

Dinh, Viet

From: Dinh, Viet
Sent: Tuesday, March 26, 2002 12:52 PM
To: Willett, Don; Koebele, Steve; 'Heather_Wingate@who.eop.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; 'mschlapp@who.eop.gov'
Subject: RE: Enron/Owen Options

Heather and Matt: Thoughts? Feinstein told Huteson that she has a problem with Owen not returning Enron contributions, an (b) (5)

-----Original Message-----

From: Willett, Don
Sent: Tuesday, March 26, 2002 10:56 AM
To: Koebele, Steve; Dinh, Viet
Subject: RE: Enron/Owen Options

(b) (5)

-----Original Message-----

From: Koebele, Steve
Sent: Tuesday, March 26, 2002 9:33 AM
To: Dinh, Viet
Cc: Willett, Don
Subject: Enron/Owen Options

Viet, for your discussions today, please consider the following options ...

(b) (5)

Suggestion: (b) (5)

Options:

1
2

(b) (5)

(b) (5)

3

(b) (5)

Viet, I again recommen (b) (5)

Dinh, Viet

From: Dinh, Viet
Sent: Wednesday, March 20, 2002 12:14 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: VRA Draft Views letter
Attachments: VRA views letter--final.wpd

Koebele, Steve

From: Koebele, Steve
Sent: Monday, March 18, 2002 8:39 PM
To: 'Anne_Womack@who.eop.gov'; 'brett_m._kavanaugh@who.eop.gov';
'heather_wingate@who.eop.gov'
Cc: McMahon, Lori; Goodling, Monica; Willett, Don; Dinh, Viet; O'Brien, Pat;
'Matthew_E._Smith@who.eop.gov'; 'Tim_Goeglein@who.eop.gov';
(b)(6) Jennifer Oschal Email Dinh, Viet; Newstead, Jennifer; Keefer, Wendy J
Subject: Owen Attachments
Attachments: Biography-Owen.wpd; Campaign Fin-Enron 03-01-02.wpd

All -- Attached for your use are two documents related to Justice Owen: (1) a Biography that showcases her strong background; and (2) responsive talking points on the Enron case opinion.

Heather and Pat, please distribute as appropriate to the Hill contacts.

Thank you. Steve.

PRISCILLA OWEN
Nominee to the U.S. Court of Appeals for the Fifth Circuit

President George W. Bush nominated Texas Supreme Court Justice Priscilla Owen for a seat on the U.S. Court of Appeals for the Fifth Circuit on May 9, 2001.

In connection with her nomination, the American Bar Association Standing Committee on the Federal Judiciary has *unanimously* voted Justice Owen "Well Qualified" for appointment.

She earned a B.A. *cum laude* from Baylor University and graduated *cum laude* from Baylor Law School in 1977. She was a member of the Baylor Law Review. Thereafter, she earned the highest score in the state on the Texas Bar Exam.

Priscilla Owen is currently a Justice on the Supreme Court of Texas. Prior to her election to that court in 1994, she was a partner in the Houston office of Andrews & Kurth, L.L.P. where she practiced commercial litigation for 17 years. In private practice, Owen handled a broad range of civil matters at the trial and appellate levels. She was admitted to practice before various state and federal trial courts, and also the U.S. Courts of Appeals for the Fourth, Fifth, Eighth, and Eleventh Circuits. She is a member of the American Law Institute, the American Judicature Society, the American Bar Association, and a Fellow of the American and Houston Bar Foundations.

Justice Owen has served as the liaison to the Supreme Court of Texas' Court-Annexed Mediation Task Force and to statewide committees regarding legal services to the poor and pro bono legal services. She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that has resulted in millions of dollars per year in additional funds for providers of legal services to the poor. Justice Owen also serves as a member of the board of the A.A. White Dispute Resolution Institute. Owen was instrumental in organizing a group known as Family Law 2000 that seeks to find ways to educate parents about the effect the dissolution of a marriage can have on their children and to lessen the adversarial nature of legal proceedings when a marriage is dissolved. Justice Owen has been honored as Baylor Young Lawyer of the Year and as a Baylor University Outstanding Young Alumna.

Among her community activities, Justice Owen serves on the board of Texas Hearing & Service Dogs. She is a member of St. Barnabas Episcopal Mission in Austin, Texas, where she teaches Sunday School and serves as the head of the altar guild.

In her successful re-election bid to the Supreme Court of Texas in 2000, every major newspaper in Texas endorsed Priscilla Owen.

Washington, Tracy T

From: Washington, Tracy T
Sent: Monday, March 18, 2002 10:44 AM
To: Anne_Womack@who.eop.gov; Bradford_A._Berenson@who.eop.gov; Brett_M._Kavanaugh@who.eop.gov; Brian Benczkowski; Dan Bryant; Don Willett; Heather_Wingate@who.eop.gov; Jennifer Newstead; Lizette Benedi; Lori SharpeDay; Matthew_E._Smith@who.eop.gov; Monica Goodling; Neal Suit; Pat O'Brien; Sheila Joy; Steve Koebele; Tim_Goeglein@who.eop.gov; Viet Dinh
Subject: 5:00pm Judicial Working Group Conference Call today...
Importance: High

The Judicial Confirmation Working Group will hold weekly judicial conference calls on Mondays @ 5:00 p.m. **The first conference call will be held today, Monday, March 18 @ 5:00 p.m.** Please mark your calendars with the following information.

Weekly occurrence: Mondays @ 5:00 p.m.
Dial In: (b) (6)
Passco

Thank you, Tracy

Dinh, Viet

From: Dinh, Viet
Sent: Friday, March 8, 2002 3:16 PM
To: 'Garry_Malphrus@opd.eop.gov'; 'Joel_D._Kaplan@who.eop.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; 'heather_wingate@who.eop.gov'; 'Robert_Marsh@who.eop.gov'; Clement, Paul D
Cc: 'Diana_L._Schacht@opd.eop.gov'; 'Jay_P._Lefkowitz@opd.eop.gov'; 'Lauren_J._Vestewig@opd.eop.gov'
Subject: RE: victims rights
Attachments: VRA final version 14; VRA Views letter.wpd

For this afternoon's meeting, please find enclosed the final draft of the VRA, and a views letter commenting on that draft.

-----Original Message-----

From: Garry_Malphrus@opd.eop.gov [mailto:Garry_Malphrus@opd.eop.gov]
Sent: Thursday, March 07, 2002 9:43 AM
To: Dinh, Viet; Joel_D._Kaplan@who.eop.gov;
Brett_M._Kavanaugh@who.eop.gov; heather_wingate@who.eop.gov;
Robert_Marsh@who.eop.gov
Cc: Diana_L._Schacht@opd.eop.gov; Jay_P._Lefkowitz@opd.eop.gov;
Lauren_J._Vestewig@opd.eop.gov
Subject: victims rights

We would like to have a meeting regarding the victims rights constitutional amendment Friday (March 8) with Viet Dinh in Jay Lefkowitz's office in the West Wing at 1:45 p.m. If you have any questions or have a scheduling conflict, please let me know. Thank you.

007104-002464

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States
to protect the rights of crime victims.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),
That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress, and which shall take effect on the 180th day after ratification of this article:

"ARTICLE

"SECTION 1. The rights of victims of violent crime, being capable of protection without denying the constitutional rights of those accused of victimizing them, are hereby established and shall not be denied by any State or the United States and may be restricted only as provided in this article.

"SECTION 2. A victim of violent crime shall have the right to reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused; the rights not to be excluded from such public proceeding and reasonably to be heard at public release, plea, sentencing, pardon, and commutation proceedings; and the right to decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender. These rights shall not be restricted except when and to the degree dictated by a substantial interest in public safety or the administration of criminal justice, or by compelling necessity.

"SECTION 3. Nothing in this article shall be construed to provide grounds for a new trial or to authorize any claim for damages. Only the victim or the victim's lawful representative may assert the rights established by this article, and no person accused of the crime may obtain any form of relief hereunder.

"SECTION 4. Congress shall have the power to enforce by appropriate legislation the provisions of this article, except those pertaining to federal pardon and commutation proceedings."

Dinh, Viet

From: Dinh, Viet
Sent: Friday, March 1, 2002 5:47 PM
To: Benedi, Lizette D
Cc: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: Art Schwab

I would need more information as to what he means by "submit to its investigation process." the Bar Assn can do whatever it wants, but no groups gets special treatment (except the ABA, which is working with the Senate Judiciary Committee). Get me information and peg it up for my agenda for the Wednesday conference call.

-----Original Message-----

From: Benedi, Lizette D
Sent: Friday, March 01, 2002 4:49 PM
To: Dinh, Viet
Subject: Art Schwab

I got a voicemail from Art Schwab. The Allegheny Bar Assoc. is requesting that he and our two other nominees from there submit to its investigation process so that they too can rate all three. (b) (5)
[REDACTED]
[REDACTED] He's going to call me back on Monday to discuss it further but I just wanted you to be aware of the situation. Thanks.

Lizette

007104-002466

Dinh, Viet

From: Dinh, Viet
Sent: Friday, March 1, 2002 4:36 PM
To: 'Tim_Goeglein@who.eop.gov'; 'Heather_Wingate@who.eop.gov'
Cc: Newstead, Jennifer; '(b)(6) Jennifer Oschal Email'; 'Matthew_E._Smith@who.eop.gov'; 'michael toner - legal'; 'Bradford_A._Berenson@who.eop.gov'; 'Brett_M._Kavanaugh@who.eop.gov'; 'Matthew_A._Schlapp@who.eop.gov'; 'Anne_Womack@who.eop.gov'; 'Kenneth_A._Lisaius@who.eop.gov'
Subject: RE: elizabeth dole op-ed

3 cheers!

-----Original Message-----

From: Tim_Goeglein@who.eop.gov [mailto:Tim_Goeglein@who.eop.gov]
Sent: Friday, March 01, 2002 2:08 PM
To: Heather_Wingate@who.eop.gov
Cc: Newstead, Jennifer; Dinh, Viet; '(b)(6) Jennifer Oschal Email'; Tim_Goeglein@who.eop.gov; Matthew_E._Smith@who.eop.gov; michael toner - legal; Bradford_A._Berenson@who.eop.gov; Brett_M._Kavanaugh@who.eop.gov; Matthew_A._Schlapp@who.eop.gov; Anne_Womack@who.eop.gov; Kenneth_A._Lisaius@who.eop.gov
Subject: Re: elizabeth dole op-ed

yea!

tsg

Heather Wingate
03/01/2002 12:26:04 PM

Record Type: Record

To: '(b)(6) Jennifer Oschal Email'
cc: See the distribution list at the bottom of this message bcc:
Subject: Re: elizabeth dole op-ed (Document link: Tim Goeglein)

great job!

007104-002467

(Embedded
image moved Jennifer Oschal <(b)(6) Jennifer Oschal Email
to file: 03/01/2002 12:24:14 PM
pic05150.pcx)

Please respond to (b)(6) Jennifer Oschal Email

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: elizabeth dole op-ed

we have sign-off from e dole to do an op-ed in north carolina on judges, fairness, etc. we are working on draft and will have to her asap for placement sometime next week! will keep you posted.

Dinh, Viet

From: Dinh, Viet
Sent: Friday, March 01, 2002 10:42 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'; 'Garry_Malphrus@opd.eop.gov'
Subject: RE: comments on victims rights proposal
Attachments: newlanguage_v14.wpd

this is the final version, as agreed to today by DoJ and all involved. Will explain the history of all this.

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, March 01, 2002 9:33 AM
To: Garry_Malphrus@opd.eop.gov
Cc: Dinh, Viet
Subject: Re: comments on victims rights proposal

(b) (5)

Garry Malphrus
03/01/2002 09:23:04 AM

Record Type: Record

To: viet.dinh@usdoj.gov @ inet

cc: Brett M. Kavanaugh/WHO/EOP@EOP
Subject: comments on victims rights proposal

Viet,

Can you please respond to these questions from Bret about the victims rights constitutional amendment. (b) (5)

(b) (5)

007104-002469

----- Forwarded by Garry Malphrus/OPD/EOP on 03/01/2002 09:18 AM -----

Brett M. Kavanaugh
03/01/2002 08:55:48 AM

Record Type: Record

To: Garry Malphrus/OPD/EOP@EOP

cc:
Subject: comments on victims rights proposal

(b) (5)

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States
to protect the rights of crime victims.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),
That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid for all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress, and which shall take effect on the 180th day after ratification of this article:

"ARTICLE

"SECTION 1. The rights of victims of violent crime, being capable of protection without denying the constitutional rights of those accused of victimizing them, are hereby established and shall not be denied by any State or the United States and may be restricted only as provided in this article.

"SECTION 2. A victim of violent crime shall have the right to reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused; the rights not to be excluded from such public proceeding and reasonably to be heard at public release, plea, sentencing, pardon, and commutation proceedings; and the right to decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender. These rights shall not be restricted except when and to the degree dictated by a substantial interest in public safety or the administration of criminal justice, or by compelling necessity.

"SECTION 3. Nothing in this article shall be construed to provide grounds for a new trial or to authorize any claim for damages. Only the victim or the victim's lawful representative may assert the rights established by this article, and no person accused of the crime may obtain any form of relief hereunder.

"SECTION 4. Congress shall have the power to enforce by appropriate legislation the provisions of this article, except those pertaining to federal pardon and commutation proceedings."

Dinh, Viet

From: Dinh, Viet
Sent: Friday, March 1, 2002 9:27 AM
To: 'Garry_Malphrus@opd.eop.gov'
Cc: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: comments on victims rights proposal

Already deleted, am working on a negotiated solution at 9:30 (the 102d negotiation session).

-----Original Message-----

From: Garry_Malphrus@opd.eop.gov [mailto:Garry_Malphrus@opd.eop.gov]
Sent: Friday, March 01, 2002 9:23 AM
To: Dinh, Viet
Cc: Brett_M._Kavanaugh@who.eop.gov
Subject: comments on victims rights proposal

Duplicative

O'Brien, Pat

From: O'Brien, Pat
Sent: Thursday, February 21, 2002 11:33 AM
To: Bryant, Dan; Dinh, Viet; Newstead, Jennifer; Ciongoli, Adam; Scottfinan, Nancy
Cc: Heather Wingate (E-mail); Brett Kavanaugh (E-mail)
Subject: Dispute re: confidential waiver form for judicial nominees

During a meeting yesterday with Specter's staff to do prep for the Brooks Smith hearing, his staff gave me a copy of a letter from a nominee seeking guidance on which confidentiality waiver form to sign in order to initiate her background investigation by the ABA. The correspondence indicates that the ABA is not accepting the waiver form developed by OLP and is insisting that nominees sign an ABA-generated form prior to the commencement of the ABA background. I imagine that you may already be aware of this situation, but obviously we need to provide clear, consistent guidance to our nominees about how they should proceed.

Heather Wingate is raising this issue with the WH Counsel's office. I will send copies of the correspondence to all DoJ personnel on this e-mail. Please advise re: how we are instructing our nominees. Thanks, Pat.

007104-002473

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Wednesday, February 20, 2002 10:40 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Dinh, Viet; Spencer, Amber
Subject: FW: Timothy Savage Third-Party Interviews
Attachments: SavageThirdParties.wpd

Brett,

The attached reflects the latest work on Savage.

Jen

-----Original Message-----

From: Spencer, Amber
Sent: Wednesday, February 20, 2002 10:32 AM
To: Dinh, Viet; Newstead, Jennifer
Subject: Timothy Savage Third-Party Interviews

Viet and Jen--

See attached summary and chart documenting my third-party interviews regarding Tim Savage.

The chart contains a summary of approximately 26 interviews. The entries regarding (b) (5)

[REDACTED]

[REDACTED]

Let me know if you'd like me to do anything further with this or if you know of other specific individuals that you would like me to call.

Thanks,
Amber

Dinh, Viet

From: Dinh, Viet
Sent: Thursday, February 14, 2002 3:26 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: did/can you call Wittes?

am talking to him as I type

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, February 14, 2002 2:55 PM
To: Dinh, Viet
Cc: Newstead, Jennifer
Subject: did/can you call Wittes?

007104-002475

Dinh, Viet

From: Dinh, Viet
Sent: Thursday, February 14, 2002 12:29 PM
To: 'Timothy_E._Flanigan@who.eop.gov'
Cc: Newstead, Jennifer; 'Brett_M._Kavanaugh@who.eop.gov';
'Bradford_A._Berenson@who.eop.gov'
Attachments: ABA waiver.doc

Attached is my proposed revised waiver. It has taken TIm' (b) (5)

(b) (5)

(b) (5)

Your thoughts are greatly apprecated.

Dinh, Viet

From: Dinh, Viet
Sent: Friday, February 8, 2002 10:19 PM
To: 'Matthew_E._Smith@who.eop.gov'; 'Matthew_A._Schlapp@who.eop.gov'; '(b)(6) Jennifer Oschal Email'
(b)(6) Jennifer Oschal Email Brett_M._Kavanaugh@who.eop.gov'; 'Bradford_A._Berenson@who.eop.gov'
Cc: 'Tim_Goeglein@who.eop.gov'; Sutton, Jason
Subject: RE:

thanks, matt. Jason, please block if I am free.

-----Original Message-----

From: Matthew_E._Smith@who.eop.gov [mailto:Matthew_E._Smith@who.eop.gov]
Sent: Thursday, February 07, 2002 7:35 AM
To: Matthew_A._Schlapp@who.eop.gov; (b)(6) Jennifer Oschal Email
Brett_M._Kavanaugh@who.eop.gov; Bradford_A._Berenson@who.eop.gov
Cc: Tim_Goeglein@who.eop.gov
Subject:

We will be having a very important Judicial Coalition Meeting on February 21, 2002.

We will get back to you with more details, location and time soon. Please plan to attend.

Thanks.

007104-002477

Dinh, Viet

From: Dinh, Viet
Sent: Thursday, January 31, 2002 6:50 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: good editorial re Washington state process

nice

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Thursday, January 31, 2002 6:41 PM
To: Newstead, Jennifer; Dinh, Viet; Alberto_R._Gonzales@who.eop.gov;
Timothy_E._Flanigan@who.eop.gov; Heather_Wingate@who.eop.gov
Cc: Bradford_A._Berenson@who.eop.gov
Subject: good editorial re Washington state process

Senators play politics with judicial choice Jan 28 2002 12:00AM By the Editorial Board of the Union-Bulletin

The power to appoint federal judges is clearly vested in the president.

Sens. Patty Murray and Maria Cantwell, both Democrats, are irate over President Bush's selection of Ronald Leighton to be a federal district judge for Western Washington. The senators believe Bush, a Republican, should have made the selection through a "bipartisan" process.

Funny, we heard the same sort of rant from former Sen. Slade Gorton, a Republican, when President Clinton, a Democrat, was in office. Yet, Murray wasn't too riled about the issue during the Clinton years.

Murray's and Cantwell's concerns ring as hollow today as Gorton's did a few years ago.

The power to appoint federal judges is clearly vested with the president.

The Senate's role in the process is equally clear - it looks at nominees' qualifications to determine if they are fit for the post.

However, it is custom that the president consult with the senators from the state where the federal judge will be presiding. Not surprisingly, the president tends to take more seriously the wishes of senators of his own political party.

Murray and Cantwell, both seasoned political veterans, should understand that reality.

Yet, the pair have promised (or is that threatened?) to block Leighton's nomination unless the White House uses a bipartisan commission to make federal judicial appointments. The tirade is akin to a kid throwing a tantrum at a sandlot baseball game when he vows to take his ball and go home if he doesn't get to play shortstop.

The Bush administration is on high ground here. Perhaps, from a standpoint of political expediency, the administration should have catered more to Murray and Cantwell. After all, the Democrats do control the Senate.

Nevertheless, the White House has no reason to apologize. Bush asked Rep.

Jennifer Dunn, R-Wash., to head a selection committee. Dunn apparently asked Murray and Cantwell

007104-002478

Jennifer Dunn, R-Wash., to head a selection committee. Dunn apparently asked Murray and Cantwell to appoint people to the committee, but they declined because the senators did not want to be obligated to support the commission's final four candidates.

Ultimately, we would like to see a truly bipartisan process used to select federal judges. But we are also pragmatists. This president, like all presidents, is going to take ideology and politics into account when making appointments.

Murray and Cantwell had an opportunity to be involved - to some degree - in the selection process. Instead, they opted to play politics.

Dinh, Viet

From: Dinh, Viet
Sent: Monday, January 28, 2002 12:35 PM
To: 'Alberto_R._Gonzales@who.eop.gov'; 'Timothy_E._Flanigan@who.eop.gov';
'Brett_M._Kavanaugh@who.eop.gov'; 'Bradford_A._Berenson@who.eop.gov'
Cc: Newstead, Jennifer
Subject: FW: Urgent: Gold Standard research

The Source is Mar. 16 letter from Leahy and Schumer to Judge Gonzales; we do not have a copy of the letter.

-----Original Message-----

From: Suit, Neal
Sent: Monday, January 28, 2002 11:45 AM
To: Dinh, Viet
Cc: Newstead, Jennifer
Subject: RE: Urgent: Gold Standard research

Attached is a link to a Washington Post article that quotes Schumer and Leahy as saying in a letter to the President that the ABA rating is the gold-standard. I do not have a copy of the letter. Here is the relevant paragraph from the article:

Word of the White House's position, first reported in the New York Times, prompted a pair of Senate Democrats to write a letter of protest to the president on Friday. Calling the ABA's evaluation "the gold standard by which judicial candidates are judged," Senate Judiciary Committee members Patrick J. Leahy (Vt.) and Charles E. Schumer (N.Y.) wrote that the administration's move would "dilute the quality of the federal bench" and "further polarize a process that, by now, all senators agree cries out for less partisanship."

<http://www.washingtonpost.com/ac2/wp-dyn/A20036-2001Mar17?language=printer>

-----Original Message-----

From: Dinh, Viet
Sent: Monday, January 28, 2002 11:20 AM
To: Suit, Neal
Cc: Newstead, Jennifer
Subject: Urgent: Gold Standard research

(b) (5)

007104-002480

Dinh, Viet

From: Dinh, Viet
Sent: Friday, January 25, 2002 9:23 AM
To: Scottfinan, Nancy; Bryant, Dan; O'Brien, Pat; Newstead, Jennifer; Joy, Sheila
Cc: 'Heather_Wingate@who.eop.gov'; 'Brett_M._Kavanaugh@who.eop.gov';
Newstead, Jennifer; 'Anne_Womack@who.eop.gov';
'Alberto_R._Gonzales@who.eop.gov'; 'Timothy_E._Flanigan@who.eop.gov';
'Noel_J._Francisco@who.eop.gov'; 'Helgard_C._Walker@who.eop.gov';
'Bradford_A._Berenson@who.eop.gov'
Subject: RE: Trying to get two judges cleared to be done on Friday but not a

Excellent. Thank you, Nancy.

-----Original Message-----

From: Scottfinan, Nancy
Sent: Thursday, January 24, 2002 11:03 PM
To: Scottfinan, Nancy; Bryant, Dan; O'Brien, Pat; Dinh, Viet; Newstead, Jennifer; Joy, Sheila
Subject: RE: Trying to get two judges cleared to be done on Friday but not a
Importance: High

Votes are set for the two after the vote on the Smith amendment at 10:30 Friday morning.

-----Original Message-----

From: Scottfinan, Nancy
Sent: Thursday, January 24, 2002 5:54 PM
To: Bryant, Dan; O'Brien, Pat; Dinh, Viet; Newstead, Jennifer; Joy, Sheila
Subject: Trying to get two judges cleared to be done on Friday but not a

done deal yet -- Krieger and Mahan.

007104-002481

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Wednesday, January 23, 2002 5:54 PM
To: 'Heather_Wingate@who.eop.gov'
Cc: Dinh, Viet; 'brett_m._kavanaugh@who.eop.gov'; McMahon, Lori
Subject: FW: Carolyn Kuhl
Attachments: kuhl responses to pfaw.wpd

Heather, I've got people working up (b) (5) we've tracked down as of today. Viet and I think it might be helpful (b) (5)

(b) (5)

This one deals with the (b) (5) on Kuhl. More will follow.

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Tuesday, January 22, 2002 4:39 PM
To: Dinh, Viet
Cc: Sutton, Jason; McMahon, Lori
Subject: RE: time for editorials on Wednesday
Attachments: pic26663.pcx

As stated in meeting today, I think we (b) (5)

(b) (5)

(b) (5) but let me know what you think.

(Embedded
image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov>
to file: 01/21/2002 11:51:59 AM
pic26663.pcx)

Record Type: Record

To: "McMahon, Lori" <Lori.McMahon@usdoj.gov> (Receipt Notification Requested)
(IPM Return Requested)

cc: "Sutton, Jason" <Jason.J.Sutton@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP Subject: RE: time for editorials on Wednesday

007104-002483

These times look fine to me. I do not think that WH (b) (5)

(b) (5)

-----Original Message-----

From: McMahon, Lori

Sent: Friday, January 18, 2002 1:02 AM

To: Dinh, Viet

Cc: Sutton, Jason

Subject: time for editorials on Wednesday

Viet,

I am working from the road. (b) (5)

(b) (5)

I'll call you in the morning to discuss.

Lori

cell: (b) (6)

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Tuesday, January 22, 2002 11:18 AM
To: 'brett_m._kavanaugh@who.eop.gov'
Cc: Dinh, Viet; Joy, Sheila
Subject: FW: new draft

From Neal on the new version of the letter. (b) (5)

(b) (5)

-----Original Message-----

From: Suit, Neal
Sent: Tuesday, January 22, 2002 11:10 AM
To: Newstead, Jennifer
Subject: RE: new draft

My comments are identical on this one (b) (5)

(b) (5)

-----Original Message-----

From: Newstead, Jennifer
Sent: Tuesday, January 22, 2002 11:03 AM
To: Suit, Neal
Subject: FW: new draft

Can you please check this version. If the comments are identical, no need to reiterate- just confirm.
Thanks

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, January 22, 2002 8:36 AM
To: Newstead, Jennifer; Dinh, Viet
Subject: new draft

This draft reflects the edits of our press/communications shop. (b) (5)

(b) (5)

(b) (5)

(See attached file: judges op ed 1 23 02 #20.doc)

Dinh, Viet

From: Dinh, Viet
Sent: Tuesday, January 22, 2002 10:37 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: new draft

Nicely done.

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, January 22, 2002 8:36 AM
To: Newstead, Jennifer; Dinh, Viet
Subject: new draft



Dinh, Viet

From: Dinh, Viet
Sent: Monday, January 21, 2002 4:17 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Newstead, Jennifer; 'Alberto_R._Gonzales@who.eop.gov'; 'Timothy_E._Flanigan@who.eop.gov'; 'Anne_Womack@who.eop.gov'; 'Elizabeth_N._Camp@who.eop.gov'; 'Bradford_A._Berenson@who.eop.gov'
Subject: RE: FOURTH DRAFT OF JUDGES OP-ED
Attachments: judges op ed 1 23 02 #5.doc

Here are my suggestions, mostly to (b) (5)

(b) (5)

To track my suggestions, please select "track changes" from the MS Word Tools menu.

All best,

Viet

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, January 21, 2002 3:15 PM
To: Newstead, Jennifer; Dinh, Viet; Alberto_R._Gonzales@who.eop.gov; Timothy_E._Flanigan@who.eop.gov; Anne_Womack@who.eop.gov; Elizabeth_N._Camp@who.eop.gov; Bradford_A._Berenson@who.eop.gov
Subject: FOURTH DRAFT OF JUDGES OP-ED

This incorporates (b) (5)

(b) (5)

(See attached file: judges op ed 1 23 02 #4.doc)

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Monday, January 21, 2002 3:19 PM
To: Newstead, Jennifer; Dinh, Viet; Alberto_R._Gonzales@who.eop.gov;
Timothy_E._Flanigan@who.eop.gov; Anne_Womack@who.eop.gov;
Elizabeth_N._Camp@who.eop.gov; Bradford_A._Berenson@who.eop.gov
Subject: Op-Ed: Question re reference to war on terrorism
Attachments: ATTACHMENT.TXT; judges op ed 1 23 02 #4.doc

Consider also whether we should add a reference (b) (5)

(b) (5)

(b) (5)

Brett M. Kavanaugh
01/21/2002 03:15:04 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:
Subject: FOURTH DRAFT OF JUDGES OP-ED (Document link: Brett M. Kavanaugh)

Duplicative

Dinh, Viet

From: Dinh, Viet
Sent: Monday, January 21, 2002 12:43 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'; Newstead, Jennifer
Cc: 'Alberto_R._Gonzales@who.eop.gov'; 'Timothy_E._Flanigan@who.eop.gov'
Subject: RE: current draft of op-ed
Attachments: judges op-ed 1 23 02 (Dinh).doc

Brett,

Here is my redlined suggestions, which are meant to make sure (b) (5)

(b) (5)

Best,

Viet

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Monday, January 21, 2002 11:34 AM
To: Newstead, Jennifer; Dinh, Viet
Subject: current draft of op-ed

it's just under 1000 words; comments and thoughts are very welcome

007104-002491

(See attached file: judges op-ed 1 23 02 #2.doc)

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Monday, January 21, 2002 11:27 AM
To: Newstead, Jennifer; Joy, Sheila; Dinh, Viet; Alberto_R._Gonzales@who.eop.gov; Timothy_E._Flanigan@who.eop.gov
Cc: Bradford_A._Berenson@who.eop.gov; /DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/; Rachel_L._Brand@who.eop.gov; Robert_W._Cobb@who.eop.gov; Kyle_Sampson@who.eop.gov; Helgard_C._Walker@who.eop.gov; Courtney_S._Elwood@who.eop.gov; Noel_J._Francisco@who.eop.gov; Allison_L._Riepenhoff@who.eop.gov; Brent_D._Greenfield@who.eop.gov; Elizabeth_N._Camp@who.eop.gov
Subject: Wednesday's Judicial Nominations -- update
Attachments: judges nominations on jan 23 2001 as of 1 21 02.doc

WHC and DOJ have completed BI and vetting reviews. There are 24 nominees now slated for Wednesday (bringing the President to a total of 90 Article III nominations). There is one additional possibility, (b) (5)

(b) (5) Attached is the current list.

(See attached file: judges nominations on jan 23 2001 as of 1 21 02.doc)

**Schedule for potential additional Article III Nominations on January 23, 2002
(as of January 21, 2002)**

24 Definite District Court Nominations and 1 Possible

District Court (24)

John Walter (CD CAL)	Brad
Percy Anderson (CD CAL)	Brad
Ken Marra (SD FL)	Chris
Jose Martinez (SD FL)	Chris
Fred Rohlfig (D HI)	Helgi
Lance Africk (ED LA)	Noel
Joan Lancaster (D MN)	Rachel
Bill Martini (D NJ)	Rachel
Stan Chesler (D NJ)	Rachel
Thomas Rose (SD OH)	Noel
Cynthia Rufe (ED PA)	Brett
Michael Baylson (ED PA)	Brett
Legrome Davis (ED PA)	Brett
Arthur Schwab (WD PA)	Brett
Joy Conti (WD PA)	Brett
Terry McVerry (WD PA)	Brett
Hardy Mays (WD TN)	Kyle
Ron Clark (ED TX)	Chris
Leonard Davis (ED TX)	Chris
David Godbey (ND TX)	Chris
Andrew Hanen (SD TX)	Chris
Henry Hudson (ED VA)	Helgi
Ron Leighton (WD WA)	Brett
William Griesbach (D WI)	Rachel

Possible

Richard Dorr (WD MO)	Courtney
----------------------	----------

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Tuesday, January 15, 2002 4:24 PM
To: Adam Ciongoli; Allison Riepenhoff (E-mail);
Bradford_A._Berenson@who.eop.gov%inetgw;
Brett_M._Kavanaugh@who.eop.gov%inetgw; Carroll, James W (OLP); Dan
Bryant; Heather_Wingate@who.eop.gov; Jennifer Newstead; Kristen Ullman;
Linda Long; Lizette Benedi; Lori Rabjohns; Lori SharpeDay;
Matthew_E._Smith@who.eop.gov%inetgw; Mindy Tucker; Neal Suit; O'Brien,
Pat; Peter Coniglio; Sheila Joy; Tim_Goeglein@who.eop.gov%inetgw;
Timothy_E._Flanigan@who.eop.gov%inetgw; Viet Dinh;
Ziad_S._Ojakli@who.eop.gov%inetgw
Subject: FW: Judicial Hearing scheduled for January 24 at 2:00pm
Importance: High

[FYI -- we just heard this.](#)

-----Original Message-----

From: Joy, Sheila
Sent: Tuesday, January 15, 2002 4:21 PM
To: Dinh, Viet; Newstead, Jennifer; Suit, Neal; Benedi, Lizette D; Scottfinan, Nancy
Subject: Judicial Hearing scheduled for January 24 at 2:00pm
Importance: High

The following are scheduled for a hearing on January 24 at 2:00 with Cantwell as Chair

Melloy
Gritzner
Zainey
Jorgenson
Blackburn
Leon

Schauder, Andrew

From: Schauder, Andrew
Sent: Monday, January 14, 2002 6:10 PM
To: Schauder, Andrew; Newstead, Jennifer; Ciongoli, Adam;
'Bradford_A._Berenson@who.eop.gov%inetgw';
'Brett_M._Kavanaugh@who.eop.gov%inetgw'; Bryant, Dan;
'Heather_Wingate@who.eop.gov'; Ullman, Kristen A; Long, Linda E; Benedi,
Lizette D; McMahon, Lori; Day, Lori Sharpe;
'Matthew_E._Smith@who.eop.gov%inetgw'; Suit, Neal; Coniglio, Peter J; Joy,
Sheila; 'Tim_Googlein@who.eop.gov%inetgw';
'Timothy_E._Flanigan@who.eop.gov%inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov%inetgw'; Carroll, James W (OLP); O'Brien, Pat;
Comstock, Barbara
Subject: judicial media review
Attachments: Judicial Media Review 1-14-02.wpd

[Please see attached review](#)

Media Review - Judicial Nominations

Monday, January 14, 2002

General Judicial Articles

"Hicks Sworn in as Judge," [1](#)
Ed Vogel, *Las Vegas Review-Journal*, January 11, 2002

"In Harmony with the Supremes," [3](#)
Al Kamen, *The Washington Post*, January 14, 2002

Op/Eds

"Senate Stonewalling; Lawmakers Delaying Judicial Confirmations," [4](#)
Thomas Jipping, *The Washington Times*, January 14, 2002

"Passing Muster," [5](#)
Jim Hunt, *The Orlando Sentinel*, January 12, 2002

"The Senate's Abdication," [6](#)
The Chicago Tribune, January 11, 2002

Transcripts/Members of Congress

NONE

Interest Groups/Press Releases

NONE

General Judicial Articles

Hicks Sworn in Judge

By Ed Vogel
Las Vegas-Review Journal
Friday, January 11, 2002

Longtime Reno lawyer Larry R. Hicks, 57, formally was sworn in Thursday as Nevada's sixth and newest U.S. District Court judge.

At an investiture ceremony attended by more than 300 people, Hicks joked about how long it

took him to win the federal judgeship. 'If you think this is going on too long,' said Hicks during the 90-minute ceremony, 'then consider we have been waiting 9 ½ years for it.' He originally had been nominated for a federal judgeship by then Rep. Barbara Vucanovich, R-Nev., in 1992.

But that was a presidential election year, and the Senate never confirmed his nomination. President Clinton won the election that year and Hicks' nomination lapsed.

Then in August, Hicks was nominated for a federal judgeship by Sen. John Ensign, R-Nev. He was confirmed by the Senate on Nov. 5 on an 83-0 vote.

As a federal judge, Hicks will be based in Las Vegas, although he will occasionally hear cases in Reno, where he has lived since 1957. His parents, now deceased, operated the Holiday Hotel in downtown Reno. Hicks will be paid \$145,100 a year during the lifetime appointment. Clark County District Judge James Mahan also was nominated for a federal judgeship by Ensign.

Sen. Harry Reid, D-Nev., said during the investiture ceremony that he expects Mahan will be confirmed in a few weeks.

'I will do everything I can to do this job as well and as honestly as possible and with as much integrity as I can,' Hicks said after receiving the black robes of a federal judge.

Speakers called Hicks a man whose character is above reproach.

'As a lawyer, he exuded the term 'gentleman,' ' said Nevada Supreme Court Chief Justice Bill Maupin.

Fellow U.S. District Judge David Hagen remarked on how gracious Hicks was after Hagen was nominated for the post in 1993.

Although Hagen took the judgeship for which Hicks originally had been nominated, Hagen said he sent him federal judge application forms, a step that gave him a three-month head start on winning confirmation.

'Larry Hicks is truly a gentleman,' Hagen said.

Hicks became a lawyer in 1968. One of his first jobs was as a prosecutor in the office of then Washoe County District Attorney Bill Raggio, now the state Senate majority leader.

'If I remember, he never lost a case,' Raggio said. 'Of course, no lawyer remembers losing a case.'

Later Hicks won a four-year term as district attorney. Since 1979 he has been a lawyer and partner with the statewide firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks.

He handled murder cases as district attorney, but Hicks largely has handled civil cases as a private lawyer. He represented Dow Chemical in a celebrated breast implant case.

Ensign said he knew Hicks less than any person in the office and relied on a nonpartisan process to pick the best qualified lawyers for judgeships.

'This corrects an injustice of 10 years ago,' Ensign said.

In Harmony With the Supremes

By Al Kamen

The Washington Post

Monday, January 14, 2002

Last week was a pretty good one for Washington attorney John G. Roberts Jr., Bush's nominee for a seat on the U.S. Court of Appeals here. No, neither he nor fellow D.C. federal appeals court nominee Miguel A. Estrada got a green light from the Senate Judiciary Committee for a hearing on their nominations pending since spring.

But Roberts, a former deputy solicitor general, did win a big Supreme Court ruling for Toyota that reduced the scope of the Americans With Disabilities Act.

Working to undercut workers' rights likely won't win organized labor votes, but the fact that it was a 9 to 0 ruling written by Justice Sandra Day O'Connor may take out some of the sting.

Much more helpfully, Roberts, a former clerk for Chief Justice William H. Rehnquist, last week argued a high court case for the enviros. The case pitted homeowners and developers against Lake Tahoe planning authorities, who wanted to put a moratorium on development in the lake area.

The usual suspects took up sides: the property rights folks, the National Association of Home Builders, the American Farm Bureau, the Pacific Legal Foundation and the Washington Legal Foundation against the moratorium; the National Audubon Society, the Natural Resources Defense Council, the National Wildlife Federation and the Sierra Club for the halt to development. Roberts was joined by Solicitor General Theodore B. Olson in arguing for the moratorium.

But Roberts, according to those present, missed a key opportunity: He failed to point out the similarities between Lake Tahoe and the even more beautiful, more spectacular, Lake Champlain, conveniently located in Vermont, home of Senate Judiciary Committee Chairman Patrick J. Leahy (D).

Meanwhile, wags have taken to calling Estrada the "Sonia Sotomayor of his generation," reminding people of the GOP-controlled Senate's stall of then-President Bill Clinton's nomination of federal Judge Sonia Sotomayor to an appeals court.

Republicans feared the Hispanic Sotomayor would then be on a fast-track to the Supremes. Now some Democrats worry about putting the staunchly conservative Estrada, also Hispanic, on to a similar launching court.

Op/Eds

Senate Stonewalling; Lawmakers Delaying Judicial Confirmations

By Thomas Jipping

The Washington Times

Monday, January 14, 2002

Unprecedented partisanship drove the Senate's judicial confirmation process last year. Things can go better this year if only Democrats would follow their own standards.

A composite of the last three presidents' first year looks like this: nominations begin in July or August and the Senate confirms about 72 percent, in the first year. Instead, President Bush's first year looked like this: though nominations began in early May, and he made 67 percent more nominations than his predecessors' average, the Senate confirmed just 42 percent in the first year. Despite receiving 53 nominations before September 11, the Senate did not even keep up with judicial attrition; vacancies jumped from 82 on inauguration day to 94 by adjournment day. Eight of the first 11 nominees, named on May 9, have to this day not even received a Judiciary Committee hearing. Deliberate partisanship is the only explanation for this performance. Things need not be this way this year. First, Democrats say the benchmark should be their confirmation performance when running the Senate during President Clinton's first term. In 1994, Mr. Clinton's second year, the Senate Judiciary Committee held 25 confirmation hearings and the Senate confirmed 101 judicial nominees. The pace was so fast, confirmations topped the annual average from the Reagan-Bush years before the August recess. In just the three months leading up to the fall elections, the Senate approved 54 judges; October's tally of 28 is still a single-month record and equaled the previous year's total.

Democrats insisted 1994 was the benchmark long after Republicans captured the Senate. On March 16, 1998, Sen. Patrick Leahy said: "Unfortunately, over the last three years, the Senate has barely matched the one-year total of judges confirmed in 1994." On July 7, 1998, he compared that year's confirmation progress "to our total of judges confirmed in 1994." On April 14, 1999, Mr. Leahy said: "Look at how we have done in the past. Let's go a little backward. In 1994, we confirmed 101." On both Nov. 19, 1999, and Feb. 10, 2000, he used the same language: "In 1994, with a Democratic majority in the Senate, we confirmed 101 judges."

Second, Democrats have demanded that the Senate vote on nominations soon after the president makes them. On July 25, 2000, Sen. Leahy said: "The soon-to-be presidential nominee of the Republican Party has said - and I agree with him - that . . . the Senate ought to vote these people up or down in 60 days . . . One of the things that most Republicans and Democrats ought to be able to agree on is what Governor Bush said: Do it and vote them up or down in 60 days."

Gov. Bush, of course, is now President Bush. Democrats will say this 60-day standard assumed the liberal American Bar Association would evaluate and rate candidates prior to nomination. Since they now do so after nomination, toss in another 30 days - longer than the three weeks the ABA said last year its work should take. The Senate adjourned last year abandoning at least two dozen nominees already past this 90-day limit.

Third, Democrats have demanded that all nominees be confirmed before finally adjourning a two-year Congressional session. Mr. Leahy reminded the majority Republicans of this on Oct. 14, 1998, shortly before the 105th Congress adjourned: "The Democratic Senate majority in the two Congresses of the Bush Administration ended both those Congresses, the 101st and 102nd, without a single judicial nomination on the calendar." One week later, the Senate confirmed 17 judicial nominees in a single group by unanimous consent minutes before adjournment.

Democrats have often cited Chief Justice William Rehnquist's warnings about slow confirmations and high vacancies. In his 1997 annual report, the chief wrote that "vacancies cannot remain at such high levels indefinitely without eroding the quality of justice." Mr. Clinton himself quoted the Rehnquist report in his 1998 State of the Union Address, as have Senate Democrats dozens of times since.

Chief Justice Rehnquist's new report on 2001 repeats the same warning. He wrote: "When I spoke to this issue in 1997, there were 82 judicial vacancies; when the Senate adjourned on December 20th there were 94 vacancies." The situation is even worse than when Democrat said the Senate should heed such warnings.

On July 17, 1998, Mr. Leahy said that filling judicial vacancies "is a constitutional duty that the Senate - and all of its members - are obligated to fulfill." Indeed it is. If only Democrats would follow their own standards in fulfilling that constitutional duty, this will be a very busy year.

Passing Muster

By Jim Hunt

The Orlando Sentinel

Saturday, January 12, 2001

Your Jan. 6 editorial about the pace of judicial nominations erred terribly in the assertion that presidents are entitled to nominate whomever they choose, as long as they're qualified, and that the Senate should respect his choices. Nothing in the Constitution supports your position, which does violence to the very separation of powers upon which this document is based. That politics has been off-limits while the Senate provides its advice and consent to the president has led to the unpleasant situation in which any character flaw of a nominee, no matter how minor or how long ago, must be ferreted out, but "politics" cannot be debated.

