IN THE SENATE OF THE UNITED STATES

________________________ (for himself, __________________________)

________________________ introduced the following bill; which was read twice
and referred to the Committee on __________________________

A BILL

To deter and punish terrorist acts in the United States
and around the world, to enhance law enforcement investigatory tools, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.
4 (a) Short Title.—This Act may be cited as the
5 “Uniting and Strengthening America Act” or the “USA
6 Act of 2001”.
7 (b) Table of Contents.— The table of contents
8 for this Act is as follows:

Sec. 1. Short title and table of contents.
TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 102. Funding for national counterterrorism and homeland security programs and activities.
Sec. 103. FBI security career program.
Sec. 104. Counterterrorism Fund.
Sec. 105. Sense of Congress condemning discrimination against Arab and Muslim Americans.
Sec. 106. Increased funding for the Technical Support Center at the Federal Bureau of Investigation.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism.
Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses.
Sec. 203. Authority to share criminal investigative information with intelligence officers to facilitate counterterrorism investigations.
Sec. 204. Enhanced authority for use of pen register and trap and trace devices.
Sec. 205. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.
Sec. 206. Employment of translators by the Federal Bureau of Investigation.
Sec. 207. Roving surveillance authority under Foreign Intelligence Surveillance Act.
Sec. 208. Duration of FISA surveillance of non-United States persons who are agents of foreign power.
Sec. 209. Designation of judges.
Sec. 210. Encouraging airline employees to report suspicious activities.

TITLE III—ENHANCED MONEY LAUNDERING TOOLS

Subtitle A—Modernizing and Strengthening Existing Federal Laws To Combat Money Laundering

Sec. 301. Findings and purpose.
Sec. 302. Inclusion of foreign corruption offenses as money laundering crimes.
Sec. 303. Anti-money laundering measures for United States bank accounts involving foreign persons.
Sec. 304. Long-arm jurisdiction over foreign money launderers.
Sec. 305. Laundering money through a foreign bank.
Sec. 306. Concentration accounts at financial institutions.
Sec. 307. Charging money laundering as a course of conduct.
Sec. 308. Forfeiture of funds in United States interbank accounts.
Sec. 309. Inclusion of acts of terrorism as specified unlawful activity under the money laundering statutes.
Sec. 310. Effective date.

Subtitle B—International Counter-Money Laundering

Sec. 321. Findings.
Sec. 322. Purposes.

CHAPTER 1—INTERNATIONAL COUNTER-MONEY LAUNDERING MEASURES
Sec. 331. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.

CHAPTER 2—CURRENCY TRANSACTION REPORTING AMENDMENTS AND RELATED IMPROVEMENTS

Sec. 341. Amendments relating to reporting of suspicious activities.
Sec. 342. Penalties for violations of geographic targeting orders and certain recordkeeping requirements, and lengthening effective period of geographic targeting orders.
Sec. 343. Authorization to include suspicions of illegal activity in written employment references.
Sec. 344. Agency reports on reconciling penalty amounts.

CHAPTER 3—ANTICORRUPTION MEASURES

Sec. 351. Corruption of foreign governments and ruling elites.

TITLE IV—PROTECTING THE NORTHERN BORDER

Sec. 401. Ensuring adequate personnel on the Northern border.
Sec. 402. Northern border personnel.
Sec. 403. Access by the Department of State and the INS to certain identifying information in the criminal history records of visa applicants and applicants for admission to the United States.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

Sec. 502. Elimination of limitations period for certain terrorism offenses.
Sec. 503. Reimbursement of personnel performing counterterrorism duties for professional liability insurance.
Sec. 504. Danger pay for FBI agents on hazardous duty outside United States.
Sec. 505. Foreign reimbursements to improve law enforcement or national security operations.
Sec. 506. Attorney General’s authority to pay rewards to combat terrorism.
Sec. 507. DNA identification of terrorists and other violent offenders.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

Sec. 601. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.

Subtitle B—Benefits for Law Enforcement Officers and Federal Prosecutors

Sec. 611. Short title.
Sec. 612. Expansion of the definition of a law enforcement officer.
Sec. 613. Provisions relating to incumbents.
Sec. 614. Department of Justice administrative actions.

Subtitle C—Amendments to the Victims of Crime Act of 1984

Sec. 621. Crime Victims Fund.
Sec. 622. Crime victim compensation.
Sec. 623. Crime victim assistance.
Sec. 624. Victims of terrorism.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

Subtitle A—Information Sharing Among Law Enforcement Agencies

Sec. 711. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.
Sec. 712. Sharing of grand jury information with members of the intelligence community.

Subtitle B—Critical Infrastructure Information Security Act of 2001

Sec. 721. Short title; findings and purpose.
Sec. 722. Definitions.
Sec. 723. Protection for cyber security information.
Sec. 724. Cyber security working groups.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM AND ENHANCING REGULATION OF BIOLOGICAL AND CHEMICAL WEAPONS

Sec. 801. Inclusion of acts of terrorism as racketeering activity.
Sec. 802. Terrorist attacks and other acts of violence against mass transportation systems.
Sec. 803. Expansion of the biological weapons statute.

1 TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

2 SEC. 101. OFFICE FOR COUNTERTERRORISM AND HOMELAND SECURITY.

(a) Establishment.—The Attorney General shall establish in the Federal Bureau of Investigation an office to be known as the “Office for Counterterrorism and Homeland Security”.

(b) Deputy Director of the FBI.—The head of the office shall be the Deputy Director of the Federal Bureau of Investigation for Counterterrorism and Homeland
Security, who shall be appointed by the President, by and
with the advice and consent of the Senate.

(c) Responsibilities.—Subject to the authority of
the Attorney General and the direction and control of the
Director of the Federal Bureau of Investigation, the re-
sponsibilities of the Deputy Director shall include—

(1) serving as principal adviser to the Attorney
General and the Director of the Federal Bureau of
Investigation on terrorism and homeland security
policy;

(2) developing policies, goals, objectives, and
priorities for counterterrorism and homeland secu-

rity;

(3) coordinating, overseeing, and evaluating the
implementation of a National Counterterrorism and
Homeland Security Strategy by the Federal depart-
ments and agencies responsible for counterterrorism
and homeland security;

(4) making recommendations on the implemen-
tation and execution of the National
Counterterrorism and Homeland Security Strategy
to the heads of the Federal departments and agen-
cies responsible for counterterrorism and homeland
security;
(5) consulting with and assisting State and local governments regarding their activities under the National Counterterrorism and Homeland Security Strategy; and

(6) carrying out any other responsibilities relating to development, coordination, and implementation of national policy on terrorism and homeland security that the Attorney General considers appropriate.

(d) NATIONAL COUNTERTERRORISM AND HOMELAND SECURITY STRATEGY.—

(1) IN GENERAL.—The Attorney General shall submit to Congress a comprehensive plan for reducing the threat of terrorism and protecting the homeland security of the United States. The plan shall be known as the “National Counterterrorism and Homeland Security Strategy”.

(2) DEVELOPMENT.—The Attorney General shall develop the National Counterterrorism and Homeland Security Strategy through the Deputy Director of the FBI for Counterterrorism and Homeland Security.
SEC. 102. FUNDING FOR NATIONAL COUNTERTERRORISM
AND HOMELAND SECURITY PROGRAMS AND
ACTIVITIES.

(a) Submittal of Proposed Budgets to Director of the Office of Management and Budget.—
The head of each Federal agency responsible for
counterterrorism and homeland security activities shall
submit to the Director of the Office of Management and
Budget each year the proposed budget of such agency for
the fiscal year beginning in such year for such programs
and activities.

(b) Review of Proposed Budgets.—The Director
of the Office of Management and Budget, in consultation
with the Attorney General and the Assistant to the Presi-
dent for National Security Affairs, shall review each pro-
posed budget submitted to the Director under subsection
(a) to ensure that it provides for implementation of the
National Counterterrorism and Homeland Security Strat-
egy and the National Security Strategy of the United
States.

(c) National Counterterrorism and Homeland
Security Program.—

(1) In general.—For each fiscal year, follow-
ing the submission of proposed budgets to the
Director of OMB under subsection (a), the Director
shall, in consultation with the head of each Federal agency concerned—

(A) develop a consolidated proposed budget for such fiscal year for all counterterrorism and homeland security programs and budgets; and

(B) submit the consolidated proposed budget to the President and to Congress.

(2) PROGRAM BUDGET.—The consolidated proposed budget for a fiscal year under this subsection shall be known as the “National Counterterrorism and Homeland Security Program Budget” for the fiscal year.

SEC. 103. FBI SECURITY CAREER PROGRAM.

(a) SECURITY MANAGEMENT POLICIES; POLICIES AND PROCEDURES.—The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation (referred to in this section as the “FBI”).

(b) DIRECTOR OF THE FBI: AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the Attorney General, the Director of the FBI shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in
the FBI. The Director shall ensure that the policies of
the Attorney General established in accordance with this
section are implemented throughout the FBI.

(c) Director of Security.—The Director of the
FBI shall appoint a Director of Security to assist the Di-
rector of the FBI in the performance of his duties under
this section.

(d) Security Career Program Boards.—

(1) Establishment.—The Director of the
FBI acting through the Director of Security shall
establish a security career program board to advise
the Director of the FBI in managing the accession,
training, education, and career development of per-
sonnel in the FBI security workforce.

(2) Composition of Board.—The security
program board shall include the Director of Security
(or his representative), the Assistant Director with
responsibility for manpower (or his representative),
the Assistant Director with responsibility for infor-
mation management (or his representative), and the
senior officials with responsibility for personnel de-
velopment in the various security career fields. The
Director of Security (or his representative) shall be
the head of the board.
(3) Subordinate Boards.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

(e) Designation of Security Positions.—

(1) Designation.—The Director of the FBI shall designate in regulations those positions in the FBI that are security positions for purposes of this section.

(2) Required Positions.—In designating the positions under paragraph (1), the Director of the FBI shall include, at a minimum, all security-related positions in the areas of—

(A) personnel security and access control;

(B) information systems security and information assurance;

(C) physical security and technical surveillance countermeasures;

(D) operational, program, and industrial security; and

(E) information security and classification management.

(f) Career Development.—

(1) Career Paths.—The Director of the FBI shall ensure that appropriate career paths for per-
sonnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(2) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(A) IN GENERAL.—Except as provided in the policy established under subparagraph (B), the Attorney General shall ensure that no requirement or preference for a Special Agent of the FBI is used in the consideration of persons for security positions.

(B) POLICY.—The Attorney General may establish a policy that permits a particular security position to be specified as available only to Special Agents of the FBI, if a determination is made, under criteria specified in the policy, that a Special Agent of the FBI—

(i) is required for that position by law;

(ii) is essential for performance of the duties of the position; or

(iii) is necessary for another compelling reason.
(C) REPORT.—Not later than December 15 of each year, the Director of the FBI shall submit to the Attorney General a report that lists—

(i) each security position that is restricted to Special Agents of the FBI under the policy established under subparagraph (B); and

(ii) the recommendation of the Director as to whether each restricted security position should remain restricted.

(3) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents of the FBI, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(4) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this section are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(5) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special
Agents of the FBI to security positions that provides for a balance between—

(i) the need for personnel to serve in career broadening positions; and

(ii) the need for requiring service in each such position for sufficient time to provide the stability necessary to effectively carry out the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(6) LENGTH OF ASSIGNMENT.—In implementing the policy established under paragraph (2)(B), the Director of the FBI shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(7) PERFORMANCE APPRAISALS.—The Director of the FBI shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(8) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this section with respect to any employees or applicants
for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(g) **GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.**—

(1) **IN GENERAL.**—The Director of the FBI shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(2) **QUALIFICATION REQUIREMENTS.**—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(A) must have successfully completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director of the FBI; and
(B) must have adequate experience in security, which may have been performed in a similar program office or organization.

(h) Education and Training Programs.—

(1) In general.—The Director of the FBI, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the FBI.

(2) Other programs.—The Director of the FBI shall ensure that programs established under paragraph (1) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

(i) Office of Personnel Management Approval.—

(1) In general.—The Attorney General shall submit any requirement that is established under subsection (g) to the Director of the Office of Personnel Management for approval.

(2) Final approval.—If the Director of the Office of Personnel Management does not disapprove the requirements established under subsection (g) within 30 days after the date on which the Director
receives the requirement, the requirement is deemed to be approved by the Director.

SEC. 104. COUNTERTERRORISM FUND.

(a) Establishment; Availability.—There is hereby established in the Treasury of the United States a separate fund to be known as the “Counterterrorism Fund”, amounts in which shall remain available without fiscal year limitation—

(1) to reimburse any Department of Justice component for any costs incurred in connection with—

(A) reestablishing the operational capability of an office or facility that has been damaged or destroyed as the result of any domestic or international terrorism incident;

(B) providing support to counter, investigate, or prosecute domestic or international terrorism, including, without limitation, paying rewards in connection with these activities; and

(C) conducting terrorism threat assessments of Federal agencies and their facilities; and

(2) to reimburse any department or agency of the Federal Government for any costs incurred in connection with detaining in foreign countries indi-
viduals accused of acts of terrorism that violate the laws of the United States.

(b) No Effect on Prior Appropriations.—The amendment made by subsection (a) shall not affect the amount or availability of any appropriation to the Counterterrorism Fund made before the date of enactment of this Act.

SEC. 105. SENSE OF CONGRESS CONDEMNING DISCRIMINATION AGAINST ARAB AND MUSLIM AMERICANS.

(a) Findings.—Congress finds the following:

(1) Arab Americans, Muslim Americans, and Americans from South Asia play a vital role in our Nation and are entitled to nothing less than the full rights of every American.

(2) The acts of violence that have been taken against Arab and Muslim Americans since the September 11, 2001, attacks against the United States should be and are condemned by all Americans who value freedom.

(3) The concept of individual responsibility for wrongdoing is sacrosanct in American society, and applies equally to all religious, racial, and ethnic groups.
(4) When American citizens commit acts of violence against those who are, or are perceived to be, of Arab or Muslim descent, they should be punished to the full extent of the law, including, where appropriate, under laws preventing hate crimes.

(5) At least 40 incidents of crimes committed against Arab or Muslim Americans have been reported to authorities since September 11, 2001, and there are surely other victims who have been too fearful to report other offenses.

(6) Offenses committed include—

(A) the apparent murder of a Sikh man who was a small businessman in Mesa, Arizona, and who was apparently believed by his assailant to be Muslim;

(B) the shooting death of a 46-year-old Pakistani man in Dallas, Texas, on September 15, 2001, in a crime that is also being investigated as a potential hate crime; and

(C) attacks on mosques in at least 6 States, including a September 17, 2001, incident in which a man drove a car through the doors of an Islamic center in Ohio.
(7) Muslim Americans have become so fearful of harassment that many Muslim women are changing the way they dress to avoid becoming targets.

(8) Many Arab Americans and Muslim Americans have acted heroically during the attacks on the United States, including Mohammed Salman Hamdani, a 23-year-old New Yorker of Pakistani descent, who is believed to have gone to the World Trade Center to offer rescue assistance and is now missing.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the civil rights and civil liberties of all Americans, including Arab Americans, Muslim Americans, and Americans from South Asia, must be protected, and that every effort must be taken to preserve their safety;

(2) any acts of violence or discrimination against any Americans be condemned; and

(3) the Nation is called upon to recognize the patriotism of fellow citizens from all ethnic, racial, and religious backgrounds.
SEC. 106. INCREASED FUNDING FOR THE TECHNICAL SUPPORT CENTER AT THE FEDERAL BUREAU OF INVESTIGATION.

