization when the alien knows or reasonably should know that the material support is in reality in furtherance of terrorist activity.

Section 202. Changes in Designation of Foreign Terrorist Organizations

Current law provides a process whereby the Secretary of State can designate an organization as a foreign terrorist organization. The Act provides that either the Secretary or the Attorney General may recommend an organization for designation, and the organization will be so designated if the other concurs. In instances where either official cannot gain the other's concurrence, the President shall decide on the requested designation. The Act also clarifies that organizations can be redesignated as terrorist organizations and that designations and redesignations can be revoked.

Section 203. Mandatory Detention of Suspected Terrorists; Habeas Corpus; Judicial Review

Under the current regulatory regime, the INS can detain an alien for 48 hours before making a decision as to charging the alien with a crime or removable offense (except that in the event of emergency or other extraordinary circumstance, an additional

reasonable time is allowed). The INS uses this time to establish an ***65** alien's true identity, to check domestic and foreign databases for information about the alien, and to liaise with law enforcement agencies.

The Act provides a mechanism whereby the Attorney General can certify an alien as a suspected terrorist (or for espionage or certain other offenses) and detain him for 7 days before charging. If no charges are filed by the end of this period, the alien must be released. Otherwise, the Attorney General shall maintain custody of the alien until the alien is removed from the U.S. or found not to be inadmissible or deportable.

The Attorney General or Deputy Attorney General (with no power of delegation) may certify an alien as a terrorist if they have reasonable grounds to believe that the alien is a terrorist. Judicial review as to certification or detention is limited to habeas corpus review in the U.S. District Court for the District of Columbia. Such judicial review shall include review of the merits of the decision to certify an alien as a terrorist.

The alien shall be maintained in custody irrespective of any relief from removal granted the alien, until the Attorney General determines that the alien no longer warrants certification. However, if an alien detained pursuant to this section was ordered removed as a terrorist (or on the other grounds allowing certification) and has not been removed within 90 days and is unlikely to be removed in the reasonably foreseeable future, the alien may be detained for additional periods of up to 6 months if the Attorney General demonstrates that release will not protect the national security of the United States or ensure the public's safety.

The Attorney General must submit a report to Congress on the use of this section every 6 months.

Section 204. Changes in Conditions for Granting Asylum

The Act clarifies that even if the INS charges an alien for purposes of removal or deportation with a non terrorist-based offense, if the alien seeks asylum, the INS can seek to oppose its grant by providing evidence that the alien is a terrorist.

Section 205. Multilateral Cooperation Against Terrorists

The Records of the State Department pertaining to the issuance of or refusal to issue visas to enter the U.S. are confidential and can be used only in the formulation and enforcement of U.S. law. The Act provides that the government can provide such records to a foreign government on a case-by-case basis for the purpose of preventing, investigating, or punishing acts of terrorism.

Section 206. Requiring Sharing by the Federal Bureau of Investigation of Certain Criminal Record Extracts with other Federal Agencies in Order to Enhance Border Security

The Act provides that the Justice Department shall provide to the State Department and the INS access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index, Wanted Persons File, and to any other files maintained by the NCIC that may be mutually agreed upon by the Justice Department and the official to be provided access, for purposes of determining whether a visa applicant or an applicant for admission has a criminal history record. Such ***66** access shall be provided by means of extracts of the records for placement in the State Department's automated visa lookout database or other appropriate database. The State Department shall establish the conditions for the use of the information in order to limit the redissemination of the information, to ensure that it is used solely to determine whether to issue a visa, to ensure the security, confidentiality and destruction of the information, and to protect any privacy rights of the subjects of the information.

Section 207. Inadmissibility of Aliens Engaged in Money Laundering

The Act makes inadmissible any alien who the government knows or had reason to believe is a money launderer. The Secretary of State shall create a watchlist, to be checked before the issuance of a visa or admission into the U.S., which identifies persons who are known or suspected of money laundering.

Section 208. Program to Collect Information Relating to Nonimmigrant Foreign Students and Other Exchange Program Participants

The Act amends the foreign student tracking system created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The Act advances the date by which the system must be fully operational and provides that students who are nationals of countries that have repeatedly provided support for acts of international terrorism may be assessed a higher fee than other foreign students. In addition, the Act provides that the Attorney General shall provide to the Secretary of State and the Director of the FBI the information collected by the system.

Section 209. Protection of Northern Border

The Act authorizes the appropriation of funds necessary to triple the number of Border Patrol personnel in each State along the northern border and the number of INS inspectors at each port of entry along the northern border. The Act also authorizes $50 million to the INS for purposes of making improvements in technology for monitoring the northern border.

SUBTITLE B–PRESERVATION OF IMMIGRATION BENEFITS FOR VICTIMS OF TERRORISM

It is certain that some aliens fell victim to the terrorist attacks on the U.S. on September 11. This subtitle endeavors to modify the immigration laws to provide humanitarian relief to these victims and their family members.

Section 211. Special Immigrant Status

The Act provides permanent resident status through the special immigrant program to an alien who was the beneficiary of a petition filed (on or before September 11) to grant the alien permanent residence as an employer-sponsored immigrant or of an application for labor certification (filed on or before September 11), if the petition or application was rendered null because of the disability of the beneficiary or loss of employment of the beneficiary due to physical damage to, or destruction of, the business of the petitioner or applicant as a direct result of the terrorist attacks on September ***67** 11, or because of the death of the petitioner or applicant as a direct result of the terrorist attacks. Permanent residence would be granted to an alien who was the spouse or child of an alien who was the beneficiary of a petition filed on or before September 11 to grant the beneficiary permanent residence as a family-sponsored immigrant (as long as the spouse or child follows to join not later than September 11, 2003). Permanent residence would be granted to the beneficiary of a petition for a nonimmigrant visa as the spouse or the fiance (and their children) of a U.S. citizen where the petitioning citizen died as a direct result of the terrorist attack. The section also provides permanent resident status to the grandparents of a child both of whose parents died as a result of the terrorist attacks, if either of such deceased parents was a citizen of the U.S. or a permanent resident.

Section 212. Extension of Filing or Reentry Deadlines

The Act provides that an alien who was legally in a nonimmigrant status and was disabled as a direct result of the terrorist attacks on September 11 (and his or her spouse and children) may remain lawfully in the U.S. (and receive work authorization) until the later of the date that his or her status normally terminates or September 11, 2002. Such status is also provided to the nonimmigrant spouse and children of an alien who died as a direct result of the terrorist attacks.

The Act provides that an alien who was lawfully present as a nonimmigrant at the time of the terrorist attacks will be granted 60 additional days to file an application for extension or change of status if the alien was prevented from so filing as a direct result of the terrorist attacks. Also, an alien who was lawfully present as a nonimmigrant at the time of the attacks but was then unable to timely depart the U.S. as a direct result of the attacks will be considered to have departed legally if doing so before November 11. An alien who was in lawful nonimmigrant status at the time of the attacks (and his or her spouse and children) but not in the U.S. at that time and was then prevented from returning to the U.S. in order to file a timely application for an extension of status as a direct result of the terrorist attacks will be given 60 additional days to file an application and will have his or her status extended 60 days beyond the original due date of the application.

Under current law, winners of the fiscal year 2001 diversity visa lottery must enter the U.S. or adjust status by September 30, 2001. The Act provides that such an alien may enter the U.S. or adjust status until April 1, 2002, if the alien was prevented from doing so by September 30, 2001 as a direct result of the terrorist attacks. If the visa quota for the 2001 diversity visa program has already been exceeded, the alien shall be counted under the 2002 program. Also, if a winner of the 2001 lottery died as a direct result of the terrorist attacks, the spouse and children of the alien shall still be eligible for permanent residence under the program. The ceiling placed on the number of diversity immigrants shall not be exceeded in any case.

Under the Act, in the case of an alien who was issued an immigrant visa that expires before December 31, 2001, if the alien was unable to timely enter the U.S. as a direct result of the terrorist attacks, the validity shall be extended until December 31.

***68** Under the Act, in the case of an alien who was granted parole that expired on or after September 11, if the alien was unable to enter the U.S. prior to the expiration date as a direct result of the terrorist attacks, the parole is extended an additional 90 days.

Under the Act, in the case of an alien granted voluntary departure that expired between September 11 and October 11, 2001, voluntary departure is extended an additional 30 days.

Section 213. Humanitarian Relief for Certain Surviving Spouses and Children

Current law provides that an alien who was the spouse of a U.S. citizen for at least 2 years before the citizen died shall remain eligible for immigrant status as an immediate relative. This also applies to the children of the alien. The Act provides that if the citizen died as a direct result of the terrorist attacks, the 2 year requirement is waived.

The Act provides that if an alien spouse, child, or unmarried adult son or daughter had been the beneficiary of an immigrant visa petition filed by a permanent resident who died as a direct result of the terrorist attacks, the alien will still be eligible for permanent residence. In addition, if an alien spouse, child, or unmarried adult son or daughter of a permanent resident who died as a direct result of the terrorist attacks was present in the U.S. on September 11 but had not yet been petitioned for permanent residence, the alien can self-petition for permanent residence.

The Act provides that an alien spouse or child of an alien who 1) died as a direct result of the terrorist attacks and 2) was a permanent resident (petitioned-for by an employer) or an applicant for adjustment of status for an employment-based immigrant visa, may have his or her application for adjustment adjudicated despite the death (if the application was filed prior to the death).

Section 214. “Age-Out” Protection for Children

Under current law, certain visas are only available to an alien until the alien's 21st birthday. The Act provides that an alien whose 21st birthday occurs this September and who is a beneficiary for a petition or application filed on or before September 11 shall be considered to remain a child for 90 days after the alien's 21st birthday. For an alien whose 21st birthday occurs after

this September, (and who had a petition for application filed on his or her behalf on or before September 11) the alien shall be considered to remain a child for 45 days after the alien's 21st birthday.

Section 215. Temporary Administrative Relief

The Act provides that temporary administrative relief may be provided to an alien who was lawfully present on September 10, was on that date the spouse, parent or child of someone who died or was disabled as a direct result of the terrorist attacks, and is not otherwise entitled to relief under any other provision of Subtitle B.

Section 216. Evidence of Death, Disability, or Loss of Employment

The Attorney General shall establish appropriate standards for evidence demonstrating that a death, disability, or loss of employment due to physical damage to, or destruction of, a business, occurred ***69** as a direct result of the terrorist attacks on September 11. The Attorney General is not required to promulgate regulations prior to implementing Subtitle B.

Section 217. No Benefit to Terrorists or Family Members of Terrorists

No benefit under Subtitle B shall be provided to anyone culpable for the terrorist attacks on September 11 or to any family member of such an individual.

Section 218. Definitions

The term “specified terrorist activity” means any terrorist activity conducted against the Government or the people of the U.S. on September 11, 2001.

TITLE III–CRIMINAL JUSTICE

SUBTITLE A–SUBSTANTIVE CRIMINAL LAW

Section 301. Statute of Limitations for Prosecuting Terrorism Offenses

Current law provides that certain offenses, which are generally associated with terrorist activity, are subject to a either a 5-year or 8-year statute of limitations (18 U.S.C. S 3282 and 18 U.S.C. S 3286). This section amends current law to provide no statute of limitations exists for certain of these crimes (the most serious) and a 15-year statute of limitation for others.

Specifically, under this section, the prosecution may bring a case at any time for any “Federal terrorism offense,” which must be shown to be “calculated to influence or affect the conduct of government by intimidation or coercion or to retaliate against government conduct.”

The prosecution may bring a case at any time for any of the underlying offenses listed in this section that are generally the most serious crimes related to terrorism (without regard to the “calculated to influence” element). The prosecution may bring a case within 15 years for any other crimes listed in this section that are typically related to terrorist activities.

This provision applies to any crime committed before, on, or after enactment of this section.

Section 302. Alternative Maximum Penalties for Terrorism Crimes

Under current law, penalties for certain offenses associated with terrorist activity are capped at twenty-years maximum imprisonment (some are capped at 10 years). This section changes current law to allow a judge to sentence a terrorist to prison for any number of years, up to life, for any offense that is defined as a "Federal terrorism offense." To prove a "Federal terrorism offense," the prosecution must prove both the elements of the underlying crime and that the crime was calculated to influence or affect the conduct of government by intimidation or coercion or to retaliate against government conduct.

This section does not impose a mandatory life sentence. It simply gives the sentencing judge discretion to impose increased penalties by the bill language "may be sentenced to life imprisonment."

***70** Section 303. Penalties for Terrorist Conspiracies

Under current law, many, but not all, of the crimes that are considered to be linked to terrorism include provisions to allow prosecution for attempts or conspiracies to commit such offenses. This section brings the remaining terrorists related crimes into conformity with existing provisions of the law to ensure that any person who attempts to commit or conspires to commit a "Federal terrorism offense" (as defined in 18 U.S.C. S 25(2)) or any crime related to terrorism (included in section 309(2)) will be subject to the same penalties as those that may be imposed upon one who actually commits that offense, including the new enhanced penalties listed above (in section 301).

This provision prohibits a person convicted of a conspiracy or attempt to commit a crime from being sentenced to death.

This provision is consistent with current and long-standing drug laws under title 21 of the U.S. Code.

Section 304. Terrorism Crimes as RICO Predicates

Terrorism, like traditional organized crime, is often characterized by a continuing pattern of criminal activity. This provision gives prosecutors the same tools to bring terrorists to justice as they have for organized crime.

This provision would allow any "Federal terrorism offense" or any of the most serious crimes related to terrorism to be prosecuted using the Racketeer Influenced and Corrupt Organization provisions (title 18, chapter 96) of the 1970 Organized Crime Control Act of 1970. The RICO provisions in the bill do create new crimes. These provisions merely enhance the civil and criminal consequences of certain crimes that have been deemed RICO predicates by Congress and provide better investigative and prosecutorial tools to identify and prove crimes.

RICO may currently be used against any person who invests in or acquires an interest in, or conducts or participates in the affairs of an enterprise which engages in or whose activities affect interstate or foreign commerce through the collection of an unlawful debt or the patterned commission of various State and Federal crimes. Violations of law prosecuted under RICO are subject to fines, forfeitures, or imprisonment for not more than 20 years or life (18 U.S.C. S 1963), depending on the penalties allowed under the predicate offenses. Anyone injured by a RICO violation may recover treble damages, court costs, and attorney fees under the civil RICO laws.

The pattern of activity element of RICO requires the commission of two or more predicate offenses that are clearly related and suggest either a continuity of criminal activity or the threat of such continuity of criminal activity (18 U.S.C. S 1961(5)). This provision allows the prosecution to establish a pattern of ongoing activity related to terrorism.

Section 305. Biological Weapons

Currently under title 18 U.S.C. S 175, anyone who knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon or knowingly assists a foreign state or organization

to do so or attempts, threatens, or conspires to do so, may be fined or imprisoned ***71** or both. The terms "biological agent," "toxin" and "delivery system" as used in this section are defined in 18 U.S.C. S 178.

This section changes the definition of what is considered to be prohibited behavior "for use as a weapon" to include the development, production, transfer, acquisition, retention or possession of any biological agent, toxin, or delivery system other than for a prophylactic, protective, or other peaceful purpose. This changes current law by expanding the scope of the term for "use as a weapon" to include use of any biological materials or transfer of any such materials where no legitimate purpose can be shown.

This section also creates a new offense punishable by a fine or up to 10 years in prison for knowingly possessing a biological agent or toxin of any type or quantity that is not reasonably justified for any peaceful purpose. This offense was created to deter persons from possessing any biological agent or toxin or any quantity of a biological agent that is not absolutely necessary for a legitimate purpose. This provision is included to prevent terrorists from targeting facilities that use biological agents or toxins in their business or from stockpiling biological agents or toxins. This prohibition does not apply to governmental activity authorized under the National Security Act of 1947.

This section also prohibits any alien from a country recognized by the Secretary of State as supporting international terrorism from possessing, receiving or transporting a biological agent or toxin. It also prohibits possession, receipt or transportation of biological agents or toxins by many of those who are forbidden to own firearms under United States law. Penalties for violation of this section range from a fine to 10 years imprisonment or both.

Section 306. Support of Terrorism Through Expert Advice or Assistance

Under title 18 U.S.C. S 2339A, it is a crime to provide material support for certain terrorist activities. This section expands the list of terrorist related crimes for which assistance is prohibited. (see section 309 below).

The definition of providing material support to terrorists in title 18 is expanded to include providing "expert advice or assistance." This will only be a crime if it is provided "knowing or intending that [the expert advice or assistance] be used in preparation for, or in carrying out," any "Federal terrorism offense" (as defined in 18 U.S.C. S 25) or any of the crimes related to terrorism listed under section 309(2).

Section 307. Prohibition Against Harboring

Under title 18 U.S.C. S 792, to harbor or conceal an individual one knows or has reason to believe has committed or is about to commit a crime of espionage against the United States is a crime punishable by up to 10 years in prison. This section amends the law to create a similar (but not identical) prohibition against harboring someone who one knows has committed or is about to commit any of the enumerated crimes generally associated with terrorist activity. This section also provides extraterritorial jurisdiction over any violation of this section.

***72** Section 308. Post-Release Supervision of Terrorists

Currently, under title 18 U.S.C. S 3583, the length of time for post-release supervision is based on the severity of the crime. This section changes current law to allow a person convicted of a "Federal terrorism offense" to be under supervision for as long as the sentencing judge determines is necessary up to life.

Section 309. Definitions

This section adds a new section to current law under title 18 to define "Federal terrorism offense." It uses the current definition of a "Federal crime of terrorism" included in 18 U.S.C. S 2332b(g)(5) and expands it to include underlying crimes related to biological weapons; possession, production or transfer of chemical weapons; harboring terrorists; fraud, theft or extortion related to computers; disclosure of identities of covert agents; assault on a flight crew member with a dangerous weapon; endangering human life by carrying an explosive or incendiary device on an aircraft; or homicide or attempted homicide committed on an aircraft.

Under this section, a crime is only considered to be a "Federal terrorism offense" if it can be proven to be "calculated to influence or affect the conduct of government by intimidation or coercion; or to retaliate against government conduct."

Additionally, any attempt or conspiracy to commit any violation of this section is considered a "Federal terrorism offense" and therefore will be subject to the same penalties.

This section also adds the definition of "domestic terrorism" to title 18 U.S.C. S 2331 which currently defines "international terrorism." This new definition is used in this legislation.

Section 310. Civil Damages

This section amends S 2707(c) that allows for civil damages against those who violate the provisions of S 2703. Under current law, in no case shall a person entitled to recover damages receive less than the sum of $1,000. This section would increase that amount to $10,000.

TITLE III–CRIMINAL JUSTICE

SUBTITLE B–CRIMINAL PROCEDURE

Section 351. Single-Jurisdiction Search Warrants for Terrorism

Rule 41(a) of the Federal Rules of Criminal Procedure currently requires that a search warrant be obtained within the judicial district where the property to be searched is located. The only exception is where property or a person now in the district might leave before the warrant is executed. This restriction often causes unnecessary delays and burdens on law enforcement officers investigating terrorist activities that have occurred across multiple judicial districts. These delays can have serious adverse consequences on an ongoing terrorism investigation.

Section 351 amends rule 41(a) to provide that in an investigation of domestic or international terrorism a search warrant can be obtained in any district court of the United States, or any United States Court of Appeals, having jurisdiction over the offense being investigated. It permits the prosecution to obtain a warrant from ***73** the judge in the district where the investigation is being conducted, regardless of where the property to be searched is located.

Section 352. DNA Identification of Terrorists

The DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. S 14135a(d)(1)) governs the collection of DNA samples from convicted felons and includes a number of Federal crimes for which the DNA samples are required to be collected. Present law, however, does not cover a number of crimes that may be committed by terrorists. Currently, offenses relating to murders on hijacked aircraft, to blowing up buildings or to murder of U.S. nationals abroad are not qualifying Federal offenses for purposes of DNA sample collection. This new section extends DNA sample collection to all persons convicted of Federal terrorism offenses (as defined in 18 U.S.C. S 25).

Section 353. Grand Jury Matters

Rule 6(e)(3)(A) of the Federal Rules of Criminal Procedure provides for an exception to the otherwise prohibited disclosure of matters occurring before the grand jury. This Act amends rule 6(e) to permit the sharing of grand jury information that pertains to international or domestic terrorism, or national security, to a limited group of officials (including the President and Vice President) so long as they are performing official duties. The government is required to apply to the court in order to disclose the grand jury material. Permitting the sharing of certain grand jury information with those in the intelligence community will assist in the investigation of terrorist crimes and protect the national security.