The nomination process would be more effective if the Senate were truly to exercise its advice and consent: approving nominations when the nominees are deemed acceptable, and denying

them without trepidation when they are not. All presidents are politicians, and this one, like his predecessor, knows the type of nominee who will pass muster. It is time that presidents started offering realistic nominees instead of complaining about foot-dragging in the Senate.

The Senate's Abdication

The Chicago Tribune

Friday, January 11, 2001

Back in 1997, Chief Justice William Rehnquist complained about the Senate's habit of delaying votes on presidential appointments to the federal bench. "The president should nominate candidates with reasonable promptness," he declared, "and the Senate should act within a reasonable time to confirm or reject them."

That was back in the days when we had a Democratic president and Republican-dominated Senate. But things have changed. Today, we have a Republican president, and Democrats control the Senate. The problem that Rehnquist described has changed as well: It's worse. As Rehnquist notes in his annual report on the state of the federal judiciary, there were 82 judicial vacancies when he complained in 1997. At last count, there are now 97. In 1997, the Senate confirmed only 36 judges--down from 101 in 1994. Last year, it confirmed just 28. That leaves the judiciary well short of fully staffed, which translates into overloaded dockets, long trial delays and added burdens for current judges.

Why are things moving so slowly? The same reason they moved slowly during the Clinton presidency--because the Senate, for one reason or another, refuses to take action on judicial nominations. President Bush moved quickly to fill vacancies, naming 80 judges in his first year. But many of them have yet to get a vote even in the Judiciary Committee. Some highly qualified nominees, such as University of Utah law professor Michael McConnell and longtime Supreme Court litigator John Roberts, have been cooling their heels since May.

Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.) insists he's doing the best he can. And it's true that the Senate has moved with impressive dispatch at times. District judges Roger Gregory and Barrington Parker Jr., picked for appellate spots, were both approved quickly. But Gregory and Parker are both African-Americans who were first named to the federal bench by President Clinton. McConnell and Roberts, by contrast, are white males with conservative reputations.

Some Democrats think people like this shouldn't be on the bench because they would be "hostile to the elderly, to minorities, and to choice" on abortion, in the words of Nan Aron of the liberal Alliance for Justice. But if Senate Democrats want to make ideology an issue, as Senate Republicans often did under Clinton, then they should debate what each nominee has said and written and then decide. Instead, the Senate is simply ignoring the nominations in the hope that they'll go away.

It's not only judicial appointments that have gotten this treatment. Senate Democratic Leader

Tom Daschle has refused to allow a vote on the nomination of Eugene Scalia to be the top lawyer for the Labor Department--even though he has more than enough votes to be confirmed.

The Senate is under no obligation to accept every nomination the president sends to Capitol Hill, but it does have a duty to act promptly on each one. When the president makes major appointments, the Constitution says the Senate shall provide "advice and consent." It says nothing about stalling.

Dinh, Viet

From: Dinh, Viet
Sent: Friday, January 11, 2002 11:58 AM
To: Newstead, Jennifer; 'Brett_M._Kavanaugh@who.eop.gov'
Cc: 'matt_e._smith@who.eop.gov'
Subject: RE: FW: (no subject)

23rd in Roll Call is good. They may want to think about (b) (5)

(b) (5)

-----Original Message-----

From: Newstead, Jennifer
Sent: Friday, January 11, 2002 9:51 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Dinh, Viet; 'matt_e._smith@who.eop.gov'
Subject: RE: FW: (no subject)

Good suggestions. Did you have any thoughts on the timing? They are now thinking of running it on the 23rd in Roll Call.

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, January 11, 2002 9:08 AM
To: Newstead, Jennifer
Cc: Dinh, Viet; 'matt_e._smith@who.eop.gov'
Subject: Re: FW: (no subject)

(b) (5)

(Embedded

007104-002504

image moved "Newstead, Jenniter" <Jennifer.Newstead@usdoj.gov>
to file: 01/09/2002 07:22:37 PM
pic18567.pcx)

Record Type: Record

To: "Matt_E_Smith@who.eop.gov" <Matt_E_Smith@who.eop.gov> (Receipt
Notification Requested) (IPM Return Requested)

cc: "Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP Subject: FW: (no subject)

Matt -- here's the latest draft of the IWF letter that we discussed on Tuesday.



thanks

-----Original Message-----

From: J(b) (6)
Sent: Wednesday, January 09, 2002 5:17 PM
To: Newstead, Jennifer
Subject: (no subject)

Jen,

Just wanted to bring you up to date on a few things. For the first phase of this campaign, we are going to purchase space in Roll Call in the next day or so. The ad copy will not be due until the following week (around 1/16) and the ad will run shortly thereafter.

On a substantive note, I have revised the letter at the suggestion of Ruth Wedgwood from Yale, who said she might be willing to join if the tone were a little less partisan. Here is the revised draft (basically the same with a few paragraphs eliminated).

Could you let me know

1) Any editorial comments you might have

007104-002505

2) Whether any of the numbers have changed as of late

3) Statistics on the number of women on the bench, the number of female Bush appointees, and the number of female appointees who have had hearings/been confirmed. (If this data is easily accessible to you).

4) Any thoughts on getting additional signatories (and getting them QUICKLY).

Look forward to hearing from you.

Jennifer

Dinh, Viet

From: Dinh, Viet
Sent: Thursday, January 10, 2002 2:09 PM
To: 'Anne_Womack@who.eop.gov'; 'Brett_M._Kavanaugh@who.eop.gov';
'Alberto_R._Gonzales@who.eop.gov'; 'Timothy_E._Flanigan@who.eop.gov';
'Matthew_A._Schlapp@who.eop.gov'; 'Tim_Goeglein@who.eop.gov';
McMahon, Lori; Bryant, Dan; Newstead, Jennifer
Subject: FW: Paul Kamenar's NYT op-ed on judges

FYI

-----Original Message-----

From: Sales, Nathan
Sent: Wednesday, January 09, 2002 11:24 AM
To: Dinh, Viet; Newstead, Jennifer
Subject: Paul Kamenar's NYT op-ed on judges

Viet and Jen,

FYI: I just spoke with Paul Kamenar of the Washington Legal Foundation, and he told me that he's going to have an op-ed in this Monday's New York Times. It's about judges, and slams Leahy for the slow pace of confirmations. (Viet, you and I talked about the op-ed about three weeks ago, when it was being written.)

Nathan

007104-002507

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Wednesday, January 09, 2002 5:33 PM
To: Dinh, Viet; 'brett_m._kavanaugh@who.eop.gov'
Subject: FW: (no subject)
Attachments: Judge.let

We need to move on this letter from Jennifer -- I sent my revised draft around earlier today, but it appears to have been superceded by this draft.

(b) (5)

Thanks

-----Original Message-----

From: (b) (6)
Sent: Wednesday, January 09, 2002 5:17 PM
To: Newstead, Jennifer
Subject: (no subject)

Duplicative

007104-002508

Dinh, Viet

From: Dinh, Viet
Sent: Friday, December 21, 2001 4:44 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: 'Sharon Bradford Franklin'; Newstead, Jennifer; Day, Lori Sharpe
Subject: RE: Invitation

I did the last one. Does David Cole want another piece of me?! Just kidding. Sure, DoJ will participate. Whether it's me or another depends on the topic and date. Lori Sharpe Day will coordinate DoJ participation, as she did last time. (Actually, Lori, Jennifer Newstead may be good for this one if the topic fits.)

best,

VDD

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, December 21, 2001 4:36 PM
To: Dinh, Viet
Cc: Sharon Bradford Franklin
Subject: Invitation

V:

Sharon is a law school classmate and friend. Any interest in participating in this? Please let us know.
BK

The Washington Council of Lawyers is having a brownbag forum on responses to terrorism.

The panel will be a sequel to our October 25th forum entitled "Responding to Terrorism: Safeguarding Our Communities and Our Civil Liberties." Attached is a flyer from that event.

In our upcoming panel, we once again seek to provide a variety of perspectives on how to reconcile current efforts to protect our security with the need to guarantee fundamental civil liberties. Our focus for this event will be on some of the policies that have emerged since October 25th, including those concerning military tribunals and the attorney-client privilege.

The Washington Council of Lawyers is a voluntary bar association dedicated to promoting public interest and pro bono law. To find out more about the Council, you may visit our website at www.washingtoncounciloflawyers.org.

We plan to hold this event on Wed., Jan. 9, or Thurs. Jan. 17, 2002, from 12 noon until 2:00 p.m. at a law firm in downtown Washington, D.C.

007104-002509

THE WASHINGTON COUNCIL OF LAWYERS

invites you to attend a Brownbag Lunch Forum on

RESPONDING TO TERRORISM: PROTECTING OUR COMMUNITIES AND OUR CIVIL LIBERTIES



Thursday, October 25, 2001
12:00 noon to 2:00 p.m.

Hogan & Hartson
Conference Room 12W-600
555 13th Street, N.W.



The panel will discuss how to reconcile current efforts to protect our security with the need to guarantee fundamental civil liberties. The program will address topics of concern including the immigration, privacy and criminal justice implications of proposed anti terrorist legislation, as well as the security objectives the legislation is designed to meet. Panelists will consider the appropriate balance to be struck in this critical endeavor.

PANELISTS:

Moderator: Louis Bograd, Senior Staff Attorney, American Civil Liberties Union
David Cole, Professor, Georgetown University Law Center, and Author, *Terrorism and the Constitution: Sacrificing Civil Liberties in the Name of National Security*
Viet Dinh, Assistant Attorney General for the Office of Legal Policy
Elliot Minberg, Vice President and Legal Director, People for the American Way
Stuart Taylor, National Journal Columnist and Newsweek Contributor

This event is a brownbag lunch. Beverages will be provided. Cost: \$7 per person, \$5 for Council Member, Student, Public Interest, or Government.

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For more information: 202 942 5063; www.washingtoncounciloflawyers.org

REGISTRATION FORM

Name: _____ Employer: _____

Address: _____

Email Address: _____ Daytime Phone No.: _____

Please register me for the Council's brownbag entitled "Responding to Terrorism: Safeguarding Our Communities and Our Civil Liberties" on October 25, 2001. I am enclosing my check payable to the Washington Council of Lawyers for:

_____ \$7; _____ \$5 for Council Member, Student, Public Interest, or Government

I would like to JOIN THE COUNCIL and attend this brownbag for FREE.

_____ \$15: Paralegal, Student, Public Interest _____ \$75: Supporting

_____ \$35: Regular _____ \$100: Sustaining

_____ \$50: Contributing

Please mail registration form and check payable to Washington Council of Lawyers, 555 12th Street, N.W., Suite 210, Washington, D.C. 20004

The Washington Council of Lawyers is a 501(c)(3) organization.

Benedi, Lizette D

From: Benedi, Lizette D
Sent: Friday, December 21, 2001 10:05 AM
To: 'Bradford_A._Berenson@who.eop.gov'
Cc: Newstead, Jennifer; Dinh, Viet; Sales, Nathan; Koebele, Steve;
'Brett_M._Kavanaugh@who.eop.gov'; 'Tim_Goeglein@who.eop.gov';
'Heather_Wingate@who.eop.gov'; Suit, Neal
Subject: Judicial Confirmation Talking Points
Attachments: recess tps.wpd

Attached are Neal's updated talking points that reflect the two nominations from this week and the confirmation of Ashley Royal. Thanks.

First Year Judicial Nomination Confirmation Chart

President	District Nominees Submitted	District Nominees Confirmed	Circuit Nominees Submitted	Circuit Nominees Confirmed	Total Submitted	Total Confirmed
Bush 2001	37	22 (59% Confirmed)	29	6 (21% confirmed)	66	28 (42 % Confirmed)
Clinton 1993¹	42	24 (57 % Confirmed)	5	3 (60% Confirmed)	47	27 (57% Confirmed)
Bush 1989	16	10 (62 % Confirmed)	9	8 (88% Confirmed)	45	41 (91% Confirmed)

Clinton v. Bush: A Comparison of the Confirmation Pace in the First Year

President	Nominees Submitted Before 11/01	Nominees Confirmed In the First Year	Nominees Submitted Before August Recess	Nominees Confirmed In the First Year
Bush 2001	60	28 (47% Confirmed)	44	25 (57% confirmed)
Clinton 1993	32	28 (88 % Confirmed)	14	13 (93% Confirmed)

¹ President Clinton nominated 29 individuals on October 25th or later. Considering the Senate recessed one month later on November 26th, it was impossible to get many of these nominees confirmed before the end of the year. In particular, the 11 individuals nominated on November 19th were not able to be confirmed before the recess and consequently made the confirmation rates in Clinton's first year lower than the actual confirmation pace.

Dinh, Viet

From: Dinh, Viet
Sent: Wednesday, December 19, 2001 3:54 PM
To: Newstead, Jennifer; 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: request

Yes. He is a christian arab.

-----Original Message-----

From: Newstead, Jennifer
Sent: Wednesday, December 19, 2001 3:49 PM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Dinh, Viet
Subject: RE: request

Great. Isn't Zainey also Arab?

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Wednesday, December 19, 2001 3:43 PM
To: Newstead, Jennifer
Cc: Dinh, Viet
Subject: Re: request

will do; t (b) (5) Crane is Hispanic and Saad is Arab . . .

(Embedded

image moved "Newstead, Jennifer" <Jennifer.Newstead@usdoj.gov>
to file: 12/19/2001 03:39:17 PM
pic29798.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

007104-002513

cc: "Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM
Return Requested)
Subject: request

Brett,

Steven Benford w/People for the American Way somehow got my number and called to ask for information about the "ethnicity" of Robert Crane, Jay Zainey and Henry Saad for a tracking report on ethnicity and gender of our judicial nominees.

Viet and I defer to you as to how you want to handle the request -- I told him someone would call him back but didn't give any information. His # is (b) (6)

(b) (5)

Jen

Joy, Sheila

From: Joy, Sheila
Sent: Wednesday, December 12, 2001 1:43 PM
To: Dinh, Viet; Rabjohns, Lori; 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: African American judicial nominees or confirmed

AA judges confirmed so far:
Roger Gregory - 4th
Barrington Parker - 2nd
Reggie Walton - DC district
Julie Robinson - KS district

AA judges pending before Judiciary:
Lavenski Smith - 8th

-----Original Message-----

From: Dinh, Viet
Sent: Monday, December 10, 2001 3:12 PM
To: Rabjohns, Lori; Joy, Sheila; 'Brett M. Kavanaugh@who.eop.gov'
Subject: RE: African American judicial nominees or confirmed

Sheila and/or Brett,

You all should have this number handy for announced nominations--can you give it to Lori? thanks.

-----Original Message-----

From: Rabjohns, Lori
Sent: Monday, December 10, 2001 2:44 PM
To: Joy, Sheila
Cc: Dinh, Viet
Subject: African American judicial nominees or confirmed

how many African Americans have we had or do we have in the process right now?
Its for an other all article on African Americans in the Bush shop. Any help would be great. thanks

Lori A. Rabjohns McMahon
Office of Public Affairs
Department of Justice
main phone: 202/616 2777
direct: 202/616 8691

007104-002515

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Tuesday, December 11, 2001 11:50 AM
To: Dinh, Viet; 'brett_m._kavanaugh@who.eop.gov'
Subject: Followup on Kuhl & women judges

Tim G. and I spoke briefly this morning to Cindy Williams. Her immediate suggestion was that we call Candy Straight, who is the founder of WISH (equivalent of Emily's List for pro-choice Republican women), and see if we can get Candy to talk to Senators Snowe, Collins and/or Hutchinson on behalf of Kuhl's getting a hearing. (b) (5)

(b) (5)

Cindy is going to send me Candy's number. I am happy to call her if we think this strategy makes sense. (b) (5)

(b) (5)

By the way, (b) (5)

(b) (5)

Separately -- Cindy is apparently leaving this week for a week out of town. Tim and I are going to get together with her next Thursday when she returns to have a (b) (5)

(b) (5)

Jen

007104-002516

Wilson, Karen L

From: Wilson, Karen L
Sent: Wednesday, November 28, 2001 2:22 PM
To: Dinh, Viet; Thorsen, Carl
Cc: 'brett_m._kavanaugh@who.eop.gov'; 'Kristen_Silverberg@who.eop.gov'; Bryant, Dan; 'robert.marsh@who.eop.gov'
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism Insurance Bill

(b) (5)

-----Original Message-----

From: Dinh, Viet
Sent: Wednesday, November 28, 2001 2:05 PM
To: Thorsen, Carl; Wilson, Karen L
Cc: 'brett_m._kavanaugh@who.eop.gov'; 'Kristen_Silverberg@who.eop.gov'; Bryant, Dan; 'robert.marsh@who.eop.gov'
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism Insurance Bill

Paul Taylor told me that it should be addressed to Sensenbrenner.

-----Original Message-----

From: Thorsen, Carl
Sent: Wednesday, November 28, 2001 1:34 PM
To: Wilson, Karen L; Dinh, Viet
Cc: 'brett_m._kavanaugh@who.eop.gov'; 'Kristen_Silverberg@who.eop.gov'; Bryant, Dan; 'robert.marsh@who.eop.gov'
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism Insurance Bill

Why is it addressed to Oxley? It should probably go to Sensenbrenner, no?

Kristen, Brett, any thoughts on this?

-----Original Message-----

From: Wilson, Karen L
Sent: Wednesday, November 28, 2001 1:30 PM
To: Thorsen, Carl; Dinh, Viet
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism Insurance Bill

007104-002517

I got a voicemail message from Jeff Weinberg, the Legislative Reference Attorney at OMB who is facilitating clearance of this letter. He said that he has forwarded the letter to WH counsel, but that they (b) (5)

(b) (5) Also, they want to know why its addressed to Rep. Oxley rather than Judiciary.

-----Original Message-----

From: Thorsen, Carl
Sent: Wednesday, November 28, 2001 8:40 AM
To: Dinh, Viet
Cc: Wilson, Karen L
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism In surance Bill

It went to OMB yesterday. Karen, could you see if we can goose it along over there.

-----Original Message-----

From: Dinh, Viet
Sent: Wednesday, November 28, 2001 8:11 AM
To: 'Taylor, Paul'; Thorsen, Carl;
'brett(u)m.(u)kavanaugh(a)who.eop.gov'
Cc: Newstead, Jennifer; 'Pinkos, Steve'; 'Mautz, John'
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism In surance Bill

Carl and jennifer, anything I need to do to move this along?

-----Original Message-----

From: Taylor, Paul [mailto:Paul.Taylor@mail.house.gov]
Sent: Monday, November 26, 2001 3:43 PM
To: Thorsen, Carl; Dinh, Viet; 'brett(u)m.(u)kavanaugh(a)who.eop.gov'
Cc: Newstead, Jennifer; Pinkos, Steve; Mautz, John
Subject: Views Letter on Litigation Management Provisions for Terrorism In surance Bill

Viet, any word on an ETA for the Views Letter? We'll want to put the bill together in final form tomorrow.

Paul Taylor
Counsel
House Subcommittee on the Constitution
202-225-7157 (w)

(b) (6) (cell)
(b) (6) (home)

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Wednesday, November 28, 2001 8:54 AM
To: Dinh, Viet
Subject: RE: Views Letter on Litigation Management Provisions for Terrorism Insurance Bill
Attachments: pic12212.pcx

think this is basically done

(Embedded
image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov>
to file: 11/28/2001 08:10:57 AM
pic12212.pcx)

Record Type: Record

To: "Thorsen, Carl" <Carl.Thorsen@usdoj.gov> (Receipt Notification Requested),
"Taylor, Paul" <Paul.Taylor@mail.house.gov> (Receipt Notification
Requested) (IPM Return Requested), Brett M. Kavanaugh/WHO/EOP@EOP

cc: "Newstead, Jennifer" <Jennifer.Newstead@usdoj.gov> (Receipt Notification
Requested), "Pinkos, Steve" <Steve.Pinkos@mail.house.gov> (Receipt
Notification Requested), "Mautz, John" <John.Mautz@mail.house.gov>
(Receipt Notification Requested)

Subject: RE: Views Letter on Litigation Management Provisions for Terrorism Insurance Bill

Duplicative

007104-002519

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Monday, November 26, 2001 10:41 AM
To: Adam Ciongoli; Allison Riepenhoff (E-mail);
Bradford_A._Berenson@who.eop.gov%inetgw;
Brett_M._Kavanaugh@who.eop.gov%inetgw; Carroll, James W (OLP); Dan
Bryant; Heather_Wingate@who.eop.gov; Jennifer Newstead; Kristen Ullman;
Linda Long; Lizette Benedi; Lori Rabjohns; Lori SharpeDay;
Matthew_E._Smith@who.eop.gov%inetgw; Mindy Tucker; Neal Suit; O'Brien,
Pat; Peter Coniglio; Sheila Joy; Tim_Goeglein@who.eop.gov%inetgw;
Timothy_E._Flanigan@who.eop.gov%inetgw; Viet Dinh;
Ziad_S._Ojakli@who.eop.gov%inetgw
Subject: Detroit press on 6th Cir. nominations

[See attached articles concerning Sixth Circuit nominations.](#)

URL: <http://www.detnews.com/2001/editorial/0111/25/a16-351298.htm>

URL: <http://www.detnews.com/2001/editorial/0111/25/a15-351296.htm>

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Friday, November 16, 2001 10:02 AM
To: Adam Ciongoli; Allison Riepenhoff (E-mail);
Bradford_A._Berenson@who.eop.gov%inetgw;
Brett_M._Kavanaugh@who.eop.gov%inetgw; Dan Bryant;
Heather_Wingate@who.eop.gov; James Carroll; Jennifer Newstead; Kristen
Ullman; Linda Long; Lizette Benedi; Lori Rabjohns; Lori SharpeDay;
Matthew_E._Smith@who.eop.gov%inetgw; Mindy Tucker; Neal Suit; Patrick
O'Brien; Peter Coniglio; Sheila Joy; Tim_Goeglein@who.eop.gov%inetgw;
Timothy_E._Flanigan@who.eop.gov%inetgw; Viet Dinh;
Ziad_S._Ojakli@who.eop.gov%inetgw
Subject: Nominee profiles
Attachments: OwenPuffPiece2.wpd; OwenPersonalContacts.wpd

All --

(b) (5)

Attached is a test run on Priscilla Owen that Amber Spencer in our office put together. One document collects the raw material from the interviews -- which we have permission to use publicly -- and the other is a sample article. I'm circulating it for your comments and feedback as to (b) (5). We think it's a great idea and are ready to move forward unless advised otherwise.

Thanks

Jen

Schauder, Andrew

From: Schauder, Andrew
Sent: Thursday, November 8, 2001 6:42 PM
To: Schauder, Andrew; Newstead, Jennifer; Ciongoli, Adam;
'Bradford_A._Berenson@who.eop.gov%inetgw';
'Brett_M._Kavanaugh@who.eop.gov%inetgw'; Bryant, Dan;
'Heather_Wingate@who.eop.gov'; Ullman, Kristen A; Long, Linda E; Benedi,
Lizette D; Rabjohns, Lori; Day, Lori Sharpe;
'Matthew_E._Smith@who.eop.gov%inetgw'; Tucker, Mindy; Suit, Neal; 'Patrick
O'Brien'; Coniglio, Peter J; Joy, Sheila; 'Tim_Goeglein@who.eop.gov%inetgw';
'Timothy_E._Flanigan@who.eop.gov%inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov%inetgw'; Carroll, James W (OLP)
Subject: judicial media review
Attachments: Judicial Media Review 11-8-01.wpd

[Please see attached review](#)

Media Review - Judicial Nominations

Thursday, November 8, 2001

General Judicial Articles

- "Thurmond Jr, Three Judicial Nominees Confirmed,"
Pierce, *Congressional Quarterly*, November 6, 2001 [2](#)
- "Kuhl May Be Boxed In On Circuit Hopes," [2](#)
Jason Hoppin, *The Recorder*, November 6, 2001
- "Senate Confirms M. Christina Armijo as U.S. District Judge,"
The Associated Press, November 7, 2001 [6](#)
- "Judiciary Committee Sends Wooten Nomination to Full Senate," [7](#)
The Associated Press, November 8, 2001
- "Oklahoma City Attorney Confirmed as Federal Judge," [7](#)
The Daily Oklahoman, November 7, 2001
- "Senate Confirms Nominee for Birmingham Judgeship,"
The Associated Press, November 6, 2001 [8](#)
- "Senate Confirms Hicks as Judge," [8](#)
Doug Abrahms, *Gannett News Service*, November 6, 2001
- "Senate Confirms Nominee," [9](#)
Steve Tetreault, *Las Vegas Review-Journal*, November 6, 2001
- "Committee Hears Nomination for Kansas Federal Judgeship,"
Libby Quaid, *The Associated Press*, November 7, 2001 [10](#)

Op/Eds

NONE

Transcripts/Members of Congress

NONE

Interest Groups/Press Releases

"Senate GOP Exploits War on Terror to Promote Right-Wing Judges,"

12

People for the American Way, November 8, 2001

"Earthjustice Criticizes Efforts to Rush Judicial Confirmations"

14

Earthjustice, November 8, 2001

General Judicial Articles

Thurmond Jr, Three Judicial Nominees Confirmed

By Pierce

Congressional Quarterly

Tuesday, November 6, 2001

The oldest and longest-serving senator saw his 28-year-old son confirmed as a U.S. attorney Tuesday." Strom Thurmond Jr. "won voice vote approval from the Senate to take on his new position as U.S. attorney for South Carolina -- the state his 98-year-old father, Sen. Strom Thurmond, R, has served for nearly 47 years." The younger Thurmond "was considered an odd choice by some because he has barely three years experience as an assistant state prosecutor, but his father helped him out by recommending to President Bush that his son be nominated." The Senate also "confirmed 10 other U.S. attorney nominations by voice vote, including that of Drew Wrigley to serve in the district of North Dakota. Wrigley previously served as the executive director of the North Dakota Republican Party during the 2000 election, in which Bush won 61 percent of that state's vote." The Senate also voted 100-0 Tuesday "to confirm the nomination of Christina Armijo to be a U.S. District judge for New Mexico. By 98-0 votes, the Senate confirmed Karon Bowdre to be U.S. District judge for Northern Alabama and Stephen Friot to be U.S. District judge for Western Oklahoma."

Kuhl May Be Boxed In On Circuit Hopes

By Jason Hoppin

The Recorder

Tuesday, November 6, 2001

Sen. Barbara Boxer has not consented to a hearing on Ninth Circuit U.S. Court of Appeals nominee Carolyn Kuhl, and with each passing day it appears more likely that the California Democrat may block Kuhl's nomination.

Boxer still has not returned a "blue slip" on Kuhl, the paperwork circulated to home state senators for

comment on a nominee. Democratic Sen. Dianne Feinstein returned her blue slip a month ago, but under Senate rules both blue slips must be returned before a nominee gets a hearing.

"All I can tell you is that she has not issued a new statement," said Boxer's chief of staff, Sam Chapman, when asked whether the senator has decided what to do about the nomination. He was referring to Boxer's criticism of Kuhl's record following her nomination by President Bush in June. Conservatives have been quick to draw conclusions about Boxer's plans.

"She wants to keep her off the bench," said Tom Jipping, director of the Center for Law and Democracy. "It's not rocket science."

The delay could set the stage for Boxer to be the first Democrat to draw a line in the sand on any of Bush's appellate court nominees.

Kuhl declined to comment.

Boxer, who was instrumental in forcing Rep. Christopher Cox, R-Newport Beach, to withdraw his name from consideration for the Ninth Circuit, first received Kuhl's blue slip in July, but has not publicly stated her intentions.

Several abortion rights groups have organized opposition to Kuhl. "That's certainly a key issue," Chapman said.

For the Ninth Circuit, whose nominees have often been the subject of political gamesmanship, it's deja vu all over again. A second pending nominee, Hawaii lawyer Richard Clifton, is also waiting for a hearing.

Both Hawaii senators and Feinstein have consented to hearings for the nominees from their respective states, although the Democrat-controlled Senate Judiciary Committee has been slow to schedule hearings.

But all three senators reserved judgment -- the only senators to have done so. All other blue slips returned were marked "approved."

Many of those nominees are also waiting for hearings, and Republicans and Democrats blame each other for the delays.

Of President Bush's 60 judicial nominees, 12 have been approved. There are 106 vacancies nationwide.

"From the Republican standpoint, we want to move these judges as soon as possible," said Margarita Tapia, a spokeswoman for Sen. Orrin Hatch, R-Utah, the ranking minority member on the Judiciary Committee.

An American Bar Association committee voted unanimously to give Clifton a qualified rating. Kuhl was given a well-qualified rating by a substantial majority of the committee, with the remainder giving her a qualified rating.

The controversy over Kuhl, a Los Angeles Superior Court judge who earned praise for her work on the bench there, stems largely from her work as a Justice Department lawyer under President Ronald Reagan.

Kuhl argued in support of parental notification rules for the distribution of birth control to teenagers, tax-exempt status for Bob Jones University (which was then racially segregated), and most significantly, in a 1986 *amicus curiae* brief to the U.S. Supreme Court, that *Roe v. Wade* should be overturned.

"We have no confidence that she's changed her position," said Belle Taylor-McGhee, executive director of the California Abortion & Reproductive Rights Action League.

CARAL is among several abortion-rights groups actively opposing Kuhl's nomination. Taylor-McGhee said CARAL has expressed its concerns to both California senators.

"Check with her office. I think that Barbara Boxer is considering withholding the blue slip," Taylor-McGhee said.

Jipping, the conservative court-watcher, said that Boxer has argued that judicial candidates should not be judged by their work for clients, which he likens to Kuhl's work for an administration that was against abortion. "The hypocrisy is mind-boggling," he said.

The Justice Department reiterated its support for Kuhl's nomination. "Judge Kuhl is a balanced and well-reasoned judge who enjoys widespread bipartisan support," said spokeswoman Lori Rabjohns. "So we call on the committee to give Judge Kuhl a hearing."

Boxer signaled that she took issue with Kuhl's record when Bush announced her nomination.

"I have received numerous statements of opposition to the nomination of Judge Kuhl," Boxer said in a June statement. "These letters and calls raise a number of issues important to Californians, including the right to choose, civil rights, representation of tobacco companies, privacy rights and whistle-blower protection."

"I have met with Judge Kuhl and the White House counsel, informed them of these issues, and I am continuing to evaluate this nomination."

Clifton's nomination has also been the subject of political dealings, although he appears more

likely to get a hearing in the near future.

Both Hawaii senators signed off on a hearing before the August congressional recess. In July, Clifton received the Hawaii State Bar Association's highest recommendation.

But Sen. Daniel Inouye, D-Hawaii, wrote a letter to the Judiciary Committee questioning why President Clinton's Ninth Circuit nominee from Hawaii, James Duffy, was never approved despite waiting years for a vote.

"Based on the information that was made available to me when former President Clinton nominated Mr. Duffy, I gather that his character is without blemish, and that he received the highest assessments by both the American Bar Association and the Hawaii State Bar Association," Inouye wrote. "Thus, if he has been removed for consideration in spite of his qualifications, I would appreciate an explanation."

The Ninth Circuit does not have an active judge sitting in Hawaii, despite rules that at least one judge must sit in each of the nine states within its confines.

Several news reports have indicated that Inouye may be seeking a district court nomination for Duffy. His office did not comment.

"At this time all I can say is that the senator is prepared to allow [Clifton's] nomination to go forward," said Inouye spokeswoman Sandi Skousen, adding that Inouye wants to review Clifton's FBI report before making any decisions.

Under President Clinton, several nominees were subjected to long delays -- notably, Marsha Berzon and Richard Paez.

They waited two years and four years, respectively, before being confirmed over objections that they were too liberal. Both were approved by a divided Senate after Sen. Trent Lott, R-Miss., kept a promise to give them a vote.

Berzon's nomination proceeded only after Boxer held up one of Lott's appointments to the Tennessee Valley Authority.

A memo obtained by the Chicago Tribune indicates that this week Senate Republicans will blame the dilatory pace of judicial confirmations on Democrats and accuse them of impeding the nation's efforts to fight terrorism.

"Our message would be: You can't get wiretaps, search warrants, etc., without judges; confirm the

president's slate so that efforts to capture terrorists won't be delayed," the memo was quoted as saying.

Only one other blue slip has not been returned. Sen. John Edwards, D-N.C., has withheld a hearing on Fourth Circuit nominee Terrence Boyle. An Edwards spokesman said the senator wants to insure that a subsequent Fourth Circuit nominee will "balance" Boyle out, whom Edwards regards as too conservative.

Senate Confirms M. Christina Armijo as U.S. District Judge

The Associated Press

Wednesday, November 7, 2001

The product of a family with a history of judgeships in N.M., Armijo becomes a federal judge

The U.S. Senate on Tuesday unanimously confirmed M. Christina Armijo as a new federal judge for New Mexico.

Armijo of Las Vegas, N.M., received a 100-0 vote. She had been recommended by Sen. Pete Domenici, R-N.M., and nominated by President Bush in August. Both Domenici and Sen. Jeff Bingaman, D-N.M., spoke in support of her confirmation. The nomination won a favorable recommendation last week of the Senate Judiciary Committee. "I think it's wonderful that the first federal judge we confirm for our state under the Bush administration is a well-qualified, Hispanic woman from northern New Mexico," Domenici said.

He said he was confident she would have "a distinguished career" on the federal bench.

Armijo, a judge on the state Court of Appeals since 1996, comes from a family with a history of judgeships. Her grandfather, Judge Luis E. Armijo, was one of the longest-serving trial judges in state history. Her uncle also served on the bench.

"I was pleased to offer my strong support for Christina Armijo. In her years on the New Mexico Court of Appeals, she has earned a reputation for being a fair judge and has served the people of New Mexico well. I am confident that she will continue her good service to our state," Bingaman said.

She is a 1975 graduate of the University of New Mexico law school. She served in private practice and as a public defender before joining the Court of Appeals. She is also a former member of the New Mexico Health Policy Commission and New Mexico Endowment for the Humanities.

Domenici said the Senate Judiciary Committee was expected to consider two other New Mexico judicial nominations Thursday -- William "Chip" Johnson of Roswell as a U.S. District Judge and former New Mexico judge Harris Hartz of Albuquerque for appointment to the 10th U.S.

Circuit Court of Appeals in Denver.

Judiciary Committee Sends Wooten Nomination to Full Senate

The Associated Press

Thursday, November 8, 2001

The U.S. Senate approved the nomination of Terry L. Wooten on Thursday to the U.S. District Court for South Carolina.

Wooten, a U.S. magistrate in South Carolina, was recommended for the judgeship by Sen. Strom Thurmond, R-S.C., who is a member of the Senate Judiciary Committee. "Judge Wooten will be an excellent addition to the District Court," Thurmond said. "He has had an outstanding legal career with an excellent record as a prosecutor and judge in South Carolina."

Wooten had been accused of leaking confidential material for a book on the Clarence Thomas hearings in 1991. During the hearings on Thomas' nomination to the U.S. Supreme Court, Wooten worked for Thurmond as the committee's chief Republican counsel.

David Brock, the book's author, says he received "raw FBI files" from Wooten that he used for an article and a book aimed at discrediting Anita Hill and another woman, Angela Wright, who accused Thomas of sexual harassment.

Wooten called the accusation "absolutely 100 percent untrue."

Oklahoma City Attorney Confirmed as Federal Judge

The Daily Oklahoman

Wednesday, November 7, 2001

The Senate on Tuesday confirmed Stephen P. Friot to be a federal judge in the Western District, which is based in Oklahoma City.

Friot became the third Oklahoman nominated by President Bush to be confirmed as a U.S. district judge. The first two, Claire V. Egan and James H. Payne, were confirmed last month for the federal districts in Tulsa and Muskogee.

Friot's nomination passed 19-0 last week in the Senate Judiciary Committee.

A partner in the Oklahoma City law firm of Spradling, Alpern, Friot and Gum, Friot has been in private practice since 1972.

A 1987 book ranking top lawyers in the United States included Friot among the Oklahomans.

He is a past president of the Oklahoma County Bar Association.

In the past 10 years, Friot has donated \$ 1,000 total to Sen. Don Nickles, R-Ponca City, who recommended Friot to Bush.

Friot has also served charitable causes in the area and the state, such as helping to raise money for legal services for the poor.

The Judiciary Committee is scheduled to hold a hearing today on the nomination of Joe Heaton, who is also in line for a judgeship in the Western District. Heaton is a federal prosecutor and former state House member from Oklahoma City.

Senate Confirms Nominee for Birmingham Judgeship

The Associated Press

Tuesday, November 6, 2001

The U.S. Senate confirmed the appointments of two U.S. Attorneys and a district judge for Alabama on Tuesday.

Leura Garrett Canary will become the U.S. attorney for Montgomery, and Alice Martin will take up that role in the northern district of Alabama. Karon Bowdre will preside on the U.S. District Court in Birmingham.

Canary, a veteran state and federal prosecutor, fills the post held by Redding Pitt during the Clinton Administration. Pitt is the new state Democratic Party chairman.

Canary was an assistant state attorney general from 1981 to 1990, a trial attorney with the U.S. Justice Department in Washington, D.C., from 1990 to 1994 and an assistant U.S. attorney for the Middle District in Montgomery since 1994.

Martin replaces Doug Jones, who prosecuted the 1963 Birmingham church bombing cases earlier this year.

Martin, 45, has served as Lauderdale County Circuit Court judge and was appointed by Alabama's two Republican senators, Richard Shelby and Jeff Sessions.

Bowdre, 46, succeeds U.S. District Judge Sam Pointer Jr., who went on senior status in November 1999. She is a Cumberland School of Law professor and will serve in a lifetime slot on the court.

Senate Confirms Hicks as Judge

By Doug Abrahms
Gannett News Service
Tuesday, November 6, 2001

Originally chosen by former President Bush in 1992, Hicks had not made it through the Senate approval process before Bill Clinton was elected president and the Democratic administration gained control of appointing judges. Being approved unanimously by the full Senate Monday, Hicks clears the last hurdle in becoming a U.S. District Court judge.

"Larry Hicks wanted this job for a long time. He was almost nominated before," said Sen. Harry Reid, D-Nev.

Hicks -- a civil attorney at the law firm McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks -- was nominated by Sen. John Ensign, R-Nev. Hicks was elected Washoe County district attorney in the 1975.

"In the legal community, receiving a presidential nomination to a federal judgeship is one of the highest honors," Ensign said in introducing Hicks' nomination to the full Senate. "Mr. Hicks now has the honor of receiving such a nomination twice."

Hicks started working as deputy district attorney in Washoe County in 1968 and became chief criminal deputy district attorney in 1971. He received his bachelor's degree from the University of Nevada, Reno, in 1965, but received his law degree the University of Colorado School of Law.

"While Larry left Nevada for a few years to receive his legal education, Nevadans don't hold it against him as we did not yet have a law school of our own to accommodate his studies," Ensign said.

Senate Confirms Nominee

By Steve Tetreault
Las Vegas Review-Journal
Tuesday, November 6, 2001

Larry Hicks, who lost out on a federal judgeship in 1992 and waited almost 10 years for another chance, was confirmed 83-0 by the U.S. Senate on Monday to join the U.S. District Court in Nevada.

Hicks, his family and partners in his Reno law firm watched on C-SPAN as senators approved him to a lifetime job in the federal judiciary after a 30-year career mostly spent in civil litigation.

'I had quite a cheering section, and at the end someone showed up with a bottle of champagne,' Hicks said after the vote. Hicks, 57, said he expects to begin work within several weeks in Nevada's expanding judiciary. He becomes the sixth full-time federal judge in the state, with a nominee for a final vacancy, Clark County District Judge James Mahan, still awaiting Senate action.

Congress in its 1999-2000 session added three seats to the Nevada District Court, one of the faster-growing districts in the country.

Federal district judges are paid \$ 145,100 a year.

Hicks will be based in Las Vegas, although he also will draw some cases from Northern Nevada and hear them in Reno. He said he and his wife, Marianne, are house-shopping in Las Vegas and also plan to keep their home in Northern Nevada.

'He's going to be an outstanding addition,' said Nevada's chief U.S. District Judge Howard McKibben. 'He's held in high esteem by the bench and by the bar.'

Since 1979, Hicks has been a partner in the statewide firm of McDonald, Carano, Wilson, McCune, Bergin, Frankovich and Hicks. He has been chairman of the firm's litigation section for the past 16 years.

He began his legal career in 1971 as a deputy district attorney in Washoe County, and was the county's district attorney from 1974 to 1978.

In 1992, Hicks was proposed for a federal judgeship by Rep. Barbara Vucanovich, R-Nev. His nomination was sent to the Senate that June by President George Bush. But as the presidential election approached that year, the Senate effectively froze most nominations, and Hicks lost out when Bush was ousted by Bill Clinton.

But after George W. Bush became president, Hicks was nominated to the bench earlier this year by Sen. John Ensign, R-Nev.

Ensign and Sen. Harry Reid, D-Nev., praised Hicks before senators voted Monday.

Committee Hears Nomination for Kansas Federal Judgeship

By Libby Quaid

The Associated Press

Wednesday, November 7, 2001

for Kansas federal judgeship

A former prosecutor who exposed police corruption in Kansas City, Kan., moved closer to becoming a federal trial judge by testifying Wednesday before the Senate panel weighing her

nomination.

Julie A. Robinson, 44, currently a federal bankruptcy judge, appeared before the Senate Judiciary Committee as President Bush's nominee to U.S. District Court in Kansas. She was among three candidates chosen by Republican Sen. Sam Brownback and recommended by both Brownback and Republican Sen. Pat Roberts.

The same committee recently helped shape a sweeping new anti-terrorism law in response to the Sept. 11 attacks. Responding to questions about the legislation, Robinson said that while the Supreme Court has safeguarded civil liberties, "at the same time, this country is facing a serious problem."

Appearing with a half-dozen other nominees, Robinson kept her answers succinct and declined to speak with reporters after the hearing.

Brownback, who attended law school with Robinson at the University of Kansas, told fellow committee members that besides her background, Robinson is "qualified by her heart, by what all she's already done and the pedigree she has."

Her family settled as newly freed slaves in the 1860s in Kansas, Brownback said. Her late father served in Korea and Vietnam, he noted, and her mother, Charlene, served as a nurse practitioner for the Defense Department and Veterans Administration.

Roberts said the judiciary needs people who understand the human element of the law because rulings affect not only the parties in a case but future litigants as well.

"Unforeseen lives can be changed drastically by a single opinion," Roberts said. "With so many changes occurring in the law, we need judges such as Julie Robinson who grasp this concept."

The proceeding was interrupted during Roberts' remarks by the collapse of Robinson's 82-year-old aunt, Ruth, who was taken by ambulance to a local hospital. Her family said later she was fine and was resting at home.

As assistant U.S. attorney for 10 years in the 1980s and 1990s, Robinson waged a high-profile pursuit of public corruption, drug conspiracy, tax fraud and white collar crime. By 1990 her work had shifted exclusively to criminal cases, and she personally prosecuted cases for the Federal Bureau of Investigation, Internal Revenue Service, Secret Service and other agencies in federal court.

Her investigations of official corruption in Wyandotte County included the conviction of the sheriff's son after the FBI raided an illegal gambling hall; two defendants were deputy sheriffs stationed as

lookouts and bodyguards.

She prosecuted a major crack cocaine distribution ring that resulted in four convictions, including that of a Kansas City, Kan., police officer who acted as a watchdog for drug dealers and stored the proceeds of their drug sales at his home.

Robinson also prosecuted one of the government's largest tax cases ever, winning convictions of 10 people who, operating as the International Business Association, created phony domestic and foreign trusts to conceal millions of dollars of taxable income. She also successfully prosecuted an Overland Park, Kan., travel agent for a phony ticket scheme that cheated airlines of \$600,000 in just six weeks.