There are authorized to be appropriated for the Technical Support Center established in section 811 of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–132, to help meet the demands for activities to combat terrorism and support and enhance the technical support and tactical operations of the FBI, $200,000,000 for fiscal years 2002, 2003, and 2004.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO TERRORISM.

Section 2516(1) of title 18, United States Code, is amended—

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–565), the following new paragraph:
“(q) any criminal violation of sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or”.

SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO COMPUTER FRAUD AND ABUSE OFFENSES.

Section 2516(1)(c) of title 18, United States Code, is amended by striking “and section 1341 (relating to mail fraud),” and inserting “section 1341 (relating to mail fraud), a felony violation of section 1030 (relating to computer fraud and abuse),”.

SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE INFORMATION WITH INTELLIGENCE OFFICERS TO FACILITATE COUNTERTERRORISM INVESTIGATIONS.

Section 2517(1) of title 18, United States Code, is amended by—

(1) striking “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”; and

(2) inserting “may disclose such contents to another investigative or law enforcement officer and to
an officer of the United States intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)), to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure”.

SEC. 204. ENHANCED AUTHORITY FOR USE OF PEN REGISTER AND TRAP AND TRACE DEVICES.

(a) In General.—Section 3121(e) of title 18, United States Code, is amended by—

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

(2) striking “call processing” and inserting “identifying the origination or destination of wire and electronic communications”.

(b) Statement of Facts.—Section 3122(b)(2) of title 18, United States Code, is amended by striking “certification by the applicant” and inserting “statement of facts showing”.

(c) Applications.—Section 3123 of title 18, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

“(a) In General.—(1) Upon an application made under section 3122(a)(1) 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 if the court finds, based on facts contained in the application, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation. Such order shall, upon service of such order, apply to any entity providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the order.

“(2) Upon an application made under section 3122(a)(2) 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, based on facts contained in the application, that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.”;

(2) in subsection (b)(1)(A), by inserting—

(A) “or other facility” after “line”; and

(B) “or applied” after “attached”;

(3) in subsection (b)(1)(C) by—

(A) striking “the number” and inserting “the attributes of the communications to which the order applies, such as the number or other identifier”;
(B) striking “physical”;

(C) inserting “or other facility” after “line”;

(D) inserting “or applied” after “attached”; and

(E) inserting “authorized under subsection (a)(2) of this section” after “device” the second time it appears; and

(4) in subsection (d)(2), by—

(A) inserting “or other facility” after “line”;

(B) inserting “or applied” after “attached”; and

(C) striking “has been ordered by the court” and inserting “is obligated by the order”.

(d) EMERGENCY INSTALLATION.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting “terrorism or” before “immediate” and striking “or” at the end;

(2) by striking the comma at the end of subparagraph (B) and inserting a semicolon; and

(3) by adding after subparagraph (B) the following:
“(C) an immediate threat to a national security interest; or

“(D) an ongoing attack on the integrity or availability of a protected computer under section 1030 of this title,”.

(e) DEFINITIONS.—Section 3127 of title 18, United States Code, is amended—

(1) by amending paragraph (2)(A) to read as follows:

“(A) any district court of the United States (including a magistrate judge of such a court) or United States Court of Appeals having jurisdiction over the offense being investigated; or”;

(2) in paragraph (3), by—

(A) striking “otherwise transmitted on the telephone line to which such device is attached” and inserting “or other signaling information that identifies the destination of wire or electronic communications transmitted by an instrument or facility to which such device or process is attached or applied”; and

(B) inserting “or process” after “device” each place it appears;

(3) in paragraph (4), by—
(A) inserting "or process" after "device"
the second time it appears; and

(B) striking "which identify the originating
number of an" and inserting "or other sig-
naling information which identify the origi-
nating";

(4) in paragraph (5), by striking "and";

(5) in paragraph (6), by striking the period and
inserting "; and"; and

(6) by adding after paragraph (6) the following:
"(7) the term ‘protected computer’ has the
meaning set forth in section 1030 of this title.”.

SEC. 205. CLARIFICATION OF INTELLIGENCE EXCEPTIONS
FROM LIMITATIONS ON INTERCEPTION AND
DISCLOSURE OF WIRE, ORAL, AND ELEC-
TRONIC COMMUNICATIONS.

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

(1) by striking "this chapter or chapter 121"
and inserting "this chapter or chapter 121 or 206
of this title”; and

(2) by striking "wire and oral" and inserting
"wire, oral, or electronic".
SEC. 206. 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;

(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. 207. ROVING SURVEILLANCE AUTHORITY UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT.

(a) Application.—Section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805 et seq.) is amended to add at the end the following:

“(i) MultiPoint Orders.—The requirements of sections 1804(a)(4)(B), 1805(a)(3)(B), and 1805(c)(1)(B) relating to the specification of the facilities or places at which the electronic surveillance will be directed do not apply if—

“(1) the applicant makes a showing that there is probable cause to believe that the actions of the person whose communications are to be intercepted could have the effect of thwarting electronic surveillance of a specified facility or place; and

“(2) the judge finds that such showing has been adequately made.”.

(b) Request.—Section 1805(c)(2)(B) is amended to read as follows:

“(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 judge finds that the actions of the person whose communications are to be intercepted could 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;”.

SEC. 208. DURATION OF FISA SURVEILLANCE OF NON-
UNITED STATES PERSONS WHO ARE AGENTS
OF FOREIGN POWER.

Section 105(e)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et. seq.) is amended to read as follows:

“(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for 90 days, whichever is less except that an order under this section may 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 who is not a United States person and who acts in the United States as an officer or employee of a foreign power, as defined in section 101(a) (1), (2), or (3),
for the period specified in the application or for 1 year, whichever is less.”.

SEC. 209. DESIGNATION OF JUDGES.

Section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by striking “seven district court judges” and inserting “14 district court judges”.

SEC. 210. ENCOURAGING AIRLINE EMPLOYEES TO REPORT SUSPICIOUS ACTIVITIES.

(a) In General.—Subchapter II of chapter 449 of title 49, United States Code, is amended by inserting at the end the following:

§ 44938. Immunity for reporting suspicious activities

“Any air carrier or foreign air carrier or any employee of an air carrier or foreign air carrier who makes a voluntary disclosure of any suspicious transaction relevant to a possible violation of law or regulation, including air piracy, aircraft or passenger safety, or terrorism, as defined by section 3077 of title 18, United States Code, to any employee or agent of the Department of Transportation, the Department of Justice, any Federal, State, or local law enforcement officer, or any airport or airline security officer shall not be liable to any person under any law or regulation of the United States, any constitution,
law, or regulation of any State or political subdivision of any State, for such disclosure.

§ 44939. Training of airline employees

“The Attorney General, in consultation with the Secretary of Transportation and the Director of the Federal Bureau of Investigation, shall develop guidelines and procedures for training of airline and airport personnel in detecting possible violations of law or regulations and potential threats to airline and passenger safety and for monitoring the effectiveness of such training programs.”.

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by inserting at the end the following:

“44938. Immunity for reporting suspicious activities
44939. Training of airline employees.”.

TITLE III—ENHANCED MONEY LAUNDERING TOOLS

Subtitle A—Modernizing and Strengthening Existing Federal Laws To Combat Money Laundering

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) money laundering, the process by which proceeds from criminal activity are disguised as legitimate money, is contrary to the national interest
of the United States, because it finances crime, underminds the integrity of international financial systems, impedes the international fight against corruption and drug trafficking, distorts economies, and weakens emerging democracies and international stability;

(2) United States banks are frequently used to launder dirty money, and private banking, which provides services to individuals with large deposits, and correspondent banking, which occurs when 1 bank provides financial services to another bank, are specific banking sectors which are particularly vulnerable to money laundering;

(3) private banking is particularly vulnerable to money laundering by corrupt foreign government officials because the services provided (offshore accounts, secrecy, and large international wire transfers) are also key tools used to launder money;

(4) correspondent banking is vulnerable to money laundering because United States banks—

(A) often fail to screen and monitor the transactions of their high-risk foreign bank clients; and

(B) enable the owners and clients of the foreign bank to get indirect access to the
United States banking system when they would be unlikely to get access directly;

(5) the high-risk foreign bank that currently poses the greatest money laundering risks in the United States correspondent banking field is a shell bank, which has no physical presence in any country, is not affiliated with any other bank, and is able to evade day-to-day bank regulation; and

(6) United States anti-money laundering efforts are currently impeded by outmoded and inadequate statutory provisions that make United States investigations, prosecutions and forfeitures more difficult when money laundering involves foreign persons, foreign banks, or foreign countries.

(b) PURPOSE.—The purpose of this subtitle is to modernize and strengthen existing Federal laws to combat money laundering, particularly in the private banking and correspondent banking fields when money laundering offenses involve foreign persons, foreign banks, or foreign countries.

SEC. 302. INCLUSION OF FOREIGN CORRUPTION OFFENSES AS MONEY LAUNDERING CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—
(1) in clause (ii), by striking “or destruction of property by means of explosive or fire” and inserting “destruction of property by means of explosive or fire, or a crime of violence (as defined in section 16)”;

(2) in clause (iii), by striking “1978” and inserting “1978)”;

(3) by adding at the end the following:

“(iv) fraud, or any scheme or attempt to defraud, against that foreign nation or an entity of that foreign nation;

“(v) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official;

“(vi) smuggling or export control violations involving—

“(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

or

“(II) technologies with military applications controlled on any control list established under the Export Ad-
ministration Act of 1979 (50 U.S.C. App. 2401 et seq.) or any successor statute;

“(vii) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or

“(viii) the misuse of funds of, or provided by, the International Monetary Fund in contravention of the Articles of Agreement of the Fund or the misuse of funds of, or provided by, any other international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) in contravention of any treaty or other international agreement to which the United States is a party, including any articles of agreement of the members of the international financial institution;”.

SEC. 303. ANTI-MONEY LAUNDERING MEASURES FOR UNITED STATES BANK ACCOUNTS INVOLVING FOREIGN PERSONS.

(a) REQUIREMENTS RELATING TO UNITED STATES BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5318 the following:

“§5318A. Requirements relating to United States bank accounts involving foreign persons

“(a) DEFINITIONS.—

“(1) IN GENERAL.—In this section, the following definitions shall apply:

“(A) ACCOUNT.—The term ‘account’—

“(i) means a formal banking or business relationship established to provide regular services, dealings, or financial transactions; and

“(ii) includes a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit.

“(B) BRANCH OR AGENCY OF A FOREIGN BANK.—The term ‘branch or agency of a foreign bank’ has the meanings given those terms in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).
“(C) CORRESPONDENT ACCOUNT.—The term ‘correspondent account’ means an account established for a depository institution, credit union, or foreign bank.

“(D) CORRESPONDENT BANK.—The term ‘correspondent bank’ means a depository institution, credit union, or foreign bank that establishes a correspondent account for and provides banking services to a depository institution, credit union, or foreign bank.

“(E) COVERED FINANCIAL INSTITUTION.—The term ‘covered financial institution’ means—

“(i) a depository institution;

“(ii) a credit union; and

“(iii) a branch or agency of a foreign bank.

“(F) CREDIT UNION.—The term ‘credit union’ means any insured credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), or any credit union that is eligible to make application to become an insured credit union pursuant to section 201 of the Federal Credit Union Act (12 U.S.C. 1781).
“(G) Depository Institution.—The term ‘depository institution’ has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(H) Foreign Bank.—The term ‘foreign bank’ has the same meaning as in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).

“(I) Foreign Country.—The term ‘foreign country’ has the same meaning as in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).

“(J) Foreign Person.—The term ‘foreign person’ means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual.

“(K) Offshore Banking License.—The term ‘offshore banking license’ means a license to conduct banking activities which, as a condition of the license, prohibits the licensed entity from conducting banking activities with the citizens of, or with the local currency of, the foreign country which issued the license.
“(L) Private bank account.—The term ‘private bank account’ means an account (or combination of accounts) that—

“(i) requires a minimum aggregate deposit of funds or assets in an amount equal to not less than $1,000,000;

“(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

“(iii) is assigned to, administered, or managed in whole or in part by an employee of a financial institution acting as a liaison between the institution and the direct or beneficial owner of the account.

“(2) Other terms.—After consultation with the Board of Governors of the Federal Reserve System, the Secretary may, by regulation, order, or otherwise as permitted by law, define any term that is used in this section and that is not otherwise defined in this section or section 5312, as the Secretary deems appropriate.

“(b) United States bank accounts with unidentified foreign owners.—

“(1) Records.—
“(A) IN GENERAL.—A covered financial institution shall not establish, maintain, administer, or manage an account in the United States for a foreign person or a representative of a foreign person, unless the covered financial institution maintains in the United States, for each such account, a record identifying, by a verifiable name and account number, each individual or entity having a direct or beneficial ownership interest in the account.

“(B) PUBLICLY TRADED CORPORATIONS.—A record required under subparagraph (A) that identifies an entity, the shares of which are publicly traded on a stock exchange regulated by an organization or agency that is a member of and endorses the principles of the International Organization of Securities Commissions (in this section referred to as ‘publicly traded’), is not required to identify individual shareholders of the entity.

“(C) FOREIGN BANKS.—In the case of a correspondent account that is established for a foreign bank, the shares of which are not publicly traded, the record required under subparagraph (A) shall identify each of the owners of
the foreign bank, and the nature and extent of
the ownership interest of each such owner.

“(2) Complex ownership interests.—The
Secretary may, by regulation, order, or otherwise as
permitted by law, further delineate the information
to be maintained in the United States under para-
graph (1)(A), including information for accounts
with multiple, complex, or changing ownership inter-
ests.

“(c) Prohibition on United States Cor-
respondent accounts with foreign shell
banks.—

“(1) In general.—A covered financial institu-
tion shall not establish, maintain, administer, or
manage a correspondent account in the United
States for, or on behalf of, a foreign bank that does
not have a physical presence in any country.

“(2) Prevention of indirect service to
foreign shell banks.—A covered financial insti-
tution shall take reasonable steps to ensure that any
correspondent account established, maintained, ad-
ministered, or managed by that covered financial in-
stitution in the United States for a foreign bank is
not being used by that foreign bank to indirectly
provide banking services to another foreign bank
that does not have a physical presence in any country.

“(3) Exception.—Paragraphs (1) and (2) do not prohibit a covered financial institution from providing a correspondent account to a foreign bank, if the foreign bank—

“(A) is an affiliate of a depository institution, credit union, or other foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

“(B) is subject to supervision by a banking authority in the country regulating the affiliated depository institution, credit union, or foreign bank, described in subparagraph (A), as applicable.

“(4) Definitions.—For purposes of this subsection—

“(A) the term ‘affiliate’ means a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank; and

“(B) the term ‘physical presence’ means a place of business that—

“(i) is maintained by a foreign bank;
“(ii) is located at a fixed address (other than solely an electronic address) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank—

“(I) employs 1 or more individuals on a full-time basis; and

“(II) maintains operating records related to its banking activities; and

“(iii) is subject to inspection by the banking authority which licensed the foreign bank to conduct banking activities.