Section 354. Extraterritoriality

Chapter 113B of title 18 (18 U.S.C. S 2331 et. seq.) sets forth the crimes of terrorism, including acts of terrorism across national boundaries. Under current law, certain terrorism crimes can be prosecuted by the United States regardless of where they are committed. For example, section 2333b (terrorism transcending national boundaries) and section 2332a (use of weapons of mass destruction). There are, however, no explicit extraterritoriality provisions in other statutes that may be violated by terrorists. This section of the bill clarifies that extraterritorial Federal jurisdiction exists for any Federal terrorism offense.

Section 355. Jurisdiction over crimes committed at the United States facilities abroad.

Title 18 U.S.C. S 7 entitled “Special Maritime and Territorial Jurisdiction of the United States defined” is a critical means of jurisdiction for Diplomatic Security agents. Certain statutes are limited to the scope of 18 U.S.C. S 7, such as 18 U.S.C. S 114 (Maiming), 18 U.S.C. S 1111 (Murder), 18 U.S.C. S 1112 (Manslaughter), 18 U.S.C. S 1113 (Attempt to commit Murder or Manslaughter), and 18 U.S.C.S 2243(a) (Sexual Abuse of a minor). In the year 2000, extraterritoriality regarding U.S. embassies and U.S. embassy housing overseas was the subject of differing interpretations by judicial circuits.

Diplomatic Security agents have operated under the legal precedent of United States v. Erdos, 474 F2d 157 (4th Cir., 1973), which ***74** held that an Embassy was within the special maritime and territorial jurisdiction of the United States. This precedent is now being challenged. This section would make it clear that embassies and embassy housing of the United States in foreign states are included in the special maritime and territorial jurisdiction of the United States. This section does not apply to members of the Armed Forces because they would already be subject to the special maritime and territorial jurisdiction of the United States under title 18 U.S.C. S 3261(a).

Section 356. Special Agent authorities.

This section amends SA37(a) of the State Department Basic Authorities Act (22 U.S.C. S 2709(a)), which sets forth the authorities of special agents in the Diplomatic Security Service. It both clarifies and enhances the scope of authorities of special agents in order that they can better fulfill their responsibilities.

First, this provision places special agents on a par with other Federal law enforcement officers by enabling them to obtain and execute search and arrest warrants as well as obtain and serve subpoenas or summonses issued under the authority of the United States. Under current law, special agents may exercise these investigatory authorities only for offenses involving passport or visa issuance. They cannot exercise these essential authorities, for example, with respect to the protection of foreign officials or the Secretary of State. Currently, a special agent on protective detail who identifies an individual outside the Secretary of State's residence who is the subject of a warrant for planning the assassination of the Secretary of State cannot execute that warrant.

Second, this section expands and clarifies the scope of special agent's authority to arrest individuals without a warrant when a Federal offense is committed in their presence, and to make arrests for felonies if they have reasonable grounds to believe that

the person to be arrested has committed or is committing such felony. It also would enable special agents to arrest individuals interfering in their protective functions (see below) or without having to rely on local law enforcement officials.

Third, this provision would subject an individual to a criminal misdemeanor penalty who interferes with a special agent, or another Federal law enforcement agent temporarily detailed in support of the Diplomatic Service protective mission. This is similar to a provision that pertains to interference with Secret Service agents or other Federal law enforcement officers detailed to assist the Secret Service in its protective mission (18 U.S.C. S 3056(d)).

TITLE IV–FINANCIAL INFRASTRUCTURE

Section 401. Laundering the Proceeds of Terrorism

This section amends title 18 U.S.C. S 1956(c)(7)(D), which prohibits conducting or attempting to conduct a financial transaction knowing that the property involved represents the proceeds of a specified unlawful activity, by adding a further predicate offense to the list of specified unlawful activities in order to provide a more comprehensive coverage of the crime of money-laundering related to terrorism. 18 U.S.C. S 2339B, which prohibits providing material support or resources to foreign terrorist organizations, would be ***75** added to the list of crimes which define the term "specified unlawful activity."

Section 402. Material Support for Terrorism

This section amends the definition of "material support or resources" under title 18 U.S.C. S 2339A, which currently is defined as "currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials." This section would replace the term "other financial securities" with the phrase "monetary instruments or financial securities." This change would allow for a broader range of monetary instruments to be included within the scope of "material support or resources."

Section 403. Assets of Terrorist Organizations

This section would amend 18 U.S.C. S 981 to expressly provide that any property used to commit or facilitate the commission of, derived from, or otherwise involved in a Federal crime of terrorism (as defined in 18 U.S.C. S 2331) is subject to civil forfeiture provisions. Currently, only the "proceeds" of a crime of terrorism are subject to civil forfeiture provisions.

Section 404. Technical Clarification Relating to Provision of Material Support to Terrorism

This section would clarify that the exceptions for food and agricultural products to the nation's Trade Sanctions Programs provided for in the Trade Sanctions Reform and Export Enhancement Act of 2000 shall not limit the provisions of 18 U.S.C. 2339A or 2339B which prohibit providing material support or resources to terrorists and terrorist organizations. With this section, it is clear that anyone who provides food and agricultural products in support of terrorist activity will still be subject to criminal prosecution under sections 2339A and 2339B and will not be able to hide behind the exceptions to the Trade Sanctions Program.

Section 405. Disclosure of Tax Information in terrorism and nation security investigations

This section amends 26 U.S.C. 6103(i)(3) to permit the disclosure of return information by the Internal Revenue Service to the extent necessary to the head of any Federal law enforcement agency in order to assist in the investigation of terrorist incidents, threats, or activities. The disclosure may also be made upon the particularized request of the head of a Federal law

enforcement agency. The section also provides that, upon the application of a person appointed by the President and confirmed by the Senate, return information shall be open to inspection by, or disclosure to, officers and employees of the Department of Justice and the Department of Treasury engaged in the collection or analysis of intelligence information concerning terrorist organizations or activities. Such information may be disseminated to other agencies only for use in analysis of and investigation into terrorist activities.

***76** Section 406. Extraterritorial Jurisdiction

Generally, 18 U.S.C. 1029 prohibits the production, use, or trafficking of counterfeit access devices. Access devices are any card, code, account number, pin number or other means of account access that can be used to obtain money, goods, services, or any other thing of value. This section would add a new paragraph that would make any person outside the jurisdiction of the United States criminally liable for a violation of 18 U.S.C. 1029 if the offense involves an access device issued, owned, managed, or controlled by a financial institution within the jurisdiction of the United States and the person transports, delivers, conveys, or otherwise stores, or holds within the jurisdiction of the United States, the proceeds of such offense or property derived therefrom. Depending on the persons level of involvement, the maximum penalty ranges from 10 to 20 years imprisonment.

TITLE V–EMERGENCY AUTHORIZATIONS

Section 501. Office of Justice Programs

This section removes any caps or limitations available under the Victim's of Crime Fund to address the needs of the victims of the terrorist attacks of September 11, 2001. This provision specifically allows the funds allocated for responding to the needs of victims of terrorism within the United States to be awarded to victim service organizations, public agencies (Federal, State and local), and non-governmental organizations that provide assistance to victims of crime. This section makes changes to the public safety officer benefits (PSOB) programs to provide for public safety officers disabled in the September 11, 2001, terrorist acts and the rescue efforts associated with these acts.

Section 502. Attorney General's Authority to Pay Rewards

This section specifies that any reward offered by the Attorney General in connection with hijackings or terrorist acts shall not be subject to spending limitations or count toward any aggregate spending limitations.

Section 503. Limited Authority to Pay Overtime

Under the Department of Justice Appropriations Act for FY 2001, overtime pay for INS agents was limited to $30,000. This section removes the limitation on overtime pay that was included in DOJ Appropriations Act for 2001 for border patrol and other INS agents.

Section 504. Department of State Reward Authority

This section amends the reward program operated by the Secretary of State, which provides rewards for information that assists in the prevention of acts of terrorism, narcotics trafficking, and other criminal activities. In addition to the information the Secretary of State is authorized to make rewards for, this section would authorize the Secretary to offer rewards for information that leads to “dismantling an organization” or information regarding the “identification or location of an individual holding a leadership position in a terrorist organization.” This section also amends the Secretary of States rewards program to increase the maximum payment ***77** allowed to $10 million or more if the Secretary personally determines that an offer or payment is essential to the national security interests of the United States.

Section 505: Authorization of Funds for DEA Police Training in South and Central Asia

An amendment offered by Mr. Hyde, which was adopted by the Committee, created a new Section 505 of the bill. Section 505 authorizes $5,000,000 for FY 2002 for regional antidrug training in the Republic of Turkey by the Drug Enforcement Administration for police, as well as increased precursor chemical control efforts in the South and Central Asia region.

One source of funding for the activities of the Taliban and Al Qaida is drug trafficking in heroin. Most of the chemicals necessary for the production of heroin come from South and Central Asia. Once the heroin is produced, most of it is smuggled through Turkey for sale in Europe. This section will provide assistance to train Turkish and South and Central Asian law enforcement to combat drug trafficking at all stages in the production and transportation of heroin.

Section 506: Public Safety Officer Benefits

Currently, payments are made to families of public safety officers killed or officers disabled in the line of duty. This provision will increase the authorized payment level from $100,000 to $250,000 for any death or disability occurring on or after January 1, 2001.

TITLE VI–DAM SECURITY

Section 601. Security of Reclamation Dams, Facilities, and Resources

Section 2805(a) of the Reclamation Recreation Management Act of 1992 (16 U.S.C. 460*l*–33(a)) provides that the Secretary of the Interior shall promulgate such regulations as are necessary to ensure the protection and well-being of the public with respect to the use of Reclamation lands and ensure the protection of resource values. This section of the bill provides that any person who violates any regulation promulgated by the Secretary of the Interior under 16 U.S.C. 460*l*–33(a) shall be fined, imprisoned not more than 6 months, or both. This section also provides that the Secretary may authorize law enforcement personnel from the Department of the Interior, other Federal agencies, or law enforcement personnel of any State or local government to act as law enforcement officers within a Reclamation project or on Reclamation lands. This will ensure that an appropriate penalty will be attached to any violation of regulations intended to protect the public safety on Reclamation lands and that law enforcement officers will be available to enforce those regulations.

TITLE VII–MISCELLANEOUS

Section 701. Employment of Translators by the Federal Bureau of Investigations

There is a great need to increase the number of translators available to the Federal Bureau of Investigation in order to assist in the war on terrorism. This section authorizes the Director of the Federal ***78** Bureau of Investigation to expedite the employment of personnel as translators to support counterterrorism investigations and operations. This section also directs the FBI to establish such security requirements as are necessary for these translators and to report to Congress regarding the status of translators employed by the Department of Justice.

Section 702. Review of the Department of Justice

In the wake of several significant incidents of security lapses and breach of regulations, there has arisen the need for independent oversight of the Federal Bureau of Investigations. Oversight of the Federal Bureau of Investigations is currently under the jurisdiction of the Department of Justice Office of Professional Responsibility. This section directs the Inspector

General of the Department of Justice to appoint a Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigations who shall be responsible for supervising independent oversight of the FBI until September 30, 2004. This section also directs the Deputy Inspector to review all information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees of the Department of Justice, which could include allegations of inappropriate profiling at the border.

Section 703. Feasability study on use of biometric identifier scanning system with access to the FBI Integrated Automated Fingerprint Identification System at overseas consular posts and points of entry to the United States

Requires the Attorney General to conduct a study of the feasibility of utilizing a biometric identifier (fingerprint) scanning system at consular offices and points of entry into the United States to identify aliens who may be wanted in connection with criminal or terrorist investigations in the United States or abroad. A biometric fingerprint scanning system is a sophisticated computer scanning technology that analyzes a persons fingerprint and compares the measurement with a verified sample digitally stored in the system. The accuracy of these systems is claimed to be above 99.9%. The biometric identifier system contemplated by this section would have access to the database of the Federal Bureau of Investigation Integrated Automated Fingerprint Identification System. The section requires that the Attorney General shall submit a summary of the findings of the study to Congress within 90 days.

Section 704. Study of access

Requires the Federal Bureau of Investigation to study and report to Congress, not later than December 31, 2002, on the feasibility of providing to airlines access via computer to the names of passengers who are suspected of terrorist activity by Federal officials. This section authorizes to be appropriated for fiscal years 2002 through 2003 not more than $250,000 to conduct this study and report to Congress.

Section 705. Enforcement of certain anti-terrorism judgments

Under current law, 18 U.S.C. S 1604, a foreign state is immune from the jurisdiction of the courts of the United States. There are general exceptions to this law set forth in 18 U.S.C. S 1605. One of ***79** those exceptions, 18 U.S.C. S 1605(a)(7), provides that a foreign state shall not be immune from the jurisdiction of the courts of the United States in cases where personal injury or death has occurred as a result of a terrorist act. 18 U.S.C. S 1610(f)(1)(A) allows any judgment in such a case to be enforced against the property in the United States of foreign state that would otherwise be immune, including embassy property. However, 18 U.S.C. S 1610(f)(3) allows the President to waive this exception in the interests of national security. Section 705 would limit the President's ability to waive the exception in 18 U.S.C. S 1610(f)(1)(A). Under this section, the President's waiver authority would not apply to assets of a foreign state in the United States that have been used for any nondiplomatic purpose and assets that have been sold to a third party (the proceeds from the sale of such assets would be subject to seizure).

TITLE VIII–PRIVATE SECURITY OFFICER QUALITY ASSURANCE

Section 801. Short Title

This section is cited as the “Private Security Officer Quality Assurance Act of 2001”.

Section 802. Findings

Private security officers are much more prominent in society today than years ago. Members of the public are increasingly likely to have contact with these individuals and often mistake them for law enforcement officers. It is important that private security officers are qualified, well-trained individuals to supplement the work of sworn law enforcement officers.

Section 803. Background Checks

An association of employers of private security officers may submit fingerprints or other methods of identification to the Attorney General for purposes of State licensing or certification. The Attorney General may prescribe any necessary regulations related to security, confidentiality, accuracy, use, dissemination of this information and may impose such fees which may be necessary.

Section 804. Sense of Congress

It is the sense of Congress that States should participate in the background check system.

Section 805. Definitions

This section defines terms related to this title.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

* * * * * * *

***80** PART I–CRIMES

* * * * * * *

CHAPTER 1–GENERAL PROVISIONS

Sec.

1. Repealed.

* * * * * * *

25. Federal terrorism offense defined.

* * * * * * *

S 7. Special maritime and territorial jurisdiction of the United States defined

The term “special maritime and territorial jurisdiction of the United States”, as used in this title, includes:

(1) * * *

* * * * * * *

(9)(A) With respect to offenses committed by or against a United States national, as defined in section 1203(c) of this title–

(i) the premises of United States diplomatic, consular, military, or other United States Government missions or entities in foreign states, including the buildings, parts of buildings, and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities; and

(ii) residences in foreign states and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities, except that this paragraph does not supercede any treaty or international agreement in force on the date of the enactment of this paragraph.

(B) This paragraph does not apply with respect to an offense committed by a person described in section 3261(a).

* * * * * * *

S 25. Federal terrorism offense defined

As used in this title, the term "Federal terrorism offense" means an offense that is–

(1) is calculated to influence or affect the conduct of government by intimidation or coercion; or to retaliate against government conduct; and

(2) is a violation of, or an attempt or conspiracy to violate- section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175, 175b (relating to biological weapons), 229 (relating to chemical weapons), 351(a)–(d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 791 (relating to harboring terrorists), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f) or (i) (relating to arson and bombing of certain property), 930(c), 956 ***81** (relating to conspiracy to injure property of a foreign government), 1030(a)(1), 1030(a) (5)(A), or 1030(a)(7) (relating to protection of computers), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751(a)–(d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992, 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

(3) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284);

(4) section 601 (relating to disclosure of identities of covert agents) of the National Security Act of 1947 (50 U.S.C. 421); or

(5) any of the following provisions of title 49: section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3), (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved, or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

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CHAPTER 10–BIOLOGICAL WEAPONS

Sec.

175. Prohibitions with respect to biological weapons.

* * * * * * *

175b. Possession by restricted persons.

* * * * * * *

S 175. Prohibitions with respect to biological weapons

(a) * * *

(b) Additional Offense.–Whoever knowingly possesses any biological agent, toxin, or delivery system of a type or in a quantity that, under the circumstances, is not reasonably justified by a prophylactic, protective, or other peaceful purpose, shall be fined under this title, imprisoned not more than 10 years, or both.

***82** [(b)] (c) Definition.–For purposes of this [section, the] section–

(1) the term "for use as a weapon" [does not include] includes the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for other than prophylactic, protective, or other peaceful [purposes.] purposes, and

(2) the terms biological agent and toxin do not encompass any biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

* * * * * * *

S 175b. Possession by restricted persons

(a) No restricted person described in subsection (b) shall ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in subsection (j) of section 72.6 of title 42, Code of Federal Regulations, pursuant to section 511(d)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132), and is not exempted under subsection (h) of such section 72.6, or Appendix A of part 72 of such title; except that the term select agent does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

(b) As used in this section, the term "restricted person" means an individual who–

(1) is under indictment for a crime punishable by imprisonment for a term exceeding 1 year;

(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year;

(3) is a fugitive from justice;

(4) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(5) is an alien illegally or unlawfully in the United States;

(6) has been adjudicated as a mental defective or has been committed to any mental institution; or

(7) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of chapter 3 of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination that remains in effect that such country has repeatedly provided support for acts of international terrorism.

(c) As used in this section, the term "alien" has the same meaning as that ***83** term is given in section 1010(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)), and the term "lawfully" admitted for permanent residence has the same meaning as that term is given in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

(d) Whoever knowingly violates this section shall be fined under this title or imprisoned not more than ten years, or both, but the prohibition contained in this section shall not apply with respect to any duly authorized governmental activity under title V of the National Security Act of 1947.

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CHAPTER 37–ESPIONAGE AND CENSORSHIP

Sec.

791. Prohibition against harboring.

792. Harboring or concealing persons.

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S 791. Prohibition against harboring

Whoever harbors or conceals any person who he knows has committed, or is about to commit, an offense described in section 25(2) or this title shall be fined under this title or imprisoned not more than ten years or both. There is extraterritorial Federal jurisdiction over any violation of this section or any conspiracy or attempt to violate this section. A violation of this section or of such a conspiracy or attempt may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.

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CHAPTER 46–FORFEITURE

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S 981. Civil forfeiture

(a)(1) The following property is subject to forfeiture to the United States:

(A) * * *

* * * * * * *

(G) All assets, foreign or domestic–

(i) of any person, entity, or organization engaged in planning or perpetrating any act of domestic terrorism or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

(ii) acquired or maintained by any person for the purpose of supporting, planning, conducting, or concealing an act of domestic terrorism or international terrorism (as defined in section 2331) against the United States, citizens or residents of the United States, or their property; or

(iii) derived from, involved in, or used or intended to be used to commit any act of domestic terrorism or international terrorism (as defined in section 2331) against the ***84** United States, citizens or residents of the United States, or their property.

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CHAPTER 47–FRAUD AND FALSE STATEMENTS

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S 1029. Fraud and related activity in connection with access devices

(a) * * *

* * * * * * *

(h) Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b) of this section, shall be subject to the fines, penalties, imprisonment, and forfeiture provided in this title if–

(1) the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

(2) the person transports, delivers, conveys, transfers to or through, or otherwise stores, secrets, or holds within the jurisdiction of the United States, any article used to assist in the commission of the offense or the proceeds of such offense or property derived therefrom.