Robinson's job as a U.S. bankruptcy judge since 1994 carries a considerably lower profile. She has ruled in at least 276 cases involving debtors and payments to their creditors.

In written answers to questions from the committee, Robinson provided a two page description of her views on "judicial activism," a term frequently used by conservative Republicans in criticizing judges for too broadly interpreting the law.

"The people delegated lesser powers to the judicial branch," Robinson wrote, "precisely because the judiciary lacks electoral responsibility."

Robinson also submitted a detailed accounting of her finances, which is required by law to ensure judges have no conflicts of interest with their monetary holdings. She reported net worth of \$474,590, which includes a \$425,000 house in Leawood, Kan., as well as investments and stocks in various companies, mostly in telecommunications and only one, Bank of America, worth more than \$1,000.

She listed liabilities of \$317,500, mostly from a \$280,000 home mortgage and accounts and bills due.

Interest Groups/Press Releases

Senate GOP Exploits War on Terrorism to Promote Right-Wing Judges

People for the American Way
Thursday, November 8, 2001

Senate Republicans are holding press conferences on November 8, 2001, to push a strategy leaked earlier that week to demand fast-track approval of Bush administration judicial nominees, and to argue that such action is purportedly crucial to the war on terrorism. If the press conference follows the script reported earlier in the week, senators will claim, with White House approval, that not rushing approval of President Bush's judicial nominees would somehow prevent law enforcement officials from getting wiretaps and search warrants essential to identifying terrorists.

People For the American Way Foundation President Ralph G. Neas said that such a plan, if true, was "dishonest and disgraceful."

Neas said search warrants and wiretaps go before magistrates or federal district court judges, and noted that the administration has submitted nominees for less than one-third of the current district court vacancies. As of November 7, there were 70 district court vacancies and the administration had submitted only 23 nominations for those spots. Five district court vacancies in New York and New Jersey are included among the 47 with no nominees. "If there's a problem with getting district court judges in place to assist law enforcement officials, that problem is not in the Senate," said Neas.

"Senate Republican leaders should be ashamed to distort the truth and misuse the national commitment to fighting terrorism in this blatant fashion," said Neas. "The right wing's number one goal for this administration is to pack the federal judiciary with far right ideologues. They are now trying to use the war on terrorism to promote that agenda."

Neas said some senators have already said that supporting the war on terrorism requires a rubber stamp approach to Bush administration judicial nominees, and have claimed that Senate Democrats have unfairly delayed consideration of his nominees. Both claims are false, Neas said.

A recent PFAW Foundation report debunked GOP complaints about the current confirmation process; indeed, confirmations have outpaced the first year of the first Bush administration in 1989 and by the end of the year will likely be comparable to 1993, the first year of the Clinton administration. In fact, as of yesterday, the Senate had confirmed 16 of President Bush's judicial nominees, more than the 15 confirmed in the entire first year of the first Bush administration. With respect to the district courts, President Bush has nominated 35 judges, and 12 of those have already been confirmed. Of the 23 remaining nominees, nine have already had confirmation hearings. This is in spite of the fact that 13 of these nominations were not even made until September or later.

Neas noted that the Bush administration's apparent priority for judicial nominees has been to the federal appeals courts. The same far-right senators who led an unprecedented blockade against Clinton's appeals court nominees - stopping nearly half of Clinton's appeals court nominees between 1995 and 2000 - are now calling for immediate action on Bush nominees while complaining that Bush's nominees have received unfair treatment.

PFAWF's recent report noted that by the end of this administration, every one of the 13 circuit courts of appeal could be dominated by Republican nominees. If those nominees are predominantly right-wing ideologues, the consequences for Americans' constitutional rights and civil liberties could be disastrous and long lasting.

Today Neas reiterated his call for President Bush to engage in genuine bipartisan consultation in an unprecedented solution to this unprecedented situation with the courts. He also said, "The

Senate must resist the politics of intimidation, carry out its constitutional obligation to carefully consider the nominations that come before it, and reject candidates whose record does not reflect a commitment to constitutional rights."

Earthjustice Criticizes Efforts to Rush Judicial Confirmations; Senators Expected to Call for Accelerated Confirmation Schedule in Response to Terrorist Attacks

Earthjustice

Thursday, November 8, 2001

Earthjustice called today's expected push from some members of Congress to accelerate the judicial nomination process, "flawed thinking and a dangerous precedent." At news conferences scheduled for today, several Senators, including Rick Santorum (R-PA), Jon Kyl (R-AZ), and Mitch McConnell (R-KY) are expected to call for rushing through judicial nominees in the name of national security.

"There is no real threat to national security in making sure that each life-long appointee is the right choice for the job," said Glenn Sugameli, senior legislative counsel for Earthjustice. "The nomination process for judges should not be compromised, and it's shameless that some in Congress might be attempting to use current events to achieve that goal."

Sugameli points out that the Senate Judiciary Committee is continuing to address judicial confirmations at a reasonable pace. The committee has paid special attention to district court nominees who would be most directly affected by any terrorism-related issues. In addition, magistrate judges who handle warrants and other key issues are not subject to Senate confirmation and are currently in place in sufficient numbers. Appeals court judges would not have the opportunity to hear terrorist-related cases for many months, if not years.

"The real danger would be a rush to judgment on lifetime judicial nominees who will decide whether to strike down or enforce safety, health, and environmental protections," said Sugameli. "The Senate is acting responsibly by approving judges after carefully considering each nominee's record on critical environmental and other issues. "

Once confirmed, federal judges hold their positions for life, suggesting that rash confirmations could be especially damaging. Environmental groups place particular importance on a sensible approach to reviewing nominees for the federal bench.

"For decades to come, newly confirmed judges will exert tremendous influence over the laws that protect our public health and environment," Sugameli said. "The confirmations should not be approached hastily."

Suit, Neal

From: Suit, Neal
Sent: Wednesday, November 07, 2001 1:49 PM
To: Newstead, Jennifer; O'Brien, Pat; Dinh, Viet; 'heather_wingate@who.eop.gov'; Bryant, Dan; 'bradford_a._berenson@who.eop.gov'; 'brett_m._kavanaugh@who.eop.gov'; Koebele, Steve; Benedi, Lizette D
Subject: updated Talking points on Estrada
Attachments: estrada tps.wpd

Here are updated talking points. The last bullet point (b) (5)

Neal

-----Original Message-----

From: Newstead, Jennifer
Sent: Wednesday, November 07, 2001 1:36 PM
To: O'Brien, Pat; Dinh, Viet; 'heather_wingate@who.eop.gov'; Bryant, Dan; 'bradford a. berenson@who.eop.gov'; 'brett m. kavanaugh@who.eop.gov'; Koebele, Steve; Benedi, Lizette D; Suit, Neal
Subject: RE: Talking points on Estrada

Excellent idea. Neal, can you make the necessary revisions based on the support that is referenced in the letter draft and recirculate to the group. Thank you.

-----Original Message-----

From: O'Brien, Pat
Sent: Wednesday, November 07, 2001 1:30 PM
To: Newstead, Jennifer; Dinh, Viet; 'heather_wingate@who.eop.gov'; Bryant, Dan; 'bradford a. berenson@who.eop.gov'; 'brett m. kavanaugh@who.eop.gov'; Koebele, Steve; Benedi, Lizette D; Suit, Neal
Subject: RE: Talking points on Estrada

These are excellent -- the only addition I would suggest, if possible at this time (b) (5)

(b) (5)

Pat

-----Original Message-----

From: Newstead, Jennifer
Sent: Wednesday, November 07, 2001 1:22 PM
To: Dinh, Viet; 'heather_wingate@who.eop.gov'; Bryant, Dan; O'Brien, Pat; 'bradford a. berenson@who.eop.gov'; 'brett m. kavanaugh@who.eop.gov'; Koebele, Steve; Benedi, Lizette D; Suit, Neal; Newstead, Jennifer
Subject: Talking points on Estrada

All --

Attached are talking points on Estrada. Again, I'm only circulating internally -- subject to your comments, I think these are ready to go to the hill.

Jen

<< File: estrada tps.wpd >>

Schauder, Andrew

From: Schauder, Andrew
Sent: Monday, November 5, 2001 5:35 PM
To: Schauder, Andrew; Newstead, Jennifer; Ciongoli, Adam;
'Bradford_A._Berenson@who.eop.gov%inetgw';
'Brett_M._Kavanaugh@who.eop.gov%inetgw'; Bryant, Dan;
'Heather_Wingate@who.eop.gov'; Ullman, Kristen A; Long, Linda E; Benedi,
Lizette D; Rabjohns, Lori; Day, Lori Sharpe;
'Matthew_E._Smith@who.eop.gov%inetgw'; Tucker, Mindy; Suit, Neal; 'Patrick
O'Brien'; Coniglio, Peter J; Joy, Sheila; 'Tim_Goeglein@who.eop.gov%inetgw';
'Timothy_E._Flanigan@who.eop.gov%inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov%inetgw'; Carroll, James W (OLP)
Subject: judicial media review
Attachments: Judicial Media Review 11-5-01.wpd

[Please see attached review](#)

Media Review - Judicial Nominations

Monday, November 5, 2001

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"OC Attorney's Judicial Nomination Advances," [3](#)

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"Turnabout is Fair Play," [5](#)

Martin Ward, *Rocky Mountain News*, November 2, 2001

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Interest Groups/Press Releases

"Justice Delayed..." *The Family Research Council*, November 5, 2001 [5](#)

General Judicial Articles

Pressing the Issue of Judicial Confirmations

By Al Kamen

The Washington Post

Monday, November 5, 2001

Save the date! Look for an important press event at 2:30 p.m. Wednesday on the Hill as the Republicans blast the Democrats over judicial confirmations.

Chris Myers, senior communications adviser for the Senate Republican Conference, is working to put something together that will use the war on terrorism to force Democrats to confirm more GOP judges.

Myers, in an e-mail Thursday to White House and other GOP aides, said that Sen. Rick Santorum (R-Pa.) has been talking with Senate Republican Leader Trent Lott (Miss.) about "a press event to speed the pace of confirmations," with "a more specific linking of the new terrorism bill to the need for judges. Our message would be: You can't get wire taps, search warrants, etc. without judges; confirm the President's slate so that efforts to capture terrorists won't be delayed."

Senate Democrats, who captured the Myers e-mail Friday, were furious, noting that they have run the Senate only since July and have confirmed or sent to the floor 17 judges since then, two more than were confirmed in the first year of Bush I, and that they may match or exceed the 27 judges confirmed in President Bill Clinton's first term. And the Republicans didn't confirm anybody when they were in charge this year.

Republicans counter that 43 of President Bush's judicial nominees are still awaiting Senate action and that of the 11 nominees sent up in the first batch in May, only three have even had hearings and the pace is intolerably slow.

"Right now we're looking into an event next Wednesday (2:30) with Sen. [Fred D.] Thompson's office and we'd also like to have Sen. [Orrin G.] Hatch's participation," Myers said in his message to White House legislative affairs aide Heather Wingate, assistant attorney general for congressional relations Daniel J. Bryant, vice presidential aide Candida Perotti Wolff and Senate Judiciary GOP staffers Jeff Taylor and Makan Delrahim.

Wingate responded in a Friday e-mail, with copies to Brett Kavanaugh and Bradford Berenson in the White House counsel's office and assistant attorney general for legal policy Viet Dinh and his principal deputy Jennifer Newstead.

"Thanks, Chris. Very much love the interest you all have on noms. Let me gather with our DoJ/WH Counsel folks and get back with you re: helping you with that message," she said, suggesting to those copied "let's discuss" Myers's e-mail. "I'll be in touch this morning on this issue."

In his e-mail, Myers wanted some specific help: "Also, we'd love to have evidence of a slowed investigation because of the lack of judges. Who could help us with this? Judiciary Committee? Dept. of Justice?"

Justice might be busy these days.

OC Attorney's Judicial Nomination Advances

Tulsa World

Friday, November 2, 2001

The U.S. Senate Judiciary Committee on Thursday approved the nomination of Oklahoma City attorney Stephen P. Friot to be a judge in the state's Western District.

Friot's nomination passed the panel 19-0 and now heads to the Senate floor for a final confirmation vote. A past president of the Oklahoma County Bar Association, the 54-year-old nominee has been in private practice for nearly three decades.

He is a former board member of Legal Aid of Western Oklahoma.

Friot was nominated for the judicial post in August by President Bush upon the recommendation of Oklahoma Republican Sens. Don Nickles and Jim Inhofe.

He was the Oklahoma co-chairman of Lawyers for Bush-Cheney 2000.

A native of Troy, N.Y., Friot received his law degree from the University of Oklahoma in 1972, when he joined what would become the Spradling, Alpern, Friot & Gum law firm.

Reno Lawyer Hicks Gets Senate Judiciary Confirmation as Judge

The Associated Press

Friday, November 2, 2001

The Senate Judiciary Committee has approved Reno lawyer and former Washoe County District Attorney Larry Hicks for a new federal judgeship in Nevada.

The voice vote Thursday sends Hicks' name to the full Senate for final approval. It wasn't immediately known when the Senate would vote, but the Senate rarely reject a nomination pushed by one of its members.

Hicks was nominated in August by President Bush - his second nomination to a U.S. District Court seat. Bush's father, former President George Bush, made the same move in 1992, but the nomination lapsed when President Clinton took office.

Hicks is a partner in one of Nevada's largest law firms, McDonald, Carano, Wilson, McCune, Bergin, Frankovich & Hicks. He was Washoe County district attorney from 1974 to 1978.

A past president of the state bar association's board of governors, Hicks also serves as one of 90 civil dispute settlement judges for the Nevada Supreme Court. He was admitted to the Nevada state bar in 1968.

The lifetime federal court appointment carries an annual salary of \$145,100.

The new position had been authorized by Congress to take up part of a workload described as one of the busiest in the nation, said Cynthia Jensen, chief deputy clerk for the court in Las Vegas.

Reno Attorney One Step Closer

Las Vegas Review-Journal
Friday, November 2, 2001

Attorney Larry Hicks moved a step closer to the federal bench Thursday when the Senate Judiciary Committee voted 19-0 to recommend he become a U.S. District Court judge in Nevada.

The committee's vote sends the nomination to the full Senate, which could take it up within the next week, said a spokesman for Majority Whip Harry Reid, D-Nev.

Hicks, 57, of Reno, was among 17 federal nominees approved by the committee.

'We have every reason to believe he will be confirmed,' Judiciary Committee spokeswoman Mimi Devlin said.

Hicks traveled to Washington for a confirmation hearing Oct. 18. It took place in a Capitol meeting room on the day Senate office buildings were closed for anthrax sweeps.

Judicial Nominee Clears Committee

The Daily Oklahoman
Friday, November 2, 2001

The Senate Judiciary Committee on Thursday gave Oklahoma City attorney Stephen P. Friot a 19-0 endorsement for a federal judgeship in Oklahoma City. His nomination now goes to the full Senate.

Friot is the third Oklahoma judicial nominee to clear the committee in the last few weeks.

Claire V. Eagan and James H. Payne were both approved by the panel and then the full Senate in late October.

Friot, a partner in the firm of Spradling, Alpern, Friot & Gum, was nominated by President Bush to serve as a judge in the Western District of Oklahoma in Oklahoma City.

Op/Eds

Turnabout is Fair Play

By Martin Ward
Rocky Mountain News
Friday, November 2, 2001

In response to "Obstruction Dems," Al W. Blair's letter of Oct. 25, I can only say, you must be joking. To call Democrats obstructionist on the matter of filling positions of federal judges is an outrageous hypocrisy on the part of any Republican. For those with short attention spans, I would point out that Republicans stalled Clinton nominations for eight years, leaving numerous posts unfilled.

The Democrats may be obstructing these nominations, but I would advise Republicans to just shut up and take their dose of the same medicine they handed out over the eight years of Clinton's presidency. I would also point out that during Bush's short term to date, there has been more bipartisanship at the Capitol, even before Sept. 11, than Republicans offered during Clinton's term.

Interest Groups/Press Releases

Justice Delayed...

By Kenneth Connor
The Family Research Council
Monday, November 5, 2001

...is justice denied. Chris Meyers, key aide to Sen. Rick Santorum (R-Penn.), says: "You can't get wire taps, search warrants, etc. without judges, [so] confirm the president's slate so that efforts to capture terrorists won't be delayed." Liberals in the Senate say that when the president's party controlled that body (before Sen. Jim Jeffords' famous "jump") no judges were confirmed. That's ridiculous. For most of those months, nominees hadn't even been submitted. That's because of the disputed election. Prior to June, few if any of the nominees had even submitted required financial disclosure forms or had FBI background checks. Liberals stalling on judges will have to come up with more plausible excuses than that. For now, however, wouldn't it be better for all concerned to act on the pending nominees? Presently, there are 106 vacancies. When there were just 74 vacancies under Mr. Clinton, Sen. Daschle called it "a judicial emergency." Senate liberals are wrong to obstruct Mr. Bush's judicial nominees; justice requires action.

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Wednesday, November 07, 2001 1:10 PM
To: Dinh, Viet; 'heather_wingate@who.eop.gov'; Bryant, Dan; O'Brien, Pat; 'bradford_a._berenson@who.eop.gov'; 'brett_m._kavanaugh@who.eop.gov'; Koebele, Steve; Benedi, Lizette D
Subject: Estrada Letter
Attachments: estrada.letter

A draft of the letter on Miguel is attached. I'm circulating only to DOJ and WH at this stage so we can develop a final draft before sending it to anyone on the hill. Comments appreciated.

Schauder, Andrew

From: Schauder, Andrew
Sent: Thursday, November 01, 2001 7:19 PM
To: Schauder, Andrew; Newstead, Jennifer; Ciongoli, Adam;
'Bradford_A._Berenson@who.eop.gov%inetgw';
'Brett_M._Kavanaugh@who.eop.gov%inetgw'; Bryant, Dan;
'Heather_Wingate@who.eop.gov'; Ullman, Kristen A; Long, Linda E; Benedi,
Lizette D; Rabjohns, Lori; Day, Lori Sharpe;
'Matthew_E._Smith@who.eop.gov%inetgw'; Tucker, Mindy; Suit, Neal; 'Patrick
O'Brien'; Coniglio, Peter J; Joy, Sheila; 'Tim_Goeglein@who.eop.gov%inetgw';
'Timothy_E._Flanigan@who.eop.gov%inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov%inetgw'; Carroll, James W (OLP)
Subject: judicial media review
Attachments: Judicial Media Review 11-1-01.wpd

[Please see attached review](#)

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Judges, Stop the Stalling," *The Family Research Council*, October 31, 2001

"Daschle on Judicial Nominees: Not a 'No Spin Zone'"

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General Judicial Articles

Hutchinson Wants Smith's Name Before Committee Soon

The Associated Press

Thursday, October 31, 2001

Sen. Tim Hutchinson said he wants the Senate Judiciary Committee to soon consider the appointment of former state Supreme Court justice Lavenski Smith to 8th U.S. Circuit Court of Appeals.

President Bush nominated Smith, 42, to the court in May. Smith said Monday he has received no word on the confirmation process.

D.J. O'Brien, spokesman for Hutchinson, R-Ark., said the Democratic-controlled committee must first approve the nomination before Smith can be considered before the full Senate.

"I think he fits in pretty well with the mold George Bush is looking for" in judicial nominees, O'Brien said.

Smith also has the support of Sen. Blanche Lincoln, D-Ark., said her spokesman, Drew Goehl.

Gov. Mike Huckabee named Smith, a Republican, as PSC chairman in January 1997 and a year later appointed his fellow Hope native to the state Supreme Court to fill out the term of Justice David Newbern, who retired.

Smith ran unsuccessfully for the state Court of Appeals in November. In December, Huckabee named him to a six-year term on the PSC.

Head of National Pro-Family Group: Daschle Playing Politics with Judges

By Steven Barrett

The Associated Press

Thursday, October 31, 2001

The president of a conservative national organization says Senate Majority Leader Tom Daschle is holding up President Bush's federal judicial nominations to make Bush look weak and boost Democrats' election hopes.

At a news conference Wednesday in Sioux Falls, Ken Connor of the Washington-based Family Research Council told reporters that confirmations went much faster in the first year of the three

previous presidential administrations.

"The strategy is to make the president bleed, to make him appear impotent" so Democrats can win more races in 2002, Connor said.

A spokesman for Daschle said the senator from South Dakota is working hard to fill seats on the judiciary and that the Family Research Council's criticisms are unfair. Twenty percent, or 12 of 60, federal judges Bush has nominated have been confirmed.

That compares with 57 percent, or 27 of 47, confirmed in the first year of President Clinton's administration; 62 percent, or 15 of 24, in the elder President Bush's first year; and 91 percent, of 41 of 45, in President Reagan's first year, Connor said.

More than 50 nominees are pending. The federal judiciary has 110 vacancies, including 39 positions open so long the courts classify them as "judicial emergencies."

Connor accused Daschle of changing his tune on judicial confirmations since Bush succeeded Clinton. He quoted Daschle as saying in a news conference March 7, 2000, that the roughly 75 judgeships vacant then under Clinton represented a "dire shortage."

But Jay Carson, a spokesman for Daschle, countered that Daschle has been majority leader only since June, before which Republicans controlled the Senate.

"Basically, the claims that are made by the Family Research Council are false and misleading," he said.

"Since September 11, Senator Daschle has worked closely with President Bush and his administration and the Republican leaders in Congress to get the business of the American people done in this time of crisis."

That includes things like helping the airline industry and families who lost loved ones in the terrorist attacks, Carson said, and yes, judicial confirmations.

"Under Democratic leadership, the day after the anthrax arrived in the Capitol complex, the Judiciary Committee met in a small, cramped room inside the Capitol. They didn't have their office space anymore. It was closed off by the FBI," Carson said. "They had every excuse in the world not to meet ... but they said, 'We need to get these judges done and we're going to hold a meeting.'"

That committee includes senators as diverse as Republican Strom Thurmond of South Carolina and Democrat Ted Kennedy of Massachusetts.

Carson called Connor's comments "disappointing" at a time when unity is important.

"These sorts of partisan attacks are not what we need at this time," Carson said.

Clinton had 67 judicial nominees who never got a vote on the Senate floor, he added, and 57 of those never got a hearing. Vacancies grew from 65 when Republican Sen. Orrin Hatch of Utah became chairman of the Judiciary Committee in 1995 to 107 when Democratic Sen. Patrick Leahy of Vermont took over the position in June, Carson said. "The vacancies that exist in America right now are a product of a lack of confirmations by the previous leadership of the Senate ...," he said. "It's hard to see those criticisms as anything other than crocodile tears."

Carson also said that since July, the Senate has confirmed four Court of Appeals judges and is scheduling a hearing for a fifth. Only three such judges were confirmed in all of 1993, under Clinton, Carson noted in a news release Wednesday afternoon.

And he said more judges may be confirmed this year, making end-of-year comparisons with previous confirmation rates inaccurate.

Connor said the depleted judiciary will be ill-equipped to handle court cases arising from the Sept. 11 terrorist attacks.

"We've heard a great deal about bringing wrongdoers to justice," and that task will be slowed by the lack of judges, he said.

Rob Regier, executive director of the South Dakota Family Policy Council, said Daschle does not want to see Bush's nominees approved because they will exercise judicial restraint rather than press a social agenda from the bench.

"Tom Daschle is doing his level best to carry out the Clinton legacy of activist judges, even at the cost of justice," said Regier, who joined Connor at the news conference. Regier said he used to work with Connor in Washington.

Republican senators recently gave up trying to get Democrats to agree to approve a specified number of Bush's nominees this year. GOP senators decided to wait until January, the start of an election year, to begin pressuring Democrats again to approve the nominees.

Connor, clad in a green flannel shirt, tan slacks and hiking boots, said he had just finished a week of successful pheasant hunting near Plankinton. It was his sixth time hunting in the state, he said.

"We limited out each day," he said.

Judicial Nomination Clears Senate Committee

The Associated Press

Thursday, November 1, 2001

New Mexico Court of Appeals Judge Christina Armijo's nomination for a U.S. district judgeship cleared a Senate committee Thursday. The Senate Judiciary Committee voted 19-0 to recommend full Senate confirmation of Armijo to serve as a U.S. district court judge for New Mexico, Sen. Pete Domenici, R-N.M., said in a news release.

Domenici recommended Armijo of Las Vegas for the job, and she was nominated by President Bush.

Domenici said he hopes Armijo's Senate confirmation will occur within the next week.

Armijo has been an appeals court judge since 1996.

Group: Daschle Delaying Judges

By David Kranz

Argus Leader

Thursday, November 1, 2001

Senator's aides deny nominees held up, assail timing of charge

A conservative group focusing on family values is accusing Senate Majority Leader Tom Daschle of defying President Bush's wishes to expedite approval of federal judges.

But a Daschle spokesman said the South Dakota Family Policy Council is using misleading information to make its point.

Robert E. Regier of Sioux Falls, state executive director of the group, says the group will run an ad in today's Argus Leader asking constituents to call Daschle and tell him to stop holding up the nominations.

Regier says failure to do so sends a partisan message in a time of a national crisis.

"A key element in seeking justice on the evils of the perpetrators on our country is our justice system," Regier said in a Wednesday news conference.

Daschle is contradicting a comment made in 2000 when he said the 74 vacancies meant a "dire shortage," he said

The shortage is greater now, and Daschle isn't responding, Regier said.

"At a time when South Dakotans are concerned about the anthrax attacks on our senator and his staff, Sen. Daschle is playing political games with our judicial system," he said.

Jay Carson, news secretary for Daschle, said it was unfortunate that Regier and Ken Connor, president of the national organization, were the ones acting in a partisan manner at a time when Daschle was working closely with President Bush to deal with the national trauma.

"At a time when our country has come together - where Daschle meets regularly with the President, Speaker (Dennis) Hastert and Sen. (Trent) Lott - it is not the right time to start pushing a partisan agenda and engaging in partisan attacks," Carson said.

He disputes the suggestion of the two men that Daschle turned his back on Bush's request to accelerate Senate confirmation of federal judges.

"It is simply not true. I talked to the judiciary committee staff and what they are charging, it is just not true. It is an incredibly misleading claim," Carson said.

Twenty percent, or 12 of 60, federal judges Bush has nominated have been confirmed.

That compares with 57 percent, or 27 of 47, confirmed in the first year of President Clinton's administration; 62 percent, or 15 of 24, in the elder President Bush's first year; and 91 percent, of 41 of 45, in President Reagan's first year, Connor said.

More than 50 nominees are pending. The federal judiciary has 110 vacancies, including 39 positions open so long the courts classify them as "judicial emergencies."

While the press briefing was taking place in Sioux Falls, Daschle, the president and other legislative leaders were holding a lengthy breakfast meeting, Carson said.

"They were there doing the business of the American people," he said.

Connor says the Council watches Democrats and Republicans equally and believes Republicans "caved to Daschle's hardball politics."

"We are critical of Republicans, too. We are equal opportunity critics," he said.

Criticism like this is not how Daschle gets things done, Carson said. "He doesn't do it by launching attacks with false and misleading information."

The group's comments came two days after Daschle was praised by a largely Republican crowd of 1,600 members of the Sioux Falls Area Chamber of Commerce for his emotional personalization of the war on terrorism.

Timing of the critical remarks balanced with need for action were at the center of concern for some.

One respected former conservative Republican legislator, Harvey Krautschun of Spearfish, said the message seemed appropriate, but he had mixed emotions about the timing.

"Holding a person accountable like someone in Mr. Daschle's position is totally appropriate," he said. "There are ways to do it and there are proper times to do it. We may not always agree with Mr. Daschle, but we respect him. In light of some of the gravity and situation in what is happening and the impact here, hopefully it (criticism) is being done in the proper tenor."

Now is not the time for such discussions on judgeships, but he agrees the nominees need hearings, says Republican Gov. Bill Janklow.

"Congress is in turmoil because of the anthrax situation. They are trying to get things done with the war-related measures, airline security, emergency financial policy, dealing with recession and unemployment issues, getting an appropriations bill passed. Congress ought to stay on task," Janklow said.

Once those issues are dealt with he says Congress needs to take up the appointments.

"We, on all sides, have to quit playing game. The Constitution says the president appoints with the consent of the Senate. I don't think Congress - after they come back in session - should delay judicial hearings for political reasons. After the hearings, vote them up or down. Justice delayed is justice denied," he said.

Senate to Vote on Thurmond's Son

By Jesse Holland
The Associate Press
Thursday, November 1, 2001

Strom Thurmond Jr., son of longtime South Carolina Sen. Strom Thurmond, is on his way to becoming U.S. Attorney in his father's home state.

The nomination of Thurmond Jr. was one of 11 U.S. attorneys sent by voice vote by the Senate Judiciary Committee to the full Senate on Thursday.

It was not immediately known when the Senate would vote on the nominations, but senators rarely reject a nomination pushed by one of its members. Thurmond, the oldest and longest-serving senator at 98, could be heard voting "aye" when the block of U.S. attorney nominees came up for approval. The South Carolina senator is the former chairman of the Senate Judiciary Committee and the second-ranking Republican.

The younger Thurmond is an assistant state prosecutor and a 1998 University of South Carolina law school graduate. He has endorsements from both Republican and Democratic leaders for the job; he has no official affiliation.

His father says he will not run again and the younger Thurmond will turn 30, the legal age for

election to the Senate, a month before his father's seat will be on the ballot again in 2002. But he has said he intends to be federal prosecutor for four years.

The committee also decided to vote next week on Terry Wooten's nomination to be a U.S. District judge in South Carolina. Wooten, currently a U.S. magistrate judge in South Carolina, has been accused of leaking confidential material for a book on the Clarence Thomas hearings in 1991.

During Thomas' hearings, Wooten worked for Thurmond as the committee's chief Republican counsel.

David Brock, the book's author, says he received "raw FBI files" from Wooten that he used for an article and a book aimed at discrediting Anita Hill and another woman, Angela Wright, who accused Thomas of sexual harassment.

Wooten called the accusation "absolutely 100 percent untrue."

Senate Judiciary Chairman Patrick Leahy, D-Vt., said the committee has received a confidential report from the FBI on the accusation. "I urge senators to read this report before voting next week," Leahy said.

The committee sent to the Senate the nominations of four other U.S. District judges, M. Christina Armijo of New Mexico, Karon Bowdre of Alabama, Stephen Friot of Oklahoma and Larry Hicks of Nevada.

The committee also sent Edith Brown Clement's nomination for a U.S. Appeals Court seat on the 5th Circuit to the Senate for approval by an 18-0 vote. Sen. Russ Feingold, D-Wis., refused to vote on the nomination, saying Clement had not answered his questions about a judicial conference she attended. When asked whether he would hold up her confirmation by the Senate, Feingold said "certainly, until I get her answers."

Op/Eds

Business As Usual

The Ledger

Tuesday, October 30, 2001

It's not only in the U.S. House that the post-Sept. 11 bipartisanship has eroded. In the Senate, Republicans reportedly are holding up consideration of a major foreign aid appropriations bill for domestic political reasons. If this seems like an odd time to be throwing sand on the wheels of democracy -- especially when it comes to foreign aid and particularly at a time when the United States ought to be doing all it can to win over allies around the world -- rest assured that

the Republicans think they have ample justification.

They don't think the Democrats, who hold a 50-49-1 Senate majority, are moving quickly enough to approve President Bush's judicial nominations. If this sounds like an old song, it is. For the last six years of the Clinton administration, Democrats complained that the Republicans were holding up judicial nominations.

Is there a logical nexus between judicial screenings and foreign aid? No. Is this just political blackmail of the sort that most Americans hoped would be left in the smoking ruins of the Sept. 11 terrorist attacks? Yes.

Is it business as usual in the Washington Swamp? Sadly, yes.

Judicial nominees should be approved or not on their own merit and in timely fashion. The foreign aid bill should be passed or defeated on its own merits. Holding one hostage for the other is unacceptable while the nation is locked in a worldwide struggle for its very existence.

Democrats Try to Bend The U.S. Judiciary Branch

Michael Chidester
Daily Utah Chronicle
Tuesday, October 30, 2001

Looking to leave your mark in America? If so, forget about becoming a legislator.

Lawmakers are increasingly becoming high-profile budget makers. And don't shoot for the presidency. The chances are slim, the scrutiny is unbearable, and the living conditions are way over the top. If you're looking for power, become a judge.

Newsweek Columnist Jonathan Alter recognized the power of the courts in July 2000, when he called the naming of future Supreme Court justices "the real stakes" in the 2000 presidential election. "The next president, with as many as three or four Supreme Court appointments, will touch every American life," Alter wrote.

Such power can be intoxicating, especially to politicians. So nobody should be surprised by this Sept. 5 report from the Deseret News, just three months after Democrats gained control of the Senate Judiciary Committee: "[Sen. Orrin Hatch, R-Utah] said a hearing that Democrats called Tuesday about changes that they seek appears 'to be part of a partisan strategy to ...[inject] partisanship into the judiciary.'"

Sen. Hatch is correct. Democrats are attempting to control the judiciary -- especially the approval of new federal judges -- in a number of ways. Given the modern penchant for furthering agendas through litigation rather than legislation, the efforts of these Democrats should raise a red flag for anybody who wants an impartial judiciary.

Hatch's comments referred to the actions of Sen. Charles Schumer, D-N.Y., who is chairman of the Subcommittee on Administrative Oversight and the Courts. The Deseret News reports, "Sen. Schumer said the Senate should be able to consider the ideology of nominees [to the federal courts] -- and reject them if their views are 'out of the mainstream.'"

In other words, if the political views of potential judges do not coincide with those of Democratic legislators -- who supposedly are best qualified to judge what ideas are "in the mainstream" -- the judges will not be confirmed.

"The hallmark of a good jurist is one who does not allow personal opinion to affect objective legal decision making," Sen. Hatch said. "The Senate's responsibility does not include establishing an ideological litmus test to gauge a candidate's fitness based on his or her position on controversial issues."

Sen. Schumer believes considering a candidate's ideology will help "ensure that courts remain balanced and moderate." Again, Sen. Schumer's paternalistic pride assumes that he and his colleagues fully understand balance and moderation.

Sen. Patrick Leahy, D-Vt., new chairman of the Senate Judiciary Committee, is also trying to change the confirmation of federal judges in dangerous ways.

FRC reports: "While attention was diverted by the Sept. 11 terrorist attacks, Sen. Leahy unilaterally changed the Senate confirmation rules. Despite heated Republican objections, Sen. Leahy ordered sensitive personal information previously limited to confidential FBI background checks included on the Judiciary Committee questionnaire nominees are required to answer."

In addition, Sen. Leahy wants to force judicial nominees to disclose any political contributions they have made.

In both cases, this once confidential information will be offered to Senators who never needed it to confirm any of the 377 judges approved during the Clinton administration. This information -- which will hardly improve Senators' ability to assess a judge's professional capability -- will undoubtedly leak to the press, embarrassing the nominees.

Sens. Leahy and Schumer are trying to select judges based on their ideology. They apparently have no confidence that judges can or will act objectively, without giving in to their political preferences.

Oddly enough, Democrats believe their liberal counterparts at the American Bar Association can act objectively, despite marked political ideologies.

For nearly 50 years, the ABA has evaluated every U.S. president's nominees for the federal bench, giving each candidate it assesses a rating of "well qualified," "qualified," or "not qualified." According to FRC, the ABA considers its evaluations "objective," and bases its ratings on a candidate's "integrity, professional competence and judicial temperament."

In March, President Bush ended this "preferential treatment" of the ABA when he advised the group that it would not be given a "quasi official role," while it held public views on controversial issues.

Martha W. Barnett, head of the ABA, responded by saying, "We cannot think of any constructive purpose this serves."

Surely Barnett is an intelligent woman. Perhaps a review of the ABA's stance on political issues might help her understand why President Bush doubted its supposed objectivity.

The FRC notes that the group advocates "abortion on demand, affirmative action, needle giveaway programs, homosexual adoption, medical marijuana and gun control," while it opposes "the death penalty, a flag desecration amendment and the right of the Boy Scouts ... to exclude homosexual leaders."

Sen. Leahy and friends feel they cannot trust nominees to one of hundreds of judicial posts across the country to be objective judges. However, they do feel the organization that recommends or rejects these individuals -- which has a very defined political agenda -- can do so objectively.

This unquestioning trust of the ABA, yet patent mistrust of conservative judicial nominees, makes Sen.

Leahy's motives for evaluating candidates' politics seem questionable.

In more simple terms, he can't be trusted.

Interest Groups/Press Releases

National and State-Based Family Policy Groups Call on Daschle to Come Clean on Judges, Stop the Stalling

The Family Research Council
Wednesday, October 31, 2001

NATIONAL AND STATE-BASED FAMILY POLICY GROUPS CALL ON DASCHLE TO COME CLEAN ON JUDGES, STOP THE STALLING

"When the terrorists are brought to justice, there may be no one there to judge their case, thanks

to Sen. Daschle's partisan politics," says FRC's Ken Connor

SIOUX FALLS, S.D. -- Sen. Tom Daschle (D-S.D.) is playing partisan politics with the nation's court system by blocking the confirmation of President Bush's judicial nominees and leaving over 100 federal judgeships vacant, said leaders from the Washington, D.C.-based Family Research Council (FRC) and the South Dakota Family Policy Council (SDFPC) on Wednesday. The groups announced they would be running newspaper ads about Sen. Daschle's blocking of judicial nominees in *The Argus Leader* beginning Thursday.

"Sen. Daschle has ratcheted up the partisanship on judges to unprecedented levels," FRC President Ken Connor said. "When Bill Clinton was president, Sen. Daschle thought that 75 vacant judgeships was a 'judicial emergency,' why isn't it a crisis when 106 judgeships are vacant now that George W. Bush is president?"

"President Bush is nominating judges who will exercise judicial restraint, yet the bitterly partisan Sen. Daschle is determined to deny the president the fruits of his election - using the War on Terrorism as an excuse," Connor said.

"At a time when South Dakotans are concerned about anthrax attacks on our senator and his staff, Sen. Daschle is playing political games with our judicial system," SDFPC Executive Director Robert Regier said. "While we're praying for his safety and for a spirit of national unity, Sen. Daschle abuses his power in a spirit of partisan hostility.

"Sen. Daschle was sent to Washington to represent our values and to uphold the Constitution. He has failed on both counts. He may have won an election or two in South Dakota, but so has President Bush. We stand behind our President and so should Sen. Daschle."

Last week, President Bush asked Sen. Daschle to speed up the judicial nomination process. Sen. Daschle not only refused, he coerced the White House and Senate Republicans to cede their recent efforts to get Bush's nominees confirmed.

"Vacancies on the federal bench are beyond crisis levels," Connor said. When President Bush took office there were 67 vacancies; today there are 106. Only twelve of the 60 judges nominated have been confirmed and only a handful even have had hearings. How does this compare with previous administrations in their first years? According to the *Wall Street Journal*, Ronald Reagan had 41 judges confirmed, George H.W. Bush 15 and Bill Clinton 28.

"When the terrorists are brought to justice in the U.S., there may be no one there to judge their case, thanks to Sen. Daschle's partisan politics," Connor said.

Daschle on Judicial Nominees: Not a "No Spin Zone"

The Family Research Council

November 1, 2001

WASHINGTON - Claims that Senator Tom Daschle (D-S.D.) is blocking the confirmation of President Bush's judicial nominees are "unfair," "false and misleading," according to Sen. Tom Daschle's spokesman Jay Carson. His remarks came in response to a press conference held on Wednesday by Family Research Council (FRC) and the South Dakota Family Policy Council in Sioux Falls. FRC believes the response begs a closer look at the spin vs. the reality:

Daschle Spin:

Sen. Daschle's spokesman said the senator has been Majority Leader only since June: "The vacancies that exist in America right now are a product of a lack of confirmations by the previous leadership in the Senate..."

Reality:

It's true, Sen. Daschle has only been the Majority Leader since June, but between June and the August congressional recess, President Bush made 40 judicial appointments. Why is it that under Senator Daschle's leadership the Senate has only been able to confirm 12 of those 40 nominees?

The best way to measure the Senate's record on confirming judicial appointments is how many vacancies there are at the end of a congressional session. When Bill Clinton was president, the highest number of vacancies the Senate left town without filling was 67. Currently, there are over 100 vacancies and counting. How many judicial vacancies will there be when Sen. Daschle sends the 107th Senate home for the holidays?

Daschle spin:

Sen. Daschle's spokesman said, "Since September 11, Senator Daschle has worked closely with President Bush and his administration and the Republican leaders in Congress to get the business of the American people done in this time of crisis."

Reality:

Just last week, The Washington Times (October 24) reported that in a meeting with congressional leaders, President Bush asked Senator Daschle about the status of judicial nominations. To try to force Democrats to stop stalling the confirmation of judges, Republicans had been holding up the Foreign Relations spending bill. According to The Times, "Senate sources said Mr. Daschle told the president that he would not link judges with spending bills and that Mr. Bush needed the spending bills more than Senate Democrats did." Is that what Sen. Daschle calls getting business done for the American people?

"Vacancies on the federal bench have gone way beyond Daschle's definition of crisis levels," FRC President Ken Connor said. "It's time he stop playing political games with the nation's judiciary and help move qualified judges into the nation's empty benches."

On Thursday, FRC and SDFPC ran an ad about Sen. Daschle blocking judicial nominees in South Dakota's Argus Leader.

Suit, Neal

From: Suit, Neal
Sent: Monday, October 29, 2001 6:10 PM
To: Brinkley, Winnie; Ciongoli, Adam;
'Allison_L._Riepenhoff@who.eop.gov/inetgw';
'Bradford_A._Berenson@who.eop.gov/inetgw';
'Brett_M._Kavanaugh@who.eop.gov/inetgw'; Bryant, Dan; Cole, Deloris L;
'Heather_Wingate@who.eop.gov'; Carroll, James W (OLP); Sutton, Jason;
Newstead, Jennifer; Ullman, Kristen A; Long, Linda E; Benedi, Lizette D;
Rabjohns, Lori; Day, Lori Sharpe; 'Matthew_E._Smith@who.eop.gov/inetgw';
Tucker, Mindy; O'Brien, Pat; Joy, Sheila; 'Tim_Goeglein@who.eop.gov/inetgw';
'Timothy_E._Flanigan@who.eop.gov/inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov/inetgw'
Subject: talking points and chart on judicial nominees
Attachments: Judicial Nominee Talking Points.doc; nominees.wpd; key talking point.doc; first year chart.wpd

Here were some talking points prepared at the request of Lott's staff. Some of the talking points overlap, but were prepared for different audiences (b) (5) They were all updated on October 29th. If you have any questions let me know. Thanks.