“(d) DUE DILIGENCE FOR UNITED STATES PRIVATE BANK AND CORRESPONDENT BANK ACCOUNTS INVOLVING FOREIGN PERSONS.—

“(1) IN GENERAL.—Each covered financial institution that establishes, maintains, administers, or manages a private bank account or a correspondent account in the United States for a foreign person or a representative of a foreign person shall establish enhanced due diligence policies, procedures, and controls to prevent, detect, and report possible instances of money laundering through those accounts.

“(2) MINIMUM STANDARDS.—The enhanced due diligence policies, procedures, and controls re-
quired under paragraph (1) of this subsection, shall, at a minimum, ensure that the covered financial institution—

“(A) ascertains the identity of each individual or entity having a direct or beneficial ownership interest in the account, and obtains sufficient information about the background of the individual or entity and the source of funds deposited into the account as is needed to guard against money laundering;

“(B) monitors such accounts on an ongoing basis to prevent, detect, and report possible instances of money laundering;

“(C) conducts enhanced scrutiny of any private bank account requested or maintained by, or on behalf of, a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure, to prevent, detect, and report transactions that may involve the proceeds of foreign corruption;

“(D) conducts enhanced scrutiny of any correspondent account requested or maintained by, or on behalf of, a foreign bank operating—

“(i) under an offshore banking li-
“(ii) under a banking license issued by a foreign country that has been designated—

“(I) as noncooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization of which the United States is a member; or

“(II) by the Secretary as warranting special measures due to money laundering concerns; and

“(E) ascertains, as part of the enhanced scrutiny under subparagraph (D), whether the foreign bank provides correspondent accounts to other foreign banks and, if so, the identity of those foreign banks and related due diligence information, as appropriate, under paragraph (1).”.

(b) Regulatory Authority.—After consultation with the Board of Governors of the Federal Reserve System, the Secretary of the Treasury may, by regulation, order, or otherwise as permitted by law, take measures that the Secretary deems appropriate to carry out section
(c) CONFORMING AMENDMENTS.—Section 5312(a) of title 31, United States Code, is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

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

“(5) ‘Secretary’ means the Secretary of the Treasury, except as otherwise provided in this subchapter.”.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item related to section 5318 the following:

“5318A. Requirements relating to United States bank accounts involving foreign persons.”.

(e) EFFECTIVE DATE.—Section 5318A of title 31, United States Code, as added by this section, shall take effect beginning 180 days after the date of enactment of this Act with respect to accounts covered by that section that are opened before, on, or after the date of enactment of this Act.
SEC. 304. LONG-ARM JURISDICTION OVER FOREIGN MONEY

LAUNDERERS.

Section 1956(b) of title 18, United States Code, is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting “(1)” after “(b)”;

(3) inserting “, or section 1957” after “or (a)(3)”;

(4) adding at the end the following:

“(2) For purposes of adjudicating an action filed or enforcing a penalty ordered under this section, the district courts shall have jurisdiction over any foreign person, including any financial institution authorized under the laws of a foreign country, against whom the action is brought, if service of process upon the foreign person is made under the Federal Rules of Civil Procedure or the laws of the country in which the foreign person is found, and—

“(A) the foreign person commits an offense under subsection (a) involving a financial transaction that occurs in whole or in part in the United States;

“(B) the foreign person converts, to his or her own use, property in which the United States has an ownership interest by virtue of
the entry of an order of forfeiture by a court of the United States; or

“(C) the foreign person is a financial institution that maintains a bank account at a financial institution in the United States.

“(3) A court, described in paragraph (2), may issue a pretrial restraining order or take any other action necessary to ensure that any bank account or other property held by the defendant in the United States is available to satisfy a judgment under this section.

“(4) A court, described in paragraph (2), may appoint a Federal Receiver, in accordance with paragraph (5), to collect, marshal, and take custody, control, and possession of all assets of the defendant, wherever located, to satisfy a judgment under this section or section 981, 982, or 1957, including an order of restitution to any victim of a specified unlawful activity.

“(5) A Federal Receiver, described in paragraph (4)—

“(A) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;
“(B) shall be an officer of the court, and
the powers of the Federal Receiver shall include
the powers set out in section 754 of title 28,
United States Code; and

“(C) shall have standing equivalent to that
of a Federal prosecutor for the purpose of submit-
ting requests to obtain information regard-
ing the assets of the defendant—

“(i) from the Financial Crimes En-
forcement Network of the Department of
the Treasury; or

“(ii) from a foreign country pursuant
to a mutual legal assistance treaty, multi-
lateral agreement, or other arrangement
for international law enforcement assist-
ance, provided that such requests are in
accordance with the policies and proce-
dures of the Attorney General.”.

SEC. 305. LAUNDERING MONEY THROUGH A FOREIGN
BANK.

Section 1956(c) of title 18, United States Code, is
amended by striking paragraph (6) and inserting the fol-
lowing:

“(6) the term ‘financial institution’ includes—
“(A) any financial institution, as defined in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder; and

“(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101).”.

SEC. 306. CONCENTRATION ACCOUNTS AT FINANCIAL INSTITUTIONS.

Section 5318(h) of title 31, United States Code, is amended by adding at the end the following:

“(3) CONCENTRATION ACCOUNTS.—The Secretary shall issue regulations under this subsection that govern maintenance of concentration accounts by financial institutions, in order to ensure that such accounts are not used to prevent association of the identity of an individual customer with the movement of funds of which the customer is the direct or beneficial owner, which regulations shall, at a minimum—

“(A) prohibit financial institutions from allowing clients to direct transactions that move their funds into, out of, or through the concentration accounts of the financial institution;
“(B) prohibit financial institutions and their employees from informing customers of the existence of, or the means of identifying, the concentration accounts of the institution; and

“(C) require each financial institution to establish written procedures governing the documentation of all transactions involving a concentration account, which procedures shall ensure that, any time a transaction involving a concentration account commingles funds belonging to 1 or more customers, the identity of, and specific amount belonging to, each customer is documented.”.

SEC. 307. CHARGING MONEY LAUNDERING AS A COURSE OF CONDUCT.

Section 1956(h) of title 18, United States Code, is amended by —

(1) inserting “(1)” before “Any person”; and

(2) adding at the end the following:

“(2) Any person who commits multiple violations of this section or section 1957 that are part of the same scheme or continuing course of conduct may be charged, at the election of the Government, in a single count in an indictment or information.”.
SEC. 308. FORFEITURE OF FUNDS IN UNITED STATES

INTERBANK ACCOUNTS.

(a) FORFEITURE FROM UNITED STATES INTERBANK ACCOUNT.—Section 981 of title 18, United States Code, is amended by adding at the end the following:

“(k) INTERBANK ACCOUNTS.—

“(1) IN GENERAL.—For the purpose of a forfeiture under this section or under the Controlled Substances Act (21 U.S.C. 801 et seq.), if funds are deposited into an account at a foreign bank, and that foreign bank has an interbank account in the United States with a covered financial institution (as defined in section 5318A of title 31), the funds shall be deemed to have been deposited into the interbank account in the United States, and any restraining order, seizure warrant, or arrest warrant in rem regarding the funds may be served on the covered financial institution, and funds in the interbank account, up to the value of the funds deposited into the account at the foreign bank, may be restrained, seized, or arrested.

“(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are di-
rectly traceable to the funds that were deposited into
the foreign bank, nor shall it be necessary for the
Government to rely on the application of section 984.

“(3) Claims brought by owner of the funds.—If a forfeiture action is instituted against
funds restrained, seized, or arrested under para-
graph (1), the owner of the funds deposited into the
account at the foreign bank may contest the for-
feiture by filing a claim under section 983.

“(4) Definitions.—For purposes of this sub-
section, the following definitions shall apply:

“(A) Interbank account.—The term ‘interbank account’ has the same meaning as in
section 984(c)(2)(B).

“(B) Owner.—

“(i) In general.—Except as pro-
vided in clause (ii), the term ‘owner’—

“(I) has the same meaning as in
section 983(d)(6); and

“(II) does not include any foreign
bank or other financial institution act-
ing as an intermediary in the transfer
of funds into the interbank account
and having no ownership interest in
the funds sought to be forfeited.

“(ii) EXCEPTION.—The foreign bank
may be considered the ‘owner’ of the funds
(and no other person shall qualify as the
owner of such funds) only if—

“(I) the basis for the forfeiture
action is wrongdoing committed by
the foreign bank; or

“(II) the foreign bank estab-
lishes, by a preponderance of the evi-
dence, that prior to the restraint, sei-
zure, or arrest of the funds, the for-
gn bank had discharged all or part
of its obligation to the prior owner of
the funds, in which case the foreign
bank shall be deemed the owner of the
funds to the extent of such discharged
obligation.”.

(b) BANK RECORDS.—Section 5318 of title 31,
United States Code, is amended by adding at the end the
following:

“(i) BANK RECORDS RELATED TO ANTI-MONEY
LAUNDERING PROGRAMS.—
“(1) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

“(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term ‘appropriate Federal banking agency’ has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

“(B) INCORPORATED TERMS.—The terms ‘correspondent account’, ‘covered financial institution’, and ‘foreign bank’ have the same meanings as in section 5318A.

“(2) 48-HOUR RULE.—Not later than 48 hours after receiving a request by an appropriate Federal banking agency for information related to anti-money laundering compliance by a covered financial institution or a customer of such institution, a covered financial institution shall provide to the appropriate Federal banking agency, or make available at a location specified by the representative of the appropriate Federal banking agency, information and account documentation for any account opened, maintained, administered or managed in the United States by the covered financial institution.

“(3) FOREIGN BANK RECORDS.—
“(A) **SUMMONS OR SUBPOENA OF RECORDS.**—

“(i) **IN GENERAL.**—The Secretary or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account.

“(ii) **SERVICE OF SUMMONS OR SUBPOENA.**—A summons or subpoena referred to in clause (i) may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

“(B) **ACCEPTANCE OF SERVICE.**—

“(i) **MAINTAINING RECORDS IN THE UNITED STATES.**—Any covered financial institution which maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners
of such foreign bank and the name and address of a person who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

“(ii) LAW ENFORCEMENT REQUEST.—

Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained under this paragraph, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

“(C) TERMINATION OF CORRESPONDENT RELATIONSHIP.—

“(i) TERMINATION UPON RECEIPT OF NOTICE.—A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 days after receipt of written notice from the Secretary or the Attorney General that the foreign bank has failed—

“(I) to comply with a summons or subpoena issued under subparagraph (A); or
“(II) to initiate proceedings in a United States court contesting such summons or subpoena.

“(ii) LIMITATION ON LIABILITY.—A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this subsection.

“(iii) FAILURE TO TERMINATE RELATIONSHIP.—Failure to terminate a correspondent relationship in accordance with this subsection shall render the covered financial institution liable for a civil penalty of up to $10,000 per day until the correspondent relationship is so terminated.”.

(c) AUTHORITY TO ORDER CONVICTED CRIMINAL TO RETURN PROPERTY LOCATED ABROAD.—

(1) FORFEITURE OF SUBSTITUTE PROPERTY.—

Section 413 of the Controlled Substances Act (21 U.S.C. 853) is amended by striking subsection (p) and inserting the following:

“(p) FORFEITURE OF SUBSTITUTE PROPERTY.—

“(1) IN GENERAL.—Paragraph (2) of this subsection shall apply, if any property described in sub-
section (a), as a result of any act or omission of the
defendant—

“(A) cannot be located upon the exercise of
due diligence;

“(B) has been transferred or sold to, or
deposited with, a third party;

“(C) has been placed beyond the jurisdic-
tion of the court;

“(D) has been substantially diminished in
value; or

“(E) has been commingled with other
property which cannot be divided without dif-
ficulty.

“(2) SUBSTITUTE PROPERTY.—In any case de-
scribed in any of subparagraphs (A) through (E) of
paragraph (1), the court shall order the forfeiture of
any other property of the defendant, up to the value
of any property described in subparagraphs (A)
through (E) of paragraph (1), as applicable.

“(3) RETURN OF PROPERTY TO JURISDIC-
tion.—In the case of property described in para-
graph (1)(C), the court may, in addition to any
other action authorized by this subsection, order the
defendant to return the property to the jurisdiction
of the court so that the property may be seized and
forfeited.”.

(2) PROTECTIVE ORDERS.—Section 413(e) of
the Controlled Substances Act (21 U.S.C. 853(e)) is
amended by adding at the end the following:

“(4) ORDER TO REPATRIATE AND DEPOSIT.—

“(A) IN GENERAL.—Pursuant to its au-
thority to enter a pretrial restraining order
under this section, including its authority to re-
strain any property forfeitable as substitute as-
sets, the court may order a defendant to repa-
triate any property that may be seized and for-
feited, and to deposit that property pending
trial in the registry of the court, or with the
United States Marshals Service or the Sec-
retary of the Treasury, in an interest-bearing
account, if appropriate.

“(B) FAILURE TO COMPLY.—Failure to
comply with an order under this subsection, or
an order to repatriate property under sub-
section (p), shall be punishable as a civil or
criminal contempt of court, and may also result
in an enhancement of the sentence of the de-
fendant under the obstruction of justice provi-
sion of the Federal Sentencing Guidelines.”.
SEC. 309. INCLUSION OF ACTS OF TERRORISM AS SPECIFIED UNLAWFUL ACTIVITY UNDER THE MONEY LAUNDERING STATUTES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) striking “or” after “section 2332b (relating to international terrorist acts transcending national boundaries,”; and

(2) inserting “section 2339B (relating to providing material support to designated foreign terrorist organizations),” after “section 2339A (relating to providing material support to terrorists),”.

SEC. 310. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle, and the amendments made by this subtitle, shall take effect 90 days after the date of enactment of this subtitle.

Subtitle B—International Counter-Money Laundering

SEC. 321. FINDINGS.

Congress finds that—

(1) money laundering, estimated by the International Monetary Fund to amount to between 2 and 5 percent of global gross domestic product, which is at least $600,000,000,000 annually, provides the financial fuel that permits transnational
criminal enterprises to conduct and expand their operations to the detriment of the safety and security of American citizens;

(2) money launderers subvert legitimate financial mechanisms and banking relationships by using them as protective covering for the movement of criminal proceeds and, by so doing, can undermine the integrity of United States financial institutions and of the global financial and trading systems upon which prosperity and growth depend;

(3) money launderers rely upon the existence and use of certain jurisdictions outside of the United States that offer bank secrecy and special tax or regulatory advantages to nonresidents, and often complement those advantages with weak financial supervisory and regulatory regimes;

(4) certain kinds of transactions involving such offshore jurisdictions, including those transactions specifically designed to offer anonymity or the avoidance of regulatory scrutiny, make it difficult for law enforcement officials and regulators to follow the trail of money earned by criminals and organized international criminal enterprises that undermine United States national interests and traffic in human misery, whether they are narcotics dealers,
terrorists, arms smugglers, traffickers in human beings, or those whose frauds prey upon law abiding citizens;

(5) certain banking relationships between financial institutions in the United States and financial institutions located in such offshore jurisdictions, such as correspondent and payable-through accounts, are particularly vulnerable to abuse because of the difficulty in obtaining accurate information about the beneficial owners whose funds pass through such accounts;

(6) the ability to mount effective counter-measures to international money launderers requires national, as well as bilateral and multilateral action, using tools specially designed for that effort; and

(7) the Basle Committee on Banking Regulation and Supervisory Practices and the Financial Action Task Force on Money Laundering, of both of which the United States is a member, have each adopted international anti-money laundering principles and recommendations.

SEC. 322. PURPOSES.