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CHAPTER 95–RACKETEERING

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S 1956. Laundering of monetary instruments

(a) * * *

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(c) As used in this section–

(1) * * *

* * * * * * *

(7) the term "specified unlawful activity" means–

(A) * * *

* * * * * * *

(D) an offense under section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), section 351 (relating to congressional or Cabinet officer assassination), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 513 (relating to securities of States and private entities), section 542 (relating to entry of goods by means of false ***85** statements), section 545 (relating to smuggling goods into the United States), section 549 (relating to removing goods from Customs custody), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 875 (relating to interstate communications), section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country), section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications), 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1201 (relating to kidnapping), section 1203 (relating to hostage taking), section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), section 1708 (theft from the mail), section 1751 (relating to Presidential assassination), section 2113 or 2114 (relating to bank and postal robbery and theft), section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms), or section 2319 (relating to copyright infringement), section 2320 (relating to trafficking in counterfeit goods and services),, section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A or 2339B (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,, a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading ***86** with the Enemy Act, any felony violation of section 15 of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming), or any felony violation of the Foreign Corrupt Practices Act; or

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CHAPTER 96–RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

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S 1961. Definitions

As used in this chapter–

(1) "racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461–1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581–1588 (relating to peonage and slavery), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition ***87** of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341–2346 (relating to trafficking in contraband cigarettes), sections 2421–24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, [or] (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of [financial gain.] financial gain, or (G) any act that is a Federal terrorism offense or is indictable under any of the following provisions of law: section 32 (relating to destruction of aircraft or aircraft facilities), 37(a)(1) (relating to violence at international airports), 175 (relating to biological weapons), 229 (relating to chemical weapons), 351(a)–(d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 831 (relating to nuclear materials), 842(m) or (n) (relating to plastic explosives), 844(f) or (i) when it involves a bombing (relating to arson and bombing of certain property), 930(c) when it involves an attack on a Federal facility, 1114 when it involves murder (relating to protection

of officers and employees of the United States), 1116 when it involves murder (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1362 (relating to destruction of communication lines, stations, or systems), 1366 (relating to destruction of an ***88** energy facility), 1751(a)–(d) (relating to Presidential and Presidential staff assassination and kidnaping), 1992 (relating to trainwrecking), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title; section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or section 46502 (relating to aircraft piracy) or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49;

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CHAPTER 113B–TERRORISM

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Sec.

2331. Definitions.

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2332c. Attempts and conspiracies.

* * * * * * *

2338. [Exclusive] Federal jurisdiction.

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S 2331. Definitions

As used in this chapter–

(1) the term “international terrorism” means activities that–

(A) * * *

(B) appear to be intended (or to have the effect)–

***89** (i) * * *

* * * * * * *

(iii) to affect the conduct of a government [by assassination or kidnapping] (or any function thereof) by mass destruction, assassination, or kidnapping (or threat thereof); and

* * * * * * *

(3) the term “person” means any individual or entity capable of holding a legal or beneficial interest in property; [and]

(4) the term “act of war” means any act occurring in the course of–

(A) * * *

* * * * * * *

(C) armed conflict between military forces of any origin[.]; and

(5) the term "domestic terrorism" means activities that–

(A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; and

(B) appear to be intended (or to have the effect)–

(i) to intimidate or coerce a civilian population;
(ii) to influence the policy of a government by intimidation or coercion; or
(iii) to affect the conduct of a government (or any function thereof) by mass destruction, assassination, or kidnapping (or threat thereof).

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S 2332b. Acts of terrorism transcending national boundaries

(a) * * *

* * * * * * *

(g) Definitions.–As used in this section–

(1) * * *

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(5) the term "Federal crime of terrorism" means an offense that–

(A) * * *

(B) [is a violation of–

[(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear materials), 842 (m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844 (f) or (i) (relating to arson and bombing of certain property), 930(c), 956 (relating to conspiracy to injure property of a foreign government), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property or contracts), 1362 (relating to destruction of communication lines, stations, or systems), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of an energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 1992, 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), ***90** 2332c, 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture);

[(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

[(iii) section 46502 (relating to aircraft piracy) or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49] is a Federal terrorism offense.

S 2332c. Attempts and conspiracies

(a) Except as provided in subsection (c), any person who attempts or conspires to commit any Federal terrorism offense shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(b) Except as provided in subsection (c), any person who attempts or conspires to commit any offense described in section 25(2) shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(c) A death penalty may not be imposed by operation of this section.

* * * * * * *

S 2338. [Exclusive] Federal jurisdiction

There is extraterritorial Federal jurisdiction over any Federal terrorism offense and any offense under this chapter, in addition to any extraterritorial jurisdiction that may exist under the law defining the offense, if the person committing the offense or the victim of the offense is a national of the United States (as defined in section 101 of the Immigration and Nationality Act) or if the offense is directed at the security or interests of the United States. The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.

S 2339A. Providing material support to terrorists

(a) Offense.–Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, [a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 903(c), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 1992, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, 2332c, or 2340A of this title or section 46502 of title 49] any Federal terrorism offense or any offense described in section 25(2), or in preparation for, or in carrying out, the concealment or an escape from the commission of any such [violation,] offense, shall be fined under this title, imprisoned not more than 10 years, or both. A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.

***91** (b) Definition.–In this section, the term "material support or resources" means currency [or other financial securities] or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

* * * * * * *

CHAPTER 119–WIRE AND ELECTRONIC COMMUNICATIONS
INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

Sec.

2510. Definitions.

* * * * * * *

[2515. Prohibition of use as evidence of intercepted wire or oral communications.]

2515. Prohibition of use as evidence of intercepted wire, oral, or electronic communications.

* * * * * * *

S 2510. Definitions

As used in this chapter–

(1) "wire communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign communications or communications affecting interstate or foreign commerce [and such term includes any electronic storage of such communication];

* * * * * * *

(7) "Investigative or law enforcement officer" means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses, and (for purposes only of section 2517 as it relates to foreign intelligence information as that term is defined in section 101(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(e))) any Federal law enforcement, intelligence, national security, national defense, protective, immigration personnel, or the President or Vice President of the United States;

* * * * * * *

(14) "electronic communications system" means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

* * * * * * *

(17) "electronic storage" means–

***92** (A) * * *

(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; [and]

(18) "aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception[.];

(19) "protected computer" has the meaning set forth in section 1030; and

(20) "computer trespasser" means a person who accesses a protected computer without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer.

S 2511. Interception and disclosure of wire, oral, or electronic communications prohibited

(1) * * *

(2)(a) * * *

* * * * * * *

(f) Nothing contained in this chapter or chapter 121, or section 705 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter [or chapter 121], chapter 121, or chapter 206 and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic [wire and oral] wire, oral, and electronic communications may be conducted.

* * * * * * *

(i) It shall not be unlawful under this chapter for a person acting under color of law to intercept the wire or electronic communications of a computer trespasser, if–

(i) the owner or operator of the protected computer authorizes the interception of the computer trespasser's communications on the protected computer;

(ii) the person acting under color of law is lawfully engaged in an investigation;

(iii) the person acting under color of law has reasonable grounds to believe that the contents of the computer trespasser's communications will be relevant to the investigation; and

(iv) such interception does not acquire communications other than those transmitted to or from the computer trespasser.

(j) With respect to a voluntary or obligatory disclosure of information (other than information revealing customer cable viewing activity) under this chapter, chapter 121, or chapter 206, subsections (c)(2)(B) and (h) of section 631 of the Communications Act of 1934 do not apply.

* * * * * * *

***93** S 2515. Prohibition of use as evidence of intercepted [wire or oral] wire, oral, or electronic communications

[Whenever any wire or oral communication has been intercepted] (a) Except as provided in subsection (b), whenever any wire, oral, or electronic communication has been intercepted, or any electronic communication in electronic storage has been disclosed, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter or chapter 121.

(b) Subsection (a) does not apply to the disclosure, before a grand jury or in a criminal trial, hearing, or other criminal proceeding, of the contents of a communication, or evidence derived therefrom, against a person alleged to have intercepted, used, or disclosed the communication in violation of this chapter, or chapter 121, or participated in such violation.

* * * * * * *

S 2517. Authorization for disclosure and use of intercepted wire, oral, or electronic communications

(1) Any investigative or law enforcement officer who, by any means authorized by this chapter or under the circumstances described in section 2515(b), has obtained knowledge of the contents of any wire, oral, or electronic communication, or

evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(2) Any investigative or law enforcement officer who, by any means authorized by this chapter or under the circumstances described in section 2515(b), has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

* * * * * * *

S 2518. Procedure for interception of wire, oral, or electronic communications

(1) * * *

* * * * * * *

(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting (and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction), if the judge determines on the basis of the facts submitted by the applicant that–

***94** (a) * * *

* * * * * * *

(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

* * * * * * *

(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that–

(a) * * *

* * * * * * *

may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in [subsection (d)] subsection (8)(d) of this section on the person named in the application.

* * * * * * *

(10)(a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any wire [or oral], oral, or electronic communication intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that–

(i) * * *

* * * * * * *

(iii) the interception was not made in conformity with the order of authorization or approval[.];

except that no suppression may be ordered under the circumstances described in section 2515(b). Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire [or oral], oral, or electronic communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

* * * * * * *

***95** [(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.]

* * * * * * *

S 2520. Recovery of civil damages authorized

(a) * * *

* * * * * * *

(c) Computation of Damages.–(1) * * *

(2) In an action under this section by a citizen or legal permanent resident of the United States against the United States or any Federal investigative or law enforcement officer (or against any State investigative or law enforcement officer for disclosure or unlawful use of information obtained from Federal investigative or law enforcement officers), the court may assess as damages whichever is the greater of–

(A) the sum of actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

[(2)] (3) In any other action under this section, the court may assess as damages whichever is the greater of–

(A) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

(d) Defense.–A good faith reliance on–

(1) * * *

* * * * * * *

(3) a good faith determination that section 2511(3) or 2511(2)(i) of this title permitted the conduct complained of;

* * * * * * *

(f) Improper Disclosure Is Violation.–Any disclosure or use by an investigative or law enforcement officer of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2520(a).

(g) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, he or she shall report his or her conclusions and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

(h) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the ***96** Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.

* * * * * * *

CHAPTER 121–STORED WIRE AND ELECTRONIC
COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

Sec.

2701. Unlawful access to stored communications.

[2702. Disclosure of contents.

[2703. Requirements for governmental access.]

2702. Voluntary disclosure of customer communications or records.

2703. Required disclosure of customer communications or records.

* * * * * * *

[S 2702. Disclosure of contents]

S 2702. Voluntary disclosure of customer communications or records

(a) Prohibitions.–Except as provided in subsection (b)–

(1) * * *

(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service–

(A) * * *

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing[.]; and

(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.

(b) [Exceptions.–A person or entity] Exceptions for Disclosure of Communications.–A provider described in subsection (a) may divulge the contents of a communication–

(1) * * *

* * * * * * *

(6) to a law enforcement agency–

(A) if the contents–

(i) * * *
(ii) appear to pertain to the commission of a crime; [or]
(B) if required by section 227 of the Crime Control Act of 1990[.]; or

(C) if the provider reasonably believes that an emergency involving immediate danger of death or serious physical ***97** injury to any person requires disclosure of the information without delay.

(c) Exceptions for Disclosure of Customer Records.–A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))–

(1) as otherwise authorized in section 2703;

(2) with the lawful consent of the customer or subscriber;

(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(4) to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or

(5) to any person other than a governmental entity.

* * * * * * *

[S 2703. Requirements for governmental access]

S 2703. Required disclosure of customer communications or records

(a) [Contents of Electronic] Contents of wire or electronic Communications in Electronic Storage.–A governmental entity may require the disclosure by a provider of electronic communication service of the [contents of an electronic] contents of a wire or electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued [under the Federal Rules of Criminal Procedure] using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the [contents of an electronic] contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

(b) [Contents of Electronic] Contents of wire or electronic Communications in a Remote Computing Service.–(1) A governmental entity may require a provider of remote computing service to disclose the contents of [any electronic] any wire or electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection–

(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued [under the Federal Rules of Criminal Procedure] using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant; or

* * * * * * *

***98** (2) Paragraph (1) is applicable with respect to [any electronic] any wire or electronic communication that is held or maintained on that service–

(A) * * *

* * * * * * *

(c) Records Concerning Electronic Communication Service or Remote Computing Service.–(1)(A) [Except as provided in subparagraph (B), a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to any person other than a governmental entity.

[(B) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) to a governmental entity only when] A governmental entity may require a provider of electronic communication service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications) only when the governmental entity–

(i) obtains a warrant issued [under the Federal Rules of Criminal Procedure] using the procedures described in the Federal Rules of Criminal Procedure by a court with jurisdiction over the offense under investigation or equivalent State warrant;

(ii) obtains a court order for such disclosure under subsection (d) of this section;

(iii) has the consent of the subscriber or customer to such disclosure; [or]

(iv) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is defined in section 2325 of this title)[.]; or

(v) seeks information pursuant to subparagraph (B).

[(C)] (B) A provider of electronic communication service or remote computing service shall disclose to a governmental [entity the name, address, local and long distance telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a] entity the–

(i) name;

(ii) address;

(iii) local and long distance telephone connection records, or records of session times and durations;

(iv) length of service (including start date) and types of service utilized;

(v) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and

(vi) means and source of payment (including any credit card or bank account number);

***99** of a subscriber to or customer of such service [and the types of services the subscriber or customer utilized,] when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under subparagraph [(B)] (A).

* * * * * * *

(e) No Cause of Action Against a Provider Disclosing Information Under This Chapter.–No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, [or certification] certification, or statutory authorization under this chapter.

* * * * * * *

(g) Reports Concerning the Disclosure of the Contents of Electronic Communications.–

(1) By January 31 of each calendar year, the judge issuing or denying an order, warrant, or subpoena, or the authority issuing or denying a subpoena, under subsection (a) or (b) of this section during the preceding calendar year shall report on each such order, warrant, or subpoena to the Administrative Office of the United States Courts–

(A) the fact that the order, warrant, or subpoena was applied for;

(B) the kind of order, warrant, or subpoena applied for;

(C) the fact that the order, warrant, or subpoena was granted as applied for, was modified, or was denied;

(D) the offense specified in the order, warrant, subpoena, or application;

(E) the identity of the agency making the application; and

(F) the nature of the facilities from which or the place where the contents of electronic communications were to be disclosed.

(2) In January of each year the Attorney General or an Assistant Attorney General specially designated by the Attorney General shall report to the Administrative Office of the United States Courts–

(A) the information required by subparagraphs (A) through (F) of paragraph (1) of this subsection with respect to each application for an order, warrant, or subpoena made during the preceding calendar year; and

(B) a general description of the disclosures made under each such order, warrant, or subpoena, including–

(i) the approximate number of all communications disclosed and, of those, the approximate number of incriminating communications disclosed;
(ii) the approximate number of other communications disclosed; and
(iii) the approximate number of persons whose communications were disclosed.

(3) In June of each year, beginning in 2003, the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning ***100** the number of applications for orders, warrants, or subpoenas authorizing or requiring the disclosure of the contents of electronic communications pursuant to subsections (a) and (b) of this section and the number of orders, warrants, or subpoenas granted or denied pursuant to subsections (a) and (b) of this section during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by paragraphs (1) and (2) of this subsection. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by paragraphs (1) and (2) of this subsection.

* * * * * * *

S 2707. Civil action

(a) * * *

* * * * * * *

(c) Damages.–(1) The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of [$1,000] $10,000. If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.

(2) In an action under this section by a citizen or legal permanent resident of the United States against the United States or any Federal investigative or law enforcement officer (or against any State investigative or law enforcement officer for disclosure or unlawful use of information obtained from Federal investigative or law enforcement officers), the court may assess as damages whichever is the greater of–

(A) the sum of actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(B) statutory damages of $10,000.

* * * * * * *

(f) Improper Disclosure Is Violation.–Any disclosure or use by an investigative or law enforcement officer of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 2707(a).

(g) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, he or she shall report his or her conclusions and the reasons therefor to the Deputy Inspector General ***101** for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

(h) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.

* * * * * * *

S 2709. Counterintelligence access to telephone toll and transactional records

(a) * * *

(b) Required Certification.–The Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director, may–

(1) request the name, address, length of service, and local and long distance toll billing records, or electronic communication transactional records of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is [made that–

[(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

[(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and] made that the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

(2) request the name, address, and length of service of a person or entity if the Director (or his designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is [made that–

[(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

[(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with–

[(i) an individual who is engaging or has engaged in international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

[(ii) a foreign power or an agent of a foreign power under circumstances giving reason to believe that the communication concerned international terrorism as defined in section 101(c) of the Foreign Intelligence Surveillance Act or clandestine intelligence ***102** activities that involve or may involve a violation of the criminal statutes of the United States.] made that the information sought is relevant to an authorized foreign counterintelligence investigation.

* * * * * * *

S 2711. Definitions for chapter

As used in this chapter–

(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; [and]

(2) the term “remote computing service” means the provision to the public of computer storage or processing services by means of an electronic communications system[.]; and

(3) the term “court of competent jurisdiction” has the meaning given that term in section 3127, and includes any Federal court within that definition, without geographic limitation.

* * * * * * *

CHAPTER 203–ARREST AND COMMITMENT

Sec.

3041. Power of courts and magistrates.

* * * * * * *

[3059A. Special rewards for information relating to certain financial institution offenses.

[3059B. General reward authority.]

* * * * * * *

[S 3059. Rewards and appropriations therefor

[(a)(1) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $25,000 as a reward or rewards for the capture of anyone who is charged with violation of criminal laws of the United States or any State or of the District of Columbia, and an equal amount as a reward or rewards for information leading to the arrest of any such person, to be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Attorney General of the United States. Not more than $25,000 shall be expended for information or capture of any one person.

[(2) If any of the said persons shall be killed in resisting lawful arrest, the Attorney General may pay any part of the reward money in his discretion to the person or persons whom he shall adjudge to be entitled thereto but no reward money shall be paid to any official or employee of the Department of Justice of the United States.

[(b) The Attorney General each year may spend not more than $10,000 for services or information looking toward the apprehension of narcotic law violators who are fugitives from justice.

[(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 2326 which results in a conviction.

***103** [(2) A person is not eligible for a payment under paragraph (1) if–

[(A) the person is a current or former officer or employee of a Federal, State, or local government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

[(B) the person knowingly participated in the offense;

[(C) the information furnished by the person consists of an allegation or transaction that has been disclosed to the public–

[(i) in a criminal, civil, or administrative proceeding;

[(ii) in a congressional, administrative, or General Accounting Office report, hearing, audit, or investigation; or

[(iii) by the news media, unless the person is the original source of the information; or

[(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

[(3) For the purposes of paragraph (2)(C)(iii), the term "original source" means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

[(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.

[SA3059A. Special rewards for information relating to certain financial institution offenses

[(a)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 225, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1032, 1341, 1343, 1344, or 1517 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

[(2) The amount of a payment under paragraph (1) shall not exceed $50,000 and shall be paid from the Financial Institution Information Award Fund established under section 2569 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

[(b) A person is not eligible for a payment under subsection (a) if–

[(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

[(2) the furnished information consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information;

***104** [(3) the person is an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) which withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) who such party owed a fiduciary duty to disclose;

[(4) the person is a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

[(5) the person knowingly participated in the violation of the section with respect to which the payment would be made.

[(c) For the purposes of subsection (b)(2), the term "original source" means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

[(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

[(e)(1) A person who–

[(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

[(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

[(2) Relief under paragraph (1) shall include–

[(A)(i) reinstatement with the same seniority status;

[(ii) 2 times the amount of back pay plus interest; and

[(iii) interest on the backpay,

that the plaintiff would have had but for the discrimination; and

[(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

[S 3059B. General reward authority

[(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

[(b) Not later than 30 days after authorizing a reward under this section that exceeds $100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

[(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized ***105** shall be final and conclusive, and not subject to judicial review.]

S 3059. Rewards and appropriation therefor

(a) In General.–Subject to subsection (b), the Attorney General may pay rewards in accordance with procedures and regulations established or issued by the Attorney General.

(b) Limitations.– The following limitations apply with respect to awards under subsection (a):

(1) No such reward, other than in connection with a terrorism offense or as otherwise specifically provided by law, shall exceed $2,000,000.

(2) No such reward of $250,000 or more may be made or offered without the personal approval of either the Attorney General or the President.

(3) The Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and the House of Representatives not later than 30 days after the approval of a reward under paragraph (2);

(4) Any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards.

(5) Neither the failure to make or authorize such a reward nor the amount of any such reward made or authorized shall be subject to judicial review.

(c) Definition.–In this section, the term "reward" means a payment pursuant to public advertisements for assistance to the Department of Justice.

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CHAPTER 204–REWARDS FOR INFORMATION CONCERNING TERRORIST ACTS AND ESPIONAGE

* * * * * * *

S 3072. Determination of entitlement; maximum amount; Presidential approval; conclusiveness

The Attorney General shall determine whether an individual furnishing information described in section 3071 is entitled to a reward and the amount to be paid. [A reward under this section may be in an amount not to exceed $500,000. A reward of $100,000 or more may not be made without the approval of the President or the Attorney General personally. A determination made by the Attorney General or the President under this chapter shall be final and conclusive, and no court shall have power or jurisdiction to review it.]