Neal

Neal Suit
Office of Legal Policy
United States Department of Justice
Phone: 202-514-6131
Fax: 202-353-9164

<u>President Clinton's First Year</u>	<u>President Bush's First Year</u>
28/32 of Nominations Before October 31 Confirmed (87.5%)	Only 12/60 Nominations Before October 31 Confirmed (20%)
3/5 Circuit Court Nominees Confirmed (60%)	Only 4/25 Circuit Court Nominees Have Been Confirmed (16%)
24/27 District Court Nominees Confirmed (89%)	8/35 District Court Nominees Confirmed (23%)
13/14 Nominees Announced Before August Recess Confirmed Before the End of the Year (93%)	12/40 Nominees Announced Before August Recess Confirmed Before the End of the Year (30%)
Average Number of Days Between Nomination and Confirmation: 51.7	Average Number of Days Between Nomination and Confirmation: 90.7

Schauder, Andrew

From: Schauder, Andrew
Sent: Monday, October 29, 2001 6:02 PM
To: Schauder, Andrew; Newstead, Jennifer; Ciongoli, Adam;
'Bradford_A._Berenson@who.eop.gov%inetgw';
'Brett_M._Kavanaugh@who.eop.gov%inetgw'; Bryant, Dan;
'Heather_Wingate@who.eop.gov'; Ullman, Kristen A; Long, Linda E; Benedi,
Lizette D; Rabjohns, Lori; Day, Lori Sharpe;
'Matthew_E._Smith@who.eop.gov%inetgw'; Tucker, Mindy; Suit, Neal; 'Patrick
O'Brien'; Coniglio, Peter J; Joy, Sheila; 'Tim_Goeglein@who.eop.gov%inetgw';
'Timothy_E._Flanigan@who.eop.gov%inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov%inetgw'; Carroll, James W (OLP)
Subject: judicial media review
Attachments: Judicial Media Review 10-29-01.wpd

[Please see attached review](#)

Media Review - Judicial Nominations

Monday, October 29, 2001

General Judicial Articles

"Senate Committee Screens New Mexico Judicial Nominees,"

[1](#)
The Santa Fe New Mexican, October 26, 2001

"Daschle Disses Dubya; Why the Majority Leader Told the President to get Lost,"

[2](#)
Byron York, *National Review Online*, October 26, 2001

"Bunning Won't Back Down on Kin,"

[3](#)
Patrick Crowley, *The Cincinnati Enquirer*, October 28, 2001

Op/Eds

"Senate Spat; Now isn't Time for Tiresome Argument,"

[5](#)
The Columbus Dispatch, October 27, 2001

"U.S. Needs Judges Now,"

[6](#)
The Boston Herald, October 27, 2001

"Obstructionists Senate Hold Judicial Nominees Hostage"

[7](#)
The Daily Oklahoman, October 26, 2001

Transcripts/Members of Congress

NONE

Interest Groups/Press Releases

NONE

General Judicial Articles

Senate Committee Screens New Mexico Judicial Nominees

The Santa Fe New Mexican
Friday, October 26, 2001

The Senate Judiciary Committee screened two New Mexico judicial nominees Thursday, with

neither Harris Hartz nor William P. "Chip" Johnson meeting much resistance from the panel.

The nominations of Hartz to the 10th U.S. Circuit Court of Appeals and Johnson to the U.S. District Court in New Mexico will be voted on by the committee at a later hearing. Christine Armijo's nomination to New Mexico's district bench is also pending.

Republicans have accused Democrats of foot-dragging in the judicial-confirmation process.

Hartz, who served on the New Mexico Court of Appeals from 1988 to 1999, was quizzed by Sen. John Edwards, D-N.C., on his views on abortion rights, a judge's proper role in shaping law and his support of individual rights.

Hartz sidestepped most of the questions by saying that as a judge he would follow the lead of the Supreme Court.

If Hartz is approved by the committee and confirmed by the full Senate, he would join a 10th Circuit panel which hears appeals from New Mexico, Colorado, Kansas, Oklahoma, Utah and Wyoming.

Sens. Pete Domenici, R-N.M., and Jeff Bingaman, D-N.M., praised Hartz's qualifications.

"While we know he would do wonderful things in New Mexico ... we're prepared today to share him with our country," said Domenici, who recommended President Bush nominate the Republican judge. "

Daschle Disses Dubya; Why the Majority Leader Told the President to get Lost

By Byron York

National Review Online

Friday, October 26, 2001

In a White House meeting this week, George W. Bush asked Senate Majority Leader Tom Daschle to help speed up the Senate's slow-motion confirmations of Bush's judicial nominees. It was the perfect opportunity for Daschle to offer a few reassuring words. "Mr. President, we've been terribly busy working on terrorism measures," the majority leader might have said, "but we want to assure you we will do all we can to help." Perhaps Daschle might even have made a token effort to confirm a few nominees a district judge or two so he could appear to make good on his word.

Instead, Daschle told the president to get lost. We Democrats don't need judges you do, Daschle said. We don't need appropriations bills you do. So forget about it. It was an almost breathtakingly dismissive response, especially at a time when leaders of both parties claim to be working in a newly

bipartisan spirit.

What accounts for Daschle's brazenness? Republicans have always known the majority leader to be a hardball partisan fighter beneath his mild-mannered exterior. But there was something new in his response at the White House Tuesday. When he told the president to forget about judges, Daschle was announcing his new status as a Big Bad Dude in post-September 11 Washington.

Of the four leaders of Congress, Daschle's profile has risen the most in the weeks after the attacks on the World Trade Center and the Pentagon. In contrast, House Speaker Dennis Hastert, while widely visible, has not achieved the status of a national leader. "[Hastert's] strength is being a consensus builder, and his constituency is the House of Representatives," says one congressional aide. "He has not shown a tremendous inclination to go out and speak, and when he does, he doesn't always look so good." Nor have congressional minority leaders Trent Lott and Richard Gephardt achieved new levels of authority during the crisis.

But Daschle has. Not only was he a more visible and effective leader in the days after September 11, but now, with his office having been the target of bio-terrorists, Daschle is more than just a Democratic leader. He's a tough, courageous veteran of the war on terrorism—a made man in Washington. "The anthrax attack on Daschle means that he can look Bush in the eye," says one Republican. "It's taken away that look of softness around Democrats and Daschle."

Daschle's new status is undergirded by a new national prominence and popularity. One example was the recent nationally televised "Concert for New York City." Overlooked in all the discussion of the crowd booing Hillary Rodham Clinton was the fact that Daschle also appeared on the program, and was wildly popular. The Majority Leader from South Dakota received a very, very friendly reception in New York—a vivid indicator of his new standing.

So that might well be the reason Daschle felt he could tell George W. Bush to forget about getting any judges confirmed. And it appears that at least so far, Bush has chosen not to fight back. It's a telling illustration of the ways in which political Washington has changed since September 11. Consider this: In the spring, when George W. Bush's job-approval rating hovered in the low 50 percent range, he passed the largest tax cut in a generation and made significant progress on fulfilling several other campaign promises. Now, when Bush's job-approval rating is hovering in the low 90 percent range and he is widely respected as a wartime president, he finds himself dissed by the Senate's newly pumped-up majority leader.

Bunning Won't Back Down on Kin

By Patrick Crowley

The Cincinnati Enquirer
Sunday, October 28, 2001

Kentucky U.S. Sen. Jim Bunning doesn't make a stump speech without mentioning his kids and his grandkids.

He and his wife, Mary, have nine children and 35 grandchildren. That's more than a family it's a precinct.

If you've ever met any of the Bunning children, then you know that the couple sure did something right when it came to raising them.

But does there come a time when being proud of a child or grandchild crosses too far into the realm of politics and policy?

Mr. Bunning's youngest son, David, is a 35-year-old assistant U.S. attorney who works out of the federal Courthouse in Covington. By most accounts, he has done an excellent job in the decade he has held the position.

But Mr. Bunning a Southgate Republican is trying to help his son get a job as a federal judge, a plum gig that is a lifetime presidential appointment currently paying \$142,000 a year.

Mr. Bunning and Kentucky's other U.S. senator, Louisville Republican Mitch McConnell, recommended earlier this year that President Bush nominate David Bunning for the federal judgeship opening this year in Covington.

Mr. Bush did so, passing over many other potential candidates who were largely viewed, in the legal community, as more experienced and better qualified than the younger Mr. Bunning.

Since federal judicial appointments require Senate approval, David Bunning has been preparing for a hearing before the Senate Judiciary Committee, a key step in winning that coveted confirmation.

But earlier this month, the American Bar Association rated Mr. Bunning unqualified for the job. The lawyers' organization didn't say why, but its guidelines for a spot on the federal bench recommend that a lawyer have at least 12 years experience. Mr. Bunning has 10.

The Senate is not bound by the ABA rating and can still confirm Mr. Bunning for the bench. Mr. Bunning's confirmation hearing has still not been scheduled.

Lawyers around the federal Courthouse in Covington will tell you that while Mr. Bunning did a great job on criminal cases, he handled too few civil cases the difficult lawsuits raising questions of federal law to be truly qualified for the federal bench.

Still, Jim Bunning is pressing for the Senate hearing on his son's nomination.

Sen. Bunning was also the subject of some criticism for sending out a fund-raising letter ostensibly written by his 11-year-old grand son.

"If you can please include a special gift of \$500, \$250, \$100, \$50 or even \$25 ... I know it would mean a lot to grandpa," the boy wrote in the letter.

Roll Call, a Washington newspaper that covers Capitol Hill, called the letter shameless. It reported that "lobbyists were stunned ... to receive a bizarre fund-raising pitch tossed out by Sen. Jim Bunning."

For his part, the elder Mr. Bunning apologized for none of it. Not for recommending a federal judge appointment for his son, whom he calls qualified, nor for using his grandkids to raise campaign cash.

Lots of pols use kids and grandkids in fund-raising appeals and campaign ads, Mr. Bunning said. And he's right, especially about the latter.

Op/Eds

Senate Spat; Now isn't Time for Tiresome Argument

The Columbus Dispatch

Saturday, October 27, 2001

Perhaps the glorious unity forged in Congress after the Sept. 11 terrorist attacks was too good to be true.

One of the latest congressional spats suggests Capitol Hill is rapidly returning to business as usual: slurs and snotty tit for tat.

Senate Republicans are complaining that majority Democrats are holding up hearings and votes on President Bush's nominees for federal court seats. Not long ago, during the Clinton administration, the Democrats were making the same complaint when the Republicans held the Senate majority.

This tiresome argument never seems to end. Each side cooks up statistics and numbers "proving" that their nominees have been treated worse than those of the opposition. On and on, back and forth.

This time, Republicans even are suggesting that Democrats will be impeding the war on terrorism unless Democrats move quickly to confirm Bush's picks. This bit of sophistry goes like this: With more

than 100 of the 800 federal court seats vacant, federal courts won't be able to process warrants and subpoenas needed to identify and apprehend terrorism suspects.

In reality, of course, any warrant or subpoena request related to terrorism is going to go right to the head of the line in any federal court in the land.

The real damage that results from delayed judicial appointments is that U.S. citizens seeking the more ordinary forms of justice -- the kinds that affect liberty, quality of life and livelihoods -- must wait longer than necessary to get it.

With one in eight judicial seats empty, the Senate definitely should act to fill them as quickly as the present crisis allows. But the GOP assertion that Senate Democrats are endangering national security by dragging their feet on judicial appointments is a shameful attempt to exploit a national emergency for narrow partisan gain.

When the Senate has finished the important business of equipping the nation with the legal, political and financial tools to prosecute the war on terrorism, then it should move to judicial nominations.

Each nominee deserves a hearing and a vote. Short of some deficiency in character or competence in the nominee, the Senate should show deference to presidential choices. This principle should apply whether the president is Republican or Democrat.

Now, senators, stop bickering and get back to work.

U.S. Needs Judges Now

The Boston Herald

Saturday, October 27, 2001

Senate Republicans are pressing their Democratic colleagues to act on President Bush's judicial nominees to facilitate the war on terrorism. That may be a bit of a reach, but the president's picks still deserve speedy consideration. Sen. Orrin Hatch of Utah, ranking Republican on the Judiciary Committee, says the 100 vacancies on the federal bench (roughly 12 percent of total judgeships) make it harder to process warrants and subpoenas aimed at terrorism suspects. But Hatch was unable to show that the vacancies were actually causing delays here.

A better argument is fairness. Of the 60 nominations Bush has made, the Senate has acted on only eight. In the three previous administrations, first-year nominations always received prompt action.

Democrats would like to delay the process of approving the president's more conservative nominees, like Miguel Estrada, nominated for the powerful U.S. Circuit Court of Appeals for the

District of Columbia. Wherever possible, the new Senate majority will no doubt try to apply its own ideological litmus test to the administration's candidates.

But the American people are in no mood for partisan games. The ability to process warrants and subpoenas aside, the judiciary is an important symbol of national unity. Like the armed forces, in times of national emergency, it should be at full strength.

Obstructionists Senate Holds Judicial Nominees Hostage

The Daily Oklahoman

Friday, October 26, 2001

In the final year of the Clinton presidency, Senate Democrats, including current Judiciary Chairman Patrick Leahy of Vermont, complained bitterly that Republicans were holding up judicial confirmations. They called the 65 vacancies at the time a "crisis."

Today there are more than 100 vacancies on the federal bench, and the new Senate majority is doing the country a terrible disservice by slowing the confirmation process to a bare trickle. According to the White House, just eight of President Bush's 35 district court nominees, or 22.8 percent, have been confirmed - and that includes a Clinton judge who was renominated by Bush when he took office.

Only four of Bush's 25 circuit court nominees (16 percent) have been confirmed. In all, just 12 of 60 Bush nominees (20 percent) have been confirmed by the Senate.

Considering that the group of nominees generally would be strong, conservative judges, this is partisan obstructionism, plain and simple.

Indeed, with Majority Leader Tom Daschle of South Dakota not inclined to push for more confirmation votes the rest of this year, it's likely the federal judiciary actually will have shrunk during Bush's first year in office, an incredible feat by any measure.

How does the Senate's record this year compare with other presidents and other Senates?
Abysmally.

At a similar point in Clinton's first year (1993), the Senate had confirmed 27 of 47 nominated judges or 57 percent. A Democratic Senate in 1989, the first President Bush's first year, had by this time confirmed 15 of 24 nominees (62 percent).

This week Senate Republicans gave up trying to force Daschle and Leahy to bring up more judges for votes by holding up work on spending bills. The strategy was shelved after Daschle bluntly told Bush that the White House needed the spending bills more than Senate Democrats.

There it is: Partisanship is alive and well in Washington - and America is the loser.

The Senate's power of "advise and consent" in the Constitution is being abused by the current leadership. Last year, when judicial vacancies were about half of today's total, it was called a crisis.

We don't know how Daschle and Leahy would describe the current situation, but "shameful" and "obstructionist" certainly seem to apply.

Dinh, Viet

From: Dinh, Viet
Sent: Tuesday, October 23, 2001 10:08 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: FW: PA candidates

thanks.

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Tuesday, October 23, 2001 9:56 AM
To: Dinh, Viet
Cc: Newstead, Jennifer
Subject: Re: FW: PA candidates

Yes, was aware of this. (b) (5) Others are good.

(Embedded
image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov>
to file: 10/23/2001 09:38:08 AM
pic31967.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP

cc: "Newstead, Jennifer" <Jennifer.Newstead@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested)
Subject: FW: PA candidates

FYI, herewith the nominating history of the PA candidates

Original Message

007104-002573

-----Original message-----

From: Joy, Sheila

Sent: Monday, October 22, 2001 8:22 PM

To: Dinh, Viet

Subject: PA candidates

PA, E

Legrome Davis - nominated 7/30/98; 1/26/99; ABA Q/WQ - never had a hearing

PA,W

David Cercone - nominated 7/27/00 - ABA Q/WQ- never had a hearing (b) (5)

(b) (5)

Suit, Neal

From: Suit, Neal
Sent: Monday, October 22, 2001 4:43 PM
To: '/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/'
Cc: Dinh, Viet; 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: FW: John Roberts

The show was "Capitol Conversation"--broadcast on WFAA-TV--on July 2, 2000 and August 27, 2000. My Internet doesn't seem to be working, so I'm waiting for it to come back up to see if I can find any further information about either "Capitol Conversation" itself or WFAA-TV. But, to my very limited knowledge, (b) (5)

(b) (5)

I-----Original Message-----

From: /DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/
[mailto:/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/]
Sent: Monday, October 22, 2001 4:07 PM
To: Suit, Neal
Cc: Dinh, Viet; Brett_M._Kavanaugh@who.eop.gov
Subject: Re: FW: John Roberts

Neal, do you know what show John appeared on? (b) (5)

(b) (5)

(Embedded
image moved "Suit, Neal" <Neal.Suit@usdoj.gov>
to file: 10/22/2001 02:52:51 PM
pic09591.pcx)

007104-002575

Record Type: Record

To: "Dinh, Viet" <Viet.Dinh@usdoj.gov> (Receipt Notification Requested) (IPM Return Requested), H. Christopher Bartolomucci/WHO/EOP@EOP, Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: FW: John Roberts

I got Amber to help me on your request concerning the John Roberts interview. Here is what she found:

I've spoken with John Roberts and he doesn't have access to a copy, transcript, etc. of his July 2000 "Capitol Conversations" interview. It appears that the only other possible means of access to the clip is through Video Monitoring Services of America for a fee of approximately \$400 (The clip appears to be about 7 minutes in length). Let me know if you're aware of any other options, but I think we're out of luck.

In addition to the description that Christopher Bartolomucci forwarded to you, an additional description in Lexis Nexis abstracts an August 27, 2000 clip as follows (I assume this is the same interview):

"John Roberts Jr., attorney comments on the supreme court justices. He says the argument about school prayer in school is over. If the government is involved then you are in trouble. He doesn't think the partial birth abortion issue is over. He says the boy scouts can exclude whomever they choose."

Thanks.

Neal

Neal Suit
Office of Legal Policy
United States Department of Justice
Phone: 202-514-6131
Fax: 202-353-9164

-----Original Message-----

From: Suit, Neal
Sent: Monday, October 22, 2001 11:18 AM
To: Spencer, Amber
Subject: FW: John Roberts

Is there any way you can help look for this while I work on these other talking points? Just let me know. Thanks.

Neal

007104-002576

-----Original Message-----

From: Dinh, Viet

Sent: Monday, October 22, 2001 10:45 AM

To:

'/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/'; 'Brett_M._Kavanaugh@who.eop.gov'

Cc: Newstead, Jennifer; Suit, Neal

Subject: RE: John Roberts

Yes. Neal, can you take care of it? thanks,

Viet

-----Original Message-----

From:

/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/

[mailto:/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/]

Sent: Monday, October 22, 2001 10:02 AM

To: Dinh, Viet; Brett_M._Kavanaugh@who.eop.gov

Subject: John Roberts

John did a TV interview in July 2000 commenting on the Supreme Court Term in which he said some things about abortion and school prayer. (b) (5)

(b) (5)

I found the following summary on Lexis:

Video Monitoring Services of America July 2, 2000, Sunday

Copyright 2000 Video Monitoring Services of America, L.P.
Video Monitoring Services of America

SHOW: Capitol Conversation

July 2, 2000, Sunday AM

NETWORK: WFAA-TV

MEDIUM: Television

TYPE: Television

LENGTH: 87 words

BODY:

START: 03.02

Interview - John Roberts Jr. , attorney thinks we don't a very conservative supreme court. Says prayer is student lead and not something the government or school is sponsoring.

He doesn't think

the abortion issue is over. He says it is a pragmatic court. The defeat for the conservatives is not as extreme as you may imagine. There were important victories in the first amendment area. He says you never know if the supreme court nominees are going to carry out certain promises.

END: 09.49

SEGMENT-ID: 3

PROGRAM-ID: wfaa10300702

LOAD-DATE: August 6, 2000

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Friday, October 19, 2001 1:17 PM
To: Bradford_A._Berenson@who.eop.gov
Cc: Bryant, Dan; Dinh, Viet; Heather_Wingate@who.eop.gov
Subject: Re: Confirmation plan and talking points
Attachments: PROPOSED 2001 JUDICIAL CONFIRMATION AGREEMENT.doc; PROPOSED 2001 JUDICIAL CONFIRMATION AGREEMENT.doc

my edits in bold; not sure the numbers are entirely accurate given the several nominees who have had hearings but not yet been confirmed and presumably will be; 26 is thus low
(See attached file: PROPOSED 2001 JUDICIAL CONFIRMATION AGREEMENT.doc)

Bradford A. Berenson
10/19/2001 01:06:26 PM

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP, Heather Wingate/WHO/EOP@EOP,
viet.dinh@usdoj.gov @ inet, dan.bryant@usdoj.gov @ inet

cc:
Subject: Confirmation plan and talking points

(See attached file: PROPOSED 2001 JUDICIAL CONFIRMATION AGREEMENT.doc)

Here's a draft of the document Heather asked for at this morning's meeting.
Please try to get me comments this afternoon, so I can give a final to Heather on Monday morning for our meeting with the Republicans.

007104-002579

Dinh, Viet

From: Dinh, Viet
Sent: Tuesday, October 16, 2001 10:11 AM
To: '/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/'; 'Brett_M._Kavanaugh@who.eop.gov'
Cc: Suit, Neal
Subject: RE: D.C. Cir. Suggestion

Hatch doesn't have them? why don't we just call DHG for copies? Neal, can you check to see if Sen Hatch or Sen Kyl have them? July 3 and August 23 from Ginsburg to Leahy.

-----Original Message-----

From:
/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/
[mailto:/DDV=H._Christopher_Bartolomucci@who.eop.gov/DDT=RFC-822/O=INETGW/P=GOV+DOJ/A=TELEMAIL/C=US/]
Sent: Tuesday, October 16, 2001 7:59 AM
To: Dinh, Viet; Brett_M._Kavanaugh@who.eop.gov
Subject: D.C. Cir. Suggestion

Since we do not have a copy of the letter that D.H. Ginsburg sent to Leahy saying that he believes the D.C. Circuit needs 10 judges on active service, (b) (5)

(b) (5)

007104-002580

Schauder, Andrew

From: Schauder, Andrew
Sent: Monday, October 15, 2001 5:05 PM
To: Schauder, Andrew; Newstead, Jennifer; Ciongoli, Adam;
'Bradford_A._Berenson@who.eop.gov%inetgw';
'Brett_M._Kavanaugh@who.eop.gov%inetgw'; Bryant, Dan;
'Heather_Wingate@who.eop.gov'; Ullman, Kristen A; Long, Linda E; Benedi,
Lizette D; Rabjohns, Lori; Day, Lori Sharpe;
'Matthew_E._Smith@who.eop.gov%inetgw'; Tucker, Mindy; Suit, Neal; 'Patrick
O'Brien'; Coniglio, Peter J; Joy, Sheila; 'Tim_Goeglein@who.eop.gov%inetgw';
'Timothy_E._Flanigan@who.eop.gov%inetgw'; Dinh, Viet;
'Ziad_S._Ojakli@who.eop.gov%inetgw'; Carroll, James W (OLP)
Subject: judicial media review
Attachments: Judicial Media Review 10-15-01.wpd

[Please see attached review](#)

Media Review - Judicial Nominations

Monday, October 15, 2001

General Judicial Articles

"Senate Faces Showdown on Judges,"

Paul Kane, *Roll Call*, October 15, 2001

[1](#)

"Inhofe: Two Oklahoma Nominees for Federal Bench Could be Confirmed Soon,"

[4](#)
The Associated Press, October 15, 2001

"Foreign Aid Bill Held Up by GOP; Senators Demand Action on Nominees,"

[5](#)
Helen Dewar, *The Washington Post*, October 13, 2001

"Nominee Criticized for Club Affiliation; It has Been Accused of Discriminating,"

[7](#)
Bill Walsh, *The Times-Picayune*, October 13, 2001

"Palm Beach Circuit Judge, Miami Lawyer to get Presidential Nod for Judgeships,"

[8](#)
Dan Christensen, *Palm Beach Daily Business Review*, October 12, 2001

"Mills Confirmed for North Mississippi Federal Judgeship"

Emily Wagster, *The Associated Press*, October 12, 2001

[10](#)

Op/Eds

NONE

Transcripts/Members of Congress

NONE

Interest Groups/Press Releases

NONE

General Judicial Articles

Senate Faces Showdown on Judges

By Paul Kane
Roll Call

Monday, October 15, 2001

With Democrats and Republicans still clashing over the pace of judicial nominations, the appropriations process is expected to remain in slow motion this week in the Senate.

For now, appropriators say the Senate gridlock is not hampering efforts to meet the end-of-the-month target for wrapping up the annual spending bills. House Members and Senators on the spending committees have continued to work on a handful of conference reports that could be concluded this week.

But another week or more of foot-dragging on appropriations measures in the Senate could seriously jeopardize Congress' ability to conclude action on spending bills this month. Senate GOP leaders, however, say ensuring President Bush's judicial nominees get confirmed to the federal bench is just as important a goal as moving appropriations.

"It's still a major problem," Senate Minority Leader Trent Lott (R-Miss.) said at the end of last week. Less than two weeks ago, Lott initiated the strategy of objecting to any attempt by Democrats to bring up an appropriations bill.

Asked if he expected any appropriations measures to move forward this week, Lott replied, "Not right now. No, sir."

Senate Majority Leader Thomas Daschle (D-S.D.) has not blinked, and instead Friday linked the fate of one of the Republicans' key legislative initiatives - the energy bill - to their cooperation on the appropriations bills.

"They say they want to bring up energy, and yet they filibuster every bill that we need to take up to get to a point where we can bring up energy," Daschle said, adding that he will first finish any emergency legislation related to Sept. 11 events and appropriations. "As soon as we get that essential work done, I'm more than willing to look at energy and agriculture - those two bills in particular."

Since adopting the more aggressive approach toward judicial nominees and the spending process, Senate Republicans have only grown increasingly frustrated with Democrats, particularly Judiciary Chairman Patrick Leahy (Vt.).

On Friday the nine Judiciary Republicans sent Leahy a letter attacking his decision last month to change the questionnaire that all nominees coming before the committee must answer. For the first time, nominees will have to answer questions in the publicly released portion of the questionnaire pertaining to any arrests, charges or convictions of the past 20 years. In the confidential section, which is available to all committee members and their staffs, nominees will now have to spell out past drug use.

Noting that Leahy did not push for these changes during the Clinton administration, the GOP Senators suggested that he was "motivated to implement these changes for political purposes," and they argue that publicizing these issues would have a chilling effect on public service.

"The cumulative effect of your changes is that qualified potential nominees may be deterred from pursuing a career in public service by the more complex and intrusive nature of the questionnaire," the Senators wrote.

Leahy, however, contends that his new questionnaire simplifies the process and that his questions are almost identical to those being publicly asked of nominees by other committees, particularly Governmental Affairs, which had its survey of nominees serve as a model for Judiciary.

Leahy's sixth hearing on judicial nominees came this month. In 1989 and in 1993, similar first years of new administrations, the committee didn't hold its fifth judicial nomination hearing until November.

"The committee and the Senate should be commended, not criticized," Leahy said in a floor speech Thursday, noting that Judiciary has focused recently on anti-terrorism legislation as well. "In spite of unfair and unfounded criticism, I have continued to proceed with additional hearings and press onward as best I can."

Lott, however, said rank-and-file Republicans are still furious with Leahy, and noted that recent moves to slow the appropriations process came after the GOP Conference had previously urged him to block the spending bills to gain leverage on judicial nominees - a tactic he initially resisted but one he has since agreed upon.

"I've already pushed them back twice," he said of his fellow Republicans.

The anger with Leahy has turned somewhat personal in nature. A growing number of GOP Senators complain that the only way they can get him to move judges from their home states is if they personally ask the chairman to hold a hearing and give them a committee vote, something they say is akin to "begging."

GOP committee members contend that this method leaves open the question of favoritism. "To avoid concerns about favoritism, we suggest that you move judicial nominees in roughly the order that they were nominated," the nine Republicans wrote in an Oct. 3 letter to Leahy.

In his floor speech, Leahy acknowledged that he appreciated the "courtesy" shown by some GOP Senators who personally approached him and let him know how important certain nominees were to their judicial districts, pleas that he has answered. "Others will carp and criticize no matter what we are able to achieve," he said.

Republicans said the impasse over judges and appropriations will end only after Daschle and Leahy give them specifics of when and how often the nominees will be confirmed.

"We're going to have to have some assurances that we're going to get some judges up [on the floor]," said Minority Whip Don Nickles (R-Okla.), who has been negotiating with his Democratic counterpart, Majority Whip Harry Reid (Nev.).

Reid, however, said he is still waiting to hear from Nickles about which nominees Republicans feel should be moved first and fastest and that the delay will only hold up the problem's resolution.

"Senator Nickles said he'd bring me a list. I'll be happy to talk to him," Reid said.

In the meantime, the Senate has been unable to take up the remaining five appropriations measures left to be approved and sent to a House-Senate conference. Four of those bills have already been completed by the Appropriations Committee and are awaiting floor action.

Daschle, having grown impatient with Republican demands, has scheduled a cloture vote for this afternoon on the foreign operations appropriation, which could serve as the first major test of the GOP's will on the issue.

The House, meanwhile, has completed work on 12 of the 13 spending bills, with the final appropriation bill, on national security and Defense issues, targeted for a floor vote at the end of this week or early next week.

Eight spending measures have passed both chambers, but House and Senate appropriators have approved just one conference report.

Because of the work on conference reports, House appropriators don't believe they have been held up by the Senate delays, according to John Scofield, spokesman for Appropriations Chairman Bill Young (R-Fla.). But if the judicial fight lasts another week or more, House appropriators will be left with nothing to do, and the target date for adjournment will inevitably fall well into next month, he said.

"If it goes on much longer," Scofield warned, "we'll have some problems."

Inhofe: Two Oklahoma Nominees for Federal Bench Could be Confirmed Soon

The Associated Press
Monday, October 15, 2001

Two nominees for the federal bench in Oklahoma could soon be confirmed by the U.S. Senate, according to Sen. Jim Inhofe.

The Senate Judiciary Committee could act upon the nominations of Claire Eagan and James Payne within days, Inhofe, R-Okla., said. He also said a confirmation vote by the full Senate could follow quickly. Eagan, 51, and Payne, 60, were nominated by President Bush less than three months ago. The brevity of their confirmation process is uncommon considering it takes some nominees more than a year to win confirmation.

Eagan of Tulsa is headed for a slot in the state's Northern judicial district, while Payne of Muskogee will divide his time on the bench among the Northern, Western and Eastern districts. Both currently serve as U.S. magistrates.

During their confirmation hearing, both nominees were asked how to maintain the balance between liberty and security while addressing the threat of terrorism.

Eagan said she trusts Congress to be conscious of the balance between civil liberties and the fear people have of more terrorist attacks.

"I believe the Supreme Court has suggested that there might be an exception when dealing with civil liberties and the different procedural safeguards for those liberties if there is an issue of terrorism," she said. "And I believe any statute will have a presumption of constitutionality."

Payne also said he had confidence in lawmakers' judgments in these trying times.

"The hallmark of this country is our personal freedoms," he said. "I know the Senate and the Congress has a very difficult balancing act to keep us free and keep us secure. I know the role of the court is not to interfere with your process."

Oklahoma has two other vacancies on the federal bench.

Assistant U.S. Attorney Joe Heaton and Stephen P. Friot, both of Oklahoma City, have been nominated to fill those two slots in the Western District.

Foreign Aid Bill Held Up by GOP; Senators Demand Action on Nominees

By Helen Dewar
The Washington Post
Saturday, October 13, 2001

In a resumption of partisan squabbling over judicial nominations, Senate Republicans are holding up action on a \$ 15.6 billion foreign aid spending bill as leverage to force Democrats to speed action on President Bush's selections for the federal bench.

Democrats have scheduled a vote late Monday to curtail the delaying tactics, but key Republicans say they will continue stalling on spending bills until the Senate completes action on the roughly 35 nominations that were sent to the Senate before its summer recess and that are still pending.

The two parties have been feuding over the pace of action on judicial nominations since shortly after Democrats took control of the Senate in early June. Democrats say they are acting as fast as they can -- faster, they say, than Republicans acted in moving many of President Bill Clinton's judicial nominations. Republicans, using different statistics to measure speed, contend that Democrats are dragging their heels and renegeing on agreements to expedite action. The sparring subsided a bit after the Sept. 11 terrorist attacks on New York and Washington but has resumed with renewed vigor on both sides.

According to Sen. Orrin G. Hatch (Utah), ranking Republican on the Judiciary Committee, there are 108 vacancies on the federal bench, which he said is more than there were when committee Chairman Patrick J. Leahy (D-Vt.) used to complain about judicial vacancies, when the White House was controlled by Democrats and the Senate by Republicans.

Eight judicial nominees have been confirmed, including two who were approved by the Senate late Thursday. Fifty-two other nominations are awaiting action, according to Hatch.

Defending the Democratic record, Leahy said no Bush nominees even had hearings before Democrats took over. Leahy said Democrats "are now ahead of the pace of confirmations for judicial nominees in the first year of the Clinton administration and the pace in the first year of the first Bush administration." He also said the administration had yet to nominate any U.S. marshals and still has to fill 40 U.S. attorney posts.

On Oct. 3, all nine Republicans on the Judiciary Committee wrote Leahy to demand faster action on judges. "In our view, once the anti-terrorism legislation is completed," they said, referring to legislation that passed the Senate on Thursday, "there is no higher priority than filling the vacancies that exist in our federal courts." Because of the terrorist attacks, they added, "the other priority is confirmation of U.S. attorney nominees."

In an interview yesterday, Sen. Jon Kyl (R-Ariz.), one of the signers of the letter, said Republicans may continue holding up spending bills -- except for the bill that funds military operations -- to ensure action on judges. "It's very clear we can do many things at the same time if we want to," he said. "This has a very high priority."

In addition to the foreign operations and defense bills, the Senate has yet to act on three domestic spending measures, including the huge bill for education, health and other social welfare programs.

"Obviously we have to get together and work this out," Kyl said.

Reacting to the GOP tactics on the foreign operations bill, Senate Majority Leader Thomas A. Daschle (D-S.D.) said Republicans have tried to filibuster virtually every bill that has come up in recent weeks. "So I'm not surprised, I'm just disappointed," he added.

Added David Carle, spokesman for Leahy: "Some Republicans are scared to death that Democrats are going to treat their nominees as badly as they treated Democratic nominees, and they're not. Democrats are being fair."

Nominee Criticized for Club Affiliation; It has Been Accused of Discriminating

By Bill Walsh

The Times-Picayune

Saturday, October 13, 2001

U.S. Rep. Billy Tauzin said Friday that he will urge federal judicial nominee Jay Zainey to drop his membership to Metairie Country Club because questions have been raised about whether the club discriminates against African-Americans.

Tauzin said he expected to make the suggestion "pretty soon" to Zainey, a Metairie lawyer who was nominated Wednesday by President Bush to fill a vacancy on U.S. District Court in New Orleans.

Tauzin, R-Chackbay, said he has no knowledge of the membership practices of the 79-year-old Jefferson Parish club but that questions about the club's policy should be enough to make the candidate rethink his membership, even though a recent FBI check of the club found no discrimination. "The mere perception of a problem, when he is a judicial nominee, is best dealt with forcefully," Tauzin said.

An official from Metairie Country Club said the organization does not discriminate against anyone. According to club rules, potential members must be invited to join, endorsed by two other members and then approved by a membership committee.

General Manager Don Beever would not say whether there are any African-American members among the club's 1,270 families.

Zainey, 50, did not return calls for comment.

In 1990, then-club President Dalton Truax told *The Times-Picayune* that the country club had no African-American members.

Earlier complaints

The club's membership practices came under scrutiny during a judicial race in September 1998, when a group of civic and church leaders in New Orleans filed a complaint with the state Judicial Commission about club member Judge Niles Hellmers, who was running for re-election to 1st City Court.

The complaint alleged that Hellmers was in violation of the judicial code of ethics, which forbids

judges from holding memberships in any organization that arbitrarily excludes members on the basis of race, sex, religion or national origin.

The complaint was rendered moot when Hellmers was defeated for re-election a month later by Sonja Spears.

Marie Galatas, a local pastor and one of those who filed the complaint, said Zainey's membership in the club should disqualify him from serving on the bench.

"If he knows there are no black members of that club, he should resign before getting that position," Galatas said. "If he doesn't know, it's time for him to inquire."

FBI finds nothing wrong

The FBI recently looked at the club's membership policies and practices as part of Zainey's background check. The agency concluded there was no discrimination.

Should Zainey remain in the club, he can expect questions about its membership practices when his nomination is scrutinized by the Senate Judiciary Committee. The committee requests that all nominees say whether they belong to any organizations that discriminate "through either formal membership requirements or practical implementation of the membership policies." If so, nominees are asked what they have done to change those policies.

With a backlog of Bush nominees pending before the judiciary panel, it's unclear when Zainey's nomination will be considered

Palm Beach Circuit Judge, Miami Lawyer to get Presidential Nod for Judgeships

By Dan Christensen
Palm Beach Daily Business Review
Friday, October 12, 2001

A Palm Beach circuit judge and a prominent Miami attorney have been chosen by the White House to fill two vacant U.S. District Court judgeships in South Florida, the Daily Business Review has learned.

Judge Kenneth A. Marra, who has declared no party affiliation, and Jose E. Martinez, a Republican, were selected for the lifetime appointments from among six finalists whose names were submitted to President Bush last month by the Florida Federal Nominating Commission.

After FBI background checks are completed in about 45 days, their nominations will be officially announced and their names sent to the U.S. Senate for confirmation.

Marra was tapped for a seat on the federal bench in Fort Lauderdale. Martinez will sit in Miami. Bob Martinez, the former Miami U.S. attorney who chairs the Federal Nominating Commission,

said the White House isn't issuing a statement now regarding the nominations and asked him not to discuss the matter publicly. Asked whether that was for security reasons, Martinez said he doesn't know why.

"I don't know what their thinking is," said Martinez. He referred a caller to an assistant White House general counsel who did not return a phone message.

Jose Martinez, through a secretary, declined to comment about his selection.

Martinez, a stalwart Republican who was born in the Dominican Republic, a former federal prosecutor and regional director of the old federal Office for Drug Abuse Law Enforcement, is name partner in the nine-attorney firm Martinez & Gutierrez. He specializes in product liability cases, including tobacco and automotive product liability defense.

Martinez, 60, is also vice chair of the Federal Court Practice Committee, the Florida Bar's liaison to the federal district courts.

"He's well-known, well-liked and has been a very capable trial attorney for many years," said attorney Edward B. Davis, a retired U.S. District chief judge.

Marra, who currently serves on Palm Beach's criminal bench, also declined to comment on being selected.

Marra is a Stetson law school graduate who was appointed to his seat in 1996 by Gov. Lawton Chiles.

Early in his career, the 50-year-old jurist worked as a civil trial attorney for the Department of Justice. He was also a partner and commercial attorney in Palm Beach with the firm of Nason Gildan Yeager Gerson & White. The firm is now known as Nason Yeager Gerson White & Lioce.

More than 30 lawyers applied for the two judgeships when they were announced earlier this year. The two other finalists for the Miami judgeship were Miami federal magistrate Ted Bandstra and Miami-Dade Circuit Judge Jerald Bagley. The two other finalists for the Fort Lauderdale seat were Fort Lauderdale federal magistrate Barry S. Seltzer and Broward Circuit Judge James I. Cohn.

All were interviewed by Sens. Bob Graham and Bill Nelson and officials from the White House and the Justice Department.

"I found the process to be extremely fair," said finalist Cohn. "I am disappointed, but not deterred."

With choices for the two judgeships made, the only major federal post in South Florida with finalists under consideration by the president is that of the U.S. attorney. The contenders are

incumbent Guy Lewis, White & Case Republican insider Marcos Jimenez and Marcia Cooke, a former federal prosecutor and chief inspector general to Gov. Jeb Bush.

Mills Confirmed for North Mississippi Federal Judgeship

By Emily Wagster
The Associated Press
Friday, October 12, 2001

The U.S. Senate voted 98-0 Thursday to confirm Mike Mills of Fulton for a federal judgeship in north Mississippi.

The vote came after Sen. Dianne Feinstein, D-Calif., said she wouldn't delay a vote on his nomination. She had raised concerns about an abortion case dissent in which Mills participated. "I'm very excited and very grateful," Mills, 45, said shortly after learning of his confirmation.

Mills has been on the Supreme Court since 1995 and said he expects to remain on it until the end of the month. After that, he'll be based in U.S. District Court in Oxford. He'll also hear cases in Aberdeen and Greenville.

"The approval of Justice Mills by the Senate will give our state the benefit of a very well qualified new federal judge," said Sen. Thad Cochran, R-Miss. "He will be a fine addition to the federal bench in Mississippi."

Mills will replace U.S. District Judge Neal Biggers Jr. of Oxford, who has taken senior status. Mills served 12 years in the Mississippi House of Representatives before then-Gov. Kirk Fordice tapped him to fill a Supreme Court vacancy. Mills won a full term in 1996.

Sen. Trent Lott, R-Miss., who also promoted Mills' nomination to the federal judgeship, said he hoped Feinstein's questions were answered.

"Mike Mills is highly qualified by education, by experience and by demeanor," Lott said Thursday.

Feinstein had expressed concern over Mills' ruling in a case involving a woman accused of trespassing at an abortion clinic in Jackson.

Dr. Beverly McMillan said the trespassing was justified because she had information about dangerous and illegal procedures at the clinic. A Hinds County judge did not allow the testimony and McMillan was convicted on the trespassing charge.

In a 5-4 decision by the Supreme Court, Mills joined a dissent that said every defendant had a right to present his or her theory of a case.

National abortion rights groups had brought his vote to the attention of senators.

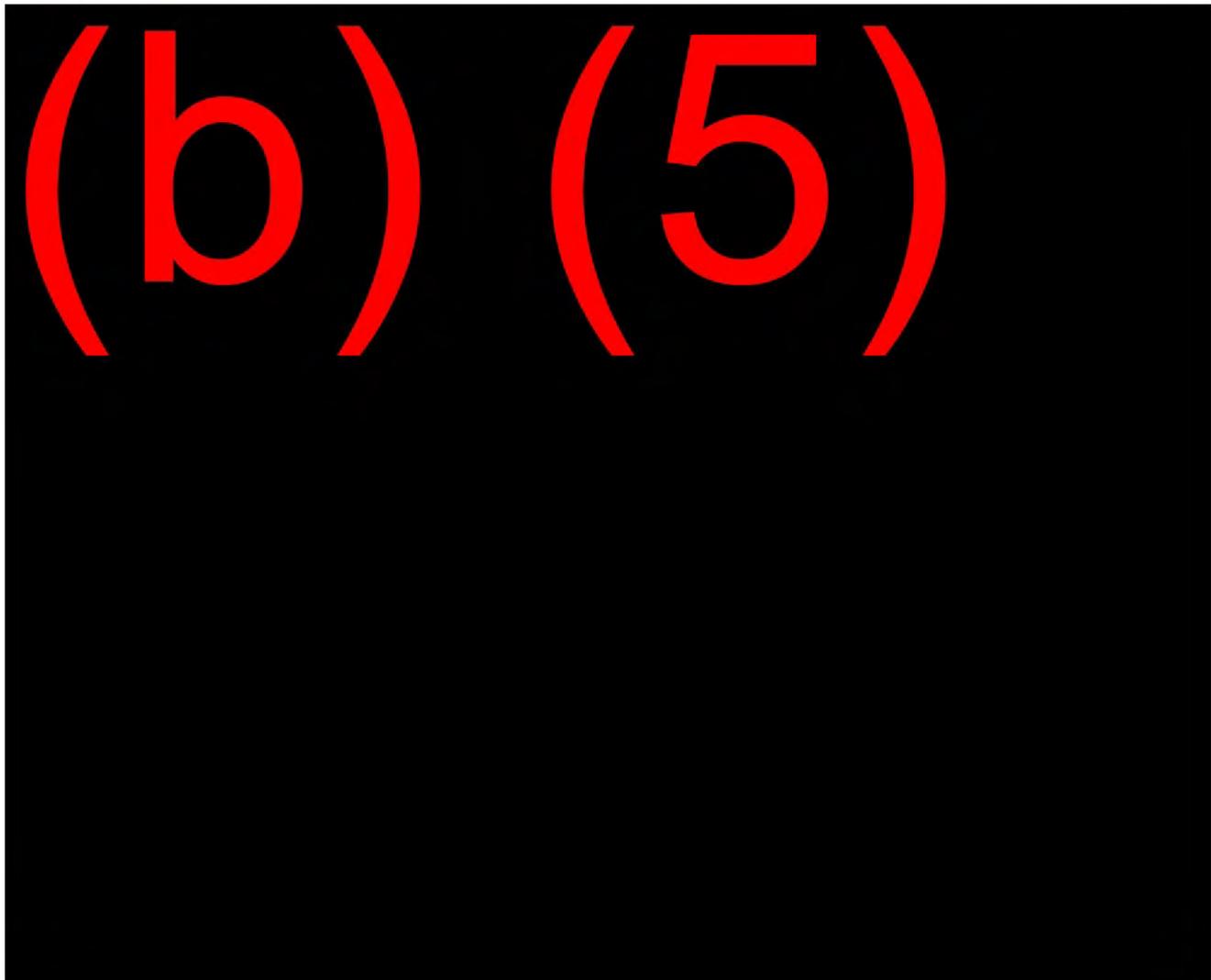
Feinstein's spokesman, Howard Gantman, said Wednesday that Feinstein had reviewed the record and wouldn't try to block Mills' confirmation.