The purposes of this subtitle are—

(1) to ensure that banking transactions and financial relationships, the conduct of such trans-
actions and relationships, or both, do not contravene
the purposes of subchapter II of chapter 53 of title
31, United States Code, section 21 of the Federal
Deposit Insurance Act, or chapter 2 of title I of
Public Law 91–508, or facilitate the evasion of any
such provision, to ensure that the purposes of such
subchapter II continue to be fulfilled, and to guard
against international money laundering and other fi-
nancial crimes;

(2) to provide a clear national mandate for sub-
jecting to special scrutiny those foreign jurisdictions,
financial institutions operating outside of the United
States, and classes of international transactions that
pose particular, identifiable opportunities for money
laundering;

(3) to provide the Secretary of the Treasury
with broad discretionary authority to take measures
tailored to the particular money laundering problems
presented by specific foreign jurisdictions, financial
institutions operating outside of the United States,
and classes of international transactions;

(4) to provide domestic financial institutions
with guidance on particular foreign jurisdictions, fi-
nancial institutions operating outside of the United
States, and classes of international transactions that
are of primary money laundering concern to the United States Government;

(5) to clarify the terms of the safe harbor from civil liability for filing suspicious activity reports;

(6) to strengthen the authority of the Secretary of the Treasury to issue and administer geographic targeting orders, and to clarify that violations of such orders or any other requirement imposed under the authority contained in chapter 2 of title I of Public Law 91–508 and subchapters II and III of chapter 53 of title 31, United States Code, may result in criminal and civil penalties;

(7) to strengthen the ability of financial institutions to maintain the integrity of their employee population; and

(8) to strengthen measures to prevent the use of the United States financial system for personal gain by corrupt foreign officials and to facilitate the repatriation of any stolen assets to the citizens of countries to whom such assets belong.
CHAPTER 1—INTERNATIONAL COUNTER-MONEY LAUNDERING MEASURES

SEC. 331. SPECIAL MEASURES FOR JURISDICTIONS, FINANCIAL INSTITUTIONS, OR INTERNATIONAL TRANSACTIONS OF PRIMARY MONEY LAUNDERING CONCERN.

(a) In General.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5318A, as added by section 303 of this Act, the following new section:

“§ 5318B. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern

“(a) INTERNATIONAL COUNTER-MONEY LAUNDERING REQUIREMENTS.—

“(1) In general.—The Secretary may require domestic financial institutions and domestic financial agencies to take 1 or more of the special measures described in subsection (b) if the Secretary finds that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United
States is of primary money laundering concern, in accordance with subsection (e).

“(2) FORM OF REQUIREMENT.—The special measures described in subsection (b) may be imposed by regulation, order, or otherwise as permitted by law, and in such sequence or combination, as the Secretary shall determine.

“(3) PROCESS FOR SELECTING SPECIAL MEASURES.—In selecting which special measure or measures to take under this subsection, the Secretary—

“(A) shall consult with the Chairman of the Board of Governors of the Federal Reserve System and, in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and

“(B) shall consider—

“(i) whether similar action has been or is being taken by other nations or multilateral groups;

“(ii) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institu-
tions organized or licensed in the United States; and

“(iii) the extent to which the action would have a significant adverse systemic impact on the international payment, clearance and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, or class of transactions.

“(4) NO LIMITATION ON OTHER AUTHORITY.—This section shall not be construed as superseding or otherwise restricting any other authority granted to the Secretary, or to any other agency, by this subchapter or otherwise.

“(b) SPECIAL MEASURES.—The special measures referred to in subsection (a), with respect to a jurisdiction outside of the United States, financial institution operating outside of the United States, or class of transaction within, or involving, a jurisdiction outside of the United States, are as follows:

“(1) RECORDKEEPING AND REPORTING OF CERTAIN FINANCIAL TRANSACTIONS.—

“(A) IN GENERAL.—The Secretary may require any domestic financial institution or domestic financial agency to maintain records, file
reports, or both, concerning the aggregate amount of transactions, or concerning each transaction, with respect to a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States, if the Secretary finds any such jurisdiction, institution, or class of transactions to be of primary money laundering concern.

“(B) FORM OF RECORDS AND REPORTS.— Such records and reports shall be made and retained at such time, in such manner, and for such period of time, as the Secretary shall determine, and shall include such information as the Secretary may determine, including—

“(i) the identity and address of the participants in a transaction or relationship, including the identity of the originator of any funds transfer;

“(ii) the legal capacity in which a participant in any transaction is acting;

“(iii) the identity of the beneficial owner of the funds involved in any transaction; and
“(iv) a description of any transaction.

“(2) INFORMATION RELATING TO BENEFICIAL
OWNERSHIP.—In addition to any other requirement
under any other provision of law, the Secretary may
require any domestic financial institution or domes-
tic financial agency to take such steps as the Sec-
retary may determine to be reasonable and prac-
ticable to obtain and retain information concerning
the beneficial ownership of any account opened or
maintained in the United States by a foreign person
(other than a foreign entity whose shares are subject
to public reporting requirements or are listed and
traded on a regulated exchange or trading market),
or a representative of such a foreign person, that in-
volves a jurisdiction outside of the United States, 1
or more financial institutions operating outside of
the United States, or 1 or more classes of trans-
actions within, or involving, a jurisdiction outside of
the United States, if the Secretary finds any such
jurisdiction, institution, or transaction to be of pri-
mary money laundering concern.

“(3) INFORMATION RELATING TO CERTAIN PAY-
ABLE-THROUGH ACCOUNTS.—If the Secretary finds
a jurisdiction outside of the United States, 1 or
more financial institutions operating outside of the
United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a payable-through account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a payable-through account through which any such transaction may be conducted, as a condition of opening or maintaining such account, to—

“(A) identify each customer (and representative of such customer) of such financial institution who is permitted to use, or whose transactions are routed through, such payable-through account; and

“(B) obtain, with respect to each such customer (and each such representative), the same information that the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.

“(4) INFORMATION RELATING TO CERTAIN CORRESPONDENT ACCOUNTS.—If the Secretary finds a
jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary may require any domestic financial institution or domestic financial agency that opens or maintains a correspondent account in the United States for a foreign financial institution involving any such jurisdiction or any such financial institution operating outside of the United States, or a correspondent account through which any such transaction may be conducted, as a condition of opening or maintaining such account, to—

“(A) identify each customer (and representative of such customer) of any such financial institution who is permitted to use, or whose transactions are routed through, such correspondent account; and

“(B) obtain, with respect to each such customer (and each such representative), the same information that the depository institution obtains in the ordinary course of business with respect to its customers residing in the United States.
“(5) Prohibitions or conditions on opening or maintaining certain correspondent or payable-through accounts.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States to be of primary money laundering concern, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable-through account by any domestic financial institution or domestic financial agency for or on behalf of a foreign banking institution if such correspondent account or payable-through account involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account or payable-through account.

“(c) Consultations and Information to Be Considered in Finding Jurisdictions, Institutions, or Transactions to Be of Primary Money Laundering Concern.—
“(1) In general.—In making a finding that reasonable grounds exist for concluding that a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within, or involving, a jurisdiction outside of the United States is of primary money laundering concern so as to authorize the Secretary to invoke 1 or more of the special measures described in subsection (b), the Secretary shall consult with the Secretary of State, the Attorney General, the Secretary of Commerce, and the United States Trade Representative.

“(2) Information.—The Secretary also shall consider such information as the Secretary considers to be relevant, including the following potentially relevant factors:

“(A) In the case of a particular jurisdiction—

“(i) the extent to which that jurisdiction or financial institutions operating therein offer bank secrecy or special tax or regulatory advantages to nonresidents or nondomiciliaries of such jurisdiction;

“(ii) the substance and quality of administration of that jurisdiction’s bank su-
pervisory and counter-money laundering laws;

“(iii) the relationship between the volume of financial transactions occurring in that jurisdiction and the size of the jurisdiction’s economy;

“(iv) the extent to which that jurisdiction is characterized as a tax haven or offshore banking or secrecy haven by credible international organizations or multilateral expert groups;

“(v) whether the United States has a mutual legal assistance treaty with that jurisdiction, and the experience of United States law enforcement officials, regulatory officials, and tax administrators in obtaining information about transactions originating in or routed through or to such jurisdiction; and

“(vi) the extent to which that jurisdiction is characterized by high levels of official or institutional corruption.

“(B) In the case of a decision to apply 1 or more of the special measures described in subsection (b) only to a financial institution or
institutions, or to a transaction or class of transactions, or to both, within, or involving, a particular jurisdiction—

“(i) the extent to which such financial institutions or transactions are used to facilitate or promote money laundering in or through the jurisdiction;

“(ii) the extent to which such institutions or transactions are used for legitimate business purposes in such jurisdiction; and

“(iii) the extent to which such action is sufficient to ensure, with respect to transactions involving such jurisdiction and institutions operating in such jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

“(d) Notification of Special Measures Invoked by the Secretary.—Not later than 10 days after the date of any action taken by the Secretary under subsection (a)(1), the Secretary shall notify, in writing, the Committee on Financial Services of the House of Rep-
resentatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of any such action.

“(e) DEFINITIONS.—Notwithstanding any other provision of this subchapter, for purposes of this section, the following definitions shall apply:

“(1) DEFINED TERMS.—

“(A) BANK DEFINITIONS.—The following definitions shall apply with respect to a bank:

“(i) ACCOUNTS.—The terms ‘account’ and ‘correspondent account’ have the same meanings as in section 5318A.

“(ii) PAYABLE-THROUGH ACCOUNT.—The term ‘payable-through account’ means an account, including a transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act), opened at a depository institution by a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a sub-account, in banking activities usual in connection with the business of banking in the United States.

“(B) DEFINITIONS APPLICABLE TO INSTITUTIONS OTHER THAN BANKS.—With respect
to any financial institution other than a bank, the Secretary shall define, by regulation, order, or otherwise as permitted by law, the term ‘account’ and shall include within the meaning of such term arrangements similar to payable-through and correspondent accounts.

“(2) Other terms.—The Secretary may, by regulation, order, or otherwise as permitted by law, further define the terms in paragraph (1) and define other terms for the purposes of this section, as the Secretary deems appropriate.”.

(b) Clerical Amendment.—The table of sections for subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5318A, as added by this Act, the following new item:

“5318B. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.”.

CHAPTER 2—CURRENCY TRANSACTION REPORTING AMENDMENTS AND RELATED IMPROVEMENTS

SEC. 341. AMENDMENTS RELATING TO REPORTING OF SUSPICIOUS ACTIVITIES.

(a) Amendment Relating to Civil Liability Immunity for Disclosures.—Section 5318(g)(3) of title 31, United States Code, is amended to read as follows:
“(3) LIABILITY FOR DISCLOSURES.—

“(A) IN GENERAL.—Any financial institution that makes a voluntary disclosure of any possible violation of law or regulation to a government agency or to Congress, or makes a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution who makes, or requires another to make any such disclosure, shall not be liable to any person under any law or regulation of the United States, any constitution, law, or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (including any arbitration agreement), for such disclosure or for any failure to provide notice of such disclosure to the person who is the subject of such disclosure or any other person identified in the disclosure.

“(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating—

“(i) any inference that the term ‘person’, as used in such subparagraph, may be construed more broadly than its ordi-
nary usage so to include any government
or agency of government; or
“(ii) any immunity against, or other-
wise affecting, any civil or criminal action
brought by any government or agency of
government to enforce any constitution,
law, or regulation of such government or
agency.”.

(b) Prohibition on Notification of Disclo-
sures.—Section 5318(g)(2) of title 31, United States
Code, is amended to read as follows:
“(2) Notification prohibited.—
“(A) In general.—If a financial institu-
tion or any director, officer, employee, or agent
of any financial institution, voluntarily or pur-
suant to this section or any other authority, re-
ports a suspicious transaction to a government
agency—
“(i) the financial institution, director,
officer, employee, or agent may not notify
any person involved in the transaction that
the transaction has been reported; and
“(ii) no officer or employee of the
Federal Government or of any State, local,
tribal, or territorial government within the
United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

“(B) DISCLOSURES IN CERTAIN EMPLOYMENT REFERENCES.—Notwithstanding the application of subparagraph (A) in any other context, subparagraph (A) shall not be construed as prohibiting any financial institution, or any director, officer, employee, or agent of such institution, from including, in a written employment reference that is provided in accordance with section 18(v) of the Federal Deposit Insurance Act in response to a request from another financial institution or a written termination notice or employment reference that is provided in accordance with the rules of the self-regulatory organizations registered with the Securities and Exchange Commission, information that was included in a report to which subparagraph (A) applies, but such written employment reference may not disclose that such informa-
tion was also included in any such report or that such report was made.”.

SEC. 342. PENALTIES FOR VIOLATIONS OF GEOGRAPHIC

TARGETING ORDERS AND CERTAIN RECORD-KEEPING REQUIREMENTS, AND LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC

TARGETING ORDERS.

(a) Civil Penalty for Violation of Targeting Order.—Section 5321(a)(1) of title 31, United States Code, is amended—

(1) by inserting “or order issued” after “subchapter or a regulation prescribed”; and

(2) by inserting “, or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “section 5314 and 5315)”.

(b) Criminal Penalties for Violation of Targeting Order.—Section 5322 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “or order issued” after “willfully violating this subchapter or a regulation prescribed”; and

(B) by inserting “, or willfully violating a regulation prescribed under section 21 of the
Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “under section 5315 or 5324)”; and

(2) in subsection (b)—

(A) by inserting “or order issued” after “willfully violating this subchapter or a regulation prescribed”; and

(B) by inserting “or willfully violating a regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “under section 5315 or 5324),”.

(e) Structuring Transactions To Evade Targeting Order or Certain Recordkeeping Requirements.—Section 5324(a) of title 31, United States Code, is amended—

(1) by inserting a comma after “shall”; 

(2) by striking “section—” and inserting “section, the reporting or recordkeeping requirements imposed by any order issued under section 5326, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—”;

91–508—”;}
(3) in paragraph (1), by inserting “, to file a report or to maintain a record required by an order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508’’ after “regulation prescribed under any such section”; and

(4) in paragraph (2), by inserting “, to file a report or to maintain a record required by any order issued under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 5326, or to maintain a record required pursuant to any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508,” after “regulation prescribed under any such section”.

(d) LENGTHENING EFFECTIVE PERIOD OF GEOGRAPHIC TARGETING ORDERS.—Section 5326(d) of title 31, United States Code, is amended by striking “60” after “shall be effective for more than” and inserting “180”.


SEC. 343. AUTHORIZATION TO INCLUDE SUSPICIONS OF ILLEGAL ACTIVITY IN WRITTEN EMPLOYMENT REFERENCES.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

“(w) Written Employment References May Contain Suspicions of Involvement in Illegal Activity.—

“(1) In General.—Notwithstanding any other provision of law, any insured depository institution, and any director, officer, employee, or agent of such institution, may disclose in any written employment reference relating to a current or former institution-affiliated party of such institution which is provided to another insured depository institution in response to a request from such other institution, information concerning the possible involvement of such institution-affiliated party in potentially unlawful activity.

“(2) Definition.—For purposes of this subsection, the term ‘insured depository institution’ includes any uninsured branch or agency of a foreign bank.”.
SEC. 344. AGENCY REPORTS ON RECONCILING PENALTY AMOUNTS.

Before the end of the 1-year period beginning on the date of enactment of this chapter, the Secretary of the Treasury and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall each submit their respective reports to Congress containing recommendations on possible legislation to conform the penalties imposed on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) for violations of subchapter II of chapter 53 of title 31, United States Code, to the penalties imposed on such institutions under section 8 of the Federal Deposit Insurance Act.