* * * * * * *

[S 3075. Authorization for appropriations

[There are authorized to be appropriated, without fiscal year limitation, $5,000,000 for the purpose of this chapter.]

* * * * * * *

***106** CHAPTER 206–PEN REGISTERS AND TRAP AND TRACE DEVICES

Sec.

3121. General prohibition on pen register and trap and trace device use; exception.

* * * * * * *

3128. Civil action.

* * * * * * *

S 3121. General prohibition on pen register and trap and trace device use; exception

(a) * * *

* * * * * * *

(c) Limitation.–A government agency authorized to install and use a pen register or trap and trace device under this chapter or under State law shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing, routing, addressing, and signaling information utilized in [call processing] the processing and transmitting of wire and electronic communications.

* * * * * * *

S 3123. Issuance of an order for a pen register or a trap and trace device

[(a) In General.–Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register or a trap and trace device within the jurisdiction of the court if the court finds that the attorney for the Government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.]

(a) In General.–

(1) Upon an application made under section 3122(a)(1), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device anywhere within the United States, if the court finds that the attorney for the Government has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. The order shall, upon service thereof, apply to any person or entity providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the order. Whenever such an order is served on any person or entity not specifically named in the order, upon request of such person or entity, the attorney for the Government or law enforcement or investigative officer that is serving the order shall provide written or electronic certification that the assistance of the person or entity being served is related to the order.

(2) Upon an application made under section 3122(a)(2), the court shall enter an ex parte order authorizing the installation and use of a pen register or trap and trace device within the jurisdiction of the court, if the court finds that the State law-enforcement or investigative officer has certified to the court ***107** that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

(b) Contents of Order.–An order issued under this section–

(1) shall specify–

(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied;

(B) the identity, if known, of the person who is the subject of the criminal investigation;

[(C) the number and, if known, physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and]

(C) the attributes of the communications to which the order applies, including the number or other identifier and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied, and, in the case of an order authorizing installation and use of a trap and trace device under subsection (a)(2), the geographic limits of the order; and

* * * * * * *

(d) Nondisclosure of Existence of Pen Register or a Trap and Trace Device.–An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that–

(1) * * *

(2) the person owning or leasing the line or other facility to which the pen register or a trap and trace device is attached[, or who has been ordered by the court] or applied, or who is obligated by the order to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

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S 3124. Assistance in installation and use of a pen register or a trap and trace device

(a) * * *

* * * * * * *

(d) No Cause of Action Against a Provider Disclosing Information Under This Chapter.–No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with [the terms of] a court order under this chapter or request pursuant to section 3125 of this title.

* * * * * * *

S 3127. Definitions for chapter

As used in this chapter–

***108** (1) the terms “wire communication”, “electronic communication”, [and] “electronic communication service”, and “contents” have the meanings set forth for such terms in section 2510 of this title;

(2) the term “court of competent jurisdiction” means–

[(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or]

(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals having jurisdiction over the offense being investigated; or

(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

(3) the term “pen register” means a device or process which records or decodes [electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device or process is attached] dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted (but not including the contents of such communication), but such term does not include any device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

(4) the term “trap and trace device” means a device or process which captures the incoming electronic or other impulses which identify the originating number [of an instrument or device from which a wire or electronic communication was

transmitted;] or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication (but not including the contents of such communication);

* * * * * * *

S 3128. Civil action

(a) Cause of Action.–Except as provided in section 3124(d), any person aggrieved by any violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

(b) Relief.–In any action under this section, appropriate relief includes–

(1) such preliminary and other equitable or declaratory relief as may be appropriate;

(2) damages under subsection (c) and punitive damages in appropriate cases; and

(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

(c) Damages.–In any action under this section, the court may assess as damages whichever is the greater of–

***109** (1) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

(2) statutory damages of $10,000.

(d) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

(e) Improper Disclosure Is Violation.–Any disclosure or use by an investigative or law enforcement officer of information beyond the extent permitted by section 2517 is a violation of this chapter for purposes of section 3128(a).

(f) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, he or she shall report his or her conclusions and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

(g) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.

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CHAPTER 213–LIMITATIONS

3281. Capital offenses.

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[3286. Extension of statute of limitation for certain terrorism offenses.]

3286. Terrorism offenses.

* * * * * * *

[S 3286. Extension of statute of limitation for certain terrorism offenses

[Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any non-capital offense involving a violation of section 32 (aircraft destruction), section 37 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2332a (use of weapons of mass destruction), 2332b (acts of terrorism transcending national boundaries), or section 2340A (torture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found ***110** or the information is instituted within 8 years after the offense was committed.]

S 3286. Terrorism offenses

(a) An indictment may be found or an information instituted at any time without limitation for any Federal terrorism offense or any of the following offenses:

(1) A violation of, or an attempt or conspiracy to violate, section 32 (relating to destruction of aircraft or aircraft facilities), 37(a)(1) (relating to violence at international airports), 175 (relating to biological weapons), 229 (relating to chemical weapons), 351(a)–(d) (relating to congressional, cabinet, and Supreme Court assassination and kidnaping), 791 (relating to harboring terrorists), 831 (relating to nuclear materials), 844(f) or (i) when it relates to bombing (relating to arson and bombing of certain property), 1114(1) (relating to protection of officers and employees of the United States), 1116, if the offense involves murder (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1751(a)–(d) (relating to Presidential and Presidential staff assassination and kidnaping), 2332(a)(1) (relating to certain homicides and other violence against United States nationals occurring outside of the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries) of this title.

(2) Section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954 (42 U.S.C. 2284);

(3) Section 601 (relating to disclosure of identities of covert agents) of the National Security Act of 1947 (50 U.S.C. 421).

(4) Section 46502 (relating to aircraft piracy) of title 49.

(b) An indictment may be found or an information instituted within 15 years after the offense was committed for any of the following offenses:

(1) Section 175b (relating to biological weapons), 842(m) or (n) (relating to plastic explosives), 930(c) if it involves murder (relating to possessing a dangerous weapon in a Federal facility), 956 (relating to conspiracy to injure property of a foreign government), 1030(a)(1), 1030(a)(5)(A), or 1030(a)(7) (relating to protection of computers), 1362 (relating to destruction of communication lines, stations, or systems), 1366 (relating to destruction of an energy facility), 1992 (relating to trainwrecking), 2152 (relating to injury of fortifications, harbor defenses, or defensive sea areas), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime

fixed platforms), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture).

(2) Any of the following provisions of title 49: the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3), (relating to explosive or incendiary devices, or endangerment of human life by ***111** means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved, or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

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CHAPTER 227–SENTENCES

SUBCHAPTER A–GENERAL PROVISIONS

* * * * * * *

S 3559. Sentencing classification of offenses

(a) * * *

* * * * * * *

(e) Authorized Terms of Imprisonment for Terrorism Crimes.–A person convicted of any Federal terrorism offense may be sentenced to imprisonment for any term of years or for life, notwithstanding any maximum term of imprisonment specified in the law describing the offense. The authorization of imprisonment under this subsection is supplementary to, and does not limit, the availability of any other penalty authorized by the law describing the offense, including the death penalty, and does not limit the applicability of any mandatory minimum term of imprisonment, including any mandatory life term, provided by the law describing the offense.

* * * * * * *

SUBCHAPTER D–IMPRISONMENT

* * * * * * *

S 3583. Inclusion of a term of supervised release after imprisonment

(a) * * *

* * * * * * *

(j) Supervised Release Terms for Terrorism Offenses.–Notwithstanding subsection (b), the authorized terms of supervised release for any Federal terrorism offense are any term of years or life.

* * * * * * *

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

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TITLE V–ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

Sec.

501. Access to certain business records for foreign intelligence and international terrorism investigations.

502. Congressional oversight.

* * * * * * *

TITLE I–ELECTRONIC SURVEILLANCE WITHIN THE
UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

* * * * * * *

APPLICATION FOR AN ORDER

Sec. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include–

(1) * * *

* * * * * * *

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate–

(A) * * *

(B) [that the] that a significant purpose of the surveillance is to obtain foreign intelligence information;

* * * * * * *

ISSUANCE OF AN ORDER

Sec. 105. (a) * * *

* * * * * * *

(c) An order approving an electronic surveillance under this section shall–

(1) * * *

(2) direct–

(A) * * *

***113** (B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person, or, in circumstances where the Court finds that the actions of the target of the electronic surveillance may have the effect of thwarting the identification of a specified person, such other persons, furnish the applicant forthwith all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

* * * * * * *

(e)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a), (1), (2), or (3), or an agent of a foreign power, as defined in section 101(b)(1)(A), for the period specified in the application or for one year, whichever is less.

* * * * * * *

CIVIL LIABILITY

Sec. 110. (a) Civil Action.–An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101 (a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 109 shall have a cause of action against any person or entity who committed such violation and shall be entitled to recover–

[(a)] (1) actual damages, but not less than liquidated damages of [$1,000] $10,000 or $100 per day for each day of violation, whichever is greater;

[(b)] (2) punitive damages; and

[(c)] (3) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

(b) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

(c) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, the head shall report conclusions for the determination and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

***114** (d) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.

* * * * * * *

TITLE III–PHYSICAL SEARCHES WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

* * * * * * *

APPLICATION FOR AN ORDER

Sec. 303. (a) Each application for an order approving a physical search under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge of the Foreign Intelligence Surveillance Court. Each application shall require the approval of the Attorney General based upon the Attorney General's finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include–

(1) * * *

* * * * * * *

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive branch officers employed in the area of national security or defense and appointed by the President, by and with the advice and consent of the Senate–

(A) * * *

(B) [that the] that a significant purpose of the search is to obtain foreign intelligence information;

* * * * * * *

ISSUANCE OF AN ORDER

Sec. 304. (a) * * *

* * * * * * *

(d)(1) An order issued under this section may approve a physical search for the period necessary to achieve its purpose, or for [forty-five] 90 days, whichever is less, except that an order under this section shall approve a physical search targeted against a foreign power, as defined in paragraph (1), (2), or (3) of section 101(a), or an agent of a foreign power, as defined in section 101(b)(1)(A), for the period specified in the application or for one year, whichever is less.

* * * * * * *

CIVIL LIABILITY

Sec. 308. (a) Civil Action.–An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section ***115** 101 (a) or (b) (1)(A), respectively, of this Act, whose premises, property, information, or material has been subjected to a physical search within the United States or about whom information obtained by such a physical search has been disclosed or used in violation of section 307 shall have a cause of action against any person or entity who committed such violation and shall be entitled to recover–

(1) actual damages, but not less than liquidated damages of [$1,000] $10,000 or $100 per day for each day of violation, whichever is greater;

(2) punitive damages; and

(3) reasonable attorney's fees and other investigative and litigation costs reasonably incurred.

(b) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

(c) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, the head shall report the conclusions for the determination and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

(d) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.

* * * * * * *

TITLE IV–PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

* * * * * * *

PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN
INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

Sec. 402. (a) * * *

* * * * * * *

(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include–

(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application; and

(2) a certification by the applicant that the information likely to be obtained from the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen ***116** register

or trap and trace device is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General[; and].

[(3) information which demonstrates that there is reason to believe that the telephone line to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with–

[(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

[(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.]

* * * * * * *

PENALTIES

Sec. 407. (a) Prohibited activities.–A person is guilty of an offense if the person intentionally–

(1) installs or uses a pen register or trap and trace device under color of law except as authorized by statute; or

(2) discloses or uses information obtained under color of law by using a pen register or trap and trace device, knowing or having reason to know that the information was obtained through using a pen register or trap and trace device not authorized by statute.

(b) Defense.–It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the pen register or trap and trace device was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) Penalties.–An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) Federal Jurisdiction .–There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

Sec. 408. (a) Civil Action.–An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101(a) or (b)(1)(A), respectively, who has been subjected to a pen register or trap and trace device or about whom information obtained by a pen register or trap and trace device has been disclosed or used in violation of section 407 shall have a cause of action against any ***117** person or entity who committed such violation and shall be entitled to recover–

(1) actual damages, but not less than liquidated damages of $10,000, whichever is greater;

(2) punitive damages; and

(3) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

(b) Limitation.–A civil action under this section may not be commenced later than 2 years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

(c) Administrative Discipline.–If a court determines that the United States or any agency or bureau thereof has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee thereof acted willfully or intentionally with respect to the violation, the agency or bureau shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation. In such case, if the head of the agency or bureau determines discipline is not appropriate, the head shall report the conclusions for the determination and the reasons therefor to the Deputy Inspector General for Civil Rights, Civil Liberties, and the Federal Bureau of Investigation.

(d) Actions Against the United States.–Any action against the United States shall be conducted under the procedures of the Federal Tort Claims Act. Any award against the United States shall be deducted from the budget of the appropriate agency or bureau employing or managing the officer or employee who was responsible for the violation.

TITLE V–ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

[DEFINITIONS

[Sec. 501. As used in this title:

[(1) The terms “foreign power”, “agent of a foreign power”, “foreign intelligence information”, “international terrorism”, and “Attorney General” shall have the same meanings as in section 101 of this Act.

[(2) The term “common carrier” means any person or entity transporting people or property by land, rail, water, or air for compensation.

[(3) The term “physical storage facility” means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

[(4) The term “public accommodation facility” means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

[(5) The term “vehicle rental facility” means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

***118** [ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

[Sec. 502. (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

[(b) Each application under this section–

[(1) shall be made to–

[(A) a judge of the court established by section 103(a) of this Act; or

[(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

[(2) shall specify that–

[(A) the records concerned are sought for an investigation described in subsection (a); and

[(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

[(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

[(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

[(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

[(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.]

ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN
INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

Sec. 501. (a) In any investigation to gather foreign intelligence information or an investigation concerning international terrorism, such investigation being conducted by the Federal Bureau of Investigation ***119** under such guidelines as the Attorney General may approve pursuant to Executive Order No. 12333 (or a successor order), the Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) that are relevant to the investigation.

(b) Each application under this section–

(1) shall be made to–

(A) a judge of the court established by section 103(a) of this Act; or

(B) a United States magistrate judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

(2) shall specify that the records concerned are sought for an investigation described in subsection (a).

(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested requiring the production the tangible things sought if the judge finds that the application satisfies the requirements of this section.

(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

(d) A person who, in good faith, produces tangible things under an order issued pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

CONGRESSIONAL OVERSIGHT

Sec. [503.] 502. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

* * * * * * *

SECTION 624 OF THE FAIR CREDIT REPORTING ACT

(Public Law 90–321)

S 624. Disclosures to FBI for counterintelligence purposes

(a) Identity of Financial Institutions.–Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's ***120** designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in [writing that–

[(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

[(2) there are specific and articulable facts giving reason to believe that the consumer–

[(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

[(B) is an agent of a foreign power and is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.]

writing that such information is necessary for the conduct of an authorized foreign counterintelligence investigation.

(b) Identifying Information.–Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written

request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in [writing that–

[(1) such information is necessary to the conduct of an authorized counterintelligence investigation; and

[(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).]

writing that such information is necessary for the conduct of an authorized foreign counterintelligence investigation.

(c) Court Order for Disclosure of Consumer Reports.–Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in [camera that–

[(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

[(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought–

[(A) is an agent of a foreign power, and

[(B) is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may ***121** involve a violation of criminal statutes of the United States.]

camera that the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation.

* * * * * * *

SECTION 203 OF THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT

GRANT OF AUTHORITIES

Sec. 203. (a)(1) At the times and to the extent specified in section 202, the President may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise–

(A) investigate, regulate, or prohibit–

(i) * * *

(ii) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interest of any foreign country or a national thereof, or

[(iii) the importing or exporting of currency or securities; and]

(iii) the importing or exporting of currency or securities,

by any person, or with respect to any property, subject to the jurisdiction of the United States;

(B) investigate, block during the pendency of an investigation for a period of not more than 90 days (which may be extended by an additional 60 days if the President determines that such blocking is necessary to carry out the purposes of this Act), regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any [interest;] interest, by any person, or with respect to any property, subject to the jurisdiction of the United States; and

[by any person, or with respect to any property, subject to the jurisdiction of the United States.]

(C) when a statute has been enacted authorizing the use of force by United States armed forces against a foreign country, foreign organization, or foreign national, or when the United States has been subject to an armed attack by a foreign country, foreign organization, or foreign national, confiscate any property, subject to the jurisdiction of the United States, of any foreign country, foreign organization, or foreign national against whom United States armed forces may be used pursuant to such statute or, in the case of an armed attack against the United States, that the President determines has planned, authorized, aided, or engaged in such attack; and

(i) all right, title, and interest in any property so confiscated shall vest when, as, and upon the terms directed by the President, in such agency or person as the President may designate from time to time,

(ii) upon such terms and conditions as the President may prescribe, such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, except that the proceeds of any such liquidation or sale, or any cash assets, shall be segregated from other United States Government funds and shall be used only pursuant to a statute authorizing the expenditure of such proceeds or assets, and

(iii) such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes.

* * * * * * *

IMMIGRATION AND NATIONALITY ACT

* * * * * * *

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TITLE I–GENERAL

* * * * * * *

LIAISON WITH INTERNAL SECURITY OFFICERS and data exchange

Sec. 105. (a) Liaison With Internal Security Officers.–The Commissioner and the Administrator shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this Act in the interest of [the internal security of] the internal and border security of the United States. The Commissioner and the Administrator shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this Act, and all other immigration and nationality laws.

(b) Criminal History Record Information.–The Attorney General and the Director of the Federal Bureau of Investigation ***122** shall provide the Secretary of State and the Commissioner access to the criminal history record information contained in the National Crime Information Center's Interstate Identification Index, Wanted Persons File, and to any other files maintained by the National Crime Information Center that may be mutually agreed upon by the Attorney General and the official to be provided access, for the purpose of determining whether a visa applicant or applicant for admission has a criminal history record indexed in any such file. Such access shall be provided by means of extracts of the records for placement in the Department of State's automated visa lookout database or other appropriate database, and shall be provided without any fee or charge. The Director of the Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon by the Attorney General and the official provided access. Upon receipt of such updated extracts, the receiving official shall make corresponding updates to the official's databases and destroy previously provided extracts. Such access to any extract shall not be construed to entitle the Secretary of State to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Secretary of State shall submit the applicant's fingerprints and any appropriate fingerprint processing fee authorized by law to the Criminal Justice Information Services Division of the Federal Bureau of Investigation.

(c) Reconsideration.–The provision of the extracts described in subsection (b) may be reconsidered by the Attorney General and the receiving official upon the development and deployment of a more cost-effective and efficient means of sharing the information.

(d) Regulations.–For purposes of administering this section, the Secretary of State shall, prior to receiving access to National Crime Information Center data, promulgate final regulations–

(1) to implement procedures for the taking of fingerprints; and

(2) to establish the conditions for the use of the information received from the Federal Bureau of Investigation, in order–

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely to determine whether to issue a visa to an individual;

(C) to ensure the security, confidentiality, and destruction of such information; and

(D) to protect any privacy rights of individuals who are subjects of such information.

* * * * * * *

TITLE II–IMMIGRATION

CHAPTER 1–Selection System

* * * * * * *

ASYLUM

Sec. 208. (a) * * *

(b) Conditions for Granting Asylum.–

(1) * * *

(2) Exceptions.–

***123** (A) In general.–Paragraph (1) shall not apply to an alien if the Attorney General determines that–

(i) * * *

* * * * * * *

(v) the alien is [inadmissible under] described in subclause (I), (II), (III), or (IV) of section 212(a)(3)(B)(i) or [removable under] described in section 237(a)(4)(B) (relating to terrorist activity), unless, in the case only of an alien [inadmissible under] described in subclause (IV) of section 212(a)(3)(B)(i), the Attorney General determines, in the Attorney General's discretion, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or

* * * * * * *

CHAPTER 2–Qualifications for Admission of Aliens; Travel Control of Citizens and Aliens

* * * * * * *

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS
AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY

Sec. 212. (a) Classes of Aliens Ineligible for Visas or Admission.–Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

(1) * * *

(2) Criminal and related grounds.–

(A) * * *

* * * * * * *

(I) Money laundering.–Any alien–

(i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments); or

(ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assister, conspirator, or colluder with others in an offense which is described in such section;
is inadmissible.