Gov. Ronnie Musgrove will appoint a replacement for Mills. Musgrove will fill another vacancy when Justice Fred L. Banks of leaves the Supreme Court at the end of October to go into private law practice.

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Sunday, October 14, 2001 6:02 PM
To: Dinh, Viet; Bryant, Dan; Elwood, John; Courtney_S._Elwood@who.eop.gov;
Nancy_P._Dorn@who.eop.gov; Heather_Wingate@who.eop.gov;
Candida_P._Wolff@ovp.eop.gov; Robert_Marsh@who.eop.gov;
Timothy_E._Flanigan@who.eop.gov
Subject: Additions in House bill

Beyond the additional House proposals discussed and agreed upon Thursday morning, on Thursday night Sensenbrenner's staff discussed with us about 12-15 additional proposals -- some of which came from Sensenbrenner himself, some from Conyers, some from Arney, some from Hyde, some from Berman, and some from Frank.



Michael Payne

From: Michael Payne
Sent: Friday, October 12, 2001 1:20 PM
To: Daley, Cybele K; Burton, Faith; Walter, Sheryl L; Bryant, Dan; Bernhardt, Gena; Newstead, Jennifer; O'Brien, Pat; Dinh, Viet; Estrada, Laury; Elwood, John
Cc: brett_m._kavanaugh@who.eop.gov; courtney_s._elwood@who.eop.gov; Burton, Dawn; Kris, David; Thorsen, Carl; Israelite, David; Painter, Christopher; Cassella, Stefan
Subject: Re: The House Bill being considered today

Date: 10/12/2001 01:29 pm -0400 (Friday)

From: Michael Payne

To: "CDaley2".WTGATE2.CRMGW; "FBurton".WTGATE2.CRMGW;
"SWalter".WTGATE2.CRMGW; "wDBryant".WTGATE2.CRMGW;
"wGBernhar".WTGATE2.CRMGW; "wJNewstea".WTGATE2.CRMGW;
"wPO'Brien3".WTGATE2.CRMGW; "wVDinh".WTGATE2.CRMGW; Elwood,
John; Estrada, Laury
CC: "brett_m._kavanaugh@who.eop.gov@inetgw".WTGATE2.CRMGW;
"courtney_s._elwood@who.eop.gov@inetgw".WTGATE2.CRMGW;
"DBurton3".WTGATE2.CRMGW; "DKris2".WTGATE2.CRMGW;
"wCThorsen".WTGATE2.CRMGW; "wDIIsraeli".WTGATE2.CRMGW; Cassella,
Stefan; Painter, Christopher
Subject: Re: The House Bill being considered today

To all:

Asset Forfeiture and Money Laundering Section's has reviewed HR 3108 and notes the following:



Mike Payne

>>> Thorsen, Carl 10/12/01 09:55AM >>>

Attached below is the Sensenbrenner (#28) which is now HR 3108 and has been introduced and gone through Rules Comm. We understand that its the base text from the Senate bill with a number of amendments worked out: 3/2 sunset; no McDade or \$L; senate immig language with a couple tweaks; info. sharing/post notif of court; not sure if the Frank amend is in here, and possibly others.

Fyi, I am told (b) (5)

(b) (5)

-----Original Message-----

From: Dinh, Viet

Sent: Friday, October 12, 2001 7:45 AM

To: Newstead, Jennifer; Elwood, John; Bryant, Dan; Thorsen, Carl;
O'Brien, Pat

Subject: FW: 2 versions of House bill

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov

[mailto:Brett_M._Kavanaugh@who.eop.gov]

Sent: Friday, October 12, 2001 7:34 AM

To: Dinh, Viet; Courtney_S._Elwood@who.eop.gov;

Nancy_P._Dorn@who.eop.gov; Heather_Wingate@who.eop.gov;

Candida_P._Wolff@ovp.eop.gov

Subject: 2 versions of House bill

One (28.PDF) is if Conyers agrees to co-sponsor. One (29.PDF) is if he does not. As of this moment, per Steve Pinkos, Conyers has NOT agreed to co-sponsor.

Dinh, Viet

From: Dinh, Viet
Sent: Friday, October 12, 2001 10:32 AM
To: 'Brett_M._Kavanaugh@who.eop.gov'
Subject: RE: 2 versions of House bill

(b) (5)

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, October 12, 2001 9:33 AM
To: Dinh, Viet
Subject: RE: 2 versions of House bill

conference

(Embedded
image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov>
to file: 10/12/2001 09:24:03 AM
pic04741.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: 2 versions of House bill

It ain't

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, October 12, 2001 9:08 AM
To: Dinh, Viet

007104-002596

Viet Dinh, Viet

Subject: RE: 2 versions of House bill

it should be identical to Senate bill.

(Embedded

image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov> to file: 10/12/2001 08:22:08 AM pic13846.pcx)

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: RE: 2 versions of House bill

Something is jigggy with Title VIII: Looks like 302 is an earlier version of 805 and 303-304 are identical to 806-807. And the definition of domestic terrorism (803 from the Senate bill) has been deleted from these House bills.

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov

[mailto:Brett_M._Kavanaugh@who.eop.gov]

Sent: Friday, October 12, 2001 7:34 AM

To: Dinh, Viet; Courtney_S._Elwood@who.eop.gov;

Nancy_P._Dorn@who.eop.gov; Heather_Wingate@who.eop.gov;

Candida_P._Wolff@ovp.eop.gov

Subject: 2 versions of House bill

One (28.PDF) is if Conyers agrees to co-sponsor. One (29.PDF) is if he does not. As of this moment, per Steve Pinkos, Conyers has NOT agreed to co-sponsor.

Message Sent To: _____

007104-002597

Brett M. Kavanaugh/WHO/EOP
Courtney S. Elwood/WHO/EOP
Nancy P. Dorn/WHO/EOP
Heather Wingate/WHO/EOP
Candida P. Wolff/OVP/EOP

Newstead, Jennifer

From: Newstead, Jennifer
Sent: Friday, October 12, 2001 10:03 AM
To: Dinh, Viet; Elwood, John; Thorsen, Carl; Bryant, Dan; O'Brien, Pat; Daley, Cybele K; Walter, Sheryl L; Bernhardt, Gena; Burton, Faith; Burton, Dawn; Painter, Christopher; Cassella, Stefan; Kris, David; Burton, Dawn; 'brett_m._kavanaugh@who.eop.gov'; 'courtney_s._elwood@who.eop.gov'; Thorsen, Carl; Downing, Richard; Baxter, Laura; Levey, Stuart; Lindemann, Michael; Anderson, Stuart; Busch, Philip B; Karp, David J
Cc: Newstead, Jennifer
Subject: Houe bill technical comments
Attachments: HouseBillTechnicalComment.wpd; HouseBillTechnicalComment.wpd

In light of Carl's message, it might be useful in vetting the new House bill text to have the attached memorandum, which shows the technical comments on the earlier version of the bill that we compiled earlier this week. Some of these comments may still be relevant to the new text.

Jen

Brett_M._Kavanaugh@who.eop.gov

From: Brett_M._Kavanaugh@who.eop.gov
Sent: Friday, October 12, 2001 9:35 AM
To: Dinh, Viet
Subject: RE: 2 versions of House bill
Attachments: pic01726.pcx

any other issues you have identified? Also, you probably should try Jay or Will immediately to note the discrepancy, as it is unintended so far as I know.

(Embedded
image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov>
to file: 10/12/2001 09:24:03 AM
pic01726.pcx)

Record Type: Record

To: Brett M. Kavanaugh/WHO/EOP@EOP

cc:

Subject: RE: 2 versions of House bill

It ain't

-----Original Message-----

From: Brett_M._Kavanaugh@who.eop.gov
[mailto:Brett_M._Kavanaugh@who.eop.gov]
Sent: Friday, October 12, 2001 9:08 AM
To: Dinh, Viet
Subject: RE: 2 versions of House bill

it should be identical to Senate bill.

007104-002600

(Embedded
image moved "Dinh, Viet" <Viet.Dinh@usdoj.gov> to file: 10/12/2001 08:22:08 AM pic13846.pcx)

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: RE: 2 versions of House bill

Duplicative



107TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER introduced the following bill; which was 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 inves-
tigatory 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.



Sec. 2. Construction; severability.

TITLE I ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund.

Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.

Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.

Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.

Sec. 105. Expansion of National Electronic Crime Task Force Initiative.

Sec. 106. Presidential authority.

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.

Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.

Sec. 205. Employment of translators by the Federal Bureau of Investigation.

Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.

Sec. 207. Duration of FISA surveillance of non United States persons who are agents of a foreign power.

Sec. 208. Designation of judges.

Sec. 209. Seizure of voice mail messages pursuant to warrants.

Sec. 210. Scope of subpoenas for records of electronic communications.

Sec. 211. Clarification of scope.

Sec. 212. Emergency disclosure of electronic communications to protect life and limb.

Sec. 213. Authority for delaying notice of the execution of a warrant.

Sec. 214. Pen register and trap and trace authority under FISA.

Sec. 215. Access to records and other items under the Foreign Intelligence Surveillance Act.

Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.

Sec. 217. Interception of computer trespasser communications.

Sec. 218. Foreign intelligence information.

Sec. 219. Single jurisdiction search warrants for terrorism.

Sec. 220. Nationwide service of search warrants for electronic evidence.

Sec. 221. Trade sanctions.

Sec. 222. Assistance to law enforcement agencies.

Sec. 223. Civil liability for certain unauthorized disclosures.

Sec. 224. Sunset.

TITLE III FINANCIAL INFRASTRUCTURE

Sec. 301. Laundering the proceeds of terrorism.

Sec. 302. Material support for terrorism.

Sec. 303. Assets of terrorist organizations.



Sec. 304. Technical clarification relating to provision of material support to terrorism.

Sec. 305. Extraterritorial jurisdiction.

TITLE IV PROTECTING THE BORDER

Subtitle A 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.

Sec. 404. Limited authority to pay overtime.

Sec. 405. Report on the integrated automated fingerprint identification system for points of entry and overseas consular posts.

Subtitle B Enhanced Immigration Provisions

Sec. 411. Definitions relating to terrorism.

Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review.

Sec. 413. Multilateral cooperation against terrorists.

Subtitle C Preservation of Immigration Benefits for Victims of Terrorism

Sec. 421. Special immigrant status.

Sec. 422. Extension of filing or reentry deadlines.

Sec. 423. Humanitarian relief for certain surviving spouses and children.

Sec. 424. "Age out" protection for children.

Sec. 425. Temporary administrative relief.

Sec. 426. Evidence of death, disability, or loss of employment.

Sec. 427. No benefits to terrorists or family members of terrorists.

Sec. 428. Definitions.

TITLE V REMOVING OBSTACLES TO INVESTIGATING TERRORISM

Sec. 501. Attorney General's authority to pay rewards to combat terrorism.

Sec. 502. Secretary of State's authority to pay rewards.

Sec. 503. DNA identification of terrorists and other violent offenders.

Sec. 504. Coordination with law enforcement.

Sec. 505. Miscellaneous national security authorities.

Sec. 506. Extension of Secret Service jurisdiction.

Sec. 507. Disclosure of educational records.

Sec. 508. Disclosure of information from NCES surveys.

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

Subtitle A Aid to Families of Public Safety Officers

Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.

Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers.

Sec. 613. Public safety officers benefit program payment increase.

Sec. 614. Office of Justice programs.



Subtitle B 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

- Sec. 711. Expansion of regional information sharing system to facilitate Federal State local law enforcement response related to terrorist attacks.

TITLE VIII STRENGTHENING THE CRIMINAL LAWS AGAINST
TERRORISM

- Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.
- Sec. 804. Jurisdiction over crimes committed at U.S. facilities abroad.
- Sec. 805. Material support for terrorism.
- Sec. 806. Assets of terrorist organizations.
- Sec. 807. Technical clarification relating to provision of material support to terrorism.
- Sec. 808. Definition of Federal crime of terrorism.
- Sec. 809. No statute of limitation for certain terrorism offenses.
- Sec. 810. Alternate maximum penalties for terrorism offenses.
- Sec. 811. Penalties for terrorist conspiracies.
- Sec. 812. Post release supervision of terrorists.
- Sec. 813. Inclusion of acts of terrorism as racketeering activity.
- Sec. 814. Deterrence and prevention of cyberterrorism.
- Sec. 815. Additional defense to civil actions relating to preserving records in response to Government requests.
- Sec. 816. Development and support of cybersecurity forensic capabilities.

TITLE IX IMPROVED INTELLIGENCE

- Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
- Sec. 902. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.
- Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
- Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence related matters.
- Sec. 905. Disclosure to Director of Central Intelligence of foreign intelligence related information with respect to criminal investigations.
- Sec. 906. Foreign terrorist asset tracking center.
- Sec. 907. National Virtual Translation Center.
- Sec. 908. Training of government officials regarding identification and use of foreign intelligence.

TITLE X MISCELLANEOUS



Sec. 1001. Payments.

Sec. 1002. Review of the department of justice.

1 **SEC. 2. CONSTRUCTION; SEVERABILITY.**

2 Any provision of this Act held to be invalid or unen-
3 forceable by its terms, or as applied to any person or cir-
4 cumstance, shall be construed so as to give it the max-
5 imum effect permitted by law, unless such holding shall
6 be one of utter invalidity or unenforceability, in which
7 event such provision shall be deemed severable from this
8 Act and shall not affect the remainder thereof or the appli-
9 cation of such provision to other persons not similarly situ-
10 ated or to other, dissimilar circumstances.

11 **TITLE I—ENHANCING DOMESTIC**
12 **SECURITY AGAINST TERRORISM**

13 **SEC. 101. COUNTERTERRORISM FUND.**

14 (a) ESTABLISHMENT; AVAILABILITY. There is here-
15 by established in the Treasury of the United States a sepa-
16 rate fund to be known as the “Counterterrorism Fund”,
17 amounts in which shall remain available without fiscal
18 year limitation

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

22 (A) reestablishing the operational capa-
23 bility of an office or facility that has been dam-



1 aged or destroyed as the result of any domestic
2 or international terrorism incident;

3 (B) providing support to counter, inves-
4 tigate, or prosecute domestic or international
5 terrorism, including, without limitation, paying
6 rewards in connection with these activities; and

7 (C) conducting terrorism threat assess-
8 ments of Federal agencies and their facilities;
9 and

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

15 (b) NO EFFECT ON PRIOR APPROPRIATIONS. Sub-
16 section (a) shall not be construed to affect the amount
17 or availability of any appropriation to the
18 Counterterrorism Fund made before the date of enact-
19 ment of this Act.

20 **SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINA-**
21 **TION AGAINST ARAB AND MUSLIM AMERI-**
22 **CANS.**

23 (a) FINDINGS. Congress makes the following find-
24 ings:



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

5 (2) The acts of violence that have been taken
6 against Arab and Muslim Americans since the Sep-
7 tember 11, 2001, attacks against the United States
8 should be and are condemned by all Americans who
9 value freedom.

10 (3) The concept of individual responsibility for
11 wrongdoing is sacrosanct in American society, and
12 applies equally to all religious, racial, and ethnic
13 groups.

14 (4) When American citizens commit acts of vio-
15 lence against those who are, or are perceived to be,
16 of Arab or Muslim descent, they should be punished
17 to the full extent of the law.

18 (5) Muslim Americans have become so fearful
19 of harassment that many Muslim women are chang-
20 ing the way they dress to avoid becoming targets.

21 (6) Many Arab Americans and Muslim Ameri-
22 cans have acted heroically during the attacks on the
23 United States, including Mohammed Salman
24 Hamdani, a 23-year-old New Yorker of Pakistani
25 descent, who is believed to have gone to the World



1 Trade Center to offer rescue assistance and is now
2 missing.

3 (b) SENSE OF CONGRESS. It is the sense of Con-
4 gress that

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

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

12 (3) the Nation is called upon to recognize the
13 patriotism of fellow citizens from all ethnic, racial,
14 and religious backgrounds.

15 **SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUP-**
16 **PORT CENTER AT THE FEDERAL BUREAU OF**
17 **INVESTIGATION.**

18 There are authorized to be appropriated for the Tech-
19 nical Support Center established in section 811 of the
20 Antiterrorism and Effective Death Penalty Act of 1996
21 (Public Law 104 132) to help meet the demands for ac-
22 tivities to combat terrorism and support and enhance the
23 technical support and tactical operations of the FBI,
24 \$200,000,000 for each of the fiscal years 2002, 2003, and
25 2004.



1 **SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO EN-**
2 **FORCE PROHIBITION IN CERTAIN EMER-**
3 **GENCIES.**

4 Section 2332e of title 18, United States Code, is
5 amended

6 (1) by striking “2332e” and inserting “2332a”;

7 and

8 (2) by striking “chemical”.

9 **SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME**
10 **TASK FORCE INITIATIVE.**

11 The Director of the United States Secret Service
12 shall take appropriate actions to develop a national net-
13 work of electronic crime task forces, based on the New
14 York Electronic Crimes Task Force model, throughout the
15 United States, for the purpose of preventing, detecting,
16 and investigating various forms of electronic crimes, in-
17 cluding potential terrorist attacks against critical infra-
18 structure and financial payment systems.

19 **SEC. 106. PRESIDENTIAL AUTHORITY.**

20 Section 203 of the International Emergency Powers
21 Act (50 U.S.C. 1702) is amended

22 (1) in subsection (a)(1)

23 (A) at the end of subparagraph (A) (flush
24 to that subparagraph), by striking “; and” and
25 inserting a comma and the following:



1 “by any person, or with respect to any property,
2 subject to the jurisdiction of the United States;”;

3 (B) in subparagraph (B)

4 (i) by inserting “, block during the
5 pendency of an investigation” after “inves-
6 tigate”; and

7 (ii) by striking “interest;” and insert-
8 ing “interest by any person, or with re-
9 spect to any property, subject to the juris-
10 diction of the United States; and”;

11 (C) by striking “by any person, or with re-
12 spect to any property, subject to the jurisdiction
13 of the United States;” and

14 (D) by inserting at the end the following:

15 “(C) when the United States is engaged in
16 armed hostilities or has been attacked by a for-
17 eign country or foreign nationals, confiscate any
18 property, subject to the jurisdiction of the
19 United States, of any foreign person, foreign
20 organization, or foreign country that he deter-
21 mines has planned, authorized, aided, or en-
22 gaged in such hostilities or attacks against the
23 United States; and all right, title, and interest
24 in any property so confiscated shall vest, when,
25 as, and upon the terms directed by the Presi-



1 dent, in such agency or person as the President
2 may designate from time to time, and upon
3 such terms and conditions as the President may
4 prescribe, such interest or property shall be
5 held, used, administered, liquidated, sold, or
6 otherwise dealt with in the interest of and for
7 the benefit of the United States, and such des-
8 ignated agency or person may perform any and
9 all acts incident to the accomplishment or fur-
10 therance of these purposes.”; and

11 (2) by inserting at the end the following:

12 “(c) CLASSIFIED INFORMATION. In any judicial re-
13 view of a determination made under this section, if the
14 determination was based on classified information (as de-
15 fined in section 1(a) of the Classified Information Proce-
16 dures Act) such information may be submitted to the re-
17 viewing court ex parte and in camera. This subsection does
18 not confer or imply any right to judicial review.”.

19 **TITLE II—ENHANCED**
20 **SURVEILLANCE PROCEDURES**

21 **SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**
22 **ELECTRONIC COMMUNICATIONS RELATING**
23 **TO TERRORISM.**

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



1 (1) by redesignating paragraph (p), as so rededesignated 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
3
4
5 (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:

6
7
8
9
10 “(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 11 2332d, 2339A, or 2339B of this title (relating to terrorism); or”.

12
13
14 **SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**
15 **ELECTRONIC COMMUNICATIONS RELATING**
16 **TO COMPUTER FRAUD AND ABUSE OF-**
17 **FENSES.**

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



1 **SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE**
2 **INFORMATION.**

3 (a) **AUTHORITY TO SHARE GRAND JURY INFORMA-**
4 **TION.**

5 (1) **IN GENERAL.** Rule 6(e)(3)(C) of the Fed-
6 eral Rules of Criminal Procedure is amended

7 (A) in clause (iii), by striking “or” at the
8 end;

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

11 (C) by inserting at the end the following:

12 “(v) when the matters involve foreign
13 intelligence or counterintelligence (as de-
14 fined in section 3 of the National Security
15 Act of 1947 (50 U.S.C. 401a)), or foreign
16 intelligence information (as defined in Rule
17 6(e)(3)(C)(ii)), to any other Federal law
18 enforcement, intelligence, protective, immi-
19 gration, national defense, or national secu-
20 rity official in order to assist the official
21 receiving that information in the perform-
22 ance of his official duties. Within a reason-
23 able time after such disclosure, an attorney
24 for the government shall file under seal a
25 notice with the court stating the fact that
26 such information was disclosed and the de-



1 partments, agencies, or entities to which
2 the disclosure was made.

3 Any Federal official who receives information
4 pursuant to clause (v) may use that information
5 only as necessary in the conduct of that per-
6 son's official duties subject to any limitations
7 on the unauthorized disclosure of such informa-
8 tion.”.

9 (2) DEFINITION. Rule 6(e)(3)(C) of the Fed-
10 eral Rules of Criminal Procedure, as amended by
11 paragraph (1), is amended by

12 (A) inserting “(i)” after “(C)”;

13 (B) redesignating clauses (i) through (v)
14 as subclauses (I) through (V), respectively; and

15 (C) inserting at the end the following:

16 “(ii) In this subparagraph, the term ‘for-
17 eign intelligence information’ means

18 “(I) information, whether or not con-
19 cerning a United States person, that re-
20 lates to the ability of the United States to
21 protect against

22 “(aa) actual or potential attack
23 or other grave hostile acts of a foreign
24 power or an agent of a foreign power;



1 “(bb) sabotage or international
2 terrorism by a foreign power or an
3 agent of a foreign power; or

4 “(cc) clandestine intelligence ac-
5 tivities by an intelligence service or
6 network of a foreign power or by an
7 agent of a foreign power; or

8 “(II) information, whether or not con-
9 cerning a United States person, with re-
10 spect to a foreign power or foreign terri-
11 tory that relates to

12 “(aa) the national defense or the
13 security of the United States; or

14 “(bb) the conduct of the foreign
15 affairs of the United States.”.

16 (b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND
17 ORAL INTERCEPTION INFORMATION.

18 (1) LAW ENFORCEMENT. Section 2517 of title
19 18, United States Code, is amended by inserting at
20 the end the following:

21 “(6) Any investigative or law enforcement officer, or
22 attorney for the Government, who by any means author-
23 ized by this chapter, has obtained knowledge of the con-
24 tents of any wire, oral, or electronic communication, or
25 evidence derived therefrom, may disclose such contents to



1 any other Federal law enforcement, intelligence, protec-
2 tive, immigration, national defense, or national security of-
3 ficial to the extent that such contents include foreign intel-
4 ligence or counterintelligence (as defined in section 3 of
5 the National Security Act of 1947 (50 U.S.C. 401a)), or
6 foreign intelligence information (as defined in subsection
7 (19) of section 2510 of this title), to assist the official
8 who is to receive that information in the performance of
9 his official duties. Any Federal official who receives infor-
10 mation pursuant to this provision may use that informa-
11 tion only as necessary in the conduct of that person's offi-
12 cial duties subject to any limitations on the unauthorized
13 disclosure of such information.”.

14 (2) DEFINITION. Section 2510 of title 18,
15 United States Code, is amended by

16 (A) in paragraph (17), by striking “and”
17 after the semicolon;

18 (B) in paragraph (18), by striking the pe-
19 riod and inserting “; and”; and

20 (C) by inserting at the end the following:

21 “(19) ‘foreign intelligence information’ means

22 “(A) information, whether or not con-
23 cerning a United States person, that relates to
24 the ability of the United States to protect
25 against



1 “(i) actual or potential attack or other
2 grave hostile acts of a foreign power or an
3 agent of a foreign power;

4 “(ii) sabotage or international ter-
5 rorism by a foreign power or an agent of
6 a foreign power; or

7 “(iii) clandestine intelligence activities
8 by an intelligence service or network of a
9 foreign power or by an agent of a foreign
10 power; or

11 “(B) information, whether or not con-
12 cerning a United States person, with respect to
13 a foreign power or foreign territory that relates
14 to

15 “(i) the national defense or the secu-
16 rity of the United States; or

17 “(ii) the conduct of the foreign affairs
18 of the United States.”.

19 (c) PROCEDURES. The Attorney General shall es-
20 tablish procedures for the disclosure of information pursu-
21 ant to section 2517(6) and Rule 6(e)(3)(C)(i)(V) of the
22 Federal Rules of Criminal Procedure that identifies a
23 United States person, as defined in section 101 of the For-
24 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
25 1801)).



1 (d) FOREIGN INTELLIGENCE INFORMATION.

2 (1) IN GENERAL. Notwithstanding any other
3 provision of law, it shall be lawful for foreign intel-
4 ligence or counterintelligence (as defined in section
5 3 of the National Security Act of 1947 (50 U.S.C.
6 401a)) or foreign intelligence information obtained
7 as part of a criminal investigation to be disclosed to
8 any Federal law enforcement, intelligence, protective,
9 immigration, national defense, or national security
10 official in order to assist the official receiving that
11 information in the performance of his official duties.
12 Any Federal official who receives information pursu-
13 ant to this provision may use that information only
14 as necessary in the conduct of that person's official
15 duties subject to any limitations on the unauthorized
16 disclosure of such information.

17 (2) DEFINITION. In this subsection, the term
18 "foreign intelligence information" means

19 (A) information, whether or not concerning
20 a United States person, that relates to the abil-
21 ity of the United States to protect against

22 (i) actual or potential attack or other
23 grave hostile acts of a foreign power or an
24 agent of a foreign power;



1 (ii) sabotage or international ter-
2 rorism by a foreign power or an agent of
3 a foreign power; or

4 (iii) clandestine intelligence activities
5 by an intelligence service or network of a
6 foreign power or by an agent of a foreign
7 power; or

8 (B) information, whether or not concerning
9 a United States person, with respect to a for-
10 eign power or foreign territory that relates to

11 (i) the national defense or the security
12 of the United States; or

13 (ii) the conduct of the foreign affairs
14 of the United States.

15 **SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS**
16 **FROM LIMITATIONS ON INTERCEPTION AND**
17 **DISCLOSURE OF WIRE, ORAL, AND ELEC-**
18 **TRONIC COMMUNICATIONS.**

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

21 (1) by striking “this chapter or chapter 121”
22 and inserting “this chapter or chapter 121 or 206
23 of this title”; and

24 (2) by striking “wire and oral” and inserting
25 “wire, oral, and electronic”.



1 **SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FED-**
2 **ERAL BUREAU OF INVESTIGATION.**

3 (a) **AUTHORITY.** The Director of the Federal Bu-
4 reau of Investigation is authorized to expedite the employ-
5 ment of personnel as translators to support
6 counterterrorism investigations and operations without re-
7 gard to applicable Federal personnel requirements and
8 limitations.

9 (b) **SECURITY REQUIREMENTS.** The Director of the
10 Federal Bureau of Investigation shall establish such secu-
11 rity requirements as are necessary for the personnel em-
12 ployed as translators under subsection (a).

13 (c) **REPORT.** The Attorney General shall report to
14 the Committees on the Judiciary of the House of Rep-
15 resentatives and the Senate on

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

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

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



1 **SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE**
2 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**
3 **OF 1978.**

4 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
5 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
6 ed by inserting “, or in circumstances where the Court
7 finds that the actions of the target of the application may
8 have the effect of thwarting the identification of a speci-
9 fied person, such other persons,” after “specified person”.

10 **SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-**
11 **UNITED STATES PERSONS WHO ARE AGENTS**
12 **OF A FOREIGN POWER.**

13 (a) DURATION .

14 (1) SURVEILLANCE. Section 105(e)(1) of the
15 Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1805(e)(1)) is amended by

17 (A) inserting “(A)” after “except that”;

18 and

19 (B) inserting before the period the fol-
20 lowing: “, and (B) an order under this Act for
21 a surveillance targeted against an agent of a
22 foreign power, as defined in section
23 101(b)(1)(A) may be for the period specified in
24 the application or for 120 days, whichever is
25 less”.



1 (2) PHYSICAL SEARCH. Section 304(d)(1) of the
2 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1824(d)(1)) is amended by

- 4 (A) striking “forty-five” and inserting “90”;
- 5 (B) inserting “(A)” after “except that”; and
- 6 (C) inserting before the period the following: “,
7 and (B) an order under this section for a physical
8 search targeted against an agent of a foreign power
9 as defined in section 101(b)(1)(A) may be for the
10 period specified in the application or for 120 days,
11 whichever is less”.

12 (b) EXTENSION.

13 (1) IN GENERAL. Section 105(d)(2) of the
14 Foreign Intelligence Surveillance Act of 1978 (50
15 U.S.C. 1805(d)(2)) is amended by

- 16 (A) inserting “(A)” after “except that”;
- 17 and
- 18 (B) inserting before the period the fol-
19 lowing: “, and (B) an extension of an order
20 under this Act for a surveillance targeted
21 against an agent of a foreign power as defined
22 in section 101(b)(1)(A) may be for a period not
23 to exceed 1 year”.

24 (2) DEFINED TERM. Section 304(d)(2) of the
25 Foreign Intelligence Surveillance Act of 1978 (50



1 U.S.C. 1824(d)(2) is amended by inserting after
2 “not a United States person,” the following: “or
3 against an agent of a foreign power as defined in
4 section 101(b)(1)(A),”.

5 **SEC. 208. DESIGNATION OF JUDGES.**

6 Section 103(a) of the Foreign Intelligence Surveil-
7 lance Act of 1978 (50 U.S.C. 1803(a)) is amended by

8 (1) striking “seven district court judges” and
9 inserting “11 district court judges”; and

10 (2) inserting “of whom no fewer than 3 shall
11 reside within 20 miles of the District of Columbia”
12 after “circuits”.

13 **SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT**
14 **TO WARRANTS.**

15 Title 18, United States Code, is amended

16 (1) in section 2510

17 (A) in paragraph (1), by striking beginning
18 with “and such” and all that follows through
19 “communication”; and

20 (B) in paragraph (14), by inserting “wire
21 or” after “transmission of”; and

22 (2) in subsections (a) and (b) of section 2703

23 (A) by striking “CONTENTS OF ELEC-
24 TRONIC” and inserting “CONTENTS OF WIRE OR
25 ELECTRONIC” each place it appears;



1 (B) by striking “contents of an electronic”
2 and inserting “contents of a wire or electronic”
3 each place it appears; and

4 (C) by striking “any electronic” and in-
5 serting “any wire or electronic” each place it
6 appears.

7 **SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELEC-**
8 **TRONIC COMMUNICATIONS.**

9 Section 2703(c)(2) of title 18, United States Code,
10 as redesignated by section 212, is amended

11 (1) by striking “entity the name, address, local
12 and long distance telephone toll billing records, tele-
13 phone number or other subscriber number or iden-
14 tity, and length of service of a subscriber” and in-
15 serting the following: “entity the

16 “(A) name;

17 “(B) address;

18 “(C) local and long distance telephone connec-
19 tion records, or records of session times and dura-
20 tions;

21 “(D) length of service (including start date)
22 and types of service utilized;

23 “(E) telephone or instrument number or other
24 subscriber number or identity, including any tempo-
25 rarily assigned network address; and



1 “(F) means and source of payment (including
2 any credit card or bank account number),
3 of a subscriber”); and

4 (2) by striking “and the types of services the
5 subscriber or customer utilized,”.

6 **SEC. 211. CLARIFICATION OF SCOPE.**

7 Section 631 of the Communications Act of 1934 (47
8 U.S.C. 551) is amended

9 (1) in subsection (c)(2)

10 (A) in subparagraph (B), by striking “or”;

11 (B) in subparagraph (C), by striking the
12 period at the end and inserting “; or”; and

13 (C) by inserting at the end the following:

14 “(D) to a government entity as authorized
15 under chapters 119, 121, or 206 of title 18, United
16 States Code, except that such disclosure shall not in-
17 clude records revealing cable subscriber selection of
18 video programming from a cable operator.”; and

19 (2) in subsection (h), by striking “A govern-
20 mental entity” and inserting “Except as provided in
21 subsection (c)(2)(D), a governmental entity”.

22 **SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COM-**
23 **MUNICATIONS TO PROTECT LIFE AND LIMB.**

24 (a) DISCLOSURE OF CONTENTS.



1 (1) IN GENERAL. Section 2702 of title 18,
2 United States Code, is amended

3 (A) by striking the section heading and in-
4 serting the following:

5 **“§ 2702. Voluntary disclosure of customer commu-
6 nications or records”;**

7 (B) in subsection (a)

8 (i) in paragraph (2)(A), by striking
9 “and” at the end;

10 (ii) in paragraph (2)(B), by striking
11 the period and inserting “; and”; and

12 (iii) by inserting after paragraph (2)
13 the following:

14 “(3) a provider of remote computing service or
15 electronic communication service to the public shall
16 not knowingly divulge a record or other information
17 pertaining to a subscriber to or customer of such
18 service (not including the contents of communica-
19 tions covered by paragraph (1) or (2)) to any gov-
20 ernmental entity.”;

21 (C) in subsection (b), by striking “EXCEP-
22 TIONS. A person or entity” and inserting “EX-
23 CEPTIONS FOR DISCLOSURE OF COMMUNICA-
24 TIONS. A provider described in subsection
25 (a)”;



1 (D) in subsection (b)(6)
2 (i) in subparagraph (A)(ii), by strik-
3 ing “or”;
4 (ii) in subparagraph (B), by striking
5 the period and inserting “; or”; and
6 (iii) by adding after subparagraph (B)
7 the following:
8 “(C) if the provider reasonably believes
9 that an emergency involving immediate danger
10 of death or serious physical injury to any per-
11 son requires disclosure of the information with-
12 out delay.”; and
13 (E) by inserting after subsection (b) the
14 following:
15 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
16 RECORDS. A provider described in subsection (a) may di-
17 vulge a record or other information pertaining to a sub-
18 scriber to or customer of such service (not including the
19 contents of communications covered by subsection (a)(1)
20 or (a)(2))
21 “(1) as otherwise authorized in section 2703;
22 “(2) with the lawful consent of the customer or
23 subscriber;



1 “(3) as may be necessarily incident to the ren-
2 dition of the service or to the protection of the rights
3 or property of the provider of that service;

4 “(4) to a governmental entity, if the provider
5 reasonably believes that an emergency involving im-
6 mediate danger of death or serious physical injury to
7 any person justifies disclosure of the information; or

8 “(5) to any person other than a governmental
9 entity.”.

10 (2) TECHNICAL AND CONFORMING AMEND-
11 MENT. The table of sections for chapter 121 of
12 title 18, United States Code, is amended by striking
13 the item relating to section 2702 and inserting the
14 following:

“2702. Voluntary disclosure of customer communications or records.”.

15 (b) REQUIREMENTS FOR GOVERNMENT ACCESS.

16 (1) IN GENERAL. Section 2703 of title 18,
17 United States Code, is amended

18 (A) by striking the section heading and in-
19 serting the following:

20 **“§ 2703. Required disclosure of customer communica-
21 tions or records”;**

22 (B) in subsection (c) by redesignating
23 paragraph (2) as paragraph (3);

24 (C) in subsection (c)(1)



1 (i) by striking “(A) Except as pro-
2 vided in subparagraph (B), a provider of
3 electronic communication service or remote
4 computing service may” and inserting “A
5 governmental entity may require a provider
6 of electronic communication service or re-
7 mote computing service to”;

8 (ii) by striking “covered by subsection
9 (a) or (b) of this section) to any person
10 other than a governmental entity.

11 “(B) A provider of electronic communica-
12 tion service or remote computing service shall
13 disclose a record or other information per-
14 taining to a subscriber to or customer of such
15 service (not including the contents of commu-
16 nications covered by subsection (a) or (b) of
17 this section) to a governmental entity” and in-
18 serting “)”;

19 (iii) by redesignating subparagraph
20 (C) as paragraph (2);

21 (iv) by redesignating clauses (i), (ii),
22 (iii), and (iv) as subparagraphs (A), (B),
23 (C), and (D), respectively;



1 (v) in subparagraph (D) (as redesignig-
2 nated) by striking the period and inserting
3 “; or”; and

4 (vi) by inserting after subparagraph
5 (D) (as redesignated) the following:

6 “(E) seeks information under paragraph
7 (2).”; and

8 (D) in paragraph (2) (as redesignated) by
9 striking “subparagraph (B)” and insert “para-
10 graph (1)”.

11 (2) TECHNICAL AND CONFORMING AMEND-
12 MENT. The table of sections for chapter 121 of
13 title 18, United States Code, is amended by striking
14 the item relating to section 2703 and inserting the
15 following:

“2703. Required disclosure of customer communications or records.”.

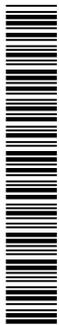
16 **SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXE-**
17 **CUTION OF A WARRANT.**

18 Section 3103a of title 18, United States Code, is
19 amended

20 (1) by inserting “(a) IN GENERAL. ” before
21 “In addition”; and

22 (2) by adding at the end the following:

23 “(b) DELAY. With respect to the issuance of any
24 warrant or court order under this section, or any other
25 rule of law, to search for and seize any property or mate-



1 rial that constitutes evidence of a criminal offense in viola-
2 tion of the laws of the United States, any notice required,
3 or that may be required, to be given may be delayed if

4 “(1) the court finds reasonable cause to believe
5 that providing immediate notification of the execu-
6 tion of the warrant may have an adverse result (as
7 defined in section 2705);

8 “(2) the warrant prohibits the seizure of any
9 tangible property, any wire or electronic communica-
10 tion (as defined in section 2510), or, except as ex-
11 pressly provided in chapter 121, any stored wire or
12 electronic information, except where the court finds
13 reasonable necessity for the seizure; and

14 “(3) the warrant provides for the giving of such
15 notice within a reasonable period of its execution,
16 which period may thereafter be extended by the
17 court for good cause shown.”.

18 **SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHOR-**
19 **ITY UNDER FISA.**

20 (a) APPLICATIONS AND ORDERS. Section 402 of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1842) is amended

23 (1) in subsection (a)(1), by striking “for any in-
24 vestigation to gather foreign intelligence information
25 or information concerning international terrorism”



1 and inserting “for any investigation to protect
2 against international terrorism or clandestine intel-
3 ligence activities, provided that such investigation of
4 a United States person is not conducted solely upon
5 the basis of activities protected by the first amend-
6 ment to the Constitution”;

7 (2) by amending subsection (c)(2) to read as
8 follows:

9 “(2) a certification by the applicant that the in-
10 formation likely to be obtained is relevant to an on-
11 going investigation to protect against international
12 terrorism or clandestine intelligence activities, pro-
13 vided that such investigation of a United States per-
14 son is not conducted solely upon the basis of activi-
15 ties protected by the first amendment to the Con-
16 stitution.”;

17 (3) by striking subsection (c)(3); and

18 (4) by amending subsection (d)(2)(A) to read
19 as follows:

20 “(A) shall specify

21 “(i) the identity, if known, of the per-
22 son who is the subject of the investigation;

23 “(ii) the identity, if known, of the per-
24 son to whom is leased or in whose name is
25 listed the telephone line or other facility to



1 which the pen register or trap and trace
2 device is to be attached or applied;

3 “(iii) the attributes of the communica-
4 tions to which the order applies, such as
5 the number or other identifier, and, if
6 known, the location of the telephone line or
7 other facility to which the pen register or
8 trap and trace device is to be attached or
9 applied and, in the case of a trap and trace
10 device, the geographic limits of the trap
11 and trace order.”.

12 (b) AUTHORIZATION DURING EMERGENCIES. Sec-
13 tion 403 of the Foreign Intelligence Surveillance Act of
14 1978 (50 U.S.C. 1843) is amended

15 (1) in subsection (a), by striking “foreign intel-
16 ligence information or information concerning inter-
17 national terrorism” and inserting “information to
18 protect against international terrorism or clandestine
19 intelligence activities, provided that such investiga-
20 tion of a United States person is not conducted sole-
21 ly upon the basis of activities protected by the first
22 amendment to the Constitution”; and

23 (2) in subsection (b)(1), by striking “foreign in-
24 telligence information or information concerning
25 international terrorism” and inserting “information



1 to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution”.

6 **SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER**
7 **THE FOREIGN INTELLIGENCE SURVEIL-**
8 **LANCE ACT.**

9 Title V of the Foreign Intelligence Surveillance Act
10 of 1978 (50 U.S.C. 1861 et seq.) is amended by striking
11 sections 501 through 503 and inserting the following:

12 **“SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR**
13 **FOREIGN INTELLIGENCE AND INTER-**
14 **NATIONAL TERRORISM INVESTIGATIONS.**

15 “(a)(1) The Director of the Federal Bureau of Inves-
16 tigation or a designee of the Director (whose rank shall
17 be no lower than Assistant Special Agent in Charge) may
18 make an application for an order requiring the production
19 of any tangible things (including books, records, papers,
20 documents, and other items) for an investigation to pro-
21 tect against international terrorism or clandestine intel-
22 ligence activities, provided that such investigation of a
23 United States person is not conducted solely upon the
24 basis of activities protected by the first amendment to the
25 Constitution.



1 “(2) An investigation conducted under this section
2 shall

3 “(A) be conducted under guidelines approved by
4 the Attorney General under Executive Order 12333
5 (or a successor order); and

6 “(B) not be conducted of a United States per-
7 son solely upon the basis of activities protected by
8 the first amendment to the Constitution of the
9 United States.

10 “(b) Each application under this section

11 “(1) shall be made to

12 “(A) a judge of the court established by
13 section 103(a); or

14 “(B) a United States Magistrate Judge
15 under chapter 43 of title 28, United States
16 Code, who is publicly designated by the Chief
17 Justice of the United States to have the power
18 to hear applications and grant orders for the
19 production of tangible things under this section
20 on behalf of a judge of that court; and

21 “(2) shall specify that the records concerned
22 are sought for an authorized investigation conducted
23 in accordance with subsection (a)(2) to protect
24 against international terrorism or clandestine intel-
25 ligence activities.



1 “(c)(1) Upon an application made pursuant to this
2 section, the judge shall enter an ex parte order as re-
3 quested, or as modified, approving the release of records
4 if the judge finds that the application meets the require-
5 ments of this section.

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

9 “(d) No person shall disclose to any other person
10 (other than those persons necessary to produce the tan-
11 gible things under this section) that the Federal Bureau
12 of Investigation has sought or obtained tangible things
13 under this section.

14 “(e) A person who, in good faith, produces tangible
15 things under an order pursuant to this section shall not
16 be liable to any other person for such production. Such
17 production shall not be deemed to constitute a waiver of
18 any privilege in any other proceeding or context.

19 **“SEC. 502. CONGRESSIONAL OVERSIGHT.**

20 “(a) On a semiannual basis, the Attorney General
21 shall fully inform the Permanent Select Committee on In-
22 telligence of the House of Representatives and the Select
23 Committee on Intelligence of the Senate concerning all re-
24 quests for the production of tangible things under section
25 402.