CHAPTER 3—ANTICORRUPTION MEASURES

SEC. 351. CORRUPTION OF FOREIGN GOVERNMENTS AND RULING ELITES.

Sense of the Congress.—It is the sense of the Congress that, in deliberations between the United States Government and any other country on money laundering and corruption issues, the United States Government should—

(1) emphasize an approach that addresses not only the laundering of the proceeds of traditional criminal activity but also the increasingly endemic
problem of governmental corruption and the corruption of ruling elites;

(2) encourage the enactment and enforcement of laws in such country to prevent money laundering and systemic corruption;

(3) make clear that the United States will take all steps necessary to identify the proceeds of foreign government corruption which have been deposited in United States financial institutions and return such proceeds to the citizens of the country to whom such assets belong; and

(4) advance policies and measures to promote good government and to prevent and reduce corruption and money laundering, including through instructions to the United States Executive Director of each international financial institution (as defined in section 1701(c) of the International Financial Institutions Act) to advocate such policies as a systematic element of economic reform programs and advice to member governments.

SEC. 352. SUPPORT FOR THE FINANCIAL ACTION TASK FORCE ON MONEY LAUNDERING.

It is the sense of the Congress that—

(1) the United States should continue to actively and publicly support the objectives of the Fi-
nancial Action Task Force on Money Laundering
(hereafter in this section referred to as the
“FATF’’) with regard to combating international
money laundering;

(2) the FATF should identify noncooperative
jurisdictions in as expeditious a manner as possible
and publicly release a list directly naming those ju-
risdictions identified;

(3) the United States should support the con-
tinued public release of lists naming noncooperative
jurisdictions identified by the FATF;

(4) the United States should encourage the
adoption of the necessary international action to en-
courage compliance by the identified noncooperative
jurisdictions; and

(5) the United States should take the necessary
countermeasures to protect the United States econ-
omy against money of unlawful origin and encourage
other nations to do the same.

TITLE IV—PROTECTING THE
NORTHERN BORDER

SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE
NORTHERN BORDER.

The Attorney General is authorized to waive any
FTE cap on personnel assigned to the Immigration and
Naturalization Service to address the national security needs of the United States on the Northern border.

SEC. 402. NORTHERN BORDER PERSONNEL.

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 Customs Service personnel (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 each to the Immigration and Naturalization Service and the United States Customs Service for purposes of making improvements in technology for monitoring the Northern Border and acquiring additional equipment at the Northern Border.
SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND THE INS TO CERTAIN IDENTIFYING INFORMATION IN THE CRIMINAL HISTORY RECORDS OF VISA APPLICANTS AND APPLICANTS FOR ADMISSION TO THE UNITED STATES.

(a) Amendment of the Immigration and Nationality Act.—Section 105 of the Immigration and Nationality Act (8 U.S.C. 1105) is amended—

(1) in the section heading, by inserting “; DATA EXCHANGE” after “SECURITY OFFICERS”;

(2) by inserting “(a)” after “SEC. 105.”;

(3) in subsection (a), by inserting “and border” after “internal” the second place it appears; and

(4) by adding at the end the following:

“(b)(1) Upon the promulgation of final regulations under subsection (d), the Attorney General and the Director of the Federal Bureau of Investigation shall provide the Department of State and the Service access to the criminal history record information contained in the National Crime Information Center’s Interstate Identification Index (NCIC-III), 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 agency receiving the access, for the purpose of determining whether or not a visa applicant or
applicant for admission has a criminal history record indexed in any such file.

“(2) Such access shall be provided by means of extracts of the records for placement in the automated visa lookout or other appropriate database, and shall be provided without any fee or charge.

“(3) The Federal Bureau of Investigation shall provide periodic updates of the extracts at intervals mutually agreed upon with the agency receiving the access. Upon receipt of such updated extracts, the receiving agency shall make corresponding updates to its database and destroy previously provided extracts.

“(4) Access to an extract does not entitle the Department of State or the Service to obtain the full content of the corresponding automated criminal history record. To obtain the full content of a criminal history record, the Department of State or the Service 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) The provision of the extracts described in subsection (b) may be reconsidered by the Attorney General and the receiving agency upon the development and de-
ployment of a more cost-effective and efficient means of sharing the information.

“(d) For purposes of administering this section, the Department of State and the Service shall, prior to receiving access to NCIC data but not later than 18 months after the date of enactment of this subsection, 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 or not to issue a visa to an alien or to admit an alien to the United States;

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

(c) STATUTORY 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 (NCIC) Interstate Identification Index (NCIC-III), or to any other information maintained by the NCIC, 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 the National Crime Prevention and Privacy Compact Act of 1998 (subtitle A of title II of Public Law 105–251; 42 U.S.C. 14611–16) and section 552a of title 5, United States Code.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM


(a) SHORT TITLE.—This title may be cited as the “Professional Standards for Government Attorneys Act of 2001”.
(b) Professional Standards for Government Attorneys.—Section 530B of title 28, United States Code, is amended to read as follows:

“§ 530B. Professional Standards for Government Attorneys

“(a) Definitions.—In this section:

“(1) Government attorney.—The term ‘Government attorney’—

“(A) means the Attorney General; the Deputy Attorney General; the Solicitor General; the Associate Attorney General; the head of, and any attorney employed in, any division, office, board, bureau, component, or agency of the Department of Justice; any United States Attorney; any Assistant United States Attorney; any Special Assistant to the Attorney General or Special Attorney appointed under section 515; any Special Assistant United States Attorney appointed under section 543 who is authorized to conduct criminal or civil law enforcement investigations or proceedings on behalf of the United States; any other attorney employed by the Department of Justice who is authorized to conduct criminal or civil law enforcement proceedings on behalf of the United States; any
independent counsel, or employee of such counsel, appointed under chapter 40; and any outside special counsel, or employee of such counsel, as may be duly appointed by the Attorney General; and

“(B) does not include any attorney employed as an investigator or other law enforcement agent by the Department of Justice who is not authorized to represent the United States in criminal or civil law enforcement litigation or to supervise such proceedings.

“(2) STATE.—The term ‘State’ includes a Territory and the District of Columbia.

“(b) CHOICE OF LAW.—Subject to any uniform national rule prescribed by the Supreme Court under chapter 131, the standards of professional responsibility that apply to a Government attorney with respect to the attorney’s work for the Government shall be—

“(1) for conduct in connection with a proceeding in or before a court, the standards of professional responsibility established by the rules and decisions of that court;

“(2) for conduct reasonably intended to lead to a proceeding in or before a court, the standards of professional responsibility established by the rules
and decisions of the court in or before which the proceeding is intended to be brought; and

“(3) for all other conduct, the standards of professional responsibility established by the rules and decisions of the Federal district court for the judicial district in which the attorney principally performs his or her official duties.

“(c) LICENSURE.—A Government attorney (except foreign counsel employed in special cases)—

“(1) shall be duly licensed and authorized to practice as an attorney under the laws of a State; and

“(2) shall not be required to be a member of the bar of any particular State.

“(d) COVERT ACTIVITIES.—Notwithstanding any provision of State law, including disciplinary rules, statutes, regulations, constitutional provisions, or case law, a Government attorney may, for the purpose of enforcing Federal law, provide legal advice, authorization, concurrence, direction, or supervision on conducting covert activities, and participate in such activities, even though such activities may require the use of deceit or misrepresentation.

“(e) ADMISSIBILITY OF EVIDENCE.—No violation of any disciplinary, ethical, or professional conduct rule shall
be construed to permit the exclusion of otherwise admissible evidence in any Federal criminal proceedings.

“(f) Rulemaking Authority.—The Attorney General shall make and amend rules of the Department of Justice to ensure compliance with this section.”.

(c) Technical and Conforming Amendment.—

The analysis for chapter 31 of title 28, United States Code, is amended, in the item relating to section 530B, by striking “Ethical standards for attorneys for the Government” and inserting “Professional standards for Government attorneys”.

(d) Reports.—

(1) Uniform Rule.—In order to encourage the Supreme Court to prescribe, under chapter 131 of title 28, United States Code, a uniform national rule for Government attorneys with respect to communications with represented persons and parties, not later than 1 year after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chief Justice of the United States a report, which shall include recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for such a uniform national rule.
(2) Actual or potential conflicts.—Not later than 2 years after the date of enactment of this Act, the Judicial Conference of the United States shall submit to the Chairmen and Ranking Members of the Committees on the Judiciary of the House of Representatives and the Senate a report, which shall include—

(A) a review of any areas of actual or potential conflict between specific Federal duties related to the investigation and prosecution of violations of Federal law and the regulation of Government attorneys (as that term is defined in section 530B of title 28, United States Code, as amended by this Act) by existing standards of professional responsibility; and

(B) recommendations with respect to amending the Federal Rules of Practice and Procedure to provide for additional rules governing attorney conduct to address any areas of actual or potential conflict identified pursuant to the review under subparagraph (A).

(3) Report considerations.—In carrying out paragraphs (1) and (2), the Judicial Conference of the United States shall take into consideration—
(A) the needs and circumstances of multiforum and multijurisdictional litigation;

(B) the special needs and interests of the United States in investigating and prosecuting violations of Federal criminal and civil law; and

(C) practices that are approved under Federal statutory or case law or that are otherwise consistent with traditional Federal law enforcement techniques.

SEC. 502. ELIMINATION OF LIMITATIONS PERIOD FOR CERTAIN TERRORISM OFFENSES.

Section 3286 of title 18, United States Code, is amended—

(1) by striking the existing section title and inserting "Certain terrorism offenses".

(2) by striking the phrase "no person shall be prosecuted, tried, or punished for any non-capital", and inserting "an indictment or information for any";

(3) by inserting after "transcending national boundaries)," the following: "section 2332d (financial transactions with countries supporting international terrorism), section 2339A (providing material support for terrorists), section 2339B (providing
material support to designated foreign terrorist or-
ganizations),”; and

(4) by striking “, unless the indictment is found or the information is instituted within 8 years after the offense was committed.” and inserting “may be found or instituted at any time without limitation.”.

SEC. 503. REIMBURSEMENT OF PERSONNEL PERFORMING COUNTERTERRORISM DUTIES FOR PROFESSIONAL LIABILITY INSURANCE.

(a) REQUIREMENT FOR FULL REIMBURSEMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (2), the head of an agency employing a qualified employee shall reimburse the qualified employee for the costs incurred by the employee for professional liability in-

(2) EXCEPTION.—Reimbursement of a qualified employee under paragraph (1) shall be contingent on the submission by the qualified employee to the head of the agency concerned of such information or doc-umentation as the head of the agency concerned shall require. The submission shall include informa-
tion and documentation on the provision, if any, of legal services by the Department of Justice, in ac-
cordance with section 2679 of title 28, United States
Code, or a similar provision of law, and the reason for any declination of such services.

(3) Salaries and Expenses.—Amounts for reimbursements under paragraph (1) shall be derived from amounts available to the agency concerned for salaries and expenses.

(4) Representation Provided.—No professional liability insurance subject to reimbursement under paragraph (1) may pay for the costs incurred by a qualified employee for an attorney when the Department of Justice is providing an attorney to defend such employee pursuant to section 2679 of title 28, United States Code, or a similar provision of law.

(c) Definitions.—In this section:

(1) Agency.—The term “agency” means any Executive agency, as that term is defined in section 105 of title 5, United States Code, and includes any agency of the legislative branch of Government.

(2) Element of the Intelligence Community.—The term “element of the intelligence community” means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).
(3) LAW ENFORCEMENT OFFICER; PROFESSIONAL LIABILITY INSURANCE.—The terms “law enforcement officer” and “professional liability insurance” have the meanings given those terms in section 636(c) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (5 U.S.C. prec. 5941 note).

(4) QUALIFIED EMPLOYEE.—The term “qualified employee” means an employee of an agency whose position is that of—

(A) a law enforcement officer performing official counterterrorism duties; or

(B) an official of an element of the intelligence community performing official counterterrorism duties outside the United States.

SEC. 504. DANGER PAY FOR FBI AGENTS ON HAZARDOUS DUTY OUTSIDE UNITED STATES.

Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note) is amended by inserting “or Federal Bureau of Investigation” after “Drug Enforcement Administration”.

SEC. 505. FOREIGN REIMBURSEMENTS TO IMPROVE LAW ENFORCEMENT OR NATIONAL SECURITY OPERATIONS.

Whenever the Department of Justice or any component participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Department of Justice or any component. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

SEC. 506. ATTORNEY GENERAL’S AUTHORITY TO PAY REWARDS TO COMBAT TERRORISM.

(a) Payment of Rewards To Combat Terrorism.—Funds available to the Attorney General may be used for the payment of rewards pursuant to public advertisements for assistance to the Department of Justice to combat terrorism and defend the Nation against terrorist acts, in accordance with procedures and regulations established or issued by the Attorney General.

(b) Conditions.—In making rewards under this section—
(1) 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;

(2) 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 of the House of Representatives not later than 30 days after the approval of a reward under paragraph (1);

(3) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) may provide the Attorney General with funds for the payment of rewards; and

(4) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

SEC. 507. DNA IDENTIFICATION OF TERRORISTS AND OTHER VIOLENT OFFENDERS.

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 (I); and
(2) by inserting after subparagraph (F) the following:

“(G) An offense relating to biological weapons (as described in chapter 10 of such title, sections 175 through 178), to chemical weapons (as described in chapter 11B of such title, sections 229 through 229F), to espionage (as described in chapter 37 of such title, sections 792 through 799); to nuclear materials (as described in section 831 of such title), to explosive materials (as described in section 842 of such title), to protection of computers (as described in section 1030 of such title), or to terrorism (as described in chapter 113B of such title, sections 2331 to 2339B).

“(H) any other crime of violence (as defined in section 16 of such title).”.
TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

SEC. 601. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFICERS INVOLVED IN THE PREVENTION, INVESTIGATION, RESCUE, OR RECOVERY EFFORTS RELATED TO A TERRORIST ATTACK.

(a) In general.—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 by a public agency that a public safety officer employed by such agency was killed or suffered a catastrophic injury as a direct and proximate result of a personal injury sustained in the line of duty as described in section 1201(a) of such Act in connection with prevention, investigation, rescue, or recovery efforts related to a terrorist attack, 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 certifi-
cation, benefits described under subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

(b) DEFINITIONS.—For purposes of this section, the terms “catastrophic injury”, “public agency”, and “public safety officer” have the same meanings given such terms in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

Subtitle B—Benefits for Law Enforcement Officers and Federal Prosecutors

SEC. 611. SHORT TITLE.

This subtitle may be cited as the “Law Enforcement Officers and Federal Prosecutors Retirement Benefit Equity Act of 2001”.

SEC. 612. EXPANSION OF THE DEFINITION OF A LAW ENFORCEMENT OFFICER.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) IN GENERAL.—Paragraph (20) of section 8331 of title 5, United States Code, is amended by striking “position.” and inserting “position and a Federal prosecutor. For the purpose of this paragraph, the employees described in the preceding provision of this paragraph (in the matter before “including”) shall be considered to include an employee (not otherwise covered by this paragraph) who satis-
fies clauses (i) and (ii) of section 8401(17)(F) and
an employee of the Internal Revenue Service the du-
ties of whose position are described in section
8401(17)(G).”.