(3) Security and related grounds.–

(A) * * *

(B) Terrorist activities.–

(i) In general.–Any alien who–
(I) has engaged in a terrorist activity[,];
(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iii))[,];
***125** (III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity[,];
[(IV) is a representative (as defined in clause (iv)) of a foreign terrorist organization, as designated by the Secretary under section 219, which the alien knows or should have known is a terrorist organization or]
(IV) is a representative of–
(a) a foreign terrorist organization, as designated by the Secretary of State under section 219; or
(b) a political, social, or other similar group whose public endorsement of terrorist activity the Secretary of State has determined undermines the efforts of the United States to reduce or eliminate terrorist activities;
(V) is a member of a foreign terrorist organization, as designated by the Secretary under section 219[,]; or
(VI) has used the alien's prominence within a foreign state or the United States to endorse or espouse terrorist activity, or to persuade others to support terrorist activity or a terrorist organization, in a way that the Secretary of State has determined undermines the efforts of the United States to reduce or eliminate terrorist activities;
is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.
(ii) Terrorist activity defined.–As used in this Act, the term "terrorist activity" means any activity which is unlawful under the laws of the place where it is committed [(or which, if committed in the United States,] (or which, if it had been or were to be committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:
(I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

* * * * * * *

(V) The use of any–
(a) * * *
(b) [explosive or firearm] explosive, firearm, or other object (other than for mere personal monetary gain),
with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

* * * * * * *

[(iii) Engage in terrorist activity defined.–As used in this Act, the term "engage in terrorist activity" means to commit, in an individual capacity or as a ***126** member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:
[(I) The preparation or planning of a terrorist activity.
[(II) The gathering of information on potential targets for terrorist activity.
[(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit a terrorist activity.

[(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

[(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.]

(iii) Engage in terrorist activity defined.–As used in this Act, the term "engage in terrorist activity" means, in an individual capacity or as a member of an organization–

(I) to commit a terrorist activity;

(II) to plan or prepare to commit a terrorist activity;

(III) to gather information on potential targets for a terrorist activity;

(IV) to solicit funds or other things of value for–

(a) a terrorist activity;

(b) an organization designated as a foreign terrorist organization under section 219; or

(c) a terrorist organization described in clause (v)(II), but only if the solicitor knows, or reasonably should know, that the solicitation would further a terrorist activity;

(V) to solicit any individual–

(a) to engage in conduct otherwise described in this clause;

(b) for membership in a terrorist government;

(c) for membership in an organization designated as a foreign terrorist organization under section 219; or

(d) for membership in a terrorist organization described in clause (v)(II), but only if the solicitor knows, or reasonably should know, that the solicitation would further a terrorist activity; or

***127** (VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, and radiological weapons), explosives, or training–

(a) for the commission of a terrorist activity;

(b) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity;

(c) to an organization designated as a foreign terrorist organization under section 219; or

(d) to a terrorist organization described in clause (v)(II), but only if the actor knows, or reasonably should know, that the act would further a terrorist activity.

* * * * * * *

(v) Terrorist organization defined.–As used in this subparagraph, the term "terrorist organization" means–

(I) an organization designated as a foreign terrorist organization under section 219; or

(II) with regard to a group that is not an organization described in subclause (I), a group of 2 or more individuals, whether organized or not, which engages in, or which has a significant subgroup which engages in, the activities described in subclause (I), (II), or (III) of clause (iii).

(vi) Special rule for material support.–Clause (iii)(VI)(b) shall not be construed to include the affording of material support to an individual who committed or planned to commit a terrorist activity, if the alien establishes by clear and convincing evidence that such support was afforded only after such individual permanently and publicly renounced, rejected the use of, and had ceased to engage in, terrorist activity.

* * * * * * *

(F) Endangerment.–Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.

* * * * * * *

***128** DESIGNATION OF FOREIGN TERRORIST ORGANIZATIONS

Sec. 219. (a) Designation.–

(1) In general.–The [Secretary] official specified under subsection (d) is authorized to designate an organization as a foreign terrorist organization in accordance with this subsection if the [Secretary] official specified under subsection (d) finds that–

(A) * * *

(B) the organization engages in terrorist activity (as defined in section [212(a)(3)(B));] 212(a)(3)(B)), engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the capability and intent to engage in terrorist activity or to engage in terrorism (as so defined); and

(C) the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.

(2) Procedure.–

[(A) Notice.–Seven days before making a designation under this subsection, the Secretary shall, by classified communication–

[(i) notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor; and

[(ii) seven days after such notification, publish the designation in the Federal Register.]

(A) Notice.–

(i) In general.–Seven days before a designation is made under this subsection, the Secretary of State shall, by classified communication, notify the Speaker and minority leader of the House of Representatives, the President pro tempore, majority leader, and minority leader of the Senate, the members of the relevant committees, and the Secretary of the Treasury, in writing, of the intent to designate a foreign organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor.

(ii) Publication of designation.–The Secretary of State shall publish the designation in the Federal Register seven days after providing the notification under clause (i).

(B) Effect of designation.–

(i) For purposes of section 2339B of title 18, United States Code, a designation under this subsection shall take effect upon publication under subparagraph (A)(ii).

***129** (ii) Any designation under this subsection shall cease to have effect upon an Act of Congress disapproving such designation.

(C) Freezing of assets.–Upon notification under [paragraph (2),] subparagraph (A)(i), the Secretary of the Treasury may require United States financial institutions possessing or controlling any assets of any foreign organization included in the notification to block all financial transactions involving those assets until further directive from either the Secretary of the Treasury, Act of Congress, or order of court.

(3) Record.–

(A) In general.–In making a designation under this subsection, the [Secretary] official specified under subsection (d) shall create an administrative record.

(B) Classified information.–The [Secretary] official specified under subsection (d) may consider classified information in making a designation under this subsection. Classified information shall not be subject to disclosure for such time as it

remains classified, except that such information may be disclosed to a court ex parte and in camera for purposes of judicial review under subsection [(c)] (b).

(4) Period of designation.–

(A) * * *

(B) Redesignation.–The [Secretary] official specified under subsection (d) may redesignate a foreign organization as a foreign terrorist organization for an additional 2-year period at the end of the 2-year period referred to in subparagraph (A) (but not sooner than 60 days prior to the termination of such period) upon a finding that the relevant circumstances described in paragraph (1) still exist. The official specified under subsection (d) may also redesignate such organization at the end of any 2-year redesignation period (but not sooner than 60 days prior to the termination of such period) for an additional 2-year period upon a finding that the relevant circumstances described in paragraph (1) still exist. Any redesignation shall be effective immediately following the end of the prior 2-year designation or redesignation period unless a different effective date is provided in such redesignation. The procedural requirements of paragraphs (2) and (3) shall apply to a redesignation under this subparagraph.

* * * * * * *

(6) Revocation based on change in circumstances.–

(A) In general.–The [Secretary] official specified under subsection (d) may revoke a designation made under paragraph (1) or a redesignation made under paragraph (4)(B) if the [Secretary] official specified under subsection (d) finds that–

(i) the circumstances that were the basis for the designation or redesignation have changed in such a manner as to warrant revocation [of the designation]; or

(ii) the national security of the United States warrants a revocation [of the designation].

***130** (B) Procedure.–The procedural requirements of paragraphs (2) [through (4)] and (3) shall apply to a revocation under this paragraph.

(C) Effective date.–Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.

(7) Effect of revocation.–The revocation of a designation under paragraph (5) or (6), or the revocation of a redesignation under paragraph (6), shall not affect any action or proceeding based on conduct committed prior to the effective date of such revocation.

(8) Use of designation in trial or hearing.–If a designation under this subsection has become effective under paragraph [(1)(B),] (2)(B), or if a redesignation under this subsection has become effective under paragraph (4)(B) a defendant in a criminal action or an alien in a removal proceeding shall not be permitted to raise any question concerning the validity of the issuance of such designation or redesignation as a defense or an objection at any trial or hearing.

* * * * * * *

(c) Definitions.–As used in this section–

(1) * * *

(2) the term “national security” means the national defense, foreign relations, or economic interests of the United States; and

(3) the term "relevant committees" means the Committees on the Judiciary, Intelligence, and Foreign Relations of the Senate and the Committees on the Judiciary, Intelligence, and International Relations of the House of Representatives[; and].

[(4) the term "Secretary" means the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General.]

(d) Implementation of Duties and Authorities.–

(1) By secretary or attorney general.–Except as otherwise provided in this subsection, the duties under this section shall, and authorities under this section may, be exercised by–

(A) the Secretary of State–

(i) after consultation with the Secretary of the Treasury and with the concurrence of the Attorney General; or
(ii) upon instruction by the President pursuant to paragraph (2); or
(B) the Attorney General–

(i) after consultation with the Secretary of the Treasury and with the concurrence of the Secretary of State; or
(ii) upon instruction by the President pursuant to paragraph (2).
(2) Concurrence.–The Secretary of State and the Attorney General shall each seek the other's concurrence in accordance with paragraph (1). In any case in which such concurrence is denied or withheld, the official seeking the concurrence shall so notify the President and shall request the President to make a determination as to how the issue shall be resolved. Such notification ***131** and request of the President may not be made before the earlier of–

(A) the date on which a denial of concurrence is received; or

(B) the end of the 60-day period beginning on the date the concurrence was sought.

(3) Exception.–It shall be the duty of the Secretary of State to carry out the procedural requirements of paragraphs (2)(A) and (6)(B) of subsection (a) in all cases, including cases in which a designation or revocation is initiated by the Attorney General.

* * * * * * *

CHAPTER 3–Issuance of Entry Documents

* * * * * * *

APPLICATIONS FOR VISAS

Sec. 222. (a) * * *

* * * * * * *

(f) [The records] (1) Subject to paragraphs (2) and (3), the records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the [United States, except that in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.] United States.

(2) In the discretion of the Secretary of State, certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.

(3)(A) Subject to the provisions of this paragraph, the Secretary of State may provide copies of records of the Department of State and of diplomatic and consular offices of the United States (including the Department of State's automated visa lookout database) pertaining to the issuance or refusal of visas or permits to enter the United States, or information contained in such records, to foreign governments if the Secretary determines that it is necessary and appropriate.

(B) Such records and information may be provided on a case-by-case basis for the purpose of preventing, investigating, or punishing acts of terrorism. General access to records and information may be provided under an agreement to limit the use of such records and information to the purposes described in the preceding sentence.

(C) The Secretary of State shall make any determination under this paragraph in consultation with any Federal agency that compiled or provided such records or information.

***132** (D) To the extent possible, such records and information shall be made available to foreign governments on a reciprocal basis.

* * * * * * *

CHAPTER 4–Inspection, Apprehension, Examination, Exclusion, and Removal

* * * * * * *

MANDATORY DETENTION OF SUSPECTED TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

Sec. 236A. (a) Detention of Terrorist Aliens.–

(1) Custody.–The Attorney General shall take into custody any alien who is certified under paragraph (3).

(2) Release.–Except as provided in paragraphs (5) and (6), the Attorney General shall maintain custody of such an alien until the alien is removed from the United States or found not to be inadmissible or deportable, as the case may be. Except as provided in paragraph (6), such custody shall be maintained irrespective of any relief from removal for which the alien may be eligible, or any relief from removal granted the alien, until the Attorney General determines that the alien is no longer an alien who may be certified under paragraph (3).

(3) Certification.–The Attorney General may certify an alien under this paragraph if the Attorney General has reasonable grounds to believe that the alien–

(A) is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii), 212(a)(3)(B), 237(a)(4)(A)(i), 237(a)(4)(A)(iii), or 237(a)(4)(B); or

(B) is engaged in any other activity that endangers the national security of the United States.

(4) Nondelegation.–The Attorney General may delegate the authority provided under paragraph (3) only to the Deputy Attorney General. The Deputy Attorney General may not delegate such authority.

(5) Commencement of proceedings.–The Attorney General shall place an alien detained under paragraph (1) in removal proceedings, or shall charge the alien with a criminal offense, not later than 7 days after the commencement of such detention. If the requirement of the preceding sentence is not satisfied, the Attorney General shall release the alien.

(6) Limitation on indefinite detention.–An alien detained under paragraph (1) who has been ordered removed based on one or more of the grounds of inadmissibility or deportability referred to in paragraph (3)(A), who has not been removed within the removal period specified under section 241(a)(1)(A), and whose removal is unlikely in the reasonably foreseeable future, may be detained for additional periods of up to six months if the Attorney General demonstrates that the release of the alien will not protect the national security of the United States or adequately ensure the safety of the community or any person.

(b) Habeas Corpus and Judicial Review.–Judicial review of any action or decision relating to this section (including judicial review of the merits of a determination made under subsection (a)(3) ***133** or (a)(6)) is available exclusively in habeas corpus proceedings initiated in the United States District Court for the District of Columbia. Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, except as provided in the preceding sentence, no court shall have jurisdiction to review, by habeas corpus petition or otherwise, any such action or decision.

* * * * * * *

Sec. 237. (a) Classes of Deportable Aliens.–Any alien (including an alien crewman) in and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens:

(1) * * *

* * * * * * *

(4) Security and related grounds.–

(A) * * *

[(B) Terrorist activities.–Any alien who has engaged, is engaged, or at any time after admission engages in any terrorist activity (as defined in section 212(a)(3)(B)(iii)) is deportable.]

(B) Terrorist activities.–Any alien is deportable who–

(i) has engaged, is engaged, or at any time after admission engages in terrorist activity (as defined in section 212(a)(3)(B)(iii));
(ii) is a representative (as defined in section 212(a)(3)(B)(iv)) of–
(I) a foreign terrorist organization, as designated by the Secretary of State under section 219; or
(II) a political, social, or other similar group whose public endorsement of terrorist activity–
(a) is intended and likely to incite or produce imminent lawless action; and
(b) has been determined by the Secretary of State to undermine the efforts of the United States to reduce or eliminate terrorist activities; or
(iii) has used the alien's prominence within a foreign state or the United States–
(I) to endorse, in a manner that is intended and likely to incite or produce imminent lawless action and that has been determined by the Secretary of State to undermine the efforts of the United States to reduce or eliminate terrorist activities, terrorist activity; or
(II) to persuade others, in a manner that is intended and likely to incite or produce imminent lawless action and that has been determined by the Secretary of State to undermine the efforts of the United States to reduce or eliminate terrorist ***134** activities, to support terrorist activity or a terrorist organization (as defined in section 212(a)(3)(B) (v)).

* * * * * * *

SECTION 641 OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996

SEC. 641. PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS.

(a) * * *

* * * * * * *

(e) Funding.–

(1) * * *

* * * * * * *

(4) Amount and use of fees.–

(A) Establishment of amount.–The Attorney General shall establish the amount of the fee to be imposed on, and collected from, an alien under paragraph (1). Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed $100. The amount of the fee shall be based on the Attorney General's estimate of the cost per alien of conducting the information collection program described in this section, except that, in the case of an alien admitted under section 101(a)(15)(J) of the Immigration and Nationality Act as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $40, except that, in the case of an alien admitted under section 101(a)(15)(J) of the Immigration and Nationality Act as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $35. In the case of an alien who is a national of a country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism, the Attorney General may impose on, and collect from, the alien a fee that is greater than that imposed on other aliens described in paragraph (3).

* * * * * * *

(f) Joint Report.–[Not later than 4 years after the commencement of the program established under subsection (a),] Not later than 120 days after the date of the enactment of the PATRIOT Act of 2001, the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries.

(g) Worldwide Applicability of the Program.–

(1) Expansion of program.–Not later than [12 months] 120 days after the submission of the report required by subsection (f), the Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall commence expansion of the program to cover the nationals of all countries.

* * * * * * *

(h) Data Exchange.–Notwithstanding any other provision of law, the Attorney General shall provide to the Secretary of State and the Director of the Federal Bureau of Investigation the information collected under subsection (a)(1).

[(h)] (i) Definitions.–As used in this section:

(1) * * *

* * * * * * *

FEDERAL RULES OF CRIMINAL PROCEDURE

* * * * * * *

III. INDICTMENT AND INFORMATION

Rule 6. The Grand Jury

(a) * * *

* * * * * * *

(e) Recording and Disclosure of Proceedings.

(1) * * *

* * * * * * *

(3) Exceptions.

(A) * * *

* * * * * * *

(C) Disclosure otherwise prohibited by this rule of matters occurring before the grand jury may also be made–

(i) * * *

* * * * * * *

(iii) when the disclosure is made by an attorney for the government to another federal grand jury; [or]

(iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law[.]; or

(v) when permitted by a court at the request of an attorney for the government, upon a showing that the matters pertain to international or domestic terrorism (as defined in section 2331 of title 18, United States Code) or national security, to any Federal law enforcement, intelligence, national security, national defense, protective, immigration personnel, or to the President or Vice President of the United States, for the performance of official duties.

* * * * * * *

IX. SUPPLEMENTARY AND SPECIAL PROCEEDINGS

* * * * * * *

Rule 41. Search and Seizure

(a) Authority To Issue Warrant. Upon the request of a federal law enforcement officer or an attorney for the government, a search warrant authorized by this rule may be issued (1) by a federal magistrate judge, or a state court of record within the federal district, for a search of property or for a person within the district and (2) by a federal magistrate judge for a search of property or for a person either within or outside the district if the property or person is within the district when the warrant is sought but might move outside the district before the warrant is executed and (3) in an investigation of domestic terrorism or international terrorism (as defined in section 2331 of title 18, United States Code), by a Federal magistrate judge in any district court of the United States (including a magistrate judge of such court), or any United States Court of Appeals, having jurisdiction over the offense being investigated, for a search of property or for a person within or outside the district.

* * * * * * *

SECTION 3 OF THE DNA ANALYSIS BACKLOG ELIMINATION ACT OF 2000

SEC. 3. COLLECTION AND USE OF DNA IDENTIFICATION INFORMATION FROM CERTAIN FEDERAL OFFENDERS.

(a) * * *

* * * * * * *

(d) Qualifying Federal Offenses.–(1) The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses under title 18, United States Code, as determined by the Attorney General:

(A) * * *

* * * * * * *

(G) Any Federal terrorism offense (as defined in section 25 of title 18, United States Code).

[(G)] (H) Any attempt or conspiracy to commit any of the above offenses.

* * * * * * *

STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956

TITLE I–BASIC AUTHORITIES GENERALLY

* * * * * * *

SEC. 36. DEPARTMENT OF STATE REWARDS PROGRAM.

(a) * * *

(b) Rewards Authorized.–In the sole discretion of the Secretary (except as provided in subsection (c)(2)) and in consultation, as appropriate, with the Attorney General, the Secretary may pay a reward to any individual who furnishes information leading to–

(1) * * *

* * * * * * *

(4) the arrest or conviction in any country of any individual aiding or abetting in the commission of an act described in paragraph (1), (2), or (3); [or]

(5) the prevention, frustration, or favorable resolution of an act described in paragraph (1), (2), or (3)[.], including by dismantling an organization in whole or significant part; or

(6) the identification or location of an individual who holds a leadership position in a terrorist organization.

* * * * * * *

(d) Funding.–

(1) * * *

[(2) Limitation.–No amount of funds may be appropriated under paragraph (1) which, when added to the unobligated balance of amounts previously appropriated to carry out this section, would cause such amounts to exceed $15,000,000.

[(3) Allocation of funds.–To the maximum extent practicable, funds made available to carry out this section should be distributed equally for the purpose of preventing acts of international terrorism and for the purpose of preventing international narcotics trafficking.]

[(4)] (2) Period of availability.–Amounts appropriated under paragraph (1) shall remain available until expended.

(e) Limitations and Certification.–

[(1) Maximum amount.–No reward paid under this section may exceed $5,000,000.]

(1) Amount of award.–

(A) Except as provided in subparagraph (B), no reward paid under this section may exceed $10,000,000.

(B) The Secretary of State may authorize the payment of an award not to exceed $25,000,000 if the Secretary determines that payment of an award exceeding the amount under subparagraph (A) is important to the national interest of the United States.

* * * * * * *

SPECIAL AGENTS

Sec. 37. (a) General Authority.–Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may–

(1) * * *

[(2) For the purpose of conducting such investigation–

[(A) obtain and execute search and arrest warrants,

[(B) make arrests without warrant for any offense concerning passport or visa issuance or use of the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and

[(C) obtain and serve subpoenas and summonses issued under the authority of the United States;]

(2) in the course of performing the functions set forth in paragraphs (1) and (3), obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses, issued under the authority of the United States;

(3) protect and perform protective functions directly related to maintaining the security and safety of–

(A) * * *

* * * * * * *

(F) an individual who has been designated by the President or President-elect to serve as Secretary of State, prior to that individual's appointment.