1 “(b) On a semiannual basis, the Attorney General
2 shall provide to the Committees on the Judiciary of the
3 House of Representatives and the Senate a report setting
4 forth with respect to the preceding 6-month period

5 “(1) the total number of applications made for
6 orders approving requests for the production of tan-
7 gible things under section 402; and

8 “(2) the total number of such orders either
9 granted, modified, or denied.”.

10 **SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO**
11 **USE OF PEN REGISTERS AND TRAP AND**
12 **TRACE DEVICES.**

13 (a) GENERAL LIMITATIONS. Section 3121(e) of title
14 18, United States Code, is amended

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

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

19 (3) by striking “call processing” and inserting
20 “the processing and transmitting of wire or elec-
21 tronic communications so as not to include the con-
22 tents of any wire or electronic communications”.

23 (b) ISSUANCE OF ORDERS.

24 (1) IN GENERAL. Section 3123(a) of title 18,
25 United States Code, is amended to read as follows:



1 “(a) IN GENERAL.

2 “(1) ATTORNEY FOR THE GOVERNMENT.

3 Upon an application made under section 3122(a)(1),
4 the court shall enter an ex parte order authorizing
5 the installation and use of a pen register or trap and
6 trace device anywhere within the United States, if
7 the court finds that the attorney for the Government
8 has certified to the court that the information likely
9 to be obtained by such installation and use is rel-
10 evant to an ongoing criminal investigation. The
11 order, upon service of that order, shall apply to any
12 person or entity providing wire or electronic commu-
13 nication service in the United States whose assist-
14 ance may facilitate the execution of the order.
15 Whenever such an order is served on any person or
16 entity not specifically named in the order, upon re-
17 quest of such person or entity, the attorney for the
18 Government or law enforcement or investigative offi-
19 cer that is serving the order shall provide written or
20 electronic certification that the order applies to the
21 person or entity being served.

22 “(2) STATE INVESTIGATIVE OR LAW ENFORCE-
23 MENT OFFICER. Upon an application made under
24 section 3122(a)(2), the court shall enter an ex parte
25 order authorizing the installation and use of a pen



1 register or trap and trace device within the jurisdic-
2 tion of the court, if the court finds that the State
3 law enforcement or investigative officer has certified
4 to the court that the information likely to be ob-
5 tained by such installation and use is relevant to an
6 ongoing criminal investigation.

7 “(3)(A) Where the law enforcement agency im-
8 plementing an ex parte order under this subsection
9 seeks to do so by installing and using its own pen
10 register or trap and trace device on a packet-
11 switched data network of a provider of electronic
12 communication service to the public, the agency shall
13 ensure that a record will be maintained which will
14 identify

15 “(i) any officer or officers who installed
16 the device and any officer or officers who
17 accessed the device to obtain information from
18 the network;

19 “(ii) the date and time the device was in-
20 stalled, the date and time the device was
21 uninstalled, and the date, time, and duration of
22 each time the device is accessed to obtain infor-
23 mation;



1 “(iii) the configuration of the device at the
2 time of its installation and any subsequent
3 modification thereof; and

4 “(iv) any information which has been col-
5 lected by the device.

6 To the extent that the pen register or trap and trace
7 device can be set automatically to record this infor-
8 mation electronically, the record shall be maintained
9 electronically throughout the installation and use of
10 such device.

11 “(B) The record maintained under subpara-
12 graph (A) shall be provided ex parte and under seal
13 to the court which entered the ex parte order au-
14 thORIZING the installation and use of the device with-
15 in 30 days after termination of the order (including
16 any extensions thereof).”

17 (2) CONTENTS OF ORDER. Section 3123(b)(1)
18 of title 18, United States Code, is amended

19 (A) in subparagraph (A)

20 (i) by inserting “or other facility”
21 after “telephone line”; and

22 (ii) by inserting before the semicolon
23 at the end “or applied”; and

24 (B) by striking subparagraph (C) and in-
25 serting the following:



1 “(C) the attributes of the communications
2 to which the order applies, including the num-
3 ber or other identifier and, if known, the loca-
4 tion of the telephone line or other facility to
5 which the pen register or trap and trace device
6 is to be attached or applied, and, in the case of
7 an order authorizing installation and use of a
8 trap and trace device under subsection (a)(2),
9 the geographic limits of the order; and”.

10 (3) NONDISCLOSURE REQUIREMENTS. Section
11 3123(d)(2) of title 18, United States Code, is
12 amended

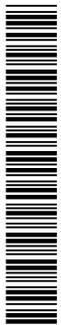
13 (A) by inserting “or other facility” after
14 “the line”; and

15 (B) by striking “, or who has been ordered
16 by the court” and inserting “or applied, or who
17 is obligated by the order”.

18 (c) DEFINITIONS.

19 (1) COURT OF COMPETENT JURISDICTION.
20 Section 3127(2) of title 18, United States Code, is
21 amended by striking subparagraph (A) and inserting
22 the following:

23 “(A) any district court of the United
24 States (including a magistrate judge of such a
25 court) or any United States court of appeals



1 having jurisdiction over the offense being inves-
2 tigated; or”.

3 (2) PEN REGISTER. Section 3127(3) of title
4 18, United States Code, is amended

5 (A) by striking “electronic or other im-
6 pulses” and all that follows through “is at-
7 tached” and inserting “dialing, routing, ad-
8 dressing, or signaling information transmitted
9 by an instrument or facility from which a wire
10 or electronic communication is transmitted, pro-
11 vided, however, that such information shall not
12 include the contents of any communication”;
13 and

14 (B) by inserting “or process” after “de-
15 vice” each place it appears.

16 (3) TRAP AND TRACE DEVICE. Section
17 3127(4) of title 18, United States Code, is
18 amended

19 (A) by striking “of an instrument” and all
20 that follows through the semicolon and insert-
21 ing “or other dialing, routing, addressing, and
22 signaling information reasonably likely to iden-
23 tify the source of a wire or electronic commu-
24 nication, provided, however, that such informa-



1 tion shall not include the contents of any com-
2 munication;” and

3 (B) by inserting “or process” after “a de-
4 vice”.

5 (4) CONFORMING AMENDMENT. Section
6 3127(1) of title 18, United States Code, is
7 amended

8 (A) by striking “and”; and

9 (B) by inserting “, and ‘contents’” after
10 “electronic communication service”.

11 (5) TECHNICAL AMENDMENT. Section 3124(d)
12 of title 18, United States Code, is amended by strik-
13 ing “the terms of”.

14 **SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COM-**
15 **MUNICATIONS.**

16 Chapter 119 of title 18, United States Code, is
17 amended

18 (1) in section 2510

19 (A) in paragraph (18), by striking “and”
20 at the end;

21 (B) in paragraph (19), by striking the pe-
22 riod and inserting a semicolon; and

23 (C) by inserting after paragraph (19) the
24 following:



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

3 “(21) ‘computer trespasser’

4 “(A) means a person who accesses a pro-
5 tected computer without authorization and thus
6 has no reasonable expectation of privacy in any
7 communication transmitted to, through, or from
8 the protected computer; and

9 “(B) does not include a person known by
10 the owner or operator of the protected computer
11 to have an existing contractual relationship with
12 the owner or operator of the protected computer
13 for access to all or part of the protected com-
14 puter.”; and

15 (2) in section 2511(2), by inserting at the end
16 the following:

17 “(i) It shall not be unlawful under this chapter for
18 a person acting under color of law to intercept the wire
19 or electronic communications of a computer trespasser
20 transmitted to, through, or from the protected computer,
21 if

22 “(I) the owner or operator of the protected
23 computer authorizes the interception of the com-
24 puter trespasser’s communications on the protected
25 computer;



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

3 “(III) the person acting under color of law has
4 reasonable grounds to believe that the contents of
5 the computer trespasser’s communications will be
6 relevant to the investigation; and

7 “(IV) such interception does not acquire com-
8 munications other than those transmitted to or from
9 the computer trespasser.”.

10 **SEC. 218. FOREIGN INTELLIGENCE INFORMATION.**

11 Sections 104(a)(7)(B) and section 303(a)(7)(B) (50
12 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign
13 Intelligence Surveillance Act of 1978 are each amended
14 by striking “the purpose” and inserting “a significant pur-
15 pose”.

16 **SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR**
17 **TERRORISM.**

18 Rule 41(a) of the Federal Rules of Criminal Proce-
19 dure is amended by inserting after “executed” the fol-
20 lowing: “and (3) in an investigation of domestic terrorism
21 or international terrorism (as defined in section 2331 of
22 title 18, United States Code), by a Federal magistrate
23 judge in any district in which activities related to the ter-
24 rorism may have occurred, for a search of property or for
25 a person within or outside the district”.



1 **SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS**
2 **FOR ELECTRONIC EVIDENCE.**

3 Chapter 121 of title 18, United States Code, is
4 amended

5 (1) in section 2703, by striking “under the
6 Federal Rules of Criminal Procedure” every place it
7 appears and inserting “using the procedures de-
8 scribed in the Federal Rules of Criminal Procedure
9 by a court with jurisdiction over the offense under
10 investigation”; and

11 (2) in section 2711

12 (A) in paragraph (1), by striking “and”;

13 (B) in paragraph (2), by striking the pe-
14 riod and inserting “; and”; and

15 (C) by inserting at the end the following:

16 “(3) the term ‘court of competent jurisdiction’
17 has the meaning assigned by section 3127, and in-
18 cludes any Federal court within that definition,
19 without geographic limitation.”.

20 **SEC. 221. TRADE SANCTIONS.**

21 (a) IN GENERAL. The Trade Sanctions Reform and
22 Export Enhancement Act of 2000 (Public Law 106 387;
23 114 Stat. 1549A 67) is amended

24 (1) by amending section 904(2)(C) to read as
25 follows:



1 “(C) used to facilitate the design, develop-
2 ment, or production of chemical or biological
3 weapons, missiles, or weapons of mass destruc-
4 tion.”;

5 (2) in section 906(a)(1)

6 (A) by inserting “, the Taliban or the ter-
7 ritory of Afghanistan controlled by the
8 Taliban,” after “Cuba”; and

9 (B) by inserting “, or in the territory of
10 Afghanistan controlled by the Taliban,” after
11 “within such country”; and

12 (3) in section 906(a)(2), by inserting “, or to
13 any other entity in Syria or North Korea” after
14 “Korea”.

15 (b) APPLICATION OF THE TRADE SANCTIONS RE-
16 FORM AND EXPORT ENHANCEMENT ACT. Nothing in the
17 Trade Sanctions Reform and Export Enhancement Act of
18 2000 shall limit the application or scope of any law estab-
19 lishing criminal or civil penalties, including any executive
20 order or regulation promulgated pursuant to such laws (or
21 similar or successor laws), for the unlawful export of any
22 agricultural commodity, medicine, or medical device to

23 (1) a foreign organization, group, or person
24 designated pursuant to Executive Order 12947 of
25 June 25, 1995;



1 (2) a Foreign Terrorist Organization pursuant
2 to the Antiterrorism and Effective Death Penalty
3 Act of 1996 (Public Law 104 132);

4 (3) a foreign organization, group, or person
5 designated pursuant to Executive Order 13224 (Sep-
6 tember 23, 2001);

7 (4) any narcotics trafficking entity designated
8 pursuant to Executive Order 12978 (October 21,
9 1995) or the Foreign Narcotics Kingpin Designation
10 Act (Public Law 106 120); or

11 (5) any foreign organization, group, or persons
12 subject to any restriction for its involvement in
13 weapons of mass destruction or missile proliferation.

14 **SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.**

15 Nothing in this Act shall impose any additional tech-
16 nical obligation or requirement on a provider of a wire or
17 electronic communication service or other person to fur-
18 nish facilities or technical assistance. A provider of a wire
19 or electronic communication service, landlord, custodian,
20 or other person who furnishes facilities or technical assist-
21 ance pursuant to section 216 shall be reasonably com-
22 pensated for such reasonable expenditures incurred in pro-
23 viding such facilities or assistance.



1 **SEC. 223. CIVIL LIABILITY FOR CERTAIN UNAUTHORIZED**
2 **DISCLOSURES.**

3 (a) Section 2520 of title 18, United States Code, is
4 amended

5 (1) in subsection (a), after “entity”, by insert-
6 ing “, other than the United States,”;

7 (2) by adding at the end the following:

8 “(f) ADMINISTRATIVE DISCIPLINE. If a court deter-
9 mines that the United States or any of its departments
10 or agencies has violated any provision of this chapter, and
11 the court finds that the circumstances surrounding the
12 violation raise serious questions about whether or not an
13 officer or employee of the United States acted willfully or
14 intentionally with respect to the possible violation, the de-
15 partment or agency shall promptly initiate a proceeding
16 to determine whether disciplinary action against the offi-
17 cer or employee is warranted. If the head of the depart-
18 ment or agency involved determines that disciplinary ac-
19 tion is not warranted, he or she shall notify the Inspector
20 General with jurisdiction over the department or agency
21 concerned and shall provide the Inspector General with the
22 reasons for such determination.”; and

23 (3) by adding a new subsection (g), as follows:

24 “(g) IMPROPER DISCLOSURE IS VIOLATION. Any
25 willful disclosure or use by an investigative or law enforce-
26 ment officer or governmental entity of information beyond



1 the extent permitted by section 2517 is a violation of this
2 chapter for purposes of section 2520(a).

3 (b) Section 2707 of title 18, United States Code, is
4 amended

5 (1) in subsection (a), after “entity”, by insert-
6 ing “, other than the United States,”;

7 (2) by striking subsection (d) and inserting the
8 following:

9 “(d) ADMINISTRATIVE DISCIPLINE. If a court de-
10 termines that the United States or any of its departments
11 or agencies has violated any provision of this chapter, and
12 the court finds that the circumstances surrounding the
13 violation raise serious questions about whether or not an
14 officer or employee of the United States acted willfully or
15 intentionally with respect to the possible violation, the de-
16 partment or agency shall promptly initiate a proceeding
17 to determine whether disciplinary action against the offi-
18 cer or employee is warranted. If the head of the depart-
19 ment or agency involved determines that disciplinary ac-
20 tion is not warranted, he or she shall notify the Inspector
21 General with jurisdiction over the department or agency
22 concerned and shall provide the Inspector General with the
23 reasons for such determination.”; and

24 (3) by adding a new subsection (g), as follows:



1 “(g) IMPROPER DISCLOSURE. Any willful disclosure
2 of a ‘record’, as that term is defined in section 552a(a)
3 of title 5, United States Code, obtained by an investigative
4 or law enforcement officer, or a governmental entity, pur-
5 suant to section 2703 of this title, or from a device in-
6 stalled pursuant to section 3123 or 3125 of this title, that
7 is not a disclosure made in the proper performance of the
8 official duties of the officer or governmental entity making
9 the disclosure, is a violation of this chapter. This provision
10 shall not apply to information previously lawfully disclosed
11 to the public by a Federal, State, or local governmental
12 entity.”.

13 (c)(1) Chapter 121 of title 18, United States Code,
14 is amended by adding at the end the following:

15 **“§ 2712. Civil actions against the United States**

16 “(a) IN GENERAL. Any person who is aggrieved by
17 any violation of this chapter or of chapter 119 of this title
18 or of sections 106(a), 305(a), or 405(a) of the Foreign
19 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
20 seq.) may commence an action in United States District
21 Court against the United States to recover money dam-
22 ages. In any such action, if a person who is aggrieved suc-
23 cessfully establishes a violation of this chapter or of chap-
24 ter 119 of this title or of the above specific provisions of
25 title 50, the Court may assess as damages



1 “(1) actual damages, but not less than
2 \$10,000, whichever amount is greater; and

3 “(2) litigation costs, reasonably incurred.

4 “(b) PROCEDURES. (1) Any action against the
5 United States under this section may be commenced only
6 after a claim is presented to the appropriate department
7 or agency under the procedures of the Federal Tort
8 Claims Act, as set forth in title 28, United States Code.

9 “(2) Any action against the United States under this
10 section shall be commenced within the time period set
11 forth in section 2401(b) of title 28, United States Code.
12 The claim shall accrue on the date upon which the claim-
13 ant first discovers the violation.

14 “(3) Any action under this section shall be tried to
15 the court without a jury.

16 “(4) Notwithstanding any other provision of law, the
17 procedures set forth in section 106(f), 305(g), or 405(f)
18 of the Foreign Intelligence Surveillance Act of 1978 (50
19 U.S.C. 1801 et seq.) shall be the exclusive means by which
20 materials governed by those sections may be reviewed.

21 “(5) An amount equal to any award against the
22 United States under this section shall be reimbursed by
23 the department or agency concerned to the fund described
24 in section 1304 of title 31, United States Code, out of
25 any appropriation, fund, or other account (excluding any



1 part of such appropriation, fund, or account that is avail-
2 able for the enforcement of any Federal law) that is avail-
3 able for the operating expenses of the department or agen-
4 cy concerned.

5 “(c) ADMINISTRATIVE DISCIPLINE. If a court deter-
6 mines that the United States or any of its departments
7 or agencies has violated any provision of this chapter, and
8 the court finds that the circumstances surrounding the
9 violation raise serious questions about whether or not an
10 officer or employee of the United States acted willfully or
11 intentionally with respect to the possible violation, the de-
12 partment or agency shall promptly initiate a proceeding
13 to determine whether disciplinary action against the offi-
14 cer or employee is warranted. If the head of the depart-
15 ment or agency involved determines that disciplinary ac-
16 tion is not warranted, he or she shall notify the Inspector
17 General with jurisdiction over the department or agency
18 concerned and shall provide the Inspector General with the
19 reasons for such determination.

20 “(d) EXCLUSIVE REMEDY. Any action against the
21 United States under this subsection shall be the exclusive
22 remedy against the United States for any claims within
23 the purview of this section.”

24 (2) The table of sections at the beginning of chapter
25 121 is amended to read as follows:

“2712. Civil action against the United States.”



1 **SEC. 224. SUNSET.**

2 (a) IN GENERAL. Except as provided in subsection
3 (b), this title and the amendments made by this title
4 (other than sections 203(a), 203(c), 205, 208, 211, 213,
5 219, 221, and 222, and the amendments made by those
6 sections) shall cease to have effect on December 31, 2004.

7 (b) EXCEPTIONS. (1) If the President notifies the
8 Congress before December 31, 2004 that it is in the na-
9 tional interest that these provisions remain in effect, these
10 provisions shall remain in effect until December 31, 2006
11 and cease to have effect on that date.

12 (2) With respect to any investigation that began be-
13 fore the date on which these provisions cease to have ef-
14 fect, these provisions shall continue in effect.

15 **TITLE III—FINANCIAL**
16 **INFRASTRUCTURE**

17 **SEC. 301. LAUNDERING THE PROCEEDS OF TERRORISM.**

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

20 **SEC. 302. MATERIAL SUPPORT FOR TERRORISM.**

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

23 (1) in subsection (a), by adding at the end the
24 following “A violation of this section may be pros-
25 ecuted in any Federal judicial district in which the



1 underlying offense was committed, or in any other
2 Federal judicial district as provided by law.”; and

3 (2) in subsection (b), by striking “or other fi-
4 nancial securities” and inserting “or monetary in-
5 struments or financial securities”.

6 **SEC. 303. ASSETS OF TERRORIST ORGANIZATIONS.**

7 Section 981(a)(1) of title 18, United States Code, is
8 amended by inserting after subparagraph (F) the fol-
9 lowing:

10 “(G) All assets, foreign or domestic

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

19 “(ii) acquired or maintained by any person
20 for the purpose of supporting, planning, con-
21 ducting, or concealing an act of domestic ter-
22 rorism or international terrorism (as defined in
23 section 2331) against the United States, citi-
24 zens or residents of the United States, or their
25 property; or



1 “(iii) derived from, involved in, or used or
2 intended to be used to commit any act of do-
3 mestic terrorism or international terrorism (as
4 defined in section 2331) against the United
5 States, citizens or residents of the United
6 States, or their property.”.

7 **SEC. 304. TECHNICAL CLARIFICATION RELATING TO PROVI-**
8 **SION OF MATERIAL SUPPORT TO TER-**
9 **RORISM.**

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

13 **SEC. 305. EXTRATERRITORIAL JURISDICTION.**

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

16 “(h) Any person who, outside the jurisdiction of the
17 United States, engages in any act that, if committed with-
18 in the jurisdiction of the United States, would constitute
19 an offense under subsection (a) or (b) of this section, shall
20 be subject to the fines, penalties, imprisonment, and for-
21 feiture provided in this title if

22 “(1) the offense involves an access device
23 issued, owned, managed, or controlled by a financial
24 institution, account issuer, credit card system mem-



1 ber, or other entity within the jurisdiction of the
2 United States; and

3 “(2) the person transports, delivers, conveys,
4 transfers to or through, or otherwise stores, secrets,
5 or holds within the jurisdiction of the United States,
6 any article used to assist in the commission of the
7 offense or the proceeds of such offense or property
8 derived therefrom.”.

9 **TITLE IV—PROTECTING THE**
10 **BORDER**

11 **Subtitle A—Protecting the**
12 **Northern Border**

13 **SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE**
14 **NORTHERN BORDER.**

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

19 **SEC. 402. NORTHERN BORDER PERSONNEL.**

20 There are authorized to be appropriated

21 (1) such sums as may be necessary to triple the
22 number of Border Patrol personnel (from the num-
23 ber authorized under current law), and the necessary
24 personnel and facilities to support such personnel, in
25 each State along the Northern Border;



1 (2) such sums as may be necessary to triple the
2 number of Customs Service personnel (from the
3 number authorized under current law), and the nec-
4 essary personnel and facilities to support such per-
5 sonnel, at ports of entry in each State along the
6 Northern Border;

7 (3) such sums as may be necessary to triple the
8 number of INS inspectors (from the number author-
9 ized on the date of enactment of this Act), and the
10 necessary personnel and facilities to support such
11 personnel, at ports of entry in each State along the
12 Northern Border; and

13 (4) an additional \$50,000,000 each to the Im-
14 migration and Naturalization Service and the United
15 States Customs Service for purposes of making im-
16 provements in technology for monitoring the North-
17 ern Border and acquiring additional equipment at
18 the Northern Border.



1 **SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND**
2 **THE INS TO CERTAIN IDENTIFYING INFORMA-**
3 **TION IN THE CRIMINAL HISTORY RECORDS**
4 **OF VISA APPLICANTS AND APPLICANTS FOR**
5 **ADMISSION TO THE UNITED STATES.**

6 (a) AMENDMENT OF THE IMMIGRATION AND NA-
7 TIONALITY ACT. Section 105 of the Immigration and
8 Nationality Act (8 U.S.C. 1105) is amended

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

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

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

14 (4) by adding at the end the following:

15 “(b)(1) The Attorney General and the Director of the
16 Federal Bureau of Investigation shall provide the Depart-
17 ment of State and the Service access to the criminal his-
18 tory record information contained in the National Crime
19 Information Center’s Interstate Identification Index
20 (NCIC-III), Wanted Persons File, and to any other files
21 maintained by the National Crime Information Center
22 that may be mutually agreed upon by the Attorney Gen-
23 eral and the agency receiving the access, for the purpose
24 of determining whether or not a visa applicant or appli-
25 cant for admission has a criminal history record indexed
26 in any such file.



1 “(2) Such access shall be provided by means of ex-
2 tracts of the records for placement in the automated visa
3 lookout or other appropriate database, and shall be pro-
4 vided without any fee or charge.

5 “(3) The Federal Bureau of Investigation shall pro-
6 vide periodic updates of the extracts at intervals mutually
7 agreed upon with the agency receiving the access. Upon
8 receipt of such updated extracts, the receiving agency shall
9 make corresponding updates to its database and destroy
10 previously provided extracts.

11 “(4) Access to an extract does not entitle the Depart-
12 ment of State to obtain the full content of the cor-
13 responding automated criminal history record. To obtain
14 the full content of a criminal history record, the Depart-
15 ment of State shall submit the applicant’s fingerprints and
16 any appropriate fingerprint processing fee authorized by
17 law to the Criminal Justice Information Services Division
18 of the Federal Bureau of Investigation.

19 “(c) The provision of the extracts described in sub-
20 section (b) may be reconsidered by the Attorney General
21 and the receiving agency upon the development and de-
22 ployment of a more cost-effective and efficient means of
23 sharing the information.

24 “(d) For purposes of administering this section, the
25 Department of State shall, prior to receiving access to



1 NCIC data but not later than 4 months after the date
2 of enactment of this subsection, promulgate final
3 regulations

4 “(1) to implement procedures for the taking of
5 fingerprints; and

6 “(2) to establish the conditions for the use of
7 the information received from the Federal Bureau of
8 Investigation, in order

9 “(A) to limit the redissemination of such
10 information;

11 “(B) to ensure that such information is
12 used solely to determine whether or not to issue
13 a visa to an alien or to admit an alien to the
14 United States;

15 “(C) to ensure the security, confidentiality,
16 and destruction of such information; and

17 “(D) to protect any privacy rights of indi-
18 viduals who are subjects of such information.”.

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

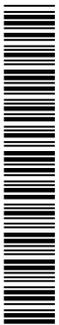
24 (c) TECHNOLOGY STANDARD TO CONFIRM IDEN-
25 TITY.



1 (1) IN GENERAL. The Attorney General and
2 the Secretary of State jointly, through the National
3 Institute of Standards and Technology (NIST), and
4 in consultation with the Secretary of the Treasury
5 and other Federal law enforcement and intelligence
6 agencies the Attorney General or Secretary of State
7 deems appropriate, shall within 2 years after the
8 date of enactment of this section, develop and certify
9 a technology standard that can confirm the identity
10 of a person applying for a United States visa or
11 such person seeking to enter the United States pur-
12 suant to a visa.

13 (2) INTEGRATED. The technology standard de-
14 veloped pursuant to paragraph (1), shall be the tech-
15 nological basis for a cross-agency, cross-platform
16 electronic system that is a cost-effective, efficient,
17 fully integrated means to share law enforcement and
18 intelligence information necessary to confirm the
19 identity of such persons applying for a United States
20 visa or such person seeking to enter the United
21 States pursuant to a visa.

22 (3) ACCESSIBLE. The electronic system de-
23 scribed in paragraph (2), once implemented, shall be
24 readily and easily accessible to



1 (A) all consular officers responsible for the
2 issuance of visas;

3 (B) all Federal inspection agents at all
4 United States border inspection points; and

5 (C) all law enforcement and intelligence of-
6 ficers as determined by regulation to be respon-
7 sible for investigation or identification of aliens
8 admitted to the United States pursuant to a
9 visa.

10 (4) REPORT. Not later than 18 months after
11 the date of enactment of this Act, and every 2 years
12 thereafter, the Attorney General and the Secretary
13 of State shall jointly, in consultation with the Sec-
14 retary of Treasury, report to Congress describing
15 the development, implementation and efficacy of the
16 technology standard and electronic database system
17 described in this subsection.

18 (d) STATUTORY CONSTRUCTION. Nothing in this
19 section, or in any other law, shall be construed to limit
20 the authority of the Attorney General or the Director of
21 the Federal Bureau of Investigation to provide access to
22 the criminal history record information contained in the
23 National Crime Information Center's (NCIC) Interstate
24 Identification Index (NCIC-III), or to any other informa-
25 tion maintained by the NCIC, to any Federal agency or



1 officer authorized to enforce or administer the immigra-
2 tion laws of the United States, for the purpose of such
3 enforcement or administration, upon terms that are con-
4 sistent with the National Crime Prevention and Privacy
5 Compact Act of 1998 (subtitle A of title II of Public Law
6 105 251; 42 U.S.C. 14611 16) and section 552a of title
7 5, United States Code.

8 **SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.**

9 The matter under the headings “Immigration And
10 Naturalization Service: Salaries and Expenses, Enforce-
11 ment And Border Affairs” and “Immigration And Natu-
12 ralization Service: Salaries and Expenses, Citizenship And
13 Benefits, Immigration And Program Direction” in the De-
14 partment of Justice Appropriations Act, 2001 (as enacted
15 into law by Appendix B (H.R. 5548) of Public Law 106
16 553 (114 Stat. 2762A 58 to 2762A 59)) is amended by
17 striking the following each place it occurs: “*Provided*, That
18 none of the funds available to the Immigration and Natu-
19 ralization Service shall be available to pay any employee
20 overtime pay in an amount in excess of \$30,000 during
21 the calendar year beginning January 1, 2001:”.



1 **SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FIN-**
2 **GERPRINT IDENTIFICATION SYSTEM FOR**
3 **POINTS OF ENTRY AND OVERSEAS CONSULAR**
4 **POSTS.**

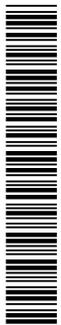
5 (a) IN GENERAL. The Attorney General, in con-
6 sultation with the appropriate heads of other Federal
7 agencies, including the Secretary of State, Secretary of the
8 Treasury, and the Secretary of Transportation, shall re-
9 port to Congress on the feasibility of enhancing the Inte-
10 grated Automated Fingerprint Identification System
11 (IAFIS) of the Federal Bureau of Investigation and other
12 identification systems in order to better identify a person
13 who holds a foreign passport or a visa and may be wanted
14 in connection with a criminal investigation in the United
15 States or abroad, before the issuance of a visa to that per-
16 son or the entry or exit by that person from the United
17 States.

18 (b) AUTHORIZATION OF APPROPRIATIONS. There is
19 authorized to be appropriated not less than \$2,000,000
20 to carry out this section.

21 **Subtitle B—Enhanced Immigration**
22 **Provisions**

23 **SEC. 411. DEFINITIONS RELATING TO TERRORISM.**

24 (a) GROUNDS OF INADMISSIBILITY. Section
25 212(a)(3) of the Immigration and Nationality Act (8
26 U.S.C. 1182(a)(3)) is amended



1 (1) in subparagraph (B)
2 (A) in clause (i)
3 (i) by amending subclause (IV) to
4 read as follows:

5 “(IV) is a representative (as de-
6 fined in clause (v)) of

7 “(aa) a foreign terrorist or-
8 ganization, as designated by the
9 Secretary of State under section
10 219, or

11 “(bb) a political, social or
12 other similar group whose public
13 endorsement of acts of terrorist
14 activity the Secretary of State
15 has determined undermines
16 United States efforts to reduce or
17 eliminate terrorist activities,”;

18 (ii) in subclause (V), by inserting “or”
19 after “section 219,”; and

20 (iii) by adding at the end the fol-
21 lowing new subclauses:

22 “(VI) has used the alien’s posi-
23 tion of prominence within any country
24 to endorse or espouse terrorist activ-
25 ity, or to persuade others to support



1 terrorist activity or a terrorist organi-
2 zation, in a way that the Secretary of
3 State has determined undermines
4 United States efforts to reduce or
5 eliminate terrorist activities, or

6 “(VII) is the spouse or child of
7 an alien who is inadmissible under
8 this section, if the activity causing the
9 alien to be found inadmissible oc-
10 curred within the last 5 years,”;

11 (B) by redesignating clauses (ii), (iii), and
12 (iv) as clauses (iii), (iv), and (v), respectively;

13 (C) in clause (i)(II), by striking “clause
14 (iii)” and inserting “clause (iv)”;

15 (D) by inserting after clause (i) the fol-
16 lowing:

17 “(ii) EXCEPTION. Subclause (VII) of
18 clause (i) does not apply to a spouse or
19 child

20 “(I) who did not know or should
21 not reasonably have known of the ac-
22 tivity causing the alien to be found in-
23 admissible under this section; or

24 “(II) whom the consular officer
25 or Attorney General has reasonable



1 grounds to believe has renounced the
2 activity causing the alien to be found
3 inadmissible under this section.”;

4 (E) in clause (iii) (as redesignated by sub-
5 paragraph (B))

6 (i) by inserting “it had been” before
7 “committed in the United States”; and

8 (ii) in subclause (V)(b), by striking
9 “or firearm” and inserting “, firearm, or
10 other weapon or dangerous device”;

11 (F) by amending clause (iv) (as redesign-
12 nated by subparagraph (B)) to read as follows:

13 “(iv) ENGAGE IN TERRORIST ACTIVITY
14 DEFINED. As used in this chapter, the
15 term ‘engage in terrorist activity’ means,
16 in an individual capacity or as a member
17 of an organization

18 “(I) to commit or to incite to
19 commit, under circumstances indi-
20 cating an intention to cause death or
21 serious bodily injury, a terrorist activ-
22 ity;

23 “(II) to prepare or plan a ter-
24 rorist activity;



1 “(III) to gather information on
2 potential targets for terrorist activity;
3 “(IV) to solicit funds or other
4 things of value for
5 “(aa) a terrorist activity;
6 “(bb) a terrorist organiza-
7 tion described in clauses (vi)(I)
8 or (vi)(II); or
9 “(cc) a terrorist organiza-
10 tion described in clause (vi)(III),
11 unless the solicitor can dem-
12 onstrate that he did not know,
13 and should not reasonably have
14 known, that the solicitation
15 would further the organization’s
16 terrorist activity;
17 “(V) to solicit any individual
18 “(aa) to engage in conduct
19 otherwise described in this
20 clause;
21 “(bb) for membership in a
22 terrorist organization described
23 in clauses (vi)(I) or (vi)(II); or
24 “(cc) for membership in a
25 terrorist organization described



1 in clause (vi)(III), unless the so-
2 licitor can demonstrate that he
3 did not know, and should not
4 reasonably have known, that the
5 solicitation would further the or-
6 ganization's terrorist activity; or
7 “(VI) to commit an act that the
8 actor knows, or reasonably should
9 know, affords material support, in-
10 cluding a safe house, transportation,
11 communications, funds, transfer of
12 funds or other material financial ben-
13 efit, false documentation or identifica-
14 tion, weapons (including chemical, bi-
15 ological, or radiological weapons), ex-
16 plosives, or training
17 “(aa) for the commission of
18 a terrorist activity;
19 “(bb) to any individual who
20 the actor knows, or reasonably
21 should know, has committed or
22 plans to commit a terrorist activ-
23 ity;



1 “(cc) to a terrorist organiza-
2 tion described in clauses (vi)(I)
3 or (vi)(II); or

4 “(dd) to a terrorist organi-
5 zation described in clause
6 (vi)(III), unless the actor can
7 demonstrate that he did not
8 know, and should not reasonably
9 have known, that the act would
10 further the organization’s ter-
11 rorist activity.

12 This clause shall not apply to any ma-
13 terial support the alien afforded to an
14 organization or individual that has
15 committed terrorist activity, if the
16 Secretary of State, after consultation
17 with the Attorney General, or the At-
18 torney General, after consultation
19 with the Secretary of State, concludes
20 in his sole unreviewable discretion,
21 that this clause should not apply.”;
22 and

23 (G) by adding at the end the following new
24 clause:



1 “(vi) TERRORIST ORGANIZATION DE-
 2 FINED. As used in clause (i)(VI) and
 3 clause (iv), the term ‘terrorist organiza-
 4 tion’ means an organization

5 “(I) designated under section
 6 219;

7 “(II) otherwise designated, upon
 8 publication in the Federal Register, by
 9 the Secretary of State in consultation
 10 with or upon the request of the Attor-
 11 ney General, as a terrorist organiza-
 12 tion, after finding that it engages in
 13 the activities described in subclause
 14 (I), (II), or (III) of clause (iv), or that
 15 it provides material support to further
 16 terrorist activity; or

17 “(III) that is a group of two or
 18 more individuals, whether organized
 19 or not, which engages in the activities
 20 described in subclause (I), (II), or
 21 (III) of clause (iv).”;

22 (2) by adding at the end the following new sub-
 23 paragraph:

24 “(F) ASSOCIATION WITH TERRORIST ORGA-
 25 NIZATIONS. Any alien who the Secretary of



1 State, after consultation with the Attorney Gen-
2 eral, or the Attorney General, after consultation
3 with the Secretary of State, determines has
4 been associated with a terrorist organization
5 and intends while in the United States to en-
6 gage solely, principally, or incidentally in activi-
7 ties that could endanger the welfare, safety, or
8 security of the United States is inadmissible.”.

9 (b) CONFORMING AMENDMENTS.

10 (1) Section 237(a)(4)(B) of the Immigration
11 and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is
12 amended by striking “section 212(a)(3)(B)(iii)” and
13 inserting “section 212(a)(3)(B)(iv)”.

14 (2) Section 208(b)(2)(A)(v) of the Immigration
15 and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is
16 amended by striking “or (IV)” and inserting “(IV),
17 or (VI)”.

18 (c) RETROACTIVE APPLICATION OF AMENDMENTS.

19 (1) IN GENERAL. Except as otherwise pro-
20 vided in this subsection, the amendments made by
21 this section shall take effect on the date of enact-
22 ment of this Act and shall apply to

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



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

4 (i) in removal proceedings on or after
5 such date (except for proceedings in which
6 there has been a final administrative deci-
7 sion before such date); or

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

10 (2) SPECIAL RULE FOR ALIENS IN EXCLUSION
11 OR DEPORTATION PROCEEDINGS. Notwithstanding
12 any other provision of law, sections 212(a)(3)(B)
13 and 237(a)(4)(B) of the Immigration and Nation-
14 ality Act, as amended by this Act, shall apply to all
15 aliens in exclusion or deportation proceedings on or
16 after the date of enactment of this Act (except for
17 proceedings in which there has been a final adminis-
18 trative decision before such date) as if such pro-
19 ceedings were removal proceedings.

20 (3) SPECIAL RULE FOR SECTION 219 ORGANIZA-
21 TIONS AND ORGANIZATIONS DESIGNATED UNDER
22 SECTION 212(a)(3)(B)(vi)(II).

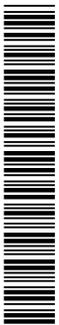
23 (A) IN GENERAL. Notwithstanding para-
24 graphs (1) and (2), no alien shall be considered
25 inadmissible under section 212(a)(3) of the Im-



1 migration and Nationality Act (8 U.S.C.
2 1182(a)(3)), or deportable under section
3 237(a)(4)(B) of such Act (8 U.S.C.
4 1227(a)(4)(B)), by reason of the amendments
5 made by subsection (a), on the ground that the
6 alien engaged in a terrorist activity described in
7 subclause (IV)(bb), (V)(bb), or (VI)(cc) of sec-
8 tion 212(a)(3)(B)(iv) of such Act (as so amend-
9 ed) with respect to a group at any time when
10 the group was not a terrorist organization des-
11 ignated by the Secretary of State under section
12 219 of such Act (8 U.S.C. 1189) or otherwise
13 designated under section 212(a)(3)(B)(vi)(II).

14 (B) STATUTORY CONSTRUCTION. Sub-
15 paragraph (A) shall not be construed to prevent
16 an alien from being considered inadmissible or
17 deportable for having engaged in a terrorist
18 activity

19 (i) described in subclause (IV)(bb),
20 (V)(bb), or (VI)(cc) of section
21 212(a)(3)(B)(iv) of such Act (as so amend-
22 ed) with respect to a terrorist organization
23 at any time when such organization was
24 designated by the Secretary of State under
25 section 219 of such Act or otherwise des-



1 ignated under section 212(a)(3)(B)(vi)(II);
2 or
3 (ii) described in subclause (IV)(cc),
4 (V)(cc), or (VI)(dd) of section
5 212(a)(3)(B)(iv) of such Act (as so amend-
6 ed) with respect to a terrorist organization
7 described in section 212(a)(3)(B)(vi)(III).

8 (4) EXCEPTION. The Secretary of State, in
9 consultation with the Attorney General, may deter-
10 mine that the amendments made by this section
11 shall not apply with respect to actions by an alien
12 taken outside the United States before the date of
13 enactment of this Act upon the recommendation of
14 a consular officer who has concluded that there is
15 not reasonable ground to believe that the alien knew
16 or reasonably should have known that the actions
17 would further a terrorist activity.

18 (c) DESIGNATION OF FOREIGN TERRORIST ORGANI-
19 ZATIONS. Section 219(a) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1189(a)) is amended

21 (1) in paragraph (1)(B), by inserting “or ter-
22 rorism (as defined in section 140(d)(2) of the For-
23 eign Relations Authorization Act, Fiscal Years 1988
24 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the ca-



1 pability and intent to engage in terrorist activity or
2 terrorism)” after “212(a)(3)(B)”;

3 (2) in paragraph (1)(C), by inserting “or ter-
4 rorism” after “terrorist activity”;

5 (3) by amending paragraph (2)(A) to read as
6 follows:

7 “(A) NOTICE.

8 “(i) TO CONGRESSIONAL LEADERS.

9 Seven days before making a designation
10 under this subsection, the Secretary shall,
11 by classified communication, notify the
12 Speaker and Minority Leader of the House
13 of Representatives, the President pro tem-
14 pore, Majority Leader, and Minority Lead-
15 er of the Senate, and the members of the
16 relevant committees, in writing, of the in-
17 tent to designate an organization under
18 this subsection, together with the findings
19 made under paragraph (1) with respect to
20 that organization, and the factual basis
21 therefor.

22 “(ii) PUBLICATION IN FEDERAL REG-
23 ISTER. The Secretary shall publish the
24 designation in the Federal Register seven



1 days after providing the notification under
2 clause (i).”;

3 (4) in paragraph (2)(B)(i), by striking “sub-
4 paragraph (A)” and inserting “subparagraph
5 (A)(ii)”;

6 (5) in paragraph (2)(C), by striking “paragraph
7 (2)” and inserting “paragraph (2)(A)(i)”;

8 (6) in paragraph (3)(B), by striking “sub-
9 section (c)” and inserting “subsection (b)”;

10 (7) in paragraph (4)(B), by inserting after the
11 first sentence the following: “The Secretary also may
12 redesignate such organization at the end of any 2-
13 year redesignation period (but not sooner than 60
14 days prior to the termination of such period) for an
15 additional 2-year period upon a finding that the rel-
16 evant circumstances described in paragraph (1) still
17 exist. Any redesignation shall be effective imme-
18 diately following the end of the prior 2-year designa-
19 tion or redesignation period unless a different effec-
20 tive date is provided in such redesignation.”;

21 (8) in paragraph (6)(A)

22 (A) by inserting “or a redesignation made
23 under paragraph (4)(B)” after “paragraph
24 (1)”;

25 (B) in clause (i)



1 (i) by inserting “or redesignation”
2 after “designation” the first place it ap-
3 pears; and

4 (ii) by striking “of the designation”;
5 and

6 (C) in clause (ii), by striking “of the des-
7 igation”;

8 (9) in paragraph (6)(B)

9 (A) by striking “through (4)” and insert-
10 ing “and (3)”; and

11 (B) by inserting at the end the following
12 new sentence: “Any revocation shall take effect
13 on the date specified in the revocation or upon
14 publication in the Federal Register if no effec-
15 tive date is specified.”;

16 (10) in paragraph (7), by inserting “, or the
17 revocation of a redesignation under paragraph (6),”
18 after “paragraph (5) or (6)”; and

19 (11) in paragraph (8)

20 (A) by striking “paragraph (1)(B)” and
21 inserting “paragraph (2)(B), or if a redesigna-
22 tion under this subsection has become effective
23 under paragraph (4)(B)”;

24 (B) by inserting “or an alien in a removal
25 proceeding” after “criminal action”; and



1 (C) by inserting “or redesignation” before
2 “as a defense”.

3 **SEC. 412. MANDATORY DETENTION OF SUSPECTED TER-**
4 **RORISTS; HABEAS CORPUS; JUDICIAL RE-**
5 **VIEW.**

6 (a) IN GENERAL. The Immigration and Nationality
7 Act (8 U.S.C. 1101 et seq.) is amended by inserting after
8 section 236 the following:

9 “MANDATORY DETENTION OF SUSPECTED
10 TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW
11 “SEC. 236A. (a) DETENTION OF TERRORIST
12 ALIENS.

13 “(1) CUSTODY. The Attorney General shall
14 take into custody any alien who is certified under
15 paragraph (3).