(2) FEDERAL PROSECUTOR DEFINED.—Section
8331 of title 5, United States Code, is amended—

(A) in paragraph (27), by striking “and”
at the end;

(B) in paragraph (28), by striking the pe-
riod and inserting “; and”; and

(C) by adding at the end the following:

“(29) ‘Federal prosecutor’ means—

“(A) an assistant United States attorney
under section 542 of title 28; or

“(B) an attorney employed by the Depart-
ment of Justice and designated by the Attorney
General of the United States.”.

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) IN GENERAL.—

(A) APPLICABLE EMPLOYEES.—Paragraph

(17) of section 8401 of title 5, United States
Code, is amended—

(i) in subparagraph (C), by striking

“and” at the end;
(ii) by adding at the end the following:

“(E) a Federal prosecutor;
“(F) an employee (not otherwise covered by this paragraph)—
“(i) the duties of whose position include the investigation or apprehension of individuals suspected or convicted of offenses against the criminal laws of the United States; and
“(ii) who is authorized to carry a firearm; and
“(G) an employee of the Internal Revenue Service, the duties of whose position are primarily the collection of delinquent taxes and the securing of delinquent returns;”.

(B) TECHNICAL AND CONFORMING AMENDMENT.—Section 8401(17)(C) of title 5, United States Code, is amended by striking “(A) and (B)” and inserting “(A), (B), (F), and (G)”.

(2) FEDERAL PROSECUTOR DEFINED.—Section 8401 of title 5, United States Code, is amended—
(A) in paragraph (33), by striking “and” at the end;
(B) in paragraph (34), by striking the pe-
period and inserting “; and”; and
(C) by adding at the end the following:
“(35) ‘Federal prosecutor’ means—
“(A) an assistant United States attorney
under section 542 of title 28; or
“(B) an attorney employed by the Depart-
ment of Justice and designated by the Attorney
General of the United States.’’.

(c) TREATMENT UNDER CERTAIN PROVISIONS OF
LAW (UNRELATED TO RETIREMENT) TO REMAIN UN-
CHANGED.—

(1) ORIGINAL APPOINTMENTS OF FEDERAL
PROSECUTORS.—Subsections (d) and (e) of section
3307 of title 5, United States Code, are amended by
adding at the end of each the following: “The pre-
ceding sentence shall not apply in the case of an
original appointment of a Federal prosecutor as de-
defined under section 8331(29) or 8401(35).”.

(2) MANDATORY SEPARATION.—

(A) FEDERAL PROSECUTORS.—Sections
8335(b) and 8425(b) of title 5, United States
Code, are amended by adding at the end of
each the following: “The preceding provisions
shall not apply in the case of a Federal pros-
executor as defined under section 8331(29) or 8401(35).”.

(B) LAW ENFORCEMENT OFFICERS.—

Nothing in section 8335(b) or 8425(b) of title 5, United States Code, shall cause the involuntary separation of a law enforcement officer (as described in subsection (a)) before the end of the 3-year period beginning on the date of the enactment of this subtitle.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 120 days after the date of enactment of this subtitle.

SEC. 613. PROVISIONS RELATING TO INCUMBENTS.

(a) DEFINITIONS.—In this section, the term—

(1) “Federal prosecutor” means—

(A) an assistant United States attorney under section 542 of title 28, United States Code; or

(B) an attorney employed by the Department of Justice and designated by the Attorney General of the United States;

(2) “incumbent” means an individual who is serving as a Federal prosecutor or a transitional law
enforcement officer on the effective date of this sec-
tion; and

(3) “transitional law enforcement officer”
means an employee who—

(A) on the date of enactment of this sub-
title, is an employee defined under section
8401(17) (F) or (G) of title 5, United States
Code, (as added by this subtitle); and

(B) on the day preceding such date was
not a law enforcement officer for purposes of
chapter 83 or 84 of such title.

(b) Designated Attorneys as Federal Pros-
secutors.—If the Attorney General of the United States
makes any designation of an attorney to meet the defini-
tion under subsection (a)(1)(B) for purposes of being an
incumbent under this section—

(1) such designation shall be made before the
effective date of this section; and

(2) the Attorney General shall submit to the
Office of Personnel Management before that effec-
tive date—

(A) the name of the individual designated;

and
(B) the period of service performed by that individual as a Federal prosecutor before that effective date.

c) NOTICE REQUIREMENT.—Not later than 9 months after the date of enactment of this subtitle, the Office of Personnel Management shall take measures reasonably designed to provide notice to incumbents on—

(1) their election rights under this subtitle; and

(2) the effects of making or not making a timely election under this subtitle.

d) ELECTION AVAILABLE TO INCUMBENTS.—

(1) IN GENERAL.—An incumbent may elect, for all purposes, to be treated—

(A) in accordance with the amendments made by this subtitle; or

(B) as if this subtitle had never been enacted.

(2) FAILURE TO ELECT.—Failure to make a timely election under this subsection shall be treated in the same way as an election under paragraph (1)(A), made on the last day allowable under paragraph (3).

(3) TIME LIMITATION.—An election under this subsection shall not be effective unless the election is made not later than the earlier of—
(A) 120 days after the date on which the notice under subsection (e) is provided; or

(B) the date on which the incumbent involved separates from service.

(e) **LIMITED RETROACTIVE EFFECT.**

(1) **EFFECT ON RETIREMENT.**—In the case of an incumbent who elects (or is deemed to have elected) the option under subsection (d)(1)(A), all service performed by that individual as a Federal prosecutor or as an employee defined under section 8401(17) (F) or (G) of title 5, United States Code, as added by this subtitle, shall—

(A) to the extent performed on or after the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as amended by this subtitle; and

(B) to the extent performed before the effective date of that election, be treated in accordance with applicable provisions of subchapter III of chapter 83 or chapter 84 of such title, as if the amendments made by this subtitle had then been in effect.

(2) **NO OTHER RETROACTIVE EFFECT.**—Nothing in this subtitle (including the amendments made
by this subtitle) shall affect any of the terms or condi-
tions of an individual’s employment (apart from
those governed by subchapter III of chapter 83 or
chapter 84 of title 5, United States Code) with re-
spect to any period of service preceding the date on
which such individual’s election under subsection (d)
is made (or is deemed to have been made).

(f) Individual Contributions for Prior Service.—

(1) In general.—An individual who makes an
election under subsection (d)(1)(A) may, with re-
spect to prior service performed by such individual,
contribute to the Civil Service Retirement and Dis-
ability Fund the difference between the individual
contributions that were actually made for such serv-
vice and the individual contributions that should have
been made for such service if the amendments made
by section 612 had then been in effect.

(2) Effect of not contributing.—If no
part of or less than the full amount required under
paragraph (1) is paid, all prior service of the incum-
bent shall remain fully creditable as law enforcement
officer service, but the resulting annuity shall be re-
duced in a manner similar to that described in sec-
tion 8334(d)(2) of title 5, United States Code, to the extent necessary to make up the amount unpaid.

(3) PRIOR SERVICE DEFINED.—For purposes of this section, the term “prior service” means, with respect to any individual who makes an election under subsection (d)(1)(A), service performed by such individual before the date as of which appropriate retirement deductions begin to be made in accordance with such election.

(g) GOVERNMENT CONTRIBUTIONS FOR PRIOR SERVICE.—

(1) IN GENERAL.—If an incumbent makes an election under subsection (d)(1)(A), the agency in or under which that individual was serving at the time of any prior service (referred to in subsection (f)) shall remit to the Office of Personnel Management, for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund, the amount required under paragraph (2) with respect to such service.

(2) AMOUNT REQUIRED.—The amount an agency is required to remit is, with respect to any prior service, the total amount of additional Government contributions to the Civil Service Retirement and Disability Fund (over and above those actually paid)
that would have been required if the amendments
made by section 612 had then been in effect.

(3) Contributions to be made ratably.—
Government contributions under this subsection on
behalf of an incumbent shall be made by the agency
ratably (on at least an annual basis) over the 10-
year period beginning on the date referred to in sub-
section (f)(3).

(h) Regulations.—Except as provided under sec-
tion 614, the Office of Personnel Management shall pre-
scribe regulations necessary to carry out this subtitle, in-
cluding provisions under which any interest due on the
amount described under subsections (f) and (g) shall be
determined.

(i) Effective Date.—This section shall take effect
120 days after the date of enactment of this subtitle.

SEC. 614. DEPARTMENT OF JUSTICE ADMINISTRATIVE AC-
TIONS.

(a) Definition.—In this section the term “Federal
prosecutor” has the meaning given under section
613(a)(1).

(b) Regulations.—

(1) In general.—Not later than 120 days
after the date of enactment of this subtitle, the At-
torney General of the United States shall—
(A) consult with the Office of Personnel Management on this Act (including the amendments made by this subtitle); and

(B) promulgate regulations for making designations of Federal prosecutors who are not assistant United States attorneys.

(2) CONTENTS.—Any regulations promulgated under paragraph (1) shall ensure that attorneys designated as Federal prosecutors who are not assistant United States attorneys have routine employee responsibilities that are substantially similar to those of assistant United States attorneys assigned to the litigation of criminal cases, such as the representation of the United States before grand juries and in trials, appeals, and related court proceedings.

(e) DESIGNATIONS.—The designation of any Federal prosecutor who is not an assistant United States attorney for purposes of this subtitle (including the amendments made by this subtitle) shall be at the discretion of the Attorney General of the United States.
Subtitle C—Amendments to the Victims of Crime Act of 1984

SEC. 621. CRIME VICTIMS FUND.

(a) Deposit of Gifts in the Fund.—Section 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(b)) is amended—

(1) in paragraph (3), by striking “and” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(5) any gifts, bequests, or donations to the Fund from private entities or individuals.”.

(b) Formula for Fund Distributions.—Section 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

“(c) Fund Distribution; Retention of Sums in Fund; Availability for Expenditure Without Fiscal Year Limitation.—

“(1) Subject to the availability of money in the Fund, in each fiscal year the Director shall distribute not less than 90 percent nor more than 110 percent of the amount distributed from the Fund in the previous fiscal year, except the Director may distribute up to 120 percent of the amount distributed
in the previous fiscal year in any fiscal year that the total amount available in the Fund is more than 2 times the amount distributed in the previous fiscal year.

“(2) In each fiscal year, the Director shall distribute amounts from the Fund in accordance with subsection (d). All sums not distributed during a fiscal year shall remain in reserve in the Fund to be distributed during a subsequent fiscal year. Notwithstanding any other provision of law, all sums deposited in the Fund that are not distributed shall remain in reserve in the Fund for obligation in future fiscal years, without fiscal year limitation.”.

(c) FUNDING FOR VICTIM ASSISTANCE PERSONNEL.—

(1) REPEAL.—Section 1402(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(3)) is repealed.

(2) ADDITIONAL PERSONNEL.—

(A) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to enable the Attorney General, through the Director of the Office for Victims of Crime, to retain 400 full-time or full-time-equivalent employees to serve as victim witness
coordinators and victim witness advocates in Federal law enforcement agencies.

(B) DUTIES.—Employees retained pursuant to this paragraph shall provide assistance to victims of criminal offenses investigated or prosecuted by a Federal law enforcement agency and otherwise improve services for the benefit of crime victims in the Federal system.

(C) ASSIGNMENT.—Full-time and full-time-equivalent employees retained pursuant to this paragraph shall be assigned by the Director of the Office for Victims of Crime, as needed, in Federal law enforcement agencies, including—

(i) 170 to the United States Attorneys Offices; and

(ii) 120 to the Federal Bureau of Investigation in field offices in Indian country (as defined in section 1151 of title 18, United States Code) and other field offices that handle investigations involving large numbers of victims, and in the Headquarters Divisions.
(d) Allocation of Funds for Costs and Grants.—Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended—

(1) by striking “deposited in” and inserting “to be distributed from”;

(2) in subparagraph (A), by striking “48.5” and inserting “47.5”;

(3) in subparagraph (B), by striking “48.5” and inserting “47.5”; and

(4) in subparagraph (C), by striking “3” and inserting “5”.

(e) Antiterrorism Emergency Reserve.—Section 1402(d)(5)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(5)(A)) is amended by striking “If the sums available” and inserting “Notwithstanding any other provision of law, if the sums available”.

(f) Victims of September 11 Attacks.—Section 1402(d) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)) is amended by adding at the end the following:

“(6) Notwithstanding any other provision of law, the Director may use up to 50 percent of the amounts remaining in the Fund after distribution of fiscal year 2002 funds to make supplemental grants under section 1404B (42 U.S.C. 10603b) for the benefit of the victims of the terrorist attacks of Sep-
tember 11, 2001. In addition, the Director may re-
plish the emergency reserve referred to in para-
graph (5) by setting aside up to $50,000,000 of the
amounts remaining in the Fund in fiscal year
2002.”.

SEC. 622. CRIME VICTIM COMPENSATION.

(a) ALLOCATION OF FUNDS FOR COMPENSATION
AND ASSISTANCE.—Section 1403(a) of the Victims of
Crime Act of 1984 (42 U.S.C. 10602(a)) is amended—
(1) in each of paragraphs (1) and (2), by strik-
ing “40” and inserting “60”; and
(2) in paragraph (3), by striking “5” and in-
serting “10”.

(b) LOCATION OF COMPENSABLE CRIME.—Section
1403(b)(6)(B) of the Victims of Crime Act of 1984 (42
U.S.C. 10602(b)(6)(B)) is amended by striking “are out-
side the United States (if the compensable crime is ter-
rorism, as defined in section 2331 of title 18), or”.

(c) RELATIONSHIP OF CRIME VICTIM COMPENSA-
TION TO MEANS-TESTED FEDERAL BENEFIT PRO-
GRAMS.—Section 1403 of the Victims of Crime Act of
1984 (42 U.S.C. 10602) is amended by striking subsection
(c) and inserting the following:
“(c) EXCLUSION FROM INCOME, RESOURCES, AND
ASSETS FOR PURPOSES OF MEANS TESTS.—Notwith-
standing any other law, for the purpose of any maximum
allowed income, resource, or asset eligibility requirement
in any Federal, State, or local government program using
Federal funds that provides medical or other assistance
(or payment or reimbursement of the cost of such assist-
ance), any amount of crime victim compensation that the
applicant receives through a crime victim compensation
program under this section shall not be included in the
income, resources, or assets of the applicant, nor shall that
amount reduce the amount of the assistance available to
the applicant from Federal, State, or local government
programs using Federal funds, unless the total amount of
assistance that the applicant receives from all such pro-
grams is sufficient to fully compensate the applicant for
losses suffered as a result of the crime.”.

(d) DEFINITIONS OF “COMPENSABLE CRIME” AND
“STATE”.—Section 1403(d) of the Victims of Crime Act
of 1984 (42 U.S.C. 10602(d)) is amended—

(1) in paragraph (3), by striking “crimes in-
volving terrorism,”; and

(2) in paragraph (4), by inserting “the United
States Virgin Islands,” after “the Commonwealth of
Puerto Rico,”.
SEC. 623. CRIME VICTIM ASSISTANCE.

(a) Assistance for Victims in the District of Columbia, Puerto Rico, and Other Territories and Possessions.—Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

“(6) An agency of the Federal Government performing local law enforcement functions in and on behalf of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any other territory or possession of the United States may qualify as an eligible crime victim assistance program for the purpose of grants under this subsection, or for the purpose of grants under subsection (c)(1).”.