* * * * * * *

[(5) arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028, of title 18, United States Code–

[(A) in the case of a felony violation, if the special agent has reasonable grounds to believe that such person–

[(i) has committed or is committing such violation; and
[(ii) is in or is fleeing from the immediate area of such violation; and
[(B) in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent.]

(5) in the course of performing the functions set forth in paragraphs (1) and (3), make arrests without warrant for any offense against the United States committed in the presence of the special agent, or for any felony cognizable under the laws of the United States if the special agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

* * * * * * *

(d) Interference With Agents.–Whoever knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged in the performance of the protective functions authorized by this section shall be fined under title 18 or imprisoned not more than one year, or both.

(e) Persons Under Protection of Special Agents.–Whoever engages in any conduct–

(1) directed against an individual entitled to protection under this section, and

(2) which would constitute a violation of section 112 or 878 of title 18, United States Code, if such individual were a foreign official, an official guest, or an internationally protected person, shall be subject to the same penalties as are provided for such conduct directed against an individual subject to protection under such section of title 18.

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INTERNAL REVENUE CODE OF 1986

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Subtitle F–Procedure and Administration

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CHAPTER 61–INFORMATION AND RETURNS

* * * * * * *

Subchapter B–Miscellaneous Provisions

* * * * * * *

SEC. 6103. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) General Rule.–Returns and return information shall be confidential, and except as authorized by this title–

(1) * * *

(2) no officer or employee of any State, any local law enforcement agency receiving information under subsection (i)(7)(A), any local child support enforcement agency, or any local agency administering a program listed in subsection (l)(7)(D) who has or had access to returns or return information under this section, and

* * * * * * *

(i) Disclosure to Federal Officers or Employees for Administration of Federal Laws not Relating to Tax Administration.–

(1) * * *

* * * * * * *

(3) Disclosure of return information to apprise appropriate officials of criminal or terrorist activities or emergency circumstances.–

(A) * * *

* * * * * * *

(C) Terrorist activities, etc.–

(i) In general.–Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(ii) Disclosure to the department of justice.–Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

(iii) Taxpayer identity.–For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(iv) Termination.–No disclosure may be made under this subparagraph after December 31, 2003.

(4) Use of certain disclosed returns and return information in judicial or administrative proceedings.–

(A) Returns and taxpayer return information.–Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) or (7)(C) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party–

(i) * * *

* * * * * * *

(B) Return information (other than taxpayer return information).–Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), [or (3)(A)] (3)(A) or (C), or (7) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

* * * * * * *

(6) Confidential informants; impairment of investigations.–The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A) or(C), (5), [or (7)] (7), or (8) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

(7) Disclosure upon request of information relating to terrorist activities, etc.–

(A) Disclosure to law enforcement agencies.–

(i) In general.–Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (iii), the Secretary may disclose return information (other than taxpayer return information) to officers and employees of any Federal law enforcement agency who are personally and directly engaged in the response to or investigation of terrorist incidents, threats, or activities.

(ii) Disclosure to state and local law enforcement agencies.–The head of any Federal law enforcement agency may disclose return information obtained under clause (i) to officers and employees of any State or local law enforcement agency but only if such agency is part of a team with the Federal law enforcement agency in such response or investigation and such information is disclosed only to officers and employees who are personally and directly engaged in such response or investigation.

(iii) Requirements.–A request meets the requirements of this clause if–

(I) the request is made by the head of any Federal law enforcement agency (or his delegate) involved in the response to or investigation of terrorist incidents, threats, or activities, and

(II) the request sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

(iv) Limitation on use of information.–Information disclosed under this subparagraph shall be solely for the use of the officers and employees to whom such information is disclosed in such response or investigation.

(B) Disclosure to intelligence agencies.–

(i) In general.–Except as provided in paragraph (6), upon receipt by the Secretary of a written request which meets the requirements of clause (ii), the Secretary may disclose return information (other than taxpayer return information) to those officers and employees of the Department of Justice, the Department of the Treasury, and other Federal intelligence agencies who are personally and directly engaged in the collection or analysis of intelligence and counterintelligence information or investigation concerning terrorists and terrorist organizations and activities. For purposes of the preceding sentence, the information disclosed under the preceding sentence shall be solely for the use of such officers and employees in such investigation, collection, or analysis.

(ii) Requirements.–A request meets the requirements of this subparagraph if the request–

(I) is made by an individual described in clause (iii), and

(II) sets forth the specific reason or reasons why such disclosure may be relevant to a terrorist incident, threat, or activity.

(iii) Requesting individuals.–An individual described in this subparagraph is an individual–

(I) who is an officer or employee of the Department of Justice or the Department of the Treasury who is appointed by the President with the advice and consent of the Senate or who is the Director of the United States Secret Service, and

(II) who is responsible for the collection and analysis of intelligence and counterintelligence information concerning terrorists and terrorist organizations and activities.

(iv) Taxpayer identity.–For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

(C) Disclosure under ex parte orders.–

(i) In general.–Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under clause (ii), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal law enforcement agency or Federal intelligence agency who are personally and directly engaged in any investigation, response to, or analysis of intelligence and counterintelligence information concerning any terrorist activity or threats. Return or return information opened pursuant to the preceding sentence shall be solely for the use of such officers and employees in the investigation, response, or analysis, and in any judicial, administrative, or grand jury proceedings, pertaining to any such terrorist activity or threat.

(ii) Application for order.–The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, or any United States attorney may authorize an application to a Federal district court judge or

magistrate for the order referred to in clause (i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that–

(I) there is reasonable cause to believe, based upon information believed to be reliable, that the taxpayer whose return or return information is to be disclosed may be connected to a terrorist activity or threat,

(II) there is reasonable cause to believe that the return or return information may be relevant to a matter relating to such terrorist activity or threat, and

(III) the return or return information is sought exclusively for use in a Federal investigation, analysis, or proceeding concerning terrorist activity, terrorist threats, or terrorist organizations.

(D) Special rule for ex parte disclosure by the irs.–

(i) In general.–Except as provided in paragraph (6), the Secretary may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (C)(i). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that the requirements of subclauses (I) and (II) of subparagraph (C)(ii) are met.

(ii) Limitation on use of information.–Information disclosed under clause (i)–

(I) may be disclosed only to the extent necessary to apprise the head of the appropriate Federal ***143** law enforcement agency responsible for investigating or responding to a terrorist incident, threat, or activity, and

(II) shall be solely for use in a Federal investigation, analysis, or proceeding concerning terrorist activity, terrorist threats, or terrorist organizations.

The head of such Federal agency may disclose such information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

(E) Termination.–No disclosure may be made under this paragraph after December 31, 2003.

[(7)] (8) Comptroller general.–

(A) Returns available for inspection.–Except as provided in subparagraph (C), upon written request by the Comptroller General of the United States, returns and return information shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making–

(i) * * *

* * * * * * *

(p) Procedure and Recordkeeping.–

(1) * * *

* * * * * * *

(3) Records of inspection and disclosure.–

(A) System of recordkeeping.–Except as otherwise provided by this paragraph, the Secretary shall maintain a permanent system of standardized records or accountings of all requests for inspection or disclosure of returns and return information (including the reasons for and dates of such requests) and of returns and return information inspected or disclosed under this section. Notwithstanding the provisions of section 552a(c) of title 5, United States Code, the Secretary shall not be required to maintain a record or accounting of requests for inspection or disclosure of returns and return information, or of returns and return information inspected or disclosed, under the authority of subsections (c), (e), (f)(5), (h)(1), (3)(A), or (4), (i)(4), or [(7)(A)(ii)] (8)(A)(ii), (k)(1), (2), (6), (8), or (9) (l)(1), (4)(B), (5), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) (m) or (n). The records or accountings required to be maintained under this paragraph shall be available for examination by the Joint Committee on Taxation or the Chief of Staff of such joint committee. Such record or accounting shall also be available for examination by such person or persons as may be, but only to the extent, authorized to make such examination under section 552a(c)(3) of title 5, United States Code.

* * * * * * *

(C) Public report on disclosures.–The Secretary shall, within 90 days after the close of each calendar year, ***144** furnish to the Joint Committee on Taxation for disclosure to the public a report with respect to the records or accountings described in subparagraph (A) which–

(i) provides with respect to each Federal agency, each agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (7)(A)(ii) or (l)(6), and the General Accounting Office the number of–

(I) * * *

* * * * * * *

(4) Safeguards.–Any Federal agency described in subsection (h)(2), (h)(5), (i)(1), (2), (3), [or (5),] (5), or (7), (j)(1), (2) or (5), (k)(8), (l)(1), (2), (3), (5), (11), (13), (14), or (17) or (o)(1), the General Accounting Office, the Congressional Budget Office, or any agency, body, or commission described in subsection (d), (i)(3)(B)(i) or (7)(A)(ii) or (l)(6), (7), (8), (9), (12), (15), or (16) or any other person described in subsection (l)(16) shall, as a condition for receiving returns or return information–

(A) * * *

* * * * * * *

(F) upon completion of use of such returns or return information–

(i) * * *

(ii) in the case of an agency described in subsections (h)(2), (h)(5), (i)(1), (2), (3), [or (5),] (5) or (7), (j)(1), (2) or (5), (k)(8), (l)(1), (2), (3), (5), (10), (11), (12), (13), (14), (15), or (17) or (o)(1), the General Accounting Office, or the Congressional Budget Office, either–

(I) * * *

* * * * * * *

(6) Audit of procedures and safeguards.–

(A) * * *

(B) Records of inspection and reports by the comptroller general.–The Comptroller General shall–

(i) maintain a permanent system of standardized records and accountings of returns and return information inspected by officers and employees of the General Accounting Office under subsection [(i)(7)(A)(ii)] (i)(8)(A)(ii) and shall, within 90 days after the close of each calendar year, furnish to the Secretary a report with respect to, or summary of, such records or accountings in such form and containing such information as the Secretary may prescribe, and

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CHAPTER 75–CRIMES, OTHER OFFENSES, AND FORFEITURES

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***145** Subchapter A–Crimes

* * * * * * *

PART I–GENERAL PROVISIONS

* * * * * * *

SEC. 7213. UNAUTHORIZED DISCLOSURE OF INFORMATION.

(a) Returns and Return Information.–

(1) * * *

(2) State and other employees.–It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (i)(3)(B)(i) or (7)(A)(ii), (l)(6), (7), (8), (9), (10), or (12), (15), or (16) or (m)(2), (4), (5), (6), or (7) of section 6103. Any violation of this paragraph shall be a felony punishable by a fine in any amount not exceeding $5,000, or imprisonment of not more than 5 years, or both, together with the costs of prosecution.

* * * * * * *

OMNIBUS CONSOLIDATED AND EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 1999

(Public Law 105–277)

DIVISION A–OMNIBUS CONSOLIDATED APPROPRIATIONS

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the several departments, agencies, corporations and other organizational units of the Government for the fiscal year 1999, and for other purposes, namely:

Sec. 101(a). * * *

* * * * * * *

(b) For programs, projects or activities in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, provided as follows, to be effective as if it had been enacted into law as the regular appropriations Act:

AN ACT Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

TITLE I–DEPARTMENT OF JUSTICE

* * * * * * *

GENERAL PROVISIONS–DEPARTMENT OF JUSTICE

* * * * * * *

Sec. 112. Notwithstanding any other provision of law, during fiscal year 1999, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice–

***146** (1) may make grants, or enter into cooperative agreements and contracts, for the Office of Justice Programs and the component organizations of that Office (including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90–351); and

(2) shall have final authority over all functions, including any grants, cooperative agreements, and contracts made, or entered into, for the Office of Justice Programs and the component organizations of that Office (including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90–351).

* * * * * * *

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 2000

(Public Law 106–113)

TITLE I–DEPARTMENT OF JUSTICE

* * * * * * *

GENERAL PROVISIONS–DEPARTMENT OF JUSTICE

* * * * * * *

Sec. 108. (a) Notwithstanding any other provision of law, for fiscal year 2000, the Assistant Attorney General for the Office of Justice Programs of the Department of Justice–

(1) may make grants, or enter into cooperative agreements and contracts, for the Office of Justice Programs and the component organizations of that Office (including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90–351); and

(2) shall have final authority over all functions, including any grants, cooperative agreements and contracts made, or entered into, for the Office of Justice Programs and the component organizations of that Office (including, notwithstanding any contrary provision of law (unless the same should expressly refer to this section), any organization that administers any program established in title 1 of Public Law 90–351), except for grants made under the provisions of sections 201, 202, 301, and 302 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended; and sections 204(b)(3), 241(e)(1), 243(a)(1), 243(a)(14) and 287A(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

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***147** SECTION 1404B OF THE VICTIMS OF CRIME ACT OF 1984

SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

(a) * * *

(b) Victims of Terrorism Within the United States.–The Director may make supplemental grants as provided in section 1402(d)(5) to States for eligible crime victim compensation and assistance programs, to victim service organizations, to public agencies (including Federal, State, or local governments), and to non-governmental organizations that provide assistance to victims of crime, to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victim compensation and assistance efforts in providing emergency relief.

* * * * * * *

SECTION 1 OF THE ACT OF SEPTEMBER 18, 2001

(Public Law 107–37)

AN ACT To provide for the expedited payment of certain benefits for a public safety officer who was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty in connection with the terrorist attacks of September 11, 2001.

SECTION 1. EXPEDITED PAYMENT FOR HEROIC PUBLIC SAFETY OFFICERS.

Notwithstanding the limitations of subsection (b) of section 1201 or the provisions of subsections (c), (d), and (e) of such section or section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796, 3796a), upon certification (containing identification of all eligible payees of benefits under section 1201) by a public agency that a public safety officer employed by such agency was killed or suffered a catastrophic injury producing permanent and total disability as a direct and proximate result of a personal injury sustained in the line of duty as described in section [1201(a)] 1201 of such Act in connection with the rescue or recovery efforts related to the terrorist attacks of September 11, 2001, the Director of the Bureau of Justice Assistance shall authorize payment to qualified beneficiaries, said payment to be made not later than 30 days after receipt of such certification, benefits described under subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

CRIME CONTROL ACT OF 1990

FINANCIAL INSTITUTIONS ANTI-FRAUD ENFORCEMENT ACT OF 1990

(Public Law 101–647)

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***148** TITLE XXV–BANKING LAW ENFORCEMENT

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Subtitle H–Actions Against Persons Committing Bank Fraud Crimes

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CHAPTER 1–DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

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SEC. 2565. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS.

(a) * * *

* * * * * * *

(c) Criminal Conviction.–(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 2561, [the declarant shall have the right to receive not less than $5,000 and not more than $100,000, any such award to be paid from the Financial Institution Information Award Fund established under section 2569.] the Attorney General may, in the Attorney General's discretion, pay a reward to the declaring.

* * * * * * *

[(e) Prohibition of Double Awards.–(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

[(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.]

* * * * * * *

[SEC. 2569. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

[(a) Establishment.–There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 2565(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

***149** [(b) Authorization of Appropriations.–There are authorized to be appropriated to the Fund such funds as are necessary to maintain the Fund at a level not to exceed $5,000,000.]

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DEPARTMENT OF JUSTICE APPROPRIATIONS ACT, 2001

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TITLE I–DEPARTMENT OF JUSTICE

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IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, as follows:

ENFORCEMENT AND BORDER AFFAIRS

For salaries and expenses for the Border Patrol program, the detention and deportation program, the intelligence program, the investigations program, and the inspections program, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; purchase for police-type use (not to exceed 3,165 passenger motor vehicles, of which 2,211 are for replacement only), without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; research related to immigration enforcement; for protecting and maintaining the integrity of the borders of the United States including, without limitation, equipping, maintaining, and making improvements to the infrastructure; and for the care and housing of Federal detainees held in the joint Immigration and Naturalization Service and United States Marshals Service's Buffalo Detention Facility, $2,547,057,000; of which not to exceed $10,000,000 shall be available for costs associated with the training program for basic officer training, and $5,000,000 is for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration; of which not to exceed $5,000,000 is to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: [Provided, That none of the funds available to the Immigration and Naturalization Service shall be available to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2001:]

Provided further, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: Provided further, That, in addition to reimbursable full-time equivalent workyears available to the Immigration and Naturalization Service, not to exceed 19,783 positions and 19,191 full-time equivalent workyears shall be supported from the funds appropriated ***150** under this heading in this Act for the Immigration and Naturalization Service: Provided further, That none of the funds provided in this or any other Act shall be used for the continued operation of the San Clemente and Temecula checkpoints unless the checkpoints are open and traffic is being checked on a continuous 24-hour basis.

CITIZENSHIP AND BENEFITS, IMMIGRATION SUPPORT AND PROGRAM DIRECTION

For all programs of the Immigration and Naturalization Service not included under the heading "Enforcement and Border Affairs", $578,819,000, of which not to exceed $400,000 for research shall remain available until expended: Provided, That not to exceed $5,000 shall be available for official reception and representation expenses: Provided further, That the Attorney General may transfer any funds appropriated under this heading and the heading "Enforcement and Border Affairs" between said appropriations notwithstanding any percentage transfer limitations imposed under this appropriation Act and may direct such fees as are collected by the Immigration and Naturalization Service to the activities funded under this heading and the heading "Enforcement and Border Affairs" for performance of the functions for which the fees legally may be expended: Provided further, That not to exceed 40 permanent positions and 40 full-time equivalent workyears and $4,300,000 shall be expended for the Offices of Legislative Affairs and Public Affairs: Provided further, That the latter two aforementioned offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or non-reimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis: Provided further, That the number of positions filled through non-career appointment at the Immigration and Naturalization Service, for which funding is provided in this Act or is otherwise made available to the Immigration and Naturalization Service, shall not exceed four permanent positions and four full-time equivalent workyears: [Provided further, That none of the funds available to the Immigration and Naturalization Service shall be used to pay any employee overtime pay in an amount in excess of $30,000 during the calendar year beginning January 1, 2001:] Provided further, That funds may be used, without limitation, for equipping, maintaining, and making improvements to the infrastructure and the purchase of vehicles for police-type use within the limits of the Enforcement and Border Affairs appropriation: Provided further, That, in addition to reimbursable full-time equivalent workyears available to the Immigration and Naturalization Service, not to exceed 3,100 positions and 3,150 full-time equivalent workyears shall be supported from the funds appropriated under this heading in this Act for the Immigration and Naturalization Service: Provided further, That, notwithstanding any other provision of law, during fiscal year 2001, the Attorney General is authorized and directed to impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, for any employee of the Immigration and Naturalization Service who violates policies and procedures set forth by the Department of Justice ***151** relative to the granting of citizenship or who willfully deceives the Congress or department leadership on any matter.

* * * * * * *

SECTION 1201 OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1986

PAYMENTS

Sec. 1201. (a) In any case in which the Bureau of Justice Assistance (hereinafter in this part referred to as the "Bureau") determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of [$100,000] $200,000, adjusted in accordance with subsection (h), as follows:

(1) * * *

* * * * * * *

SECTION 2805 OF THE RECLAMATION RECREATION MANAGEMENT ACT OF 1992

SEC. 2805. MANAGEMENT OF RECLAMATION LANDS.

(a) Administration.–(1) * * *

* * * * * * *

(3) Any person who violates any such regulation which is issued pursuant to this Act shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate judge designated for that purpose by the court by which such judge was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18, United States Code.

(4) The Secretary may–

(A) authorize law enforcement personnel from the Department of the Interior to act as law enforcement officers to maintain law and order and protect persons and property within a Reclamation project or on Reclamation lands;

(B) authorize law enforcement personnel of any other Federal agency that has law enforcement authority, with the exception of the Department of Defense, or law enforcement personnel of any State or local government, including Indian tribes, when deemed economical and in the public interest, and with the concurrence of that agency or that State or local government, to act as law enforcement officers within a Reclamation project or on Reclamation lands with such enforcement powers as may be so assigned them by the Secretary to carry out the regulations promulgated under paragraph (2);

(C) cooperate with any State or local government, including Indian tribes, in the enforcement of the laws or ordinances of that State or local government; and

***152** (D) provide reimbursement to a State or local government, including Indian tribes, for expenditures incurred in connection with activities under subparagraph (B).