16 “(2) RELEASE. Except as provided in para-
17 graphs (5) and (6), the Attorney General shall main-
18 tain custody of such an alien until the alien is re-
19 moved from the United States. Except as provided
20 in paragraph (6), such custody shall be maintained
21 irrespective of any relief from removal for which the
22 alien may be eligible, or any relief from removal
23 granted the alien, until the Attorney General deter-
24 mines that the alien is no longer an alien who may
25 be certified under paragraph (3).



1 “(3) CERTIFICATION. The Attorney General
2 may certify an alien under this paragraph if the At-
3 torney General has reasonable grounds to believe
4 that the alien

5 “(A) is described in section
6 212(a)(3)(A)(i), 212(a)(3)(A)(iii),
7 212(a)(3)(B), 237(a)(4)(A)(i),
8 237(a)(4)(A)(iii), or 237(a)(4)(B); or

9 “(B) is engaged in any other activity that
10 endangers the national security of the United
11 States.

12 “(4) NONDELEGATION. The Attorney General
13 may delegate the authority provided under para-
14 graph (3) only to the Commissioner. The Commis-
15 sioner may not delegate such authority.

16 “(5) COMMENCEMENT OF PROCEEDINGS. The
17 Attorney General shall place an alien detained under
18 paragraph (1) in removal proceedings, or shall
19 charge the alien with a criminal offense, not later
20 than 7 days after the commencement of such deten-
21 tion. If the requirement of the preceding sentence is
22 not satisfied, the Attorney General shall release the
23 alien.

24 “(6) LIMITATION ON INDEFINITE DETEN-
25 TION. An alien detained under paragraph (1) who



1 has not been removed under section 241(a)(1)(A),
2 and whose removal is unlikely in the reasonably fore-
3 seeable future, may be detained for additional peri-
4 ods of up to six months if the release of the alien
5 will not protect the national security of the United
6 States or adequately ensure the safety of the com-
7 munity or any person.

8 “(b) HABEAS CORPUS AND JUDICIAL REVIEW.

9 “(1) IN GENERAL. Judicial review of any ac-
10 tion or decision relating to this section (including ju-
11 dicial review of the merits of a determination made
12 under subsection (a)(3) or (a)(6)) is available exclu-
13 sively in habeas corpus proceedings consistent with
14 this subsection. Except as provided in the preceding
15 sentence, no court shall have jurisdiction to review,
16 by habeas corpus petition or otherwise, any such ac-
17 tion or decision.

18 “(2) APPLICATION.

19 “(A) IN GENERAL. Notwithstanding any
20 other provision of law, including section
21 2241(a) of title 28, United States Code, habeas
22 corpus proceedings described in paragraph (1)
23 may be initiated only by an application filed
24 with

25 “(i) the Supreme Court;



1 “(ii) any justice of the Supreme
2 Court;

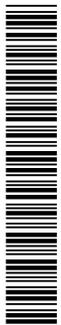
3 “(iii) any circuit judge of the United
4 States Court of Appeals for the District of
5 Columbia Circuit; or

6 “(iv) any district court otherwise hav-
7 ing jurisdiction to entertain it.

8 “(B) APPLICATION TRANSFER. Section
9 2241(b) of title 28, United States Code, shall
10 apply to an application for a writ of habeas cor-
11 pus described in subparagraph (A).

12 “(3) APPEALS. Notwithstanding any other
13 provision of law, including section 2253 of title 28,
14 in habeas corpus proceedings described in paragraph
15 (1) before a circuit or district judge, the final order
16 shall be subject to review, on appeal, by the United
17 States Court of Appeals for the District of Columbia
18 Circuit. There shall be no right of appeal in such
19 proceedings to any other circuit court of appeals.

20 “(4) RULE OF DECISION. The law applied by
21 the Supreme Court and the United States Court of
22 Appeals for the District of Columbia Circuit shall be
23 regarded as the rule of decision in habeas corpus
24 proceedings described in paragraph (1).



1 “(c) STATUTORY CONSTRUCTION. The provisions of
2 this section shall not be applicable to any other provision
3 of the Immigration and Nationality Act.”.

4 (b) CLERICAL AMENDMENT. The table of contents
5 of the Immigration and Nationality Act is amended by in-
6 serting after the item relating to section 236 the following:

 “Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial
 review.”.

7 (c) REPORTS. Not later than 6 months after the
8 date of the enactment of this Act, and every 6 months
9 thereafter, the Attorney General shall submit a report to
10 the Committee on the Judiciary of the House of Rep-
11 resentatives and the Committee on the Judiciary of the
12 Senate, with respect to the reporting period, on

13 (1) the number of aliens certified under section
14 236A(a)(3) of the Immigration and Nationality Act,
15 as added by subsection (a);

16 (2) the grounds for such certifications;

17 (3) the nationalities of the aliens so certified;

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

20 (5) the number of aliens so certified who

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

23 (B) were removed;



1 (C) the Attorney General has determined
2 are no longer aliens who may be so certified; or
3 (D) were released from detention.

4 **SEC. 413. MULTILATERAL COOPERATION AGAINST TERROR-**
5 **ISTS.**

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

8 (1) by striking “except that in the discretion
9 of” and inserting the following: “except that
10 “(1) in the discretion of”; and

11 (2) by adding at the end the following:

12 “(2) the Secretary of State, in the Secretary’s
13 discretion and on the basis of reciprocity, may pro-
14 vide to a foreign government information in the De-
15 partment of State’s computerized visa lookout data-
16 base and, when necessary and appropriate, other
17 records covered by this section related to informa-
18 tion in the database

19 “(A) with regard to individual aliens, at
20 any time on a case-by-case basis for the pur-
21 pose of preventing, investigating, or punishing
22 acts that would constitute a crime in the United
23 States, including, but not limited to, terrorism
24 or trafficking in controlled substances, persons,
25 or illicit weapons; or



1 “(B) with regard to any or all aliens in the
2 database, pursuant to such conditions as the
3 Secretary of State shall establish in an agree-
4 ment with the foreign government in which that
5 government agrees to use such information and
6 records for the purposes described in subpara-
7 graph (A) or to deny visas to persons who
8 would be inadmissible to the United States.”.

9 **Subtitle C—Preservation of Immi-**
10 **gration Benefits for Victims of**
11 **Terrorism**

12 **SEC. 421. SPECIAL IMMIGRANT STATUS.**

13 (a) IN GENERAL. For purposes of the Immigration
14 and Nationality Act (8 U.S.C. 1101 et seq.), the Attorney
15 General may provide an alien described in subsection (b)
16 with the status of a special immigrant under section
17 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the
18 alien

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

23 (2) is otherwise eligible to receive an immigrant
24 visa and is otherwise admissible to the United States
25 for permanent residence, except in determining such



1 admissibility, the grounds for inadmissibility speci-
2 fied in section 212(a)(4) of such Act (8 U.S.C.
3 1182(a)(4)) shall not apply.

4 (b) ALIENS DESCRIBED.

5 (1) PRINCIPAL ALIENS. An alien is described
6 in this subsection if

7 (A) the alien was the beneficiary of

8 (i) a petition that was filed with the
9 Attorney General on or before September
10 11, 2001

11 (I) under section 204 of the Im-
12 migration and Nationality Act (8
13 U.S.C. 1154) to classify the alien as
14 a family-sponsored immigrant under
15 section 203(a) of such Act (8 U.S.C.
16 1153(a)) or as an employment-based
17 immigrant under section 203(b) of
18 such Act (8 U.S.C. 1153(b)); or

19 (II) under section 214(d) (8
20 U.S.C. 1184(d)) of such Act to au-
21 thorize the issuance of a non-
22 immigrant visa to the alien under sec-
23 tion 101(a)(15)(K) of such Act (8
24 U.S.C. 1101(a)(15)(K)); or



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

6 (B) such petition or application was re-
7 voked or terminated (or otherwise rendered
8 null), either before or after its approval, due to
9 a specified terrorist activity that directly re-
10 sulted in

11 (i) the death or disability of the peti-
12 tioner, applicant, or alien beneficiary; or

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

16 (2) SPOUSES AND CHILDREN.

17 (A) IN GENERAL. An alien is described in
18 this subsection if

19 (i) the alien was, on September 10,
20 2001, the spouse or child of a principal
21 alien described in paragraph (1); and

22 (ii) the alien

23 (I) is accompanying such prin-
24 cipal alien; or



1 (II) is following to join such prin-
2 cipal alien not later than September
3 11, 2003.

4 (B) CONSTRUCTION. For purposes of
5 construing the terms “accompanying” and “fol-
6 lowing to join” in subparagraph (A)(ii), any
7 death of a principal alien that is described in
8 paragraph (1)(B)(i) shall be disregarded.

9 (3) GRANDPARENTS OF ORPHANS. An alien is
10 described in this subsection if the alien is a grand-
11 parent of a child, both of whose parents died as a
12 direct result of a specified terrorist activity, if either
13 of such deceased parents was, on September 10,
14 2001, a citizen or national of the United States or
15 an alien lawfully admitted for permanent residence
16 in the United States.

17 (c) PRIORITY DATE. Immigrant visas made avail-
18 able under this section shall be issued to aliens in the
19 order in which a petition on behalf of each such alien is
20 filed with the Attorney General under subsection (a)(1),
21 except that if an alien was assigned a priority date with
22 respect to a petition described in subsection (b)(1)(A)(i),
23 the alien may maintain that priority date.

24 (d) NUMERICAL LIMITATIONS. For purposes of the
25 application of sections 201 through 203 of the Immigra-



1 tion and Nationality Act (8 U.S.C. 1151 1153) in any fis-
2 cal year, aliens eligible to be provided status under this
3 section shall be treated as special immigrants described
4 in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27))
5 who are not described in subparagraph (A), (B), (C), or
6 (K) of such section.

7 **SEC. 422. EXTENSION OF FILING OR REENTRY DEADLINES.**

8 (a) **AUTOMATIC EXTENSION OF NONIMMIGRANT STA-**
9 **TUS.**

10 (1) **IN GENERAL.** Notwithstanding section 214
11 of the Immigration and Nationality Act (8 U.S.C.
12 1184), in the case of an alien described in paragraph
13 (2) who was lawfully present in the United States as
14 a nonimmigrant on September 10, 2001, the alien
15 may remain lawfully in the United States in the
16 same nonimmigrant status until the later of

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

20 (B) 1 year after the death or onset of dis-
21 ability described in paragraph (2).

22 (2) **ALIENS DESCRIBED.**

23 (A) **PRINCIPAL ALIENS.** An alien is de-
24 scribed in this paragraph if the alien was dis-



1 abled as a direct result of a specified terrorist
2 activity.

3 (B) SPOUSES AND CHILDREN. An alien is
4 described in this paragraph if the alien was, on
5 September 10, 2001, the spouse or child of

6 (i) a principal alien described in sub-
7 paragraph (A); or

8 (ii) an alien who died as a direct re-
9 sult of a specified terrorist activity.

10 (3) AUTHORIZED EMPLOYMENT. During the
11 period in which a principal alien or alien spouse is
12 in lawful nonimmigrant status under paragraph (1),
13 the alien shall be provided an “employment author-
14 ized” endorsement or other appropriate document
15 signifying authorization of employment not later
16 than 30 days after the alien requests such authoriza-
17 tion.

18 (b) NEW DEADLINES FOR EXTENSION OR CHANGE
19 OF NONIMMIGRANT STATUS.

20 (1) FILING DELAYS. In the case of an alien
21 who was lawfully present in the United States as a
22 nonimmigrant on September 10, 2001, if the alien
23 was prevented from filing a timely application for an
24 extension or change of nonimmigrant status as a di-
25 rect result of a specified terrorist activity, the alien’s



1 application shall be considered timely filed if it is
2 filed not later than 60 days after it otherwise would
3 have been due.

4 (2) DEPARTURE DELAYS. In the case of an
5 alien who was lawfully present in the United States
6 as a nonimmigrant on September 10, 2001, if the
7 alien is unable timely to depart the United States as
8 a direct result of a specified terrorist activity, the
9 alien shall not be considered to have been unlawfully
10 present in the United States during the period be-
11 ginning on September 11, 2001, and ending on the
12 date of the alien's departure, if such departure oc-
13 curs on or before November 11, 2001.

14 (3) SPECIAL RULE FOR ALIENS UNABLE TO RE-
15 TURN FROM ABROAD.

16 (A) PRINCIPAL ALIENS. In the case of an
17 alien who was in a lawful nonimmigrant status
18 on September 10, 2001, but who was not
19 present in the United States on such date, if
20 the alien was prevented from returning to the
21 United States in order to file a timely applica-
22 tion for an extension of nonimmigrant status as
23 a direct result of a specified terrorist activity

24 (i) the alien's application shall be con-
25 sidered timely filed if it is filed not later



1 than 60 days after it otherwise would have
2 been due; and

3 (ii) the alien's lawful nonimmigrant
4 status shall be considered to continue until
5 the later of

6 (I) the date such status otherwise
7 would have terminated if this sub-
8 paragraph had not been enacted; or

9 (II) the date that is 60 days
10 after the date on which the applica-
11 tion described in clause (i) otherwise
12 would have been due.

13 (B) SPOUSES AND CHILDREN. In the case
14 of an alien who is the spouse or child of a prin-
15 cipal alien described in subparagraph (A), if the
16 spouse or child was in a lawful nonimmigrant
17 status on September 10, 2001, the spouse or
18 child may remain lawfully in the United States
19 in the same nonimmigrant status until the later
20 of

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



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

5 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
6 TION.

7 (A) FILING DELAYS. For purposes of
8 paragraph (1), circumstances preventing an
9 alien from timely acting are

10 (i) office closures;

11 (ii) mail or courier service cessations
12 or delays; and

13 (iii) other closures, cessations, or
14 delays affecting case processing or travel
15 necessary to satisfy legal requirements.

16 (B) DEPARTURE AND RETURN DELAYS.
17 For purposes of paragraphs (2) and (3), cir-
18 cumstances preventing an alien from timely act-
19 ing are

20 (i) office closures;

21 (ii) airline flight cessations or delays;
22 and

23 (iii) other closures, cessations, or
24 delays affecting case processing or travel
25 necessary to satisfy legal requirements.



1 (c) DIVERSITY IMMIGRANTS.

2 (1) WAIVER OF FISCAL YEAR LIMITATION.

3 Notwithstanding section 203(e)(2) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1153(e)(2)), an
5 immigrant visa number issued to an alien under sec-
6 tion 203(c) of such Act for fiscal year 2001 may be
7 used by the alien during the period beginning on Oc-
8 tober 1, 2001, and ending on April 1, 2002, if the
9 alien establishes that the alien was prevented from
10 using it during fiscal year 2001 as a direct result of
11 a specified terrorist activity.

12 (2) WORLDWIDE LEVEL. In the case of an
13 alien entering the United States as a lawful perma-
14 nent resident, or adjusting to that status, under
15 paragraph (1), the alien shall be counted as a diver-
16 sity immigrant for fiscal year 2001 for purposes of
17 section 201(e) of the Immigration and Nationality
18 Act (8 U.S.C. 1151(e)), unless the worldwide level
19 under such section for such year has been exceeded,
20 in which case the alien shall be counted as a diver-
21 sity immigrant for fiscal year 2002.

22 (3) TREATMENT OF FAMILY MEMBERS OF CER-
23 TAIN ALIENS. In the case of a principal alien
24 issued an immigrant visa number under section
25 203(c) of the Immigration and Nationality Act (8



1 U.S.C. 1153(c)) for fiscal year 2001, if such prin-
2 cipal alien died as a direct result of a specified ter-
3 rorist activity, the aliens who were, on September
4 10, 2001, the spouse and children of such principal
5 alien shall, if not otherwise entitled to an immigrant
6 status and the immediate issuance of a visa under
7 subsection (a), (b), or (c) of section 203 of such Act,
8 be entitled to the same status, and the same order
9 of consideration, that would have been provided to
10 such alien spouse or child under section 203(d) of
11 such Act if the principal alien were not deceased.

12 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
13 TION. For purposes of paragraph (1), cir-
14 cumstances preventing an alien from using an immi-
15 grant visa number during fiscal year 2001 are

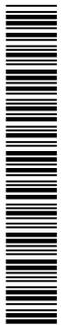
16 (A) office closures;

17 (B) mail or courier service cessations or
18 delays;

19 (C) airline flight cessations or delays; and

20 (D) other closures, cessations, or delays af-
21 fecting case processing or travel necessary to
22 satisfy legal requirements.

23 (d) EXTENSION OF EXPIRATION OF IMMIGRANT
24 VISAS.



1 (1) IN GENERAL. Notwithstanding the limita-
2 tions under section 221(c) of the Immigration and
3 Nationality Act (8 U.S.C. 1201(c)), in the case of
4 any immigrant visa issued to an alien that expires
5 or expired before December 31, 2001, if the alien
6 was unable to effect entry into the United States as
7 a direct result of a specified terrorist activity, then
8 the period of validity of the visa is extended until
9 December 31, 2001, unless a longer period of valid-
10 ity is otherwise provided under this subtitle.

11 (2) CIRCUMSTANCES PREVENTING ENTRY. For
12 purposes of this subsection, circumstances pre-
13 venting an alien from effecting entry into the United
14 States are

- 15 (A) office closures;
16 (B) airline flight cessations or delays; and
17 (C) other closures, cessations, or delays af-
18 fecting case processing or travel necessary to
19 satisfy legal requirements.

20 (e) GRANTS OF PAROLE EXTENDED.

21 (1) IN GENERAL. In the case of any parole
22 granted by the Attorney General under section
23 212(d)(5) of the Immigration and Nationality Act (8
24 U.S.C. 1182(d)(5)) that expires on a date on or
25 after September 11, 2001, if the alien beneficiary of



1 the parole was unable to return to the United States
2 prior to the expiration date as a direct result of a
3 specified terrorist activity, the parole is deemed ex-
4 tended for an additional 90 days.

5 (2) CIRCUMSTANCES PREVENTING RETURN.

6 For purposes of this subsection, circumstances pre-
7 venting an alien from timely returning to the United
8 States are

9 (A) office closures;

10 (B) airline flight cessations or delays; and

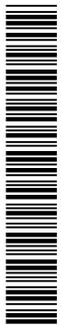
11 (C) other closures, cessations, or delays af-
12 fecting case processing or travel necessary to
13 satisfy legal requirements.

14 (f) VOLUNTARY DEPARTURE. Notwithstanding sec-
15 tion 240B of the Immigration and Nationality Act (8
16 U.S.C. 1229c), if a period for voluntary departure under
17 such section expired during the period beginning on Sep-
18 tember 11, 2001, and ending on October 11, 2001, such
19 voluntary departure period is deemed extended for an ad-
20 ditional 30 days.

21 **SEC. 423. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING**
22 **SPOUSES AND CHILDREN.**

23 (a) TREATMENT AS IMMEDIATE RELATIVES.

24 (1) SPOUSES. Notwithstanding the second
25 sentence of section 201(b)(2)(A)(i) of the Immigra-



1 tion and Nationality Act (8 U.S.C.
2 1151(b)(2)(A)(i)), in the case of an alien who was
3 the spouse of a citizen of the United States at the
4 time of the citizen's death and was not legally sepa-
5 rated from the citizen at the time of the citizen's
6 death, if the citizen died as a direct result of a speci-
7 fied terrorist activity, the alien (and each child of
8 the alien) shall be considered, for purposes of section
9 201(b) of such Act, to remain an immediate relative
10 after the date of the citizen's death, but only if the
11 alien files a petition under section 204(a)(1)(A)(ii)
12 of such Act within 2 years after such date and only
13 until the date the alien remarries. For purposes of
14 such section 204(a)(1)(A)(ii), an alien granted relief
15 under the preceding sentence shall be considered an
16 alien spouse described in the second sentence of sec-
17 tion 201(b)(2)(A)(i) of such Act.

18 (2) CHILDREN.

19 (A) IN GENERAL. In the case of an alien
20 who was the child of a citizen of the United
21 States at the time of the citizen's death, if the
22 citizen died as a direct result of a specified ter-
23 rorist activity, the alien shall be considered, for
24 purposes of section 201(b) of the Immigration
25 and Nationality Act (8 U.S.C. 1151(b)), to re-



1 main an immediate relative after the date of the
2 citizen's death (regardless of changes in age or
3 marital status thereafter), but only if the alien
4 files a petition under subparagraph (B) within
5 2 years after such date.

6 (B) PETITIONS. An alien described in
7 subparagraph (A) may file a petition with the
8 Attorney General for classification of the alien
9 under section 201(b)(2)(A)(i) of the Immigra-
10 tion and Nationality Act (8 U.S.C.
11 1151(b)(2)(A)(i)). For purposes of such Act,
12 such a petition shall be considered a petition
13 filed under section 204(a)(1)(A) of such Act (8
14 U.S.C. 1154(a)(1)(A)).

15 (b) SPOUSES, CHILDREN, UNMARRIED SONS AND
16 DAUGHTERS OF LAWFUL PERMANENT RESIDENT
17 ALIENS.

18 (1) IN GENERAL. Any spouse, child, or unmar-
19 ried son or daughter of an alien described in para-
20 graph (3) who is included in a petition for classifica-
21 tion as a family-sponsored immigrant under section
22 203(a)(2) of the Immigration and Nationality Act (8
23 U.S.C. 1153(a)(2)) that was filed by such alien be-
24 fore September 11, 2001, shall be considered (if the
25 spouse, child, son, or daughter has not been admit-



1 ted or approved for lawful permanent residence by
2 such date) a valid petitioner for preference status
3 under such section with the same priority date as
4 that assigned prior to the death described in para-
5 graph (3)(A). No new petition shall be required to
6 be filed. Such spouse, child, son, or daughter may be
7 eligible for deferred action and work authorization.

8 (2) SELF-PETITIONS. Any spouse, child, or
9 unmarried son or daughter of an alien described in
10 paragraph (3) who is not a beneficiary of a petition
11 for classification as a family-sponsored immigrant
12 under section 203(a)(2) of the Immigration and Na-
13 tionality Act may file a petition for such classifica-
14 tion with the Attorney General, if the spouse, child,
15 son, or daughter was present in the United States
16 on September 11, 2001. Such spouse, child, son, or
17 daughter may be eligible for deferred action and
18 work authorization.

19 (3) ALIENS DESCRIBED. An alien is described
20 in this paragraph if the alien

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

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



1 (c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY
2 SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-
3 BASED IMMIGRANTS.

4 (1) IN GENERAL. Any alien who was, on Sep-
5 tember 10, 2001, the spouse or child of an alien de-
6 scribed in paragraph (2), and who applied for ad-
7 justment of status prior to the death described in
8 paragraph (2)(A), may have such application adju-
9 dicated as if such death had not occurred.

10 (2) ALIENS DESCRIBED. An alien is described
11 in this paragraph if the alien

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

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

15 (i) an alien lawfully admitted for per-
16 manent residence in the United States by
17 reason of having been allotted a visa under
18 section 203(b) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1153(b)); or

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

24 (d) WAIVER OF PUBLIC CHARGE GROUNDS. In de-
25 termining the admissibility of any alien accorded an immi-



1 gration benefit under this section, the grounds for inad-
2 missibility specified in section 212(a)(4) of the Immigra-
3 tion and Nationality Act (8 U.S.C. 1182(a)(4)) shall not
4 apply.

5 **SEC. 424. "AGE-OUT" PROTECTION FOR CHILDREN.**

6 For purposes of the administration of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1101 et seq.), in the
8 case of an alien

9 (1) whose 21st birthday occurs in September
10 2001, and who is the beneficiary of a petition or ap-
11 plication filed under such Act on or before Sep-
12 tember 11, 2001, the alien shall be considered to be
13 a child for 90 days after the alien's 21st birthday
14 for purposes of adjudicating such petition or applica-
15 tion; and

16 (2) whose 21st birthday occurs after September
17 2001, and who is the beneficiary of a petition or ap-
18 plication filed under such Act on or before Sep-
19 tember 11, 2001, the alien shall be considered to be
20 a child for 45 days after the alien's 21st birthday
21 for purposes of adjudicating such petition or applica-
22 tion.



1 **SEC. 425. TEMPORARY ADMINISTRATIVE RELIEF.**

2 The Attorney General, for humanitarian purposes or
3 to ensure family unity, may provide temporary administra-
4 tive relief to any alien who

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

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

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

12 **SEC. 426. EVIDENCE OF DEATH, DISABILITY, OR LOSS OF**
13 **EMPLOYMENT.**

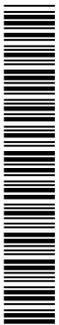
14 (a) IN GENERAL. The Attorney General shall estab-
15 lish appropriate standards for evidence demonstrating, for
16 purposes of this subtitle, that any of the following oc-
17 curred as a direct result of a specified terrorist activity:

18 (1) Death.

19 (2) Disability.

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

22 (b) WAIVER OF REGULATIONS. The Attorney Gen-
23 eral shall carry out subsection (a) as expeditiously as pos-
24 sible. The Attorney General is not required to promulgate
25 regulations prior to implementing this subtitle.



1 **SEC. 427. NO BENEFITS TO TERRORISTS OR FAMILY MEM-**
2 **BERS OF TERRORISTS.**

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

6 (1) any individual culpable for a specified ter-
7 rorist activity; or

8 (2) any family member of any individual de-
9 scribed in paragraph (1).

10 **SEC. 428. DEFINITIONS.**

11 (a) APPLICATION OF IMMIGRATION AND NATION-
12 ALITY ACT PROVISIONS. Except as otherwise specifically
13 provided in this subtitle, the definitions used in the Immi-
14 gration and Nationality Act (excluding the definitions ap-
15 plicable exclusively to title III of such Act) shall apply in
16 the administration of this subtitle.

17 (b) SPECIFIED TERRORIST ACTIVITY. For purposes
18 of this subtitle, the term “specified terrorist activity”
19 means any terrorist activity conducted against the Govern-
20 ment or the people of the United States on September 11,
21 2001.



1 **TITLE V—REMOVING OBSTA-**
2 **CLES TO INVESTIGATING**
3 **TERRORISM**

4 **SEC. 501. ATTORNEY GENERAL'S AUTHORITY TO PAY RE-**
5 **WARDS TO COMBAT TERRORISM.**

6 (a) PAYMENT OF REWARDS TO COMBAT TER-
7 RORISM. Funds available to the Attorney General may
8 be used for the payment of rewards pursuant to public
9 advertisements for assistance to the Department of Jus-
10 tice to combat terrorism and defend the Nation against
11 terrorist acts, in accordance with procedures and regula-
12 tions established or issued by the Attorney General.

13 (b) CONDITIONS. In making rewards under this
14 section

15 (1) no such reward of \$250,000 or more may
16 be made or offered without the personal approval of
17 either the Attorney General or the President;

18 (2) the Attorney General shall give written no-
19 tice to the Chairmen and ranking minority members
20 of the Committees on Appropriations and the Judici-
21 ary of the Senate and of the House of Representa-
22 tives not later than 30 days after the approval of a
23 reward under paragraph (1);

24 (3) any executive agency or military department
25 (as defined, respectively, in sections 105 and 102 of



1 title 5, United States Code) may provide the Attor-
2 ney General with funds for the payment of rewards;

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

6 (5) no such reward shall be subject to any per-
7 or aggregate reward spending limitation established
8 by law, unless that law expressly refers to this sec-
9 tion, and no reward paid pursuant to any such offer
10 shall count toward any such aggregate reward
11 spending limitation.

12 **SEC. 502. SECRETARY OF STATE'S AUTHORITY TO PAY RE-**
13 **WARDS.**

14 Section 36 of the State Department Basic Authorities
15 Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C.
16 2708) is amended

17 (1) in subsection (b)

18 (A) in paragraph (4), by striking "or" at
19 the end;

20 (B) in paragraph (5), by striking the pe-
21 riod at the end and inserting ", including by
22 dismantling an organization in whole or signifi-
23 cant part; or"; and

24 (C) by adding at the end the following:



1 “(6) the identification or location of an indi-
2 vidual who holds a key leadership position in a ter-
3 rorist organization.”;

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

7 (3) in subsection (e)(1), by inserting “, except
8 as personally authorized by the Secretary of State if
9 he determines that offer or payment of an award of
10 a larger amount is necessary to combat terrorism or
11 defend the Nation against terrorist acts.” after
12 “\$5,000,000”.

13 **SEC. 503. DNA IDENTIFICATION OF TERRORISTS AND**
14 **OTHER VIOLENT OFFENDERS.**

15 Section 3(d)(2) of the DNA Analysis Backlog Elimini-
16 nation Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended
17 to read as follows:

18 “(2) In addition to the offenses described in
19 paragraph (1), the following offenses shall be treated
20 for purposes of this section as qualifying Federal of-
21 fenses, as determined by the Attorney General:

22 “(A) Any offense listed in section
23 2332b(g)(5)(B) of title 18, United States Code.

24 “(B) Any crime of violence (as defined in
25 section 16 of title 18, United States Code).



1 “(C) Any attempt or conspiracy to commit
2 any of the above offenses.”.

3 **SEC. 504. COORDINATION WITH LAW ENFORCEMENT.**

4 (a) INFORMATION ACQUIRED FROM AN ELECTRONIC
5 SURVEILLANCE. Section 106 of the Foreign Intelligence
6 Surveillance Act of 1978 (50 U.S.C. 1806), is amended
7 by adding at the end the following:

8 “(k)(1) Federal officers who conduct electronic sur-
9 veillance to acquire foreign intelligence information under
10 this title may consult with Federal law enforcement offi-
11 cers to coordinate efforts to investigate or protect
12 against

13 “(A) actual or potential attack or other grave
14 hostile acts of a foreign power or an agent of a for-
15 eign power;

16 “(B) sabotage or international terrorism by a
17 foreign power or an agent of a foreign power; or

18 “(C) clandestine intelligence activities by an in-
19 telligence service or network of a foreign power or by
20 an agent of a foreign power.

21 “(2) Coordination authorized under paragraph (1)
22 shall not preclude the certification required by section
23 104(a)(7)(B) or the entry of an order under section 105.”.

24 (b) INFORMATION ACQUIRED FROM A PHYSICAL
25 SEARCH. Section 305 of the Foreign Intelligence Surveil-



1 lance Act of 1978 (50 U.S.C. 1825) is amended by adding
2 at the end the following:

3 “(k)(1) Federal officers who conduct physical
4 searches to acquire foreign intelligence information under
5 this title may consult with Federal law enforcement offi-
6 cers to coordinate efforts to investigate or protect
7 against

8 “(A) actual or potential attack or other grave
9 hostile acts of a foreign power or an agent of a for-
10 eign power;

11 “(B) sabotage or international terrorism by a
12 foreign power or an agent of a foreign power; or

13 “(C) clandestine intelligence activities by an in-
14 telligence service or network of a foreign power or by
15 an agent of a foreign power.

16 “(2) Coordination authorized under paragraph (1)
17 shall not preclude the certification required by section
18 303(a)(7) or the entry of an order under section 304.”.

19 **SEC. 505. MISCELLANEOUS NATIONAL SECURITY AUTHORI-**
20 **TIES.**

21 (a) TELEPHONE TOLL AND TRANSACTIONAL
22 RECORDS. Section 2709(b) of title 18, United States
23 Code, is amended

24 (1) in the matter preceding paragraph (1), by
25 inserting “at Bureau headquarters or a Special



1 Agent in Charge in a Bureau field office designated
2 by the Director” after “Assistant Director”;

3 (2) in paragraph (1)

4 (A) by striking “in a position not lower
5 than Deputy Assistant Director”; and

6 (B) by striking “made that” and all that
7 follows and inserting the following: “made that
8 the name, address, length of service, and toll
9 billing records sought are relevant to an author-
10 ized investigation to protect against inter-
11 national terrorism or clandestine intelligence ac-
12 tivities, provided that such an investigation of a
13 United States person is not conducted solely on
14 the basis of activities protected by the first
15 amendment to the Constitution of the United
16 States; and”;

17 (3) in paragraph (2)

18 (A) by striking “in a position not lower
19 than Deputy Assistant Director”; and

20 (B) by striking “made that” and all that
21 follows and inserting the following: “made that
22 the information sought is relevant to an author-
23 ized investigation to protect against inter-
24 national terrorism or clandestine intelligence ac-
25 tivities, provided that such an investigation of a



1 United States person is not conducted solely
2 upon the basis of activities protected by the
3 first amendment to the Constitution of the
4 United States.”.

5 (b) FINANCIAL RECORDS. Section 1114(a)(5)(A) of
6 the Right to Financial Privacy Act of 1978 (12 U.S.C.
7 3414(a)(5)(A)) is amended

8 (1) by inserting “in a position not lower than
9 Deputy Assistant Director at Bureau headquarters
10 or a Special Agent in Charge in a Bureau field office
11 designated by the Director” after “designee”; and

12 (2) by striking “sought” and all that follows
13 and inserting “sought for foreign counter intel-
14 ligence purposes to protect against international ter-
15 rorism or clandestine intelligence activities, provided
16 that such an investigation of a United States person
17 is not conducted solely upon the basis of activities
18 protected by the first amendment to the Constitution
19 of the United States.”.

20 (c) CONSUMER REPORTS. Section 624 of the Fair
21 Credit Reporting Act (15 U.S.C. 1681u) is amended

22 (1) in subsection (a)

23 (A) by inserting “in a position not lower
24 than Deputy Assistant Director at Bureau
25 headquarters or a Special Agent in Charge of a



1 Bureau field office designated by the Director”
2 after “designee” the first place it appears; and

3 (B) by striking “in writing that” and all
4 that follows through the end and inserting the
5 following: “in writing, that such information is
6 sought for the conduct of an authorized inves-
7 tigation to protect against international ter-
8 rorism or clandestine intelligence activities, pro-
9 vided that such an investigation of a United
10 States person is not conducted solely upon the
11 basis of activities protected by the first amend-
12 ment to the Constitution of the United
13 States.”;

14 (2) in subsection (b)

15 (A) by inserting “in a position not lower
16 than Deputy Assistant Director at Bureau
17 headquarters or a Special Agent in Charge of a
18 Bureau field office designated by the Director”
19 after “designee” the first place it appears; and

20 (B) by striking “in writing that” and all
21 that follows through the end and inserting the
22 following: “in writing that such information is
23 sought for the conduct of an authorized inves-
24 tigation to protect against international ter-
25 rorism or clandestine intelligence activities, pro-



1 vided that such an investigation of a United
2 States person is not conducted solely upon the
3 basis of activities protected by the first amend-
4 ment to the Constitution of the United
5 States.”; and

6 (3) in subsection (c)

7 (A) by inserting “in a position not lower
8 than Deputy Assistant Director at Bureau
9 headquarters or a Special Agent in Charge in a
10 Bureau field office designated by the Director”
11 after “designee of the Director”; and

12 (B) by striking “in camera that” and all
13 that follows through “States.” and inserting the
14 following: “in camera that the consumer report
15 is sought for the conduct of an authorized in-
16 vestigation to protect against international ter-
17 rorism or clandestine intelligence activities, pro-
18 vided that such an investigation of a United
19 States person is not conducted solely upon the
20 basis of activities protected by the first amend-
21 ment to the Constitution of the United
22 States.”.



1 **SEC. 506. EXTENSION OF SECRET SERVICE JURISDICTION.**

2 (a) CONCURRENT JURISDICTION UNDER 18 U.S.C.
3 1030. Section 1030(d) of title 18, United States Code,
4 is amended to read as follows:

5 “(d)(1) The United States Secret Service shall, in ad-
6 dition to any other agency having such authority, have the
7 authority to investigate offenses under this section.

8 “(2) The Federal Bureau of Investigation shall have
9 primary authority to investigate offenses under subsection
10 (a)(1) for any cases involving espionage, foreign counter-
11 intelligence, information protected against unauthorized
12 disclosure for reasons of national defense or foreign rela-
13 tions, or Restricted Data (as that term is defined in sec-
14 tion 11y of the Atomic Energy Act of 1954 (42 U.S.C.
15 2014(y)), except for offenses affecting the duties of the
16 United States Secret Service pursuant to section 3056(a)
17 of this title.

18 “(3) Such authority shall be exercised in accordance
19 with an agreement which shall be entered into by the Sec-
20 retary of the Treasury and the Attorney General.”.

21 (b) REAUTHORIZATION OF JURISDICTION UNDER 18
22 U.S.C. 1344. Section 3056(b)(3) of title 18, United
23 States Code, is amended by striking “credit and debit card
24 frauds, and false identification documents or devices” and
25 inserting “access device frauds, false identification docu-
26 ments or devices, and any fraud or other criminal or un-



1 lawful activity in or against any federally insured financial
2 institution”.

3 **SEC. 507. DISCLOSURE OF EDUCATIONAL RECORDS.**

4 Section 444 of the General Education Provisions Act
5 (20 U.S.C. 1232g), is amended by adding after subsection
6 (i) a new subsection (j) to read as follows:

7 “(j) INVESTIGATION AND PROSECUTION OF TER-
8 RORISM.

9 “(1) IN GENERAL. Notwithstanding sub-
10 sections (a) through (i) or any provision of State
11 law, the Attorney General (or any Federal officer or
12 employee, in a position not lower than an Assistant
13 Attorney General, designated by the Attorney Gen-
14 eral) may submit a written application to a court of
15 competent jurisdiction for an ex parte order requir-
16 ing an educational agency or institution to permit
17 the Attorney General (or his designee) to

18 “(A) collect education records in the pos-
19 session of the educational agency or institution
20 that are relevant to an authorized investigation
21 or prosecution of an offense listed in section
22 2332b(g)(5)(B) of title 18 United States Code,
23 or an act of domestic or international terrorism
24 as defined in section 2331 of that title; and



1 “(B) for official purposes related to the in-
2 vestigation or prosecution of an offense de-
3 scribed in paragraph (1)(A), retain, dissemi-
4 nate, and use (including as evidence at trial or
5 in other administrative or judicial proceedings)
6 such records, consistent with such guidelines as
7 the Attorney General, after consultation with
8 the Secretary, shall issue to protect confiden-
9 tiality.

10 “(2) APPLICATION AND APPROVAL.

11 “(A) IN GENERAL. An application under
12 paragraph (1) shall certify that there are spe-
13 cific and articulable facts giving reason to be-
14 lieve that the education records are likely to
15 contain information described in paragraph
16 (1)(A).

17 “(B) The court shall issue an order de-
18 scribed in paragraph (1) if the court finds that
19 the application for the order includes the certifi-
20 cation described in subparagraph (A).

21 “(3) PROTECTION OF EDUCATIONAL AGENCY
22 OR INSTITUTION. An educational agency or institu-
23 tion that, in good faith, produces education records
24 in accordance with an order issued under this sub-



1 section shall not be liable to any person for that pro-
2 duction.

3 “(4) RECORD-KEEPING. Subsection (b)(4)
4 does not apply to education records subject to a
5 court order under this subsection.”.

6 **SEC. 508. DISCLOSURE OF INFORMATION FROM NCES SUR-**
7 **VEYS.**

8 Section 408 of the National Education Statistics Act
9 of 1994 (20 U.S.C. 9007), is amended by adding after
10 subsection (b) a new subsection (c) to read as follows:

11 “(c) INVESTIGATION AND PROSECUTION OF TER-
12 RORISM.

13 “(1) IN GENERAL. Notwithstanding sub-
14 sections (a) and (b), the Attorney General (or any
15 Federal officer or employee, in a position not lower
16 than an Assistant Attorney General, designated by
17 the Attorney General) may submit a written applica-
18 tion to a court of competent jurisdiction for an ex
19 parte order requiring the Secretary to permit the At-
20 torney General (or his designee) to

21 “(A) collect reports, records, and informa-
22 tion (including individually identifiable informa-
23 tion) in the possession of the center that are
24 relevant to an authorized investigation or pros-
25 ecution of an offense listed in section



1 2332b(g)(5)(B) of title 18, United States Code,
2 or an act of domestic or international terrorism
3 as defined in section 2331 of that title; and

4 “(B) for official purposes related to the in-
5 vestigation or prosecution of an offense de-
6 scribed in paragraph (1)(A), retain, dissemi-
7 nate, and use (including as evidence at trial or
8 in other administrative or judicial proceedings)
9 such information, consistent with such guide-
10 lines as the Attorney General, after consultation
11 with the Secretary, shall issue to protect con-
12 fidentiality.

13 “(2) APPLICATION AND APPROVAL.

14 “(A) IN GENERAL. An application under
15 paragraph (1) shall certify that there are spe-
16 cific and articulable facts giving reason to be-
17 lieve that the information sought is described in
18 paragraph (1)(A).

19 “(B) The court shall issue an order de-
20 scribed in paragraph (1) if the court finds that
21 the application for the order includes the certifi-
22 cation described in subparagraph (A).

23 “(3) PROTECTION. An officer or employee
24 of the Department who, in good faith, produces
25 information in accordance with an order issued



1 under this subsection does not violate sub-
2 section (b)(2) and shall not be liable to any per-
3 son for that production.”.

4 **TITLE VI—PROVIDING FOR VIC-**
5 **TIMS OF TERRORISM, PUBLIC**
6 **SAFETY OFFICERS, AND**
7 **THEIR FAMILIES**
8 **Subtitle A—Aid to Families of**
9 **Public Safety Officers**

10 **SEC. 611. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFI-**
11 **CERS INVOLVED IN THE PREVENTION, INVES-**
12 **TIGATION, RESCUE, OR RECOVERY EFFORTS**
13 **RELATED TO A TERRORIST ATTACK.**

14 (a) IN GENERAL. Notwithstanding the limitations
15 of subsection (b) of section 1201 or the provisions of sub-
16 sections (c), (d), and (e) of such section or section 1202
17 of title I of the Omnibus Crime Control and Safe Streets
18 Act of 1968 (42 U.S.C. 3796, 3796a), upon certification
19 (containing identification of all eligible payees of benefits
20 pursuant to section 1201 of such Act) by a public agency
21 that a public safety officer employed by such agency was
22 killed or suffered a catastrophic injury producing perma-
23 nent and total disability as a direct and proximate result
24 of a personal injury sustained in the line of duty as de-
25 scribed in section 1201 of such Act in connection with pre-



1 vention, investigation, rescue, or recovery efforts related
2 to a terrorist attack, the Director of the Bureau of Justice
3 Assistance shall authorize payment to qualified bene-
4 ficiaries, said payment to be made not later than 30 days
5 after receipt of such certification, benefits described under
6 subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

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

12 **SEC. 612. TECHNICAL CORRECTION WITH RESPECT TO EX-**
13 **PEDITED PAYMENTS FOR HEROIC PUBLIC**
14 **SAFETY OFFICERS.**

15 Section 1 of Public Law 107-37 (an Act to provide
16 for the expedited payment of certain benefits for a public
17 safety officer who was killed or suffered a catastrophic in-
18 jury as a direct and proximate result of a personal injury
19 sustained in the line of duty in connection with the ter-
20 rorist attacks of September 11, 2001) is amended by

21 (1) inserting before “by a” the following: “(con-
22 taining identification of all eligible payees of benefits
23 pursuant to section 1201)”;



1 (2) inserting “producing permanent and total
2 disability” after “suffered a catastrophic injury”;
3 and

4 (2) striking “1201(a)” and inserting “1201”.

5 **SEC. 613. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM**
6 **PAYMENT INCREASE.**

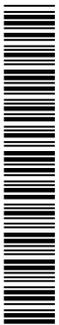
7 (a) PAYMENTS. Section 1201(a) of the Omnibus
8 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
9 3796) is amended by striking “\$100,000” and inserting
10 “\$250,000”.

11 (b) APPLICABILITY. The amendment made by sub-
12 section (a) shall apply to any death or disability occurring
13 on or after January 1, 2001.