(b) Prohibition on Discrimination Against Certain Victims.—Section 1404(b)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended—

(1) in subparagraph (D), by striking “and” at the end;

(2) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(F) does not discriminate against victims because they oppose the death penalty or dis-
agree with the way the State is prosecuting the
criminal case.”.

(c) Administrative Costs for Crime Victim As-
sistance.—Section 1404(b)(3) of the Victims of Crime
Act of 1984 (42 U.S.C. 10603(b)(3)) is amended by strik-
ing “5” and inserting “10”.

(d) Grants for Program Evaluation and Com-
pliance Efforts.—Section 1404(c)(1)(A) of the Vic-
is amended by inserting “, program evaluation, compliance
efforts,” after “demonstration projects”.

(e) Allocation of Discretionary Grants.—Sec-
tion 1404(c)(2) of the Victims of Crime Act of 1984 (42
U.S.C. 10603(c)(2)) is amended—

(1) in subparagraph (A), by striking “not more
than” and inserting “not less than”; and

(2) in subparagraph (B), by striking “not less
than” and inserting “not more than”.

(f) Fellowships and Clinical Internships.—
Section 1404(c)(3) of the Victims of Crime Act of 1984
(42 U.S.C. 10603(c)(3)) is amended—

(1) in subparagraph (C), by striking “and” at
the end;

(2) in subparagraph (D), by striking the period
at the end and inserting “; and”; and
(3) by adding at the end the following:

“(E) use funds made available to the Director under this subsection—

“(i) for fellowships and clinical internships; and

“(ii) to carry out programs of training and special workshops for the presentation and dissemination of information resulting from demonstrations, surveys, and special projects.”.

SEC. 624. VICTIMS OF TERRORISM.

(a) COMPENSATION AND ASSISTANCE TO VICTIMS OF DOMESTIC TERRORISM.—Section 1404B(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)) is amended as follows:

“(a) VICTIMS OF TERRORISM WITHIN THE UNITED STATES.—The Director may make supplemental grants as provided in sections 1402(d)(5) and 1402(e) to States for eligible crime victim compensation and assistance programs, and to victim service organizations, public agencies (including Federal, State, or local governments) and non-governmental organizations that provide assistance to victims of crime, which shall be used to provide emergency relief, including crisis response efforts, assistance, compensation, training and technical assistance, and ongoing
assistance, including during any investigation or prosecu-

tion, to victims of terrorist acts or mass violence occurring

within the United States.”.

(b) ASSISTANCE TO VICTIMS OF INTERNATIONAL

TERRORISM.—Section 1404B(a)(1) of the Victims of

Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended

by striking “who are not persons eligible for compensation

under title VIII of the Omnibus Diplomatic Security and

Antiterrorism Act of 1986”.

(c) COMPENSATION TO VICTIMS OF INTERNATIONAL

TERRORISM.—Section 1404C(b) of the Victims of Crime

of 1984 (42 U.S.C. 10603c(b)) is amended by adding at

the end the following: “The amount of compensation

awarded to a victim under this subsection shall be reduced

by any amount that the victim received in connection with

the same act of international terrorism under title VIII

of the Omnibus Diplomatic Security and Antiterrorism

Act of 1986.”.
TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

Subtitle A—Information Sharing Among Law Enforcement Agencies

SEC. 711. EXPANSION OF REGIONAL INFORMATION SHARING SYSTEM TO FACILITATE FEDERAL-STATE-LOCAL LAW ENFORCEMENT RESPONSE RELATED TO TERRORIST ATTACKS.

Section 1301 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h) is amended as follows:

(1) in subsection (a), after “activities” insert “and terrorist conspiracies and activities”;

(2) in subsection (b), strike the “and (4)” at the end of paragraph (3) and insert: “(4) establishing and operating secure information sharing systems to enhance the investigation and prosecution abilities of participating enforcement agencies in addressing multi-jurisdictional terrorist conspiracies and activities; and (5)”;

(3) after subsection (c), insert the following the subsection:
“(d) Authorization of Appropriation to the Bureau of Justice Assistance.—There are authorized to be appropriated to the Bureau of Justice Assistance to carry out this section $50,000,000 for fiscal year 2002 and $100,000,000 for fiscal year 2003.”.

SEC. 712. SHARING OF GRAND JURY INFORMATION WITH MEMBERS OF THE INTELLIGENCE COMMUNITY.

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

(1) in clause (iii), by striking “or” at the end;

(2) in clause (iv), by striking the period at the end and inserting “; or”; and

(3) by inserting at the end the following:

“(v) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may be relevant to the investigation of international terrorism or a Federal crime of terrorism, as defined in sections 2331(1) and 2332b(g)(5) of this title, to the national security or foreign intelligence, to an appropriate official of the intelligence community as defined under section 3(4) of...
the National Security Act of 1947 (50 U.S.C. 401(a)(4)).”.

Subtitle B—Critical Infrastructure Information Security Act of 2001

SEC. 721. SHORT TITLE; FINDINGS AND PURPOSE.

(a) SHORT TITLE.—This subtitle may be cited as the “Critical Infrastructure Information Security Act of 2001”.

(b) FINDINGS.—Congress makes the following findings:

(1) Critical infrastructures underpin our society, national defense, economic prosperity, and quality of life—including energy, banking, and finance, transportation, vital human services, and telecommunications.

(2) The rapid proliferation and integration of telecommunications and computer systems have connected infrastructures to one another in a complex global network of interconnectivity and interdependence. As a result, new vulnerabilities to such systems and infrastructures have emerged, such as the threat of physical and cyber attacks from terrorists or hostile states. These attacks could disrupt the economy and endanger the security of the United States.
(3) The private sector, which owns and operates the majority of these critical infrastructures, and the Federal Government could both greatly benefit from cooperating in response to threats, vulnerabilities, and actual attacks to critical infrastructures by sharing information and analysis.

(c) PURPOSE.—The purpose of this subtitle is to foster improved security of critical infrastructure by—

(1) promoting the increased sharing of critical infrastructure security and protection information both between private sector entities and between the Federal Government and the private sector; and

(2) encouraging the private sector and the Federal Government to conduct better analysis of critical infrastructure information in order to prevent, detect, warn of, and respond to incidents involving critical infrastructure.

SEC. 722. DEFINITIONS.

In this subtitle:

(1) CRITICAL INFRASTRUCTURE.—The term “critical infrastructure” means facilities or services so vital to the Nation or its economy that their disruption, incapacity, or destruction would have a debilitating impact on the defense, security, long-term
economic prosperity, or public health or safety of the United States.

(2) Cyber security information.—

(A) In general.—The term “cyber security information” means information that—

(i) concerns—

(I) the vulnerability of any computer system, hardware, or software program to intentional interference, compromise, or incapacitation by unauthorized access through the Internet or any public or private telecommunications system or by other similar conduct that violates Federal or State law; or

(II) any immediate threat involving the interference with, or the compromise or incapacitation of, a computer system, hardware, or software program;

(ii) if publicly disclosed could be used to interfere with or disrupt the operations of, or efforts to protect, a critical infrastructure in a way that will harm interstate or foreign commerce of the United
States, or threaten national security, public health, or safety;

(iii) is not otherwise available to the public; and

(iv) is marked as cyber security information and accompanied by a statement showing that the information, if publicly disclosed, could be used to interfere with or disrupt the operations of, or frustrate efforts to protect, a critical infrastructure in a way that will harm interstate or foreign commerce of the United States, or threaten national security or public health or safety.

(B) NOT INCLUDED.—For the purposes of any action brought under the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), the term “cyber security information” does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(i)), or disclosures
or writing that when made accompanied the solicitation of an offer or sale of securities.

SEC. 723. PROTECTION FOR CYBER SECURITY INFORMATION.

(a) IN GENERAL.—Except with the express consent or permission of the provider of cyber security information, or as provided in subsection (c) or (d), any cyber security information that has been voluntarily submitted to a Federal or State entity, agency or authority under agreement of confidentiality shall be exempt from disclosure under section 552(b)(4) of title 5, United States Code (commonly known as the “Freedom of Information Act” or “FOIA”) until such time as the maker of the computer system, hardware, or software program to which the information pertains indicates to the government, to a private sector information sharing organization, or to the public that measures are available to correct the vulnerability or to avoid the threat or until such time as the threat has passed.

(b) CONSULTATION WITH SUBMITTER PRIOR TO RELEASE.—Whenever an agency receives a FOIA request for cyber security information, the agency shall consult with the submitter of the information to determine whether measures are available to correct the vulnerability or to avoid the threat or whether the threat is still immediate.
(c) EXCEPTION.—Nothing in this section shall preclude a Federal agency or any third party from separately obtaining cyber security information through the use of independent legal authorities, and using or disclosing such separately obtained information.

(d) THIRD PARTY INFORMATION.—A Federal entity, agency, or authority receiving cyber security information from one private entity about another private entity’s cyber security shall notify and convey that information to the latter upon its initial receipt.

(e) DEFINITION.—In this section, the term “private sector information sharing organization” means any organization composed primarily of private sector individuals and entities whose purpose includes the sharing of information about critical infrastructure protection and computer security.

SEC. 724. CYBER SECURITY WORKING GROUPS.

(a) IN GENERAL.—

(1) WORKING GROUPS.—The President may establish and terminate working groups composed of Federal employees who will engage outside organizations in discussions to address cyber security, to share information related to cyber security, and otherwise to serve the purposes of this subtitle.
(2) **List of Groups.**—The President shall maintain and make available to the public a printed and electronic list of such working groups and a point of contact for each, together with an address, telephone number, and electronic mail address for such point of contact.

(3) **Balance.**—The President shall seek to achieve a balance of participation and representation among the working groups.

(4) **Meetings.**—Each meeting of a working group created under this section to which persons from outside the Federal Government are invited shall be announced in advance by notice in the Federal Register.

(b) **Federal Advisory Committee Act.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to any working group established under this section so long as the working group includes balanced participation of persons or entities representing the individual citizens who use, or whose interests are affected by, the critical infrastructure to which the group’s work pertains and so long as the working group does not give consensus advice or recommendations to an agency.
TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM AND ENHANCING REGULATION OF BIOLOGICAL AND CHEMICAL WEAPONS

SEC. 801. INCLUSION OF ACTS OF TERRORISM AS RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended by inserting “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), section 2332d (relating to financial transactions with countries supporting international terrorism), section 2339A (relating to providing material support for terrorists), section 2339B (relating to providing material support to designated foreign terrorist organizations),” after “section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),”.


SEC. 802. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST MASS TRANSPORTATION SYSTEMS.

Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section: "$1993. Terrorist attacks and other acts of violence against mass transportation systems

“(a) General Prohibitions.—Whoever willfully—

“(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or ferry;

“(2) places or causes to be placed any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near a mass transportation vehicle or ferry, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

“(3) sets fire to, or places any biological agent or toxin for use as a weapon, destructive substance, or destructive device in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle or ferry, without previously obtaining the permission of the mass trans-
portation provider, and knowing or having reason to
know such activity would likely derail, disable, or
wreck a mass transportation vehicle or ferry used,
operated, or employed by the mass transportation
provider;

“(4) removes appurtenances from, damages, or
otherwise impairs the operation of a mass transpor-
tation signal system, including a train control sys-
tem, centralized dispatching system, or rail grade
crossing warning signal;

“(5) interferes with, disables, or incapacitates
any dispatcher, driver, captain, or person while they
are employed in dispatching, operating, or maintain-
ing a mass transportation vehicle or ferry, with in-
tent to endanger the safety of any passenger or em-
ployee of the mass transportation provider, or with
a reckless disregard for the safety of human life;

“(6) commits an act, including the use of a
dangerous weapon, with the intent to cause death or
serious bodily injury to an employee or passenger of
a mass transportation provider or any other person
while any of the foregoing are on the property of a
mass transportation provider;

“(7) conveys or causes to be conveyed false in-
formation, knowing the information to be false, con-
cerning an attempt or alleged attempt being made or
to be made, to do any act which would be a crime
prohibited by this subsection; or

“(8) attempts, threatens, or conspires to do any
of the aforesaid acts,

shall be fined under this title or imprisoned not more than
twenty years, or both, if such act is committed, or in the
case of a threat or conspiracy such act would be com-
mited, on, against, or affecting a mass transportation
provider engaged in or affecting interstate or foreign com-
merce, or if in the course of committing such act, that
person travels or communicates across a State line in
order to commit such act, or transports materials across
a State line in aid of the commission of such act. Whoever
violates this subsection under the following circumstances
shall be guilty of an aggravated form of the offense: if
the mass transportation vehicle or ferry was carrying a
passenger at the time of the offense or if the offense has
resulted in the death of any person, then whoever com-
mited that offense shall be fined under this title or im-
prisoned for a term of years or for life, or both.

“(b) Prohibition Against Propelling Ob-
jects.—Whoever willfully or recklessly throws, shoots, or
propels a rock, stone, brick, or piece of iron, steel, or other
metal or any deadly or dangerous object, or biological
agent or toxin for use as a weapon, or destructive sub-
stance, or destructive device at any mass transportation
vehicle or ferry, knowing or having reason to know such
activity would likely cause personal injury, shall be fined
under this title or imprisoned for not more than five years,
or both, if such act is committed on or against a mass
transportation provider engaged in or affecting interstate
or foreign commerce, or if in the course of committing
such acts, that person travels or communicates across a
State line in order to commit such acts, or transports ma-
terials across a State line in aid of the commission of such
acts. Whoever is convicted of any crime prohibited by this
subsection shall also be subject to imprisonment for not
more than twenty years if the offense has resulted in the
death of any person.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘biological agent’ has the meaning
given to that term in section 178(1) of this title;

“(2) the term ‘dangerous weapon’ has the
meaning given to that term in section 930 of this
title;

“(3) the term ‘destructive device’ has the mean-
ing given to that term in section 921(a)(4) of this
title;
“(4) the term ‘destructive substance’ has the meaning given to that term in section 31 of this title, except that—

“(A) the term ‘radioactive device’ does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes; and

“(B) ‘destructive substance’ includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

“(5) the term ‘for use as a weapon’ has the meaning given to that term in section 175 of this title;

“(6) the term ‘mass transportation’ has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

“(7) the term ‘serious bodily injury’ has the meaning given to that term in section 1365 of this title;

“(8) the term ‘State’ has the meaning given to that term in section 2266 of this title; and
“(9) the term ‘toxin’ has the meaning given to
that term in section 178(2) of this title.”.

(f) CONFORMING AMENDMENT.—The analysis of
chapter 97 of title 18, United States Code, is amended
by adding at the end:

“1993. Terrorist attacks and other acts of violence against mass transportation
systems.”.

SEC. 803. EXPANSION OF THE BIOLOGICAL WEAPONS STAT-
UTE.

(a) SHORT TITLE.—This section may be cited as the
“Biological Weapon Removal Act of 2001”.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) certain biological agents and toxins
have the potential to pose a severe threat to the
Nation’s public health and safety, and thereby
affect interstate and foreign commerce;

(B) the Secretary of Health and Human
Services has published a list of biological agents
and toxins that pose a severe threat to the Na-
tion’s public health and safety as an appendix
to part 72 of title 42, Code of Federal Regula-
tions;

(C) biological agents and toxins can be
used as weapons by individuals or organizations
for the purpose of domestic or international terrorism or for other criminal purposes;

(D) terrorists and other criminals can also harm national security, drain the limited resources of all levels of government devoted to thwarting biological weapons, and damage interstate and foreign commerce by threatening to use, and by falsely reporting efforts to use, biological agents and toxins as weapons;

(E) the Biological Weapons Convention obligates the United States to take necessary measures within the United States to prohibit and prevent the development, production, stockpiling, acquisition, or retention of biological agents and toxins of types and in quantities that have no justification for prophylactic, protective, or other peaceful purposes;

(F) the mere possession of biological agents and toxins is a potential danger that affects the obligations of the United States under the Biological Weapons Convention and affects interstate and foreign commerce; and

(G) persons in possession of harmful biological agents and toxins should handle them in a safe manner and, in the case of agents and
toxins listed by the Department of Health and Human Services as posing a severe threat to the Nation’s public health and safety, report their possession and the purpose for their possession to the appropriate Federal agency in order to ensure that such possession is for peaceful scientific research or development.