(5) Officers or employees designated or authorized by the Secretary under paragraph (4) are authorized to–

(A) carry firearms within a Reclamation project or on Reclamation lands and make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony, and if such arrests occur within a Reclamation project or on Reclamation lands or the person to be arrested is fleeing therefrom to avoid arrest;

(B) execute within a Reclamation project or on Reclamation lands any warrant or other process issued by a court or officer of competent jurisdiction for the enforcement of the provisions of any Federal law or regulation issued pursuant to law for an offense committed within a Reclamation project or on Reclamation lands; and

(C) conduct investigations within a Reclamation project or on Reclamation lands of offenses against the United States committed within a Reclamation project or on Reclamation lands, if the Federal law enforcement agency having investigative jurisdiction over the offense committed declines to investigate the offense or concurs with such investigation.

(6)(A) Except as otherwise provided in this paragraph, a law enforcement officer of any State or local government, including Indian tribes, designated to act as a law enforcement officer under paragraph (4) shall not be deemed a Federal employee and

shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, employment discrimination, leave, unemployment compensation, and Federal benefits.

(B) For purposes of chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act, a law enforcement officer of any State or local government, including Indian tribes, shall, when acting as a designated law enforcement officer under paragraph (4) and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be considered a Federal employee.

(C) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a law enforcement officer of any State or local government, including Indian tribes, shall, when acting as a designated law enforcement officer under paragraph (4) and while under Federal supervision and control, and only when carrying out Federal law enforcement responsibilities, be deemed a civil service employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply. Benefits under this subchapter shall be reduced by the amount of any entitlement to State or local workers' compensation benefits arising out of the same injury or death.

(7) Nothing in paragraphs (3) through (9) shall be construed or applied to limit or restrict the investigative jurisdiction of any Federal ***153** law enforcement agency, or to affect any existing right of a State or local government, including Indian tribes, to exercise civil and criminal jurisdiction within a Reclamation project or on Reclamation lands.

(8) For the purposes of this subsection, the term "law enforcement personnel" means employees of a Federal, State, or local government agency, including an Indian tribal agency, who have successfully completed law enforcement training approved by the Secretary and are authorized to carry firearms, make arrests, and execute service of process to enforce criminal laws of their employing jurisdiction.

(9) The law enforcement authorities provided for in this subsection may be exercised only pursuant to rules and regulations promulgated by the Secretary and approved by the Attorney General.

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TITLE 28, UNITED STATES CODE

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PART IV–JURISDICTION AND VENUE

* * * * * * *

CHAPTER 87–DISTRICT COURTS; VENUE

* * * * * * *

S 1391. Venue generally

(a) * * *

* * * * * * *

(f) A civil action against a foreign state as defined in section 1603(a) of this title may be brought–

(1) * * *

* * * * * * *

(3) in any judicial district in which the agency or instrumentality is licensed to do business or is doing business, if the action is brought against an agency or instrumentality of a foreign state as defined in section [1603(b)]1603(b)(1) of this title; or

* * * * * * *

CHAPTER 97–JURISDICTIONAL IMMUNITIES OF FOREIGN STATES

* * * * * * *

S 1603. Definitions

For purposes of this chapter–

(a) * * *

[(b) An "agency or instrumentality of a foreign state" means any entity–] (b) An "agency or instrumentality of a foreign state" means–

***154** (1) any entity–

[(1)] (A) which is a separate legal person, corporate or otherwise, and

[(2)] (B) which is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and

[(3)] (C) which is neither a citizen of a State of the United States as defined in section 1332 (c) and (d) of this title, nor created under the laws of any third country[.]; and

(2) for purposes of sections 1605(a)(7) and 1610(a)(7) and (f), any entity as defined under subparagraphs (A) and (B) of paragraph (1), and subparagraph (C) of paragraph (1) shall not apply.

* * * * * * *

S 1610. Exceptions to the immunity from attachment or execution

(a) * * *

* * * * * * *

(f)(1)(A) Notwithstanding any other provision of law, including but not limited to section 208(f) of the Foreign Missions Act (22 U.S.C. 4308(f)), and except as provided in subparagraph (B), any property with respect to which financial transactions are prohibited or regulated pursuant to section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701-1702), or any other proclamation, order, regulation, or license issued pursuant thereto, shall be subject to execution or attachment in aid of execution of any judgment relating to a claim for which a foreign state [(including any agency or instrumentality or such state)] (including any agency or instrumentality of such state), except to the extent of any punitive damages awarded claiming such property is not immune under section 605(a)(7).

* * * * * * *

(C) Notwithstanding any other provision of law, moneys due from or payable by the United States (including any agency or instrumentality thereof) to any state against which a judgment is pending under section 1605(a)(7) shall be subject to

attachment and execution with respect to that judgment, in like manner and to the same extent as if the United States were a private person, except to the extent of any punitive damages awarded.

* * * * * * *

[(3) Waiver.–The President may waive any provision of paragraph (1) in the interest of national security.]

(3)(A) Subject to subparagraph (B), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive this subsection in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property ***155** subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(B) A waiver under this paragraph shall not apply to–

(i) if property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations has been used for any nondiplomatic purpose (including use as rental property), the proceeds of such use; or

(ii) if any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations is sold or otherwise transferred for value to a third party, the proceeds of such sale or transfer.

(C) In this paragraph, the term “property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations” and the term “asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations” mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(4) For purposes of this subsection, all assets of any agency or instrumentality of a foreign state shall be treated as assets of that foreign state.

* * * * * * *

***156** COMMITTEE JURISDICTION LETTERSs,d410

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

MARKUP TRANSCRIPT

***382** Under My Amendment:

(1) 'American victims of state-sponsored international terrorism will all have equal access to the courts and to blocked assets. A small but important token of justice. Nobody will be entitled to mandatory payments–the President's discretion is preserved. On an asset by asset basis the President can continue to hold certain assets from judgment if necessary for national security or diplomatic purposes.

(2) 'We impose immediate financial costs on states that sponsor terrorism. Freezing assets for 20 years and giving them back to terrorist states does not impose such costs. At present, terrorism is a cheap way to pursue war against Americans. Unless the US finds ways to make it more costly, terrorists (and states which sponsor terrorism) have no economic incentive to stop. By imposing a direct and immediate cost, this amendment represents one effective financial tool against terrorists and also helps their victims.

(3) 'Terrorist sponsor states will no longer be able to use their diplomatic and intelligence agencies and state owned enterprises to support terrorists with financial impunity. Currently, terrorism sponsoring states use their wholly owned and controlled agencies and instrumentalities to raise, launder and distribute funds to terrorist cells, sometimes even within the US! Ironically, these agencies and instrumentalities can claim “foreign sovereign immunity” against victims and US courts because of their relationship with the terrorist sponsoring states. By exposing these agencies and instrumentalities to liability, the US can further increase the cost of sponsoring terrorism and go after the sources of funding for these organizations and cells.

Let me say in closing, the United States will most certainly make the terrorists responsible for the attacks of September 11th pay for their acts.

***383** By passing our amendment, we will also make states that sponsor terrorists pay a financial price for their actions–and that price will be paid to their victims.

I yield back my time.

Ms. Jackson Lee. Let me thank you very much. And let me finally conclude by thanking the bipartisan effort for helping us to eliminate the indefinite suspension, which was something that none of us would want to support.

I yield back.

Chairman Sensenbrenner. The question is on the second manager's amendment. Those in favor will signify by saying aye. Opposed, no.

The ayes appear to have it. The ayes have it, and the amendment is agreed to.

Further amendments to title II? The gentlewoman from California, Ms. Lofgren.

Ms. Lofgren. I have an amendment at the desk.

Chairman Sensenbrenner. The clerk will report the amendment.

The Clerk. Amendment to H.R. 2975 offered by Ms. Lofgren.

Ms. Lofgren. I ask unanimous consent that the amendment be considered as read.

Chairman Sensenbrenner. Without objection, so ordered.

[The amendment follows:]

s,d450

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ADDITIONAL VIEWS OF THE HONORABLE BARNEY FRANK

***435** ADDITIONAL VIEWS OF THE HONORABLE ROBERT C. SCOTT

Scott Comments from the Transcript of the 6/21/2000 Judiciary Committee Markup of H.R. 3485:

Mr. Scott. Mr. Chairman, would the gentleman yield for another question or two?

Mr. McCollum. Certainly.

Mr. Scott. You said there is escape for diplomatic property. Is there an escape if the President views the attachment of foreign property inconsistent with national security? Is there a national security interest exception where the President can override this?

Mr. McCollum. Initially, in the language that was there, it was a broad override of national security. Now we are narrowing this bill and saying that commercial assets, he cannot override if it is commercial in the United States. But he can for diplomatic.

Mr. Scott. Would this allow attachment of assets of the foreign government outside of the United States?

Mr. McCollum. No, it would not.

Mr. Scott. So you could not execute a judgement if the property of the terrorist state were in Canada, for example?

Mr. McCollum. That is correct.

Mr. Scott. Could you give us a little sense of this would work if the shoe were on the other foot and an Iraqi who was bombed on the Persian Gulf got a judgement in Iraq and wanted to attach assets that the government might have in Iraq.

Mr. McCollum. First of all, if the gentleman will yield, the bill does not pertain to that. We would not provide any opportunity for that to occur in this bill.

Mr. Scott. No. If the shoe were on the other foot and Iraq were to pass a similar bill and accuse us in Iraq of terrorism.

Mr. McCollum. Sure. If the gentleman will yield. That is an argument diplomatically made by our State Department and a concern you and I have heard I am sure, Mr. Scott, many times when we get into these situations where State Department never wants us to do anything that might encourage another ***436** state to respond in like kind. The terrorist, by very nature, would potentially do that, and certainly that is possible. But I do not believe that we have business assets or property assets in jeopardy in Iraq. And we compensate those who are injured in those situations anyway. The problem is that there is no compensation for those who have been injured on our side, and we do compensate those who are injured abroad if we injure them.

Mr. Scott. Thank you.

Joint Agency Views of the Departments of State and Treasury from House Report No. 106–733

AGENCY VIEWS

TREASURY DEPUTY SECRETARY STUART E. EIZENSTAT,

DEFENSE DEPARTMENT;

UNDER SECRETARY FOR POLICY WALTER SLOCOMBE;

AND STATE DEPARTMENT UNDER SECRETARY FOR POLICY THOMAS

PICKERING TESTIMONY BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION AND CLAIMS

Mr. Chairman and Members of the Committee:

We are submitting this joint testimony as envisaged by the letters of Deputy Secretary Eizenstat of April 12 to Committee Chairman Hyde and Subcommittee Chairman Smith in response to letters to Secretary Summers and Secretary Albright from Chairman Hyde, inviting them or their designees to testify before this subcommittee on April 13 concerning H.R. 3485, the "Justice for Victims of Terrorism Act." Deputy Secretary Eizenstat has worked extensively on this issue for the Administration over the past 18 months, and we, on behalf of our Departments, join him in presenting our views on this proposed legislation. We share your goal that U.S. victims of terrorism and their families receive justice and compensation for their suffering. We are actively engaged with the Congress in ongoing discussions to resolve the complex issues identified and to address the needs of victims of terrorism. We also appreciate the opportunity to submit this statement into the record.

Let us begin by expressing the Administration's and our own genuine and personal sympathy to victims of international terrorism–an evil that this administration has led the world in combating. It is the responsibility of the United States Government to do everything possible to protect American lives from international terrorism and other heinous acts. People like Mr. Flatow, Mr. Anderson, Mr. Cicippio, Mr. Jacobsen, and Mr. Reed and their families, and the families of the Brothers to the Rescue pilots, deserve support in their goal of finding fair and just compensation for their grievous losses and unimaginable experiences. Those of us who have met with them have been touched by their suffering and impressed with their strength and determination to seek justice. We understand their frustrations and the frustrations that have led the sponsors of this legislation to introduce it. We are dedicated to working with the Congress to achieve the goal of obtaining compensation for the victims and their families. But we feel strongly ***437** that this must be done in a way that is consistent with the broad national interests and international obligations of the United States.

It is obvious that the states involved here–states that we have publicly branded as sponsors of terrorism–do not view the United States as a friendly environment in which to conduct financial transactions. As part of our efforts to combat terrorism, we impose a wide range of economic sanctions against state sponsors of terrorism in order to deprive them of the resources to fund acts of terrorism and to affect their conduct. Because of these measures, terrorism list states engage in minimal economic activity in the United States. In many cases, the only assets that states which sponsor terrorism have in the United States are either blocked or diplomatic property. Such property should not be available for attachment and execution of judgments, for very good reasons involving the interests of the entire nation, which are described in detail below. As much as we join the sponsors of this bill in desiring to have victims of international terrorism and the heinous acts of the Cuban Air Force compensated, it would be unwise to ignore these reasons and prejudice the interests of all our citizens for this purpose.

This question is complex and fraught with difficulties. For this reason, last year, we proposed, among other things, that a commission be established to review all aspects of the problems presented by acts of international terrorism. Such a commission would have specifically studied the issue of compensation with the goal of recommending proposals to the President and to the Congress to help the victims and their families receive compensation in a manner that would not impinge upon important U.S. national interests. While this proposal was not taken up, we believe this approach still has merit.

H.R. 3485, though born of good intentions, is fundamentally flawed. The legislation would have five principal negative effects, all of which would be seriously damaging to important U.S. interests, and would, at the end of the day, result in substantial U.S. taxpayer liability.

First, blocking of assets of terrorist states is one of the most significant economic sanctions tools available to the President. The proposed legislation would undermine the President's ability to combat international terrorism and other threats to national security by permitting the wholesale attachment of blocked property, thereby depleting the pool of blocked assets and depriving

the U.S. of a source of leverage in ongoing and future sanctions programs, such as was used to gain the release of our citizens held hostage in Iran in 1981 or in gaining information about POW's and MIA's as part of the normalization process with Vietnam.

Second, it would cause the U.S. to violate its international treaty obligations to protect and respect the immunity of diplomatic and consular property of other nations, and would put our own diplomatic and consular property around the world at risk of copycat attachment, with all that such implies for the ability of the United States to conduct diplomatic and consular relations and protect personnel and facilities.

***438** Third, it would create a race to the courthouse benefitting one small, though deserving, group of Americans over a far larger group of deserving Americans. For example, in the case of Cuba, many Americans have waited decades to be compensated for both the loss of property and the loss of the lives of their loved ones. This would leave no assets for their claims and others that may follow. Even with regard to current judgment holders, it would result in their competing for the same limited pool of assets, which would be exhausted very quickly and might not be sufficient to satisfy all judgments.

Fourth, it would breach the longstanding principle that the United States Government has sovereign immunity from attachment, thereby preventing the U.S. Government from making good on its debts and international obligations and potentially causing the U.S. taxpayer to incur substantial financial liability, rather than achieving the stated goal of forcing Iran to bear the burden of paying these judgments. The Congressional Budget Office (“CBO”) has recognized this by scoring the legislation at $420 million, the bulk of which is associated with the Foreign Military Sales (“FMS”) Trust Fund. Such a waiver of sovereign immunity would expose the Trust Fund to writs of attachment, which would inject an unprecedented and major element of uncertainty and unreliability into the FMS program by creating an exception to the processes and principles under which the program operates.

Fifth, it would direct courts to ignore the separate legal status of states and their agencies and instrumentalities, overturning Supreme Court precedent and basic principles of corporate law and international practice by making state majority owned corporations liable for the debts of the state and establishing a dangerous precedent for government-owned enterprises like the U.S. Overseas Private Investment Corporation (“OPIC”). As the Washington Post observed in a fall 1999 editorial, “Victims of terrorism certainly should be compensated, but a mechanism that permits individual recovery to take precedence over significant foreign policy interests is flawed.” The proposed legislation would indeed seriously compromise important national security, foreign policy, and other clear national interests, and discriminate among and between past and future U.S. claimants.

For all these reasons, explained in more detail below, the Administration strongly opposes the proposed legislation.

(1) Attachment of Blocked and Diplomatic Property and the Elimination of the Effectiveness of Our Blocking Programs

The Administration has grave concerns with the provisions of the proposed legislation that seek to nullify the President's waiver of the 1998 FSIA amendments and thereby permit attachment of blocked and diplomatic property. The ability to block assets represents one of the primary tools available to the United States to deter aggression and discourage or end hostile actions against U.S. citizens abroad. Our efforts to combat threats to our national security posed by terrorism list countries such as Iraq, Libya, Cuba, and Sudan rely in significant part upon our ability to block the assets of those countries.

***439** Blocking assets permits the United States to deprive those countries of resources that they could use to harm our interests, and to disrupt their ability to carry out international financial transactions. By placing the assets of such countries in the sole control of the President, blocking programs permit the President at anytime to withhold substantial benefits from countries whose conduct we abhor, and to offer a potential incentive to such countries to reform their conduct. Our blocking programs thus provide the United States with a unique and flexible form of leverage over countries that engage in threatening conduct.

The Congress has recognized the need for the President to be able to regulate the assets of foreign states to meet threats to the U.S. national security, foreign policy, and economy. In both the International Emergency Economic Powers Act and the

Trading with the Enemy Act, the Congress has provided the President with statutory authority for regulating foreign assets. On the basis of this authority and foreign policy powers under the Constitution, Presidents have blocked property and interests in property of foreign states and foreign nationals that today amount to over $3.5billion.

The Supreme Court has also recognized the importance of the President's blocking authority, stating that such blocking orders "permit the President to maintain the foreign assets at his disposal for use in negotiating the resolution of a declared national emergency. The frozen assets serve as a 'bargaining chip' to be used by the President when dealing with a hostile country." Dames & Moore v. Regan, 453 U.S. 654, 673 (1981).

The leverage provided by blocked assets has proved central to our ability to protect important U.S. national security and foreign policy interests. The most striking example is the Iran Hostage Crisis. The critical bargaining chip the United States had to bring to the table in an effort to resolve the crisis was the almost $10 billion in Iranian Government assets that the President had blocked shortly after the taking of our embassy. Because the return of the blocked assets was one of Iran's principal conditions for the release of the hostages, we would not have been able to secure the safe release of the hostages and to settle thousands of claims of U.S. nationals if those blocked assets had not been available. This settlement with Iran also resulted in the eventual payment of $7.5 billion in claims to or for the benefit of U.S. nationals against Iran.

In the case of Vietnam, the leverage provided by approximately $350 million in blocked assets, combined with Vietnam's inability to gain access to U.S. technology and trade, played an important role in persuading Vietnam's leadership to address important U.S. concerns in the normalization process. These concerns included assistance in accounting for POWs and MIAs from the Vietnam War, accepting responsibility for over $200 million in U.S. claims which had been adjudicated by the Foreign Claims Settlement Commission, and moderating Vietnamese actions in Cambodia.

In addition, blocked assets have helped us to secure equitable settlements of claims of U.S. nationals against such countries as Romania, Bulgaria, and Cambodia in the context of normalization of relations. These results could not have been achieved without effective blocking programs.

***440** However, our blocking programs simply cannot function, and cannot serve to protect these important interests, if blocked assets are subject to attachment and execution by private parties, as the proposed legislation would permit. The need to deal with the increasing demands for information on assets, blocked and unblocked, of these terrorism list governments as monetary judgments are awarded would seriously disrupt the operations of the treasury Department in administering the blocking programs. These demands would greatly impair Treasury's investigative functions through the release of deliberative process and enforcement related materials thereby divulging sensitive operational details and raising important issues of confidentiality with U.S. banks and others who provide information on assets. Additionally, the ability to use blocked assets as leverage against foreign states that threaten U.S. interest is essentially eliminated if the President is unable to preserve and control the disposition of such assets. Private rights of execution against blocked assets would permanently rob the President of the leverage blocking provides by depleting the pool of blocked assets.

In the Cuban and Iranian contexts, for example, the value of judgments (including both compensatory and punitive damages) won by the Brothers to the Rescue families exceeds the total known value of the blocked assets of Cuba in the United States, and the value of the judgment won by the Flatow family, or the former Beirut Hostages, exceeds the total known value of the blocked assets of the Government of Iran in the United States. Attachment of these blocked assets to satisfy private judgments in these and similar cases would leave no remaining assets of terrorism list governments in the President's control, denying the President an important source of leverage and seriously weakening his hand in dealing with threats to our national security.

In addition, the prospect of future attachments by private parties would place a perpetual cloud over the President's ongoing control of all blocked assets programs. This would further undermine the President's ability to use such assets as leverage in negotiations, even where attachments had not yet occurred.

Put simply, permitting attachment of blocked assets would likely seriously undermine the use of our blocking programs as a key tool for combating threats against our national security and, in the Iranian context, would not even achieve the goal of full payment of the compensatory damages of all existing judgments against Iran.