14 **SEC. 614. OFFICE OF JUSTICE PROGRAMS.**

15 Section 112 of title I of section 101(b) of division
16 A of Public Law 105 277 and section 108(a) of appendix
17 A of Public Law 106 113 (113 Stat. 1501A 20) are
18 amended

19 (1) after “that Office”, each place it occurs, by
20 inserting “(including, notwithstanding any contrary
21 provision of law (unless the same should expressly
22 refer to this section), any organization that admin-
23 isters any program established in title 1 of Public
24 Law 90 351)”); and



1 (2) by inserting “functions, including any”
2 after “all”.

3 **Subtitle B—Amendments to the**
4 **Victims of Crime Act of 1984**

5 **SEC. 621. CRIME VICTIMS FUND.**

6 (a) DEPOSIT OF GIFTS IN THE FUND. Section
7 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C.
8 10601(b)) is amended

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

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

13 (3) by adding at the end the following:

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

16 (b) FORMULA FOR FUND DISTRIBUTIONS. Section
17 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C.
18 10601(c)) is amended to read as follows:

19 “(c) FUND DISTRIBUTION; RETENTION OF SUMS IN
20 FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FIS-
21 CAL YEAR LIMITATION.

22 “(1) Subject to the availability of money in the
23 Fund, in each fiscal year, beginning with fiscal year
24 2003, the Director shall distribute not less than 90
25 percent nor more than 110 percent of the amount



1 distributed from the Fund in the previous fiscal
2 year, except the Director may distribute up to 120
3 percent of the amount distributed in the previous
4 fiscal year in any fiscal year that the total amount
5 available in the Fund is more than 2 times the
6 amount distributed in the previous fiscal year.

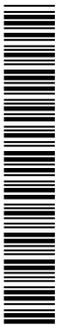
7 “(2) In each fiscal year, the Director shall dis-
8 tribute amounts from the Fund in accordance with
9 subsection (d). All sums not distributed during a fis-
10 cal year shall remain in reserve in the Fund to be
11 distributed during a subsequent fiscal year. Notwith-
12 standing any other provision of law, all sums depos-
13 ited in the Fund that are not distributed shall re-
14 main in reserve in the Fund for obligation in future
15 fiscal years, without fiscal year limitation.”

16 (c) ALLOCATION OF FUNDS FOR COSTS AND
17 GRANTS. Section 1402(d)(4) of the Victims of Crime Act
18 of 1984 (42 U.S.C. 10601(d)(4)) is amended

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

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

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



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

3 (d) ANTITERRORISM EMERGENCY RESERVE. Sec-
4 tion 1402(d)(5) of the Victims of Crime Act of 1984 (42
5 U.S.C. 10601(d)(5)) is amended to read as follows:

6 “(5)(A) In addition to the amounts distributed
7 under paragraphs (2), (3), and (4), the Director
8 may set aside up to \$50,000,000 from the amounts
9 transferred to the Fund for use in responding to the
10 airplane hijackings and terrorist acts that occurred
11 on September 11, 2001, as an antiterrorism emer-
12 gency reserve. The Director may replenish any
13 amounts expended from such reserve in subsequent
14 fiscal years by setting aside up to 5 percent of the
15 amounts remaining in the Fund in any fiscal year
16 after distributing amounts under paragraphs (2), (3)
17 and (4). Such reserve shall not exceed \$50,000,000.

18 “(B) The antiterrorism emergency reserve re-
19 ferred to in subparagraph (A) may be used for sup-
20 plemental grants under section 1404B and to pro-
21 vide compensation to victims of international ter-
22 rorism under section 1404C.

23 “(C) Amounts in the antiterrorism emergency
24 reserve established pursuant to subparagraph (A)
25 may be carried over from fiscal year to fiscal year.

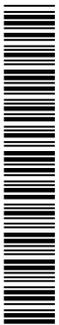


1 Notwithstanding subsection (c) and section 619 of
2 the Departments of Commerce, Justice, and State,
3 the Judiciary, and Related Agencies Appropriations
4 Act, 2001 (and any similar limitation on Fund obli-
5 gations in any future Act, unless the same should
6 expressly refer to this section), any such amounts
7 carried over shall not be subject to any limitation on
8 obligations from amounts deposited to or available in
9 the Fund.”.

10 (e) VICTIMS OF SEPTEMBER 11, 2001. Amounts
11 transferred to the Crime Victims Fund for use in respond-
12 ing to the airplane hijackings and terrorist acts (including
13 any related search, rescue, relief, assistance, or other simi-
14 lar activities) that occurred on September 11, 2001, shall
15 not be subject to any limitation on obligations from
16 amounts deposited to or available in the Fund,
17 notwithstanding

18 (1) section 619 of the Departments of Com-
19 merce, Justice, and State, the Judiciary, and Re-
20 lated Agencies Appropriations Act, 2001, and any
21 similar limitation on Fund obligations in such Act
22 for Fiscal Year 2002; and

23 (2) subsections (c) and (d) of section 1402 of
24 the Victims of Crime Act of 1984 (42 U.S.C.
25 10601).



1 **SEC. 622. CRIME VICTIM COMPENSATION.**

2 (a) ALLOCATION OF FUNDS FOR COMPENSATION
3 AND ASSISTANCE. Paragraphs (1) and (2) of section
4 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C.
5 10602(a)) are amended by inserting “in fiscal year 2002
6 and of 60 percent in subsequent fiscal years” after “40
7 percent”.

8 (b) LOCATION OF COMPENSABLE CRIME. Section
9 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42
10 U.S.C. 10602(b)(6)(B)) is amended by striking “are out-
11 side the United States (if the compensable crime is ter-
12 rorism, as defined in section 2331 of title 18), or”.

13 (c) RELATIONSHIP OF CRIME VICTIM COMPENSA-
14 TION TO MEANS-TESTED FEDERAL BENEFIT PRO-
15 GRAMS. Section 1403 of the Victims of Crime Act of
16 1984 (42 U.S.C. 10602) is amended by striking subsection
17 (c) and inserting the following:

18 “(c) EXCLUSION FROM INCOME, RESOURCES, AND
19 ASSETS FOR PURPOSES OF MEANS TESTS. Notwith-
20 standing any other law (other than title IV of Public Law
21 107 42), for the purpose of any maximum allowed income,
22 resource, or asset eligibility requirement in any Federal,
23 State, or local government program using Federal funds
24 that provides medical or other assistance (or payment or
25 reimbursement of the cost of such assistance), any amount
26 of crime victim compensation that the applicant receives



1 through a crime victim compensation program under this
2 section shall not be included in the income, resources, or
3 assets of the applicant, nor shall that amount reduce the
4 amount of the assistance available to the applicant from
5 Federal, State, or local government programs using Fed-
6 eral funds, unless the total amount of assistance that the
7 applicant receives from all such programs is sufficient to
8 fully compensate the applicant for losses suffered as a re-
9 sult of the crime.”.

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

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

15 (2) in paragraph (4), by inserting “the United
16 States Virgin Islands,” after “the Commonwealth of
17 Puerto Rico,”.

18 (e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COM-
19 PENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM
20 COMPENSATION FUND.

21 (1) IN GENERAL. Section 1403(e) of the Vic-
22 tims of Crime Act of 1984 (42 U.S.C. 10602(e)) is
23 amended by inserting “including the program estab-
24 lished under title IV of Public Law 107 42,” after
25 “Federal program,”.



1 (2) COMPENSATION. With respect to any com-
2 pensation payable under title IV of Public Law 107
3 42, the failure of a crime victim compensation pro-
4 gram, after the effective date of final regulations
5 issued pursuant to section 407 of Public Law 107
6 42, to provide compensation otherwise required pur-
7 suant to section 1403 of the Victims of Crime Act
8 of 1984 (42 U.S.C. 10602) shall not render that
9 program ineligible for future grants under the Vic-
10 tims of Crime Act of 1984.

11 **SEC. 623. CRIME VICTIM ASSISTANCE.**

12 (a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF
13 COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES
14 AND POSSESSIONS. Section 1404(a) of the Victims of
15 Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by
16 adding at the end the following:

17 “(6) An agency of the Federal Government per-
18 forming local law enforcement functions in and on
19 behalf of the District of Columbia, the Common-
20 wealth of Puerto Rico, the United States Virgin Is-
21 lands, or any other territory or possession of the
22 United States may qualify as an eligible crime victim
23 assistance program for the purpose of grants under
24 this subsection, or for the purpose of grants under
25 subsection (c)(1).”.



1 (b) PROHIBITION ON DISCRIMINATION AGAINST CER-
2 TAIN VICTIMS. Section 1404(b)(1) of the Victims of
3 Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended

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

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

8 (3) by adding at the end the following:

9 “(F) does not discriminate against victims
10 because they disagree with the way the State is
11 prosecuting the criminal case.”.

12 (c) GRANTS FOR PROGRAM EVALUATION AND COM-
13 PLIANCE EFFORTS. Section 1404(c)(1)(A) of the Vic-
14 tims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A))
15 is amended by inserting “, program evaluation, compliance
16 efforts,” after “demonstration projects”.

17 (d) ALLOCATION OF DISCRETIONARY GRANTS. Sec-
18 tion 1404(c)(2) of the Victims of Crime Act of 1984 (42
19 U.S.C. 10603(c)(2)) is amended

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

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



1 (e) FELLOWSHIPS AND CLINICAL INTERNSHIPS.
2 Section 1404(c)(3) of the Victims of Crime Act of 1984
3 (42 U.S.C. 10603(c)(3)) is amended
4 (1) in subparagraph (C), by striking “and” at
5 the end;
6 (2) in subparagraph (D), by striking the period
7 at the end and inserting “; and”; and
8 (3) by adding at the end the following:
9 “(E) use funds made available to the Di-
10 rector under this subsection
11 “(i) for fellowships and clinical intern-
12 ships; and
13 “(ii) to carry out programs of training
14 and special workshops for the presentation
15 and dissemination of information resulting
16 from demonstrations, surveys, and special
17 projects.”.

18 **SEC. 624. VICTIMS OF TERRORISM.**

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

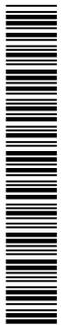
23 “(b) VICTIMS OF TERRORISM WITHIN THE UNITED
24 STATES. The Director may make supplemental grants as
25 provided in section 1402(d)(5) to States for eligible crime



1 victim compensation and assistance programs, and to vic-
2 tim service organizations, public agencies (including Fed-
3 eral, State, or local governments) and nongovernmental
4 organizations that provide assistance to victims of crime,
5 which shall be used to provide emergency relief, including
6 crisis response efforts, assistance, compensation, training
7 and technical assistance, and ongoing assistance, including
8 during any investigation or prosecution, to victims of ter-
9 rorist acts or mass violence occurring within the United
10 States.”.

11 (b) ASSISTANCE TO VICTIMS OF INTERNATIONAL
12 TERRORISM. Section 1404B(a)(1) of the Victims of
13 Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended
14 by striking “who are not persons eligible for compensation
15 under title VIII of the Omnibus Diplomatic Security and
16 Antiterrorism Act of 1986”.

17 (c) COMPENSATION TO VICTIMS OF INTERNATIONAL
18 TERRORISM. Section 1404C(b) of the Victims of Crime
19 of 1984 (42 U.S.C. 10603c(b)) is amended by adding at
20 the end the following: “The amount of compensation
21 awarded to a victim under this subsection shall be reduced
22 by any amount that the victim received in connection with
23 the same act of international terrorism under title VIII
24 of the Omnibus Diplomatic Security and Antiterrorism
25 Act of 1986.”.



1 **TITLE VII—INCREASED INFOR-**
2 **MATION SHARING FOR CRIT-**
3 **ICAL INFRASTRUCTURE PRO-**
4 **TECTION**

5 **SEC. 711. EXPANSION OF REGIONAL INFORMATION SHAR-**
6 **ING SYSTEM TO FACILITATE FEDERAL-STATE-**
7 **LOCAL LAW ENFORCEMENT RESPONSE RE-**
8 **LATED TO TERRORIST ATTACKS.**

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

12 (1) in subsection (a), by inserting “and ter-
13 rorist conspiracies and activities” after “activities”;

14 (2) in subsection (b)

15 (A) in paragraph (3), by striking “and”
16 after the semicolon;

17 (B) by redesignating paragraph (4) as
18 paragraph (5);

19 (C) by inserting after paragraph (3) the
20 following:

21 “(4) establishing and operating secure informa-
22 tion sharing systems to enhance the investigation
23 and prosecution abilities of participating enforce-
24 ment agencies in addressing multi-jurisdictional ter-
25 rorist conspiracies and activities; and (5)”;



1 (3) by inserting at the end the following:

2 “(d) AUTHORIZATION OF APPROPRIATION TO THE
3 BUREAU OF JUSTICE ASSISTANCE. There are authorized
4 to be appropriated to the Bureau of Justice Assistance
5 to carry out this section \$50,000,000 for fiscal year 2002
6 and \$100,000,000 for fiscal year 2003.”.

7 **TITLE VIII—STRENGTHENING**
8 **THE CRIMINAL LAWS**
9 **AGAINST TERRORISM**

10 **SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
11 **LENCE AGAINST MASS TRANSPORTATION**
12 **SYSTEMS.**

13 Chapter 97 of title 18, United States Code, is amend-
14 ed by adding at the end the following:

15 **“§ 1993. Terrorist attacks and other acts of violence**
16 **against mass transportation systems**

17 “(a) GENERAL PROHIBITIONS. Whoever willfully

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

20 “(2) places or causes to be placed any biological
21 agent or toxin for use as a weapon, destructive sub-
22 stance, or destructive device in, upon, or near a
23 mass transportation vehicle or ferry, without pre-
24 viously obtaining the permission of the mass trans-
25 portation provider, and with intent to endanger the



1 safety of any passenger or employee of the mass
2 transportation provider, or with a reckless disregard
3 for the safety of human life;

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

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

21 “(5) interferes with, disables, or incapacitates
22 any dispatcher, driver, captain, or person while they
23 are employed in dispatching, operating, or maintain-
24 ing a mass transportation vehicle or ferry, with in-
25 tent to endanger the safety of any passenger or em-



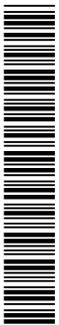
1 ployee of the mass transportation provider, or with
2 a reckless disregard for the safety of human life;

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

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

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

16 shall be fined under this title or imprisoned not more than
17 twenty years, or both, if such act is committed, or in the
18 case of a threat or conspiracy such act would be com-
19 mitted, on, against, or affecting a mass transportation
20 provider engaged in or affecting interstate or foreign com-
21 merce, or if in the course of committing such act, that
22 person travels or communicates across a State line in
23 order to commit such act, or transports materials across
24 a State line in aid of the commission of such act.



1 “(b) AGGRAVATED OFFENSE. Whoever commits an
2 offense under subsection (a) in a circumstance in which

3 “(1) the mass transportation vehicle or ferry
4 was carrying a passenger at the time of the offense;
5 or

6 “(2) the offense has resulted in the death of
7 any person,

8 shall be guilty of an aggravated form of the offense and
9 shall be fined under this title or imprisoned for a term
10 of years or for life, or both.

11 “(c) DEFINITIONS. In this section

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

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

17 “(3) the term ‘destructive device’ has the mean-
18 ing given to that term in section 921(a)(4) of this
19 title;

20 “(4) the term ‘destructive substance’ has the
21 meaning given to that term in section 31 of this
22 title;

23 “(5) the term ‘mass transportation’ has the
24 meaning given to that term in section 5302(a)(7) of
25 title 49, United States Code, except that the term



1 shall include schoolbus, charter, and sightseeing
2 transportation;

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

6 “(7) the term ‘State’ has the meaning given to
7 that term in section 2266 of this title; and

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

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

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

13 **SEC. 802. DEFINITION OF DOMESTIC TERRORISM.**

14 (a) DOMESTIC TERRORISM DEFINED. Section 2331
15 of title 18, United States Code, is amended

16 (1) in paragraph (1)(B)(iii), by striking “by as-
17 sassination or kidnapping” and inserting “by mass
18 destruction, assassination, or kidnapping”;

19 (2) in paragraph (3), by striking “and”;

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

22 (4) by adding at the end the following:

23 “(5) the term ‘domestic terrorism’ means activi-
24 ties that



1 “(A) involve acts dangerous to human life
2 that are a violation of the criminal laws of the
3 United States or of any State;

4 “(B) appear to be intended

5 “(i) to intimidate or coerce a civilian
6 population;

7 “(ii) to influence the policy of a gov-
8 ernment by intimidation or coercion; or

9 “(iii) to affect the conduct of a gov-
10 ernment by mass destruction, assassina-
11 tion, or kidnapping; and

12 “(C) occur primarily within the territorial
13 jurisdiction of the United States.”.

14 (b) CONFORMING AMENDMENT. Section 3077(1) of
15 title 18, United States Code, is amended to read as fol-
16 lows:

17 “(1) ‘act of terrorism’ means an act of domestic
18 or international terrorism as defined in section
19 2331;”.

20 **SEC. 803. PROHIBITION AGAINST HARBORING TERRORISTS.**

21 (a) IN GENERAL. Chapter 113B of title 18, United
22 States Code, is amended by adding after section 2338 the
23 following new section:



1 **“§ 2339. Harboring or concealing terrorists**

2 “(a) Whoever harbors or conceals any person who he
3 knows, or has reasonable grounds to believe, has com-
4 mitted, or is about to commit, an offense under section
5 32 (relating to destruction of aircraft or aircraft facilities),
6 section 175 (relating to biological weapons), section 229
7 (relating to chemical weapons), section 831 (relating to
8 nuclear materials), paragraph (2) or (3) of section 844(f)
9 (relating to arson and bombing of government property
10 risking or causing injury or death), section 1366(a) (relat-
11 ing to the destruction of an energy facility), section 2280
12 (relating to violence against maritime navigation), section
13 2332a (relating to weapons of mass destruction), or sec-
14 tion 2332b (relating to acts of terrorism transcending na-
15 tional boundaries) of this title, section 236(a) (relating to
16 sabotage of nuclear facilities or fuel) of the Atomic Energy
17 Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relat-
18 ing to aircraft piracy) of title 49, shall be fined under this
19 title or imprisoned not more than ten years, or both.”.

20 “(b) A violation of this section may be prosecuted in
21 any Federal judicial district in which the underlying of-
22 fense was committed, or in any other Federal judicial dis-
23 trict as provided by law.”.

24 (b) TECHNICAL AMENDMENT. The chapter analysis
25 for chapter 113B of title 18, United States Code, is



1 amended by inserting after the item for section 2338 the
2 following:

“2339. Harboring or concealing terrorists.”.

3 **SEC. 804. JURISDICTION OVER CRIMES COMMITTED AT U.S.**
4 **FACILITIES ABROAD.**

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

7 “(9) With respect to offenses committed by or
8 against a United States national, as defined in sec-
9 tion 1203(e) of this title

10 “(A) the premises of United States diplo-
11 matic, consular, military or other United States
12 Government missions or entities in foreign
13 States, including the buildings, parts of build-
14 ings, and land appurtenant or ancillary thereto
15 or used for purposes of those missions or enti-
16 ties, irrespective of ownership; and

17 “(B) residences in foreign States and the
18 land appurtenant or ancillary thereto, irrespec-
19 tive of ownership, used for purposes of those
20 missions or entities or used by United States
21 personnel assigned to those missions or entities.

22 Nothing in this paragraph shall be deemed to super-
23 sede any treaty or international agreement with
24 which this paragraph conflicts. This paragraph does



1 not apply with respect to an offense committed by
2 a person described in section 3261(a) of this title.”.

3 **SEC. 805. MATERIAL SUPPORT FOR TERRORISM.**

4 (a) IN GENERAL. Section 2339A of title 18, United
5 States Code, is amended

6 (1) in subsection (a)

7 (A) by striking “, within the United
8 States,”;

9 (B) by inserting “229,” after “175,”;

10 (C) by inserting “1993,” after “1992,”;

11 (D) by inserting “, section 236 of the
12 Atomic Energy Act of 1954 (42 U.S.C. 2284),”
13 after “of this title”;

14 (E) by inserting “or 60123(b)” after
15 “46502”; and

16 (F) by inserting at the end the following:
17 “A violation of this section may be prosecuted
18 in any Federal judicial district in which the un-
19 derlying offense was committed, or in any other
20 Federal judicial district as provided by law.”;
21 and

22 (2) in subsection (b)

23 (A) by striking “or other financial securi-
24 ties” and inserting “or monetary instruments
25 or financial securities”; and



1 (B) by inserting “expert advice or assist-
2 ance,” after “training,”.

3 (b) TECHNICAL AMENDMENT. Section
4 1956(c)(7)(D) of title 18, United States Code, is amended
5 by inserting “or 2339B” after “2339A”.

6 **SEC. 806. ASSETS OF TERRORIST ORGANIZATIONS.**

7 Section 981(a)(1) of title 18, United States Code, is
8 amended by inserting at the end the following:

9 “(G) All assets, foreign or domestic
10 “(i) of any individual, entity, or organiza-
11 tion engaged in planning or perpetrating any
12 act of domestic or international terrorism (as
13 defined in section 2331) against the United
14 States, citizens or residents of the United
15 States, or their property, and all assets, foreign
16 or domestic, affording any person a source of
17 influence over any such entity or organization;

18 “(ii) acquired or maintained by any person
19 for the purpose of supporting, planning, con-
20 ducting, or concealing an act of domestic or
21 international terrorism (as defined in section
22 2331) against the United States, citizens or
23 residents of the United States, or their prop-
24 erty; or



1 “(iii) derived from, involved in, or used or
2 intended to be used to commit any act of do-
3 mestic or international terrorism (as defined in
4 section 2331) against the United States, citi-
5 zens or residents of the United States, or their
6 property.”.

7 **SEC. 807. TECHNICAL CLARIFICATION RELATING TO PROVI-**
8 **SION OF MATERIAL SUPPORT TO TER-**
9 **RORISM.**

10 No provision of the Trade Sanctions Reform and Ex-
11 port Enhancement Act of 2000 (title IX of Public Law
12 106 387) shall be construed to limit or otherwise affect
13 section 2339A or 2339B of title 18, United States Code.

14 **SEC. 808. DEFINITION OF FEDERAL CRIME OF TERRORISM.**

15 Section 2332b of title 18, United States Code, is
16 amended

17 (1) in subsection (f), by inserting after “ter-
18 rorism” the following: “and any violation of section
19 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b),
20 1366(c), 1751(e), 2152, or 2156 of this title,” be-
21 fore “and the Secretary”; and

22 (2) in subsection (g)(5)(B), by striking clauses
23 (i) through (iii) and inserting the following:

24 “(i) section 32 (relating to destruction
25 of aircraft or aircraft facilities), 37 (relat-



1 ing to violence at international airports),
2 81 (relating to arson within special mari-
3 time and territorial jurisdiction), 175 or
4 175b (relating to biological weapons), 229
5 (relating to chemical weapons), subsection
6 (a), (b), (c), or (d) of section 351 (relating
7 to congressional, cabinet, and Supreme
8 Court assassination and kidnaping), 831
9 (relating to nuclear materials), 842(m) or
10 (n) (relating to plastic explosives), 844(f)
11 (2) through (3) (relating to arson and
12 bombing of Government property risking
13 or causing death), 844(i) (relating to arson
14 and bombing of property used in interstate
15 commerce), 930(c) (relating to killing or
16 attempted killing during an attack on a
17 Federal facility with a dangerous weapon),
18 956(a)(1) (relating to conspiracy to mur-
19 der, kidnap, or maim persons abroad),
20 1030(a)(1) (relating to protection of com-
21 puters), 1030(a)(5)(A)(i) resulting in dam-
22 age as defined in 1030(a)(5)(B)(ii)
23 through (v) (relating to protection of com-
24 puters), 1114 (relating to killing or at-
25 tempted killing of officers and employees of



1 the United States), 1116 (relating to mur-
2 der or manslaughter of foreign officials, of-
3 ficial guests, or internationally protected
4 persons), 1203 (relating to hostage tak-
5 ing), 1362 (relating to destruction of com-
6 munication lines, stations, or systems),
7 1363 (relating to injury to buildings or
8 property within special maritime and terri-
9 torial jurisdiction of the United States),
10 1366(a) (relating to destruction of an en-
11 ergy facility), 1751 (a) through (d) (relat-
12 ing to Presidential and Presidential staff
13 assassination and kidnaping), 1992 (relat-
14 ing to wrecking trains), 1993 (relating to
15 terrorist attacks and other acts of violence
16 against mass transportation systems),
17 2155 (relating to destruction of national
18 defense materials, premises, or utilities),
19 2280 (relating to violence against maritime
20 navigation), 2281 (relating to violence
21 against maritime fixed platforms), 2332
22 (relating to certain homicides and other vi-
23 olence against United States nationals oc-
24 ccurring outside of the United States),
25 2332a (relating to use of weapons of mass



1 destruction), 2332b (relating to acts of ter-
2 rorism transcending national boundaries),
3 2339 (relating to harboring terrorists),
4 2339A (relating to providing material sup-
5 port to terrorists), 2339B (relating to pro-
6 viding material support to terrorist organi-
7 zations), or 2340A (relating to torture) of
8 this title;

9 “(ii) section 236 (relating to sabotage
10 of nuclear facilities or fuel) of the Atomic
11 Energy Act of 1954 (42 U.S.C. 2284); or

12 “(iii) section 46502 (relating to air-
13 craft piracy), the second sentence of sec-
14 tion 46504 (relating to assault on a flight
15 crew with a dangerous weapon), section
16 46505(b)(3) or (c) (relating to explosive or
17 incendiary devices, or endangerment of
18 human life by means of weapons, on air-
19 craft), section 46506 if homicide or at-
20 tempted homicide is involved (relating to
21 application of certain criminal laws to acts
22 on aircraft), or section 60123(b) (relating
23 to destruction of interstate gas or haz-
24 ardous liquid pipeline facility) of title 49.”.



1 **SEC. 809. NO STATUTE OF LIMITATION FOR CERTAIN TER-**
2 **RORISM OFFENSES.**

3 (a) IN GENERAL. Section 3286 of title 18, United
4 States Code, is amended to read as follows:

5 **“§ 3286. Extension of statute of limitation for certain**
6 **terrorism offenses.**

7 “(a) EIGHT-YEAR LIMITATION. Notwithstanding
8 section 3282, no person shall be prosecuted, tried, or pun-
9 ished for any noncapital offense involving a violation of
10 any provision listed in section 2332b(g)(5)(B), or a viola-
11 tion of section 112, 351(e), 1361, or 1751(e) of this title,
12 or section 46504, 46505, or 46506 of title 49, unless the
13 indictment is found or the information is instituted within
14 8 years after the offense was committed. Notwithstanding
15 the preceding sentence, offenses listed in section 3295 are
16 subject to the statute of limitations set forth in that sec-
17 tion.

18 “(b) NO LIMITATION. Notwithstanding any other
19 law, an indictment may be found or an information insti-
20 tuted at any time without limitation for any offense listed
21 in section 2332b(g)(5)(B), if the commission of such of-
22 fense resulted in, or created a foreseeable risk of, death
23 or serious bodily injury to another person.”.

24 (b) APPLICATION. The amendments made by this
25 section shall apply to the prosecution of any offense com-



1 mitted before, on, or after the date of enactment of this
2 section.

3 **SEC. 810. ALTERNATE MAXIMUM PENALTIES FOR TER-**
4 **RORISM OFFENSES.**

5 (a) ARSON. Section 81 of title 18, United States
6 Code, is amended in the second undesignated paragraph
7 by striking “not more than twenty years” and inserting
8 “for any term of years or for life”.

9 (b) DESTRUCTION OF AN ENERGY FACILITY. Sec-
10 tion 1366 of title 18, United States Code, is amended

11 (1) in subsection (a), by striking “ten” and in-
12 serting “20”; and

13 (2) by adding at the end the following:

14 “(d) Whoever is convicted of a violation of subsection
15 (a) or (b) that has resulted in the death of any person
16 shall be subject to imprisonment for any term of years
17 or life.”.

18 (c) MATERIAL SUPPORT TO TERRORISTS. Section
19 2339A(a) of title 18, United States Code, is amended

20 (1) by striking “10” and inserting “15”; and

21 (2) by striking the period and inserting “, and,
22 if the death of any person results, shall be impris-
23 oned for any term of years or for life.”.



1 (d) MATERIAL SUPPORT TO DESIGNATED FOREIGN
2 TERRORIST ORGANIZATIONS. Section 2339B(a)(1) of
3 title 18, United States Code, is amended

4 (1) by striking “10” and inserting “15”; and

5 (2) by striking the period after “or both” and
6 inserting “, and, if the death of any person results,
7 shall be imprisoned for any term of years or for
8 life.”.

9 (e) DESTRUCTION OF NATIONAL-DEFENSE MATE-
10 RIALS. Section 2155(a) of title 18, United States Code,
11 is amended

12 (1) by striking “ten” and inserting “20”; and

13 (2) by striking the period at the end and insert-
14 ing “, and, if death results to any person, shall be
15 imprisoned for any term of years or for life.”.

16 (f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

17 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
18 2284), is amended

19 (1) by striking “ten” each place it appears and
20 inserting “20”;

21 (2) in subsection (a), by striking the period at
22 the end and inserting “, and, if death results to any
23 person, shall be imprisoned for any term of years or
24 for life.”; and



1 (3) in subsection (b), by striking the period at
2 the end and inserting “, and, if death results to any
3 person, shall be imprisoned for any term of years or
4 for life.”.

5 (g) SPECIAL AIRCRAFT JURISDICTION OF THE
6 UNITED STATES. Section 46505(c) of title 49, United
7 States Code, is amended

8 (1) by striking “15” and inserting “20”; and

9 (2) by striking the period at the end and insert-
10 ing “, and, if death results to any person, shall be
11 imprisoned for any term of years or for life.”.

12 (h) DAMAGING OR DESTROYING AN INTERSTATE GAS
13 OR HAZARDOUS LIQUID PIPELINE FACILITY. Section
14 60123(b) of title 49, United States Code, is amended

15 (1) by striking “15” and inserting “20”; and

16 (2) by striking the period at the end and insert-
17 ing “, and, if death results to any person, shall be
18 imprisoned for any term of years or for life.”.

19 **SEC. 811. PENALTIES FOR TERRORIST CONSPIRACIES.**

20 (a) ARSON. Section 81 of title 18, United States
21 Code, is amended in the first undesignated paragraph

22 (1) by striking “, or attempts to set fire to or
23 burn”; and

24 (2) by inserting “or attempts or conspires to do
25 such an act,” before “shall be imprisoned”.



1 (b) KILLINGS IN FEDERAL FACILITIES. Section
2 930(c) of title 18, United States Code, is amended

3 (1) by striking “or attempts to kill”;

4 (2) by inserting “or attempts or conspires to do
5 such an act,” before “shall be punished”; and

6 (3) by striking “and 1113” and inserting
7 “1113, and 1117”.

8 (c) COMMUNICATIONS LINES, STATIONS, OR SYS-
9 TEMS. Section 1362 of title 18, United States Code, is
10 amended in the first undesignated paragraph

11 (1) by striking “or attempts willfully or mali-
12 ciously to injure or destroy”; and

13 (2) by inserting “or attempts or conspires to do
14 such an act,” before “shall be fined”.

15 (d) BUILDINGS OR PROPERTY WITHIN SPECIAL
16 MARITIME AND TERRITORIAL JURISDICTION. Section
17 1363 of title 18, United States Code, is amended

18 (1) by striking “or attempts to destroy or in-
19 jure”; and

20 (2) by inserting “or attempts or conspires to do
21 such an act,” before “shall be fined” the first place
22 it appears.

23 (e) WRECKING TRAINS. Section 1992 of title 18,
24 United States Code, is amended by adding at the end the
25 following:



1 “(c) A person who conspires to commit any offense
2 defined in this section shall be subject to the same pen-
3 alties (other than the penalty of death) as the penalties
4 prescribed for the offense, the commission of which was
5 the object of the conspiracy.”.

6 (f) MATERIAL SUPPORT TO TERRORISTS. Section
7 2339A of title 18, United States Code, is amended by in-
8 serting “or attempts or conspires to do such an act,” be-
9 fore “shall be fined”.

10 (g) TORTURE. Section 2340A of title 18, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(e) CONSPIRACY. A person who conspires to com-
14 mit an offense under this section shall be subject to the
15 same penalties (other than the penalty of death) as the
16 penalties prescribed for the offense, the commission of
17 which was the object of the conspiracy.”.

18 (h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.
19 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
20 2284), is amended

21 (1) in subsection (a)

22 (A) by striking “, or who intentionally and
23 willfully attempts to destroy or cause physical
24 damage to”;



1 (B) in paragraph (4), by striking the pe-
2 riod at the end and inserting a comma; and

3 (C) by inserting “or attempts or conspires
4 to do such an act,” before “shall be fined”; and
5 (2) in subsection (b)

6 (A) by striking “or attempts to cause”;
7 and

8 (B) by inserting “or attempts or conspires
9 to do such an act,” before “shall be fined”.

10 (i) INTERFERENCE WITH FLIGHT CREW MEMBERS
11 AND ATTENDANTS. Section 46504 of title 49, United
12 States Code, is amended by inserting “or attempts or con-
13 spires to do such an act,” before “shall be fined”.

14 (j) SPECIAL AIRCRAFT JURISDICTION OF THE
15 UNITED STATES. Section 46505 of title 49, United
16 States Code, is amended by adding at the end the fol-
17 lowing:

18 “(e) CONSPIRACY. If two or more persons conspire
19 to violate subsection (b) or (c), and one or more of such
20 persons do any act to effect the object of the conspiracy,
21 each of the parties to such conspiracy shall be punished
22 as provided in such subsection.”.

23 (k) DAMAGING OR DESTROYING AN INTERSTATE GAS
24 OR HAZARDOUS LIQUID PIPELINE FACILITY. Section
25 60123(b) of title 49, United States Code, is amended



1 (1) by striking “, or attempting to damage or
2 destroy,”; and

3 (2) by inserting “, or attempting or conspiring
4 to do such an act,” before “shall be fined”.

5 **SEC. 812. POST-RELEASE SUPERVISION OF TERRORISTS.**

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

8 “(j) SUPERVISED RELEASE TERMS FOR TERRORISM
9 PREDICATES. Notwithstanding subsection (b), the au-
10 thorized term of supervised release for any offense listed
11 in section 2332b(g)(5)(B), the commission of which re-
12 sulted in, or created a foreseeable risk of, death or serious
13 bodily injury to another person, is any term of years or
14 life.”.

15 **SEC. 813. INCLUSION OF ACTS OF TERRORISM AS RACKET-
16 EERING ACTIVITY.**

17 Section 1961(1) of title 18, United States Code, is
18 amended

19 (1) by striking “or (F)” and inserting “(F)”;
20 and

21 (2) by inserting before the semicolon at the end
22 the following: “, or (G) any act that is indictable
23 under any provision listed in section
24 2332b(g)(5)(B)”.



1 **SEC. 814. DETERRENCE AND PREVENTION OF**
2 **CYBERTERRORISM.**

3 (a) CLARIFICATION OF PROTECTION OF PROTECTED
4 COMPUTERS. Section 1030(a)(5) of title 18, United
5 States Code, is amended

6 (1) by inserting “(i)” after (A)”;

7 (2) by redesignating subparagraphs (B) and
8 (C) as clauses (ii) and (iii), respectively;

9 (3) by adding “and” at the end of clause (iii),
10 as so redesignated; and

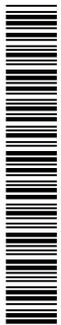
11 (4) by adding at the end the following:

12 “(B) caused (or, in the case of an at-
13 tempted offense, would, if completed, have
14 caused) conduct described in in clause (i), (ii),
15 or (iii) of subparagraph (A) that resulted in

16 “(i) loss to 1 or more persons during
17 any 1-year period (including loss resulting
18 from a related course of conduct affecting
19 1 or more other protected computers) ag-
20 gregating at least \$5,000 in value;

21 “(ii) the modification or impairment,
22 or potential modification or impairment, of
23 the medical examination, diagnosis, treat-
24 ment, or care of 1 or more individuals;

25 “(iii) physical injury to any person;



1 “(iv) a threat to public health or safe-
2 ty; or

3 “(v) damage affecting a computer sys-
4 tem used by or for a Government entity in
5 furtherance of the administration of jus-
6 tice, national defense, or national secu-
7 rity;”.

8 (b) PENALTIES. Section 1030(c) of title 18, United
9 States Code is amended

10 (1) in paragraph (2)

11 (A) in subparagraph (A)

12 (i) by inserting “except as provided in
13 subparagraph (B),” before “a fine”;

14 (ii) by striking “(a)(5)(C)” and in-
15 serting “(a)(5)(A)(iii)”; and

16 (iii) by striking “and’ at the end;

17 (B) in subparagraph (B), by inserting “or
18 an attempt to commit an offense punishable
19 under this subparagraph,” after “subsection
20 (a)(2),” in the matter preceding clause (i); and

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

23 (2) in paragraph (3)

24 (A) by striking “, (a)(5)(A), (a)(5)(B),”
25 both places it appears; and



1 (B) by striking “and” at the end; and
2 (3) by striking “(a)(5)(C)” and inserting
3 “(a)(5)(A)(iii)”; and
4 (4) by adding at the end the following new
5 paragraphs:
6 “(4)(A) a fine under this title, imprisonment
7 for not more than 10 years, or both, in the case of
8 an offense under subsection (a)(5)(A)(i), or an at-
9 tempt to commit an offense punishable under that
10 subsection;
11 “(B) a fine under this title, imprisonment
12 for not more than 5 years, or both, in the case
13 of an offense under subsection (a)(5)(A)(ii), or
14 an attempt to commit an offense punishable
15 under that subsection;
16 “(C) a fine under this title, imprisonment
17 for not more than 20 years, or both, in the case
18 of an offense under subsection (a)(5)(A)(i) or
19 (a)(5)(A)(ii), or an attempt to commit an of-
20 fense punishable under either subsection, that
21 occurs after a conviction for another offense
22 under this section.”.
23 (c) DEFINITIONS. Subsection (e) of section 1030 of
24 title 18, United States Code is amended



1 (1) in paragraph (2)(B), by inserting “, includ-
2 ing a computer located outside the United States”
3 before the semicolon;

4 (2) in paragraph (7), by striking “and” at the
5 end;

6 (3) by striking paragraph (8) and inserting the
7 following new paragraph (8):

8 “(8) the term ‘damage’ means any impairment
9 to the integrity or availability of data, a program, a
10 system, or information;”;

11 (4) in paragraph (9), by striking the period at
12 the end and inserting a semicolon; and

13 (5) by adding at the end the following new
14 paragraphs:

15 “(10) the term ‘conviction’ shall include a con-
16 viction under the law of any State for a crime pun-
17 ishable by imprisonment for more than 1 year, an
18 element of which is unauthorized access, or exceed-
19 ing authorized access, to a computer;

20 “(11) the term ‘loss’ includes any reasonable
21 cost to any victim, including the cost of responding
22 to an offense, conducting a damage assessment, and
23 restoring the data, program, system, or information
24 to its condition prior to the offense, and any revenue



1 lost, cost incurred, or other consequential damages
2 incurred because of interruption of service;

3 “(12) the term ‘person’ means any individual,
4 firm, corporation, educational institution, financial
5 institution, governmental entity, or legal or other en-
6 tity;”.

7 (d) DAMAGES IN CIVIL ACTIONS. Subsection (g) of
8 section 1030 of title 18, United States Code is amended

9 (1) by striking the second sentence and insert-
10 ing the following new sentences: “A suit for a viola-
11 tion of subsection (a)(5) may be brought only if the
12 conduct involves one of the factors enumerated in
13 subsection (a)(5)(B). Damages for a violation involv-
14 ing only conduct described in subsection (a)(5)(B)(i)
15 are limited to economic damages.”; and

16 (2) by adding at the end the following: “No ac-
17 tion may be brought under this subsection for the
18 negligent design or manufacture of computer hard-
19 ware, computer software, or firmware.”.

20 (e) AMENDMENT OF SENTENCING GUIDELINES RE-
21 LATING TO CERTAIN COMPUTER FRAUD AND ABUSE.

22 Pursuant to its authority under section 994(p) of title 28,
23 United States Code, the United States Sentencing Com-
24 mission shall amend the Federal sentencing guidelines to
25 ensure that any individual convicted of a violation of sec-



1 tion 1030 of title 18, United States Code, can be subjected
2 to appropriate penalties, without regard to any mandatory
3 minimum term of imprisonment.

4 **SEC. 815. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELAT-**
5 **ING TO PRESERVING RECORDS IN RESPONSE**
6 **TO GOVERNMENT REQUESTS.**

7 Section 2707(e)(1) of title 18, United States Code,
8 is amended by inserting after “or statutory authorization”
9 the following: “(including a request of a governmental en-
10 tity under section 2703(f) of this title)”.

11 **SEC. 816. DEVELOPMENT AND SUPPORT OF**
12 **CYBERSECURITY FORENSIC CAPABILITIES.**

13 (a) IN GENERAL. The Attorney General shall estab-
14 lish such regional computer forensic laboratories as the
15 Attorney General considers appropriate, and provide sup-
16 port to existing computer forensic laboratories, in order
17 that all such computer forensic laboratories have the
18 capability

19 (1) to provide forensic examinations with re-
20 spect to seized or intercepted computer evidence re-
21 lating to criminal activity (including cyberterrorism);

22 (2) to provide training and education for Fed-
23 eral, State, and local law enforcement personnel and
24 prosecutors regarding investigations, forensic anal-



1 yses, and prosecutions of computer-related crime (in-
2 cluding cyberterrorism);

3 (3) to assist Federal, State, and local law en-
4 forcement in enforcing Federal, State, and local
5 criminal laws relating to computer-related crime;

6 (4) to facilitate and promote the sharing of
7 Federal law enforcement expertise and information
8 about the investigation, analysis, and prosecution of
9 computer-related crime with State and local law en-
10 forcement personnel and prosecutors, including the
11 use of multijurisdictional task forces; and

12 (5) to carry out such other activities as the At-
13 torney General considers appropriate.

14 (b) AUTHORIZATION OF APPROPRIATIONS.

15 (1) AUTHORIZATION. There is hereby author-
16 ized to be appropriated in each fiscal year
17 \$50,000,000 for purposes of carrying out this sec-
18 tion.

19 (2) AVAILABILITY. Amounts appropriated pur-
20 suant to the authorization of appropriations in para-
21 graph (1) shall remain available until expended.



1 **TITLE IX—IMPROVED**
2 **INTELLIGENCE**
3 **SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL**
4 **INTELLIGENCE REGARDING FOREIGN INTEL-**
5 **LIGENCE COLLECTED UNDER FOREIGN IN-**
6 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

7 Section 103(c) of the National Security Act of 1947
8 (50 U.S.C. 403 3(c)) is amended

9 (1) by redesignating paragraphs (6) and (7) as
10 paragraphs (7) and (8), respectively; and

11 (2) by inserting after paragraph (5) the fol-
12 lowing new paragraph (6):

13 “(6) establish requirements and priorities for
14 foreign intelligence information to be collected under
15 the Foreign Intelligence Surveillance Act of 1978
16 (50 U.S.C. 1801 et seq.), and provide assistance to
17 the Attorney General to ensure that information de-
18 rived from electronic surveillance or physical
19 searches under that Act is disseminated so it may be
20 used efficiently and effectively for foreign intel-
21 ligence purposes, except that the Director shall have
22 no authority to direct, manage, or undertake elec-
23 tronic surveillance or physical search operations pur-
24 suant to that Act unless otherwise authorized by
25 statute or executive order;”.



1 **SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST AC-**
2 **TIVITIES WITHIN SCOPE OF FOREIGN INTEL-**
3 **LIGENCE UNDER NATIONAL SECURITY ACT**
4 **OF 1947.**

5 Section 3 of the National Security Act of