(2) **PURPOSES.**—The purposes of this section are to—

(A) strengthen the implementation by the United States of the Biological Weapons Convention and to ensure that biological agents and toxins are possessed for only prophylactic, protective, or other peaceful purposes;

(B) establish penalties for the false reporting of violations of chapter 10 of title 18, United States Code (relating to biological weapons); and

(C) improve the statutory definitions relating to biological weapons.

(c) **ADDITIONAL MEASURES.**—

(1) **IN GENERAL.**—Section 175 of title 18, United States Code, is amended by adding at the end the following:

“(c) **FALSE INFORMATION.**—
“(1) Criminal violation.—Whoever communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, concerning the existence of activity that would constitute a violation of subsection (a) shall be fined under this title, imprisoned not more than 5 years, or both.

“(2) Civil penalty.—Whoever communicates information, knowing the information to be false, concerning the existence of activity that would constitute a violation of subsection (a) is liable to the United States or any State for a civil penalty of the greater of $10,000 or the amount of money expended by the United States or the State in responding to the false information.

“(d) Reporting, Transfer, and Possession of Select Agents.—

“(1) Obligation to report.—Any person who possesses a select agent shall report such possession to the designated agency, in the manner prescribed by the designated agency, within 72 hours of the effective date of the regulation issued by that agency pursuant to this paragraph or within 72 hours of subsequently obtaining possession of the agent or toxin, except that, if such person is a reg-
istered entity, the reporting, if any, shall be in the manner as otherwise directed by regulation by the designated agency. If a person complies with this paragraph, there is no obligation for any employee of such person to file a separate report concerning the employee’s possession of a select agent in the workplace of such person.

“(2) Criminal penalty for willful failure to report.—Any person who willfully fails to make the report required by paragraph (1) within the prescribed period shall be fined under this title, imprisoned not more than 3 years, or both. In this paragraph, the term ‘willfully’ means an intentional violation of a known duty to report.

“(3) Civil penalty for failure to report.—Any person who fails to make the report required by paragraph (1) within the prescribed period is liable to the United States for a civil penalty of $5,000.

“(4) Penalty for possession of unreported select agents.—Any person who knowingly possesses a biological agent or toxin that is a select agent for which a report required by paragraph (1) has not been made shall be fined under this title, imprisoned not more than 1 year, or both.
“(5) Unauthorized transfer of select agents.—Whoever knowingly transfers a select agent to any person who is not a registered entity shall be fined under this title, imprisoned not more than 5 years, or both. For purposes of this paragraph, the term ‘transfers’ does not encompass the transfer of a select agent within the workplace between employees of the same registered entity, or between employees of any person who has filed the report required by paragraph (1), if the transfer is authorized by such entity or person.

“(6) Possession of select agents by restricted individuals.—

“(A) Prohibition on possession.—Except as otherwise provided in this section or in section 2(b)(3)(G) of the Dangerous Biological Agent and Toxin Control Act of 2000, no restricted individual shall knowingly possess or attempt to possess any biological agent or toxin if that biological agent or toxin is a select agent.

“(B) Penalty.—Whoever knowingly and intentionally violates subparagraph (A) shall be fined under this title, imprisoned not more than 5 years, or both.
“(C) Employers of individuals who possess select agents.—Employers of individuals who will possess select agents in the course of their employment shall require such individuals, prior to being given access to select agents, to complete a form in which the individual affirms or denies the existence of each of the restrictions set forth in section 178(8) of this title. In the case of individuals already employed as of the date of enactment of this subsection who possess select agents in the course of their employment, employers shall, not later than 90 days after the date of enactment of this subsection, require those individuals to complete such a form. Such form shall be retained by the employer for not less than 5 years after the individual terminates his employment with that employer.

“(D) Employees.—

“(i) Penalties.—Whoever willfully and knowingly falsifies or conceals a material fact or makes any materially false, fictitious, or fraudulent statement or representation in completing the form required under subparagraph (C) shall be
fined under this title, imprisoned not more than 5 years, or both.

“(ii) LIMIT RELATING TO CERTAIN INDICTMENTS AND CONVICTIONS.—The prohibition of subparagraph (A) does not apply to possession by a restricted individual of a select agent in the workplace of his employer if the basis for the prohibition relates solely to subparagraph (A) or (B)(i) of section 178(8) of this title and a determination is made to waive the prohibition in accordance with the rules and procedures established pursuant to subsection (e).

“(iii) LIMIT RELATING TO OTHER PENALTIES.—The prohibition of subparagraph (A) does not apply to possession by a restricted individual of a select agent in the workplace of his employer if the basis for the prohibition relates solely to subparagraph (B)(ii) or (G) of section 178(8) of this title and is more than 5 years old (not counting time served while in custody), and a determination is made to waive the prohibition in accordance with
the rules and procedures established pursuant to subsection (e).

“(iv) Definition.—For purposes of this subparagraph, the term ‘employer’ means any person who is a registered entity or has filed the report required by paragraph (1) and employs a restricted individual.

“(E) Certain nonpermanent resident aliens.—The prohibition of subparagraph (A) does not apply to possession by a restricted individual of a select agent if the basis for the prohibition relates solely to subparagraph (F) of section 178(8) of this title, and the restricted individual has received a waiver from the agency designated to carry out the functions of this subparagraph. The designated agency may issue a waiver if it determines, in consultation with the Attorney General, that a waiver is in the public interest.

“(e) Waivers of restrictions on possession of select agents in course of employment.—The agency designated to carry out this subsection, after consultation with appropriate agencies, with representatives of the scientific and medical community, and with other
appropriate public and private entities and organizations
(including consultation concerning employment practices
in working with select agents), shall establish the rules
and procedures governing waivers of the provisions of sub-
section (d)(6)(A) with respect to possession of select
agents by restricted individuals in the course of employ-
ment. Such rules and procedures shall address, among
other matters as found appropriate by the designated
agency, whether (or the circumstances under or the extent
to which) the determination to grant a waiver shall be re-
served to the Government, or may be made by the em-
ployer (either with or without consultation with the Gov-
ernment).

“(f) Reimbursement of Costs.—

“(1) Convicted Defendant.—

“(A) Subsection (A) or (D).—The court
shall order any person convicted of an offense
under subsection (a) or (d) to reimburse the
United States or any State for any expenses in-
curred by the United States or the State inci-
dent to the seizure, storage, handling, transport-
ation, and destruction or other disposal of any
property that was seized in connection with an
investigation of the commission of such offense
by that person.
“(B) Subsection (c)(1).—The court shall order any person convicted of an offense under subsection (c)(1) to reimburse the United States for any expenses incurred by the United States incident to the investigation of the commission by that person of such offense, including the cost of any response made by any Federal military or civilian agency to protect public health or safety.

“(2) Owner liability.—The owner or possessor of any property seized and forfeited under this chapter shall be liable to the United States for any expenses incurred incident to the seizure and forfeiture, including any expenses relating to the handling, storage, transportation, and destruction or other disposition of the seized and forfeited property.

“(3) Jointly and severally liable.—A person ordered to reimburse the United States for expenses under this chapter shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.”.

(2) Technical clarifications.—
(A) **SECTION 175.**—Section 175(a) of title 18, United States Code, is amended by striking “section” and inserting “subsection”.

(B) **SECTION 176.**—Section 176(a)(1)(A) of title 18, United States Code, is amended by striking “exists by reason of” and inserting “pertains to”.

(3) **DESIGNATION OF RESPONSIBLE AGENCIES.**—

(A) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the President shall designate—

(i) the agency responsible for prescribing the regulation required by section 175(d)(1) of title 18, United States Code, as added by this Act;

(ii) the agency responsible for granting the waivers under section 175(d)(6)(E) of title 18, United States Code, as added by this Act; and

(iii) the agency responsible for implementing the waiver provisions of section 175(e) of title 18, United States Code, as added by this Act.
(B) REGULATIONS.—The agencies designated pursuant to subparagraph (A)—

(i) shall issue proposed rules not later than 90 days after the date of the President’s designation; and

(ii) shall issue final rules not later than 270 days after the date of enactment of this Act.

(C) INSPECTIONS.—The agency designated pursuant to subparagraph (A)(i) may inspect the facilities of any person who files a report required by section 175(d)(1) of title 18, United States Code, to determine whether the person is handling the select agent in a safe manner, whether he is holding such agent for a prophylactic, protective, or other peaceful purpose, and whether the type and quantity being held are reasonable for that purpose. Any agency designated pursuant to subparagraph (A) may inspect any form required by section 175(d)(6)(C) of title 18, United States Code, and any documentation relating to a determination made pursuant to section 175(d)(6)(D) of that title. The designated agency shall endeavor
to not interfere with the normal business operations of any such facility.

(D) Freedom of Information Act Exemption.—Any information provided to the Secretary of Health and Human Services pursuant to regulations issued under section 511(f) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 C.F.R. 72.6) or to the designated agency under section 175(d)(1) of title 18, United States Code, shall not be disclosed under section 552 of title 5, United States Code. The Secretary or the designated agency may use and disclose such information to protect the public health, and shall also disclose any such relevant information to the Attorney General for use in any investigation or other proceeding to enforce any law relating to select agents or any other law. Any such information shall be made available to any committee or subcommittee of Congress with appropriate jurisdiction upon the written request of the Chairman or Ranking Member of such committee or subcommittee, except that no such committee or subcommittee, and no member and no staff member of such committee or sub-
committee, shall disclose such information ex-
cept as otherwise required or authorized by law.

(E) **Clarification of the Scope of**
the Select Agent Rule.—Section 511 of the
Antiterrorism and Effective Death Penalty Act
of 1996 (Public Law 104–132; 110 Stat. 1284)
is amended—

(i) in each of subsections (a), (d), and

(e)—

(I) by inserting “and toxins”
after “agents” each place it appears;
and

(II) by inserting “or toxin” after
“agent” each place it appears; and

(ii) in subsection (g)(1), by striking
“the term ‘biological agent’ has” and in-
serting “the terms ‘biological agent’ and
‘toxin’ have”.

(F) **Effective Dates.**—

(i) Subparagraph (D) shall take effect
on the effective date for the final rule
issued pursuant to section 511(d)(1) of the
Antiterrorism and Effective Death Penalty
Act of 1996 (Public Law 104–132; 110
Stat. 1284).
(ii) The amendments made by subparagraph (E) shall take effect as if included in the enactment of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132; 110 Stat. 1284).

(G) TRANSITIONAL EXEMPTIONS.—

(i) The prohibition created by section 175(d)(6)(A) of title 18, United States Code, shall not apply to the possession of a select agent in the workplace of an employer (as defined in section 175(d)(6)(D)(iv) of title 18, United States Code) by a restricted individual (as defined in subparagraph (A), (B), or (G) of section 178(8) of title 18, United States Code), until the effective date of the regulations issued to implement section 175(e) of title 18, United States Code, or 270 days after the date of enactment of this Act, whichever occurs earlier.

(ii) The prohibition created by section 175(d)(6)(A) of title 18, United States Code, shall not apply to the possession of a select agent by a restricted individual (as
defined in section 178(8)(F) of title 18, United States Code), until the effective date of the regulations issued to implement section 175(d)(6)(E) of title 18, United States Code, or 270 days after the enactment of this Act, whichever occurs earlier.

(d) DEFINITIONAL AMENDMENTS.—

(1) SECTION 178.—Section 178 of title 18, United States Code, is amended—

(A) in paragraph (1), by striking “means any microorganism, virus, or infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product” and inserting the following: “means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance”;

(B) in paragraph (2), by striking “means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances,
or a recombinant molecule, whatever its origin
or method of production, including’’ and insert-
ing the following: ‘‘means the toxic material or
product of plants, animals, microorganisms (in-
cluding, but not limited to, bacteria, viruses,
fungi, rickettsiae, or protozoa), or infectious
substances, or a recombinant or synthesized
molecule, whatever their origin and method of
production, and includes’’;

(C) in paragraph (4)—

(i) by striking ‘‘recombinant molecule,
or biological product that may be engi-
eered as a result of biotechnology’’ and
inserting ‘‘recombinant or synthesized mol-
ecule’’; and

(ii) by striking ‘‘and’’ at the end;

(D) in paragraph (5), by striking the pe-
riod at the end and inserting a semicolon; and

(E) by adding at the end the following:

“(6) the term ‘select agent’ means a biological
agent or toxin that is on the list established by the
Secretary of Health and Human Services pursuant
to section 511(d)(1) of the Antiterrorism and Effec-
tive Death Penalty Act of 1996 (Public Law 104–
132; 110 Stat. 1284) that is not exempted under
part 72.6(h) of title 42, Code of Federal Regulations or appendix A to such part (or any successor to either such provision), except that the term 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;

“(7) the term ‘registered entity’ means a registered facility, or a certified laboratory exempted from registration, pursuant to the regulations promulgated by the Secretary of Health and Human Services under section 511(f) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 C.F.R. 72.6(a), 72.6(h));

“(8) the term ‘restricted individual’ means an individual who—

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

“(B) has been convicted in any court of a crime—

“(i) punishable by imprisonment for a term exceeding 1 year but not more than 5 years; or
“(ii) punishable by imprisonment for a term exceeding 5 years;
“(C) is a fugitive from justice;
“(D) is an unlawful user of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
“(E) is an alien illegally or unlawfully in the United States;
“(F) 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)) (or its successor law), section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)), has made a determination, which remains in effect, that such country has repeatedly provided support for acts of international terrorism; or
“(G) has been discharged from the Armed Forces of the United States under dishonorable conditions;
“(9) the term ‘alien’ has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3));

“(10) the term ‘lawfully admitted for permanent residence’ has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

“(11) the term ‘designated agency’ means—

“(A) except as provided in subparagraphs (B) and (C) of this paragraph, the agency designated by the President under section 2(b)(3)(A)(i) of the Dangerous Biological Agent and Toxin Control Act of 2000;

“(B) for purposes of section 175(d)(6)(E) of this title, the agency designated by the President under section 2(b)(3)(A)(ii) of the Dangerous Biological Agent and Toxin Control Act of 2000; and

“(C) for purposes of section 175(e) of this title, the agency designated by the President under section 2(b)(3)(A)(iii) of the Dangerous Biological Agent and Toxin Control Act of 2000; and

“(12) the term ‘State’ includes a State of the United States, the District of Columbia, and any
commonwealth, territory, or possession of the United
States, including any political subdivision thereof.”.

(2) Section 2332a.—Section 2332a of title 18,
United States Code, is amended—

(A) in subsection (a), by striking “, including any biological agent, toxin, or vector (as those terms are defined in section 178)”; and

(B) in subsection (c)(2)(C), by striking “a disease organism” and inserting “any biological agent, toxin, or vector (as those terms are defined in section 178 of this title)”. 