(2) Our Obligation and Interest in Protecting Diplomatic Property

The proposed legislation also could cause the United States to violate our obligations under international law to protect diplomatic and consular property, and would undermine the legal protections for such property on which we rely every day to protect the safety of our diplomatic and consular property and personnel abroad. Even though the current legislation arguably provides protection for a slightly broader range of diplomatic property than previous legislative proposals, it is still fundamentally flawed in its failure to permit the President to protect properties, including consular properties, some diplomatic bank accounts, diplomatic residences, ***441** and properties of foreign missions to international organizations, which international law obligates us to protect.

The United States' legal obligation to prevent the attachment of diplomatic and consular property could not be clearer. Protection of diplomatic property is required by the Vienna Convention on Diplomatic Relations, to which the United States and all of the states against which suits presently may be brought under the 1996 amendments to the FSIA are parties. Under Article 45 of the Vienna Convention on Diplomatic Relations we are obligated to protect the premises of diplomatic missions, together with their real and personal property and archives, of countries with which we have severed diplomatic relations or are in armed conflict. This would include diplomatic residences owned by the foreign state.

Likewise, under Article 27 of the Vienna Convention on Consular Relations, the same protection is required for consular premises, property, and archives. Attachment of any of the types of property covered by the Vienna Conventions on Diplomatic and Consular Relations could place the United States in violation of our obligations under international law.

The proposed legislation would only permit the President to ensure the protection of a narrow portion of the property covered by the Vienna Conventions, and would thereby place the United States in violation of our legal obligations. In addition, the proposed legislation as drafted could cause us to breach our obligations to ensure the inviolability of missions to the United Nations, pursuant to the UN Headquarters Agreement and the General Convention on Privileges and Immunities.

Our national interest in the protection of diplomatic property could not be clearer or more important. [Italic for emphasis] The United States owns over 3,000 buildings and other structures abroad that it uses as embassies, consulates, missions to international organizations, and residences for our diplomats. The total value of this property is between $12 and $15 billion.

Because we have more diplomatic property and personnel abroad than any other country, we are more at risk than any other country if the protections for diplomatic and consular property are eroded. [Italic for emphasis] If we flout our obligations to protect the diplomatic and consular property of other countries, then we can expect other countries to target our diplomatic property when they disagree strongly with our policies or actions. Defending our national interests abroad at times makes the United States unpopular with some foreign governments. We should not give those states who wish the United States ill an easy means to strike at us by declaring diplomatic property fair game.

In the specific case of Iran, attachment of Iran's diplomatic and consular properties could also result in substantial U.S. taxpayer liability. Iran's diplomatic and consular properties in the United States are the subject of a claim brought by Iran against the United States before the Iran U.S. Claims Tribunal. The Iran U.S. Claims Tribunal is an arbitration court located at The Hague in the Netherlands. It was established as part of the agreement between Iran and the United States that freed the U.S. hostages in Iran and resolved outstanding claims that were then pending between the United States and Iran. Pursuant to this agreement and ***442** awards of the Tribunal, Iran has paid $7.5 billion in compensation to or for the benefit of U.S. nationals. The Tribunal also has jurisdiction over certain claims between the two governments.

Although we are contesting Iran's claim vigorously, the Tribunal could find that the United States should have transferred Iran's diplomatic and consular property to it in 1981. If it does so and the properties are not available because they have been liquidated to pay private judgments, the U.S. taxpayer would have to bear the cost of compensating Iran for the value of the properties. Under the Algiers Accords, Tribunal awards against the governments are enforceable in the courts of any country, under the laws of that country.

(3) Equity Among Claimants

We are also deeply concerned that the proposed legislation would frustrate equity among U.S. nationals with claims against terrorism list states. It would create a winner take all race to the courthouse, arbitrarily permitting recovery for the first, or first few, claimants from limited available assets, leaving other similarly situated claimants with no recovery at all. In fact, it wouldtake away assets potentially available to them.

However, the Alejandre, Flatow, and Anderson cases do not represent the only claims of U.S. nationals against Cuba and Iran. No other claimants would benefit at all from the proposed legislation; indeed this legislation would seriously prejudice their interests.

In the case of Cuba, the U.S. Foreign Claims Settlement Commission (“FCSC”) has certified 5,911 claims of U.S. nationals against the Government of Cuba, totaling approximately $6 billion with interest, dating back to the early 1960's. Contrary to statements made at the April 13 hearing, these include not just expropriation claims, but also the wrongful death claims of family members of two individuals whom the Cuban Government executed after summary trial for alleged crimes against the Cuban state. Other claims relate to the Castro Government's seizure of homes and businesses from U.S. nationals. These claimants have waited over 35 years without receiving compensation for their losses. This bill will not help them at all.

The same situation applies with respect to Iran. In addition to the Flatow and Anderson plaintiffs, who have judgments for compensatory and punitive damages totaling $589 million, former hostages who were held captive in Lebanon–David Jacobsen, Joseph Cicippio, Frank Reed, and their families–collectively have won a judgment against Iran totaling $65 million. Additional suits against Iran are currently pending in the Federal District courts.

Moreover, given the nature of these regimes, it remains possible that in spite of our substantial efforts to combat terrorism, foreign terrorist states will commit future acts in violation of the rights of U.S. nationals, which may give rise to claims against them. If such incidents occur, these claimants will also have an interest in being compensated.

Against this background, in which outstanding judgments for compensatory and substantial punitive damages far exceed available funds, the proposed legislation would permit the first claimants to reach the courthouse to deplete all the available assets of ***443** terrorism list governments, leaving nothing for other similarly situated claimants to satisfy even compensatory damages they are awarded. Satisfaction of the judgments in the Alejandre, Flatow, and Anderson cases would come at the expense of all other claimants against Cuba and Iran, both past and future.

In sum, permitting the attachment of blocked and diplomatic properties in individual cases, as the proposed legislation would do, would undermine our ability to combat threats to our national security, violate our obligations under international law, place our diplomatic and consular properties and personnel abroad at risk, and lead to arbitrary inequities in the treatment of similarly situated U.S. nationals with claims against foreign governments.

(4) Breaching the Sovereign Immunity of the United States

We are equally concerned about the provision of the proposed legislation that would permit garnishment of debts of the United States. Not only would this provision breach the long established principle that the United States Government has sovereign

immunity from garnishment actions, it would seriously undermine our Foreign Military Sales program, which is an important tool supporting U.S. national security policy and strategy, by creating an exception to the processes and principles under which the program operates that has not existed in the program's 40year history.

By allowing plaintiffs to attempt to tap the FMS Trust Fund to satisfy their judgments, the entire FMS program would be jeopardized as foreign customers question whether funds they are required to pay under the FMS program might be at risk of diversion or attachment. H.R. 3485 would therefore inject a major element of uncertainty and unreliability into the FMS program.

Additionally, foreign governments make prepayments into the FMS Trust Fund to ensure payment of U.S. suppliers for products and services provided to foreign governments in USG approved sales of defense products and services. Under section 37 of the Arms Export Control Act, these funds are available solely for payments to U.S. suppliers, and for refunds to foreign purchasers in connection with such sales. If the FMS Trust Fund can be exposed to attachment through an act of Congress for purposes other than ensuring payment for arms sales, not only may foreign governments simply question the wisdom of engaging in such transactions with the United States, but payments to U.S. suppliers would be threatened.

The proposed legislation also will negatively affect our defense industrial base. If passed as currently written, not only will U.S. defense firms be uncertain about whether and when they will be paid, but our ability to maintain open production lines needed to support the U.S. military, which the FMS program greatly facilitates, also would be disrupted.

We have heard that the intent of the proposed legislation is to “make terrorist states pay.” However, exposing the Iranian FMS Trust Fund account (“Iran FMS account”) to attachment will not cause Iran to pay. Here too, at the end of the day, the U.S. taxpayer will bear this burden if this fund is tapped. The United States will have to pay Iran whatever amount in the Iran FMS account is held by the Iran U.S. Claims Tribunal to be owed to Iran. ***444** The current balance of the Iran FMS account, which is approximately$400 million, is the subject of Iran's multibillion dollar claim against the United States before the Tribunal, arising out of the Iran FMS program. Depleting Iran's FMS account through attachment by the plaintiffs in no way discharges any obligation to Iran the U.S. Government may ultimately be determined to have by the Tribunal. And if Iran prevails on its claims, it can seek to enforce its award against U.S. property anywhere in the world, since the awards of the Iran U.S. Claims Tribunal are enforceable in the courts of any country. Any Tribunal award that cannot be satisfied from the Iranian FMS account will have to be satisfied with U.S. government funds. Thus American taxpayers, rather than Iran, would actually pay under H.R. 3485. CBO's cost estimate for the bill has been confirmed that the legislation would cost the Treasury, and hence the taxpayer, $420 million, most of which is associated with the FMS Trust Fund.

This provision is also of particular concern because it would prevent the United States from meeting its obligations to make payments in satisfaction of awards the Tribunal renders against the United States. Instead, the proposed legislation would permit private parties to garnish the funds of the U.S. Government in order to collect such payments before they reach Iran. Even without this change in the law, there have been efforts in the Flatow case to garnish the payment of a $6 million Tribunal award in Iran's favor. It is important to understand that allowing private litigants to garnish amounts we owe Iran under Tribunal awards would not discharge the U.S. Government's liability to Iran to pay such money. For example, if the efforts in the Flatow case had succeeded, the Flatow family would have received $6 million, but the United States still would have owed Iran $6 million under the unpaid award. And again because the awards of the Iran U.S. Claims Tribunal are enforceable in the courts of any country, Iran can seek to enforce awards against U.S. property in other countries if we do not pay them voluntarily. [Italic for emphasis]

Permitting garnishment of the payment of such awards could thus result in the U.S. taxpayer paying twice: once when a private claimant garnishes the payment, and a second time upon Iran's successful enforcement of the still unsatisfied award against us abroad. Because the judgments against Iran received by these plaintiffs total in the hundreds of millions of dollars, permitting garnishment of debts owed by the United States to Iran as a means of satisfying these judgments could cost the U.S. taxpayer hundreds of millions of dollars.

Finally, while we are vigorously contesting all of Iran's claims at the Tribunal, if we are unable to pay even the smallest awards against us, our position before the Tribunal in all other claims will clearly be undermined.

(5) Eliminating Legal Separateness of Agencies and Instrumentalities

There are also significant problems with the provision of the proposed legislation that would change the way the FSIA defines a foreign state's agencies and majority owned or controlled instrumentalities for terrorism list countries where there is a terrorism related ***445** judgment against it. This provision would overturn the Congress's own considered judgment when it passed the FSIA in1976, as well as existing Supreme Court case law and basic principles of corporate and international law. In addition, it would prejudice the interests of U.S. citizens and corporations who invest abroad.

This provision would make corporations that are majority owned or controlled by a terrorism list foreign government liable for terrorism related judgments awarded against that government. The Congress recognized the danger of this position when it passed the FSIA in 1976. The Conference Report to that bill observed that "[i]f U.S. law did not respect the separate juridical identities of different agencies or instrumentalities, it might encourage foreign jurisdictions to disregard the juridical divisions between different U.S. corporations or between a U.S. corporation and its independent subsidiary."

We are concerned that this proposal to disregard separate legal personality, although limited in the bill to terrorism list states and their majority owned entities, could create the perception that the United States is unreliable as a location for banking or investment. Especially for companies with linkages to foreign governments, such a provision could be viewed as an expansion of U.S. economic sanctions. It could raise concerns about the United States as a safe financial center and about the likelihood of possible legal actions against their assets in the United States. This perception could undermine the competitive ability of U.S. financial firms to lead privatizations abroad and to attract banking business and investments to the United States.

In addition, if the United States were to "pierce the corporate veil" in this manner, there could well be similar actions in foreign countries. Foreign countries may enact similar changes to their law or foreign courts might disregard the separate status of private, U.S. owned companies in cases where a litigant had a judgment against the U.S. Government.

Compared to the billions of dollars the United States Government and private U.S. interests have invested abroad, the blocked assets of terrorism list state entities, agencies, and instrumentalities located in the United States are small. In the case of Iran, we do not have a comprehensive picture of Iranian assets in the United States that might be affected by this proposed legislation. There is currently no blocking of Iranian assets in the United States (other than the residual of property blocked during the Hostage Crisis), and thus no obligation on the part of U.S. persons to report specific information on them.

U.S. citizens, corporations, the United States Government, and taxpayers have far more money invested abroad than those of any other country, and thus have more to lose if investment protections such as those provided by the presumption of separate status is eroded. [Italic for emphasis] If we saddle the investors of other countries with the debts of foreign governments with which they are co-investors, as the proposed legislation would do, then we can expect U.S. investors and taxpayers to pay a considerably higher price when other governments follow our example.

***446** Finally, disregarding separate legal personality as provided for in this proposal could possibly lead to substantial U.S. taxpayer liability for takings claims in U.S. courts and possibly before international fora.

We are grateful for this opportunity to address a very important subject involving the fight against terrorism, compensation for victims, and critical national interests. Unfortunately, however, the concerns raised here indicate that the 1996 amendment waiving sovereign immunity and creating a judicial cause of action for damages arising from acts of terrorism has not met its goals of providing compensation to victims and deterring terrorism. In fact, if blocked assets were exhausted to compensate the families, which would be the result of this bill, the leverage to affect the conduct of the terrorism list states would be lost along with the blocked assets. We are not happy that these suits have not led to recovery for families who have brought cases under

the 1996 amendment. A system that has to date left no recovery option other than one that conflicts with U.S. national interests and would result in substantial U.S. taxpayer liability is not an acceptable system.

We have been giving this a very hard look and have been working with several Members of Congress to address this difficult problem. We are anxious to continue doing so. Together, we hope to formulate immediate and longer term approaches that will address the concerns–of compensation for terrorist acts and the U.S. national interests and international obligations–that we all share in a much more satisfactory way. Most importantly, we believe that, for a workable and effective solution, we need a careful and deliberative review of the issues, informed by our experience since the1996 amendment.

As mentioned earlier, we suggested last year that the Administration and Congress commit to a joint commission to review all aspects of the problem, and to recommend to the President and the Congress proposals to find ways to help these families receive compensation, in a way consistent with our overall national interests and international obligations. We believe that this is the best way to deal with these issues and that it therefore merits further consideration. We believe that such a commission should be one of stature and with the right expertise to confront all the hard issues we have discussed today–including the lack of effective remedies in these cases because of sanctions against terrorism list countries under U.S. law, which are absolutely necessary to maintain.

A fundamental principle for this joint commission–by definition–would be the need to inventory outstanding claims and develop an effective and fair mechanism for compensation of victims of terrorism. The commission should be encouraged to think broadly, including consideration of avenues other than the judicial one created by the 1996 amendment.

We hope discussions on the Commission and the broader issue of compensation for victims of terrorism will yield a solution that best addresses all parties' respective interests. Again, we are committed to working together with you, members of this Subcommittee, and others to find nonlegislative and legislative means to achieve our shared goal of fair and just compensation for victims of terrorism.

Robert C. Scott.

***447** ADDITIONAL VIEWS OF THE HONORABLE SHEILA JACKSON LEE

I was gratified to participate in the bi-partisan effort that led to a unanimous vote of the full House Committee on the Judiciary to favorably report H.R. 2975, the PATRIOT Act of 2001 to the full House for floor consideration. However, I would like to share my additional views on this bill since some of the issues that are of paramount concern to me were not addressed at the mark-up.

I am concerned that although there is language in the bill that allocates $50 Million for technology to improve security along the Northern Border, that there was no language in the bill that specifically made clear what it is the Congress is trying to do.

The most effective way to prevent the admission of terrorists is to develop the ability to identify them and deny them access, ideally at the visa post and as a last resort at the port of entry. There should be language that enhances technology for security and enforcement at the northern border, such as infrared technology and technology that enhances coordination between the Governments of Canada and the United States generally and specifically between Canadian police and the Federal Bureau of Investigation.

The best enforcement strategy should be a regional one that will ultimately focus key screening efforts at the two countries' external borders through the use of joint intelligence and harmonized lookouts.

If each of the law enforcement agencies work together: the D.E.A., the U.S. Customs Service, the INS, the Department of Justice and the Royal Canadian Mounted Police (RCMP), this will be an effective way of increasing public safety than spending billions of dollars (in infrastructure costs alone) to develop an entry-exit control system that offers no added enforcement value.

Secondly, while we in the Congress want to eliminate all forms of terrorism, and give law enforcement officers the appropriate tools to accomplish this goal, it is vitally necessary that it be done in a fair, thoughtful and equitable manner without violating the basic tenants of our democratic principles; which are freedom, due process, and civil rights.

It is imperative that we eliminate as well as prevent all forms of targeting by law enforcement officers along the border and throughout the United States interior that could solely be based on race, ethnic origin, gender, or sexual orientation. Therefore, it is imperative that the Civil Rights Division of the U.S. Department of Justice conduct a study for the collection and reporting of nationwide data on traffic stops along the borders and throughout the United States.

Last April, the 9th Circuit Court of Appeals ruled that Border Patrol Agents may not consider an individual's “Hispanic appearance” as a fact deciding whether to stop motorists for questions near the U.S.-Mexico border. The Court held that, “Stops based on ***448** race or ethnic appearance send the underlying message to all our citizens that those who are not white are judged by the color of their skin alone . . . that they are in effect assumed to be potential criminals first and individuals second. While the Court has spoken, it is time that the Congress get involved in this issue.

Lastly, another issue that is of paramount concern to me is the issue of Hate Crimes. The PATRIOT bill should contain language that establishes enhanced penalties for persons who commit acts of violence against other persons because of the actual or perceived race, color, religion, national origin, gender, sexual orientation, or disability of any person.

A perpetrator who willfully commits a crime motivated by hate shall be imprisoned a minimum of 10 years or fined, or both; or imprisoned up to life and fined, or both, if the crime results in death, kidnaping, or aggravated sexual abuse, or an attempt of any of these crimes.

Hate crimes are not new; they have been around for as long as civilizations have existed.

Today, we know that hate crimes still exist and that they are not like any other type of crime. They are committed only because the victim is different from the victimizer.

On September 11, 2001, United States citizens were brutally terrorized in New York City and Washington, D.C. But the effects rippled across our entire nation and beyond. Thousands of lives perished as a result of these unthinkable terrorist acts allegedly carried out by members of the extremist Islamic group led by Osama bin Laden.

The backlash of these attacks has put American against American. Murders and attacks against citizens resembling Middle Easterners have occurred. Innocent people died because they looked like the Islamic extremists allegedly responsible for the September 11th tragedies.

Personal attacks based on religion and appearances represent the kind of oppression that Americans have opposed all around the world.

Now, more than ever, we need legislation to punish crimes motivated by hate against ethnicity, religion, and gender. These crimes cannot be tolerated. It is our responsibility as elected lawmakers to ensure that our citizens are able to live their lives without fear of how they look, who they worship, and who they love.

The strength of our country lies in the differences of its citizens. We must work together to make stronger anti-hate crime laws in order to preserve our values of freedom and tolerance.

Sheila Jackson Lee.

***449** ADDITIONAL VIEWS OF THE HONORABLE MAXINE WATERS

I am pleased that the Judiciary Committee spoke in support of my amendment to H.R. 2975 that will provide authorization for funds to compensate the 12 U.S. citizens who were victims of the 1998 bombings of the U.S. embassies in Kenya and Tanzania. Osama bin Laden was indicted in those bombings, but those victims have never received compensation for the level of pain and suffering they have endured. The amendment will authorize the appropriation of $1.5 million for each victim of those bombings, for a total of $18 million. The amount requested was based on the compensation we provided to the 1999 victims of the accidental bombing of the Chinese embassy in Serbia, which was also $1.5 million per victim.

As we are considering a bill to deal with terrorism and its effects, it is very appropriate that the bill direct funding to compensate previous terrorism victims who have not yet received any compensation. I am heartened that the Committee agreed to develop language to include in H.R. 2975 that will provide that compensation.

I continue to have concerns about several aspects of H.R. 2975 that threaten to erode our civil liberties. However, I believe that we have improved the bill dramatically from the one that was originally presented to Congress 2 weeks ago.

Maxine Waters.

1 Thus, for example, non-content information contained in the “options field” of a network packet header constitutes “signaling” information and is properly obtained by an authorized pen register or trap and trace device.

2 See e.g.,18 U.S.C. S S 3123(d); 2703 and 2705

3 47 U.S.C. 1001 et. seq.

H.R. REP. 107-236(I), H.R. REP. 107-236, H.R. Rep. No. 236(I), 107TH Cong., 1ST Sess. 2001, 2001 WL 1205861 (Leg.Hist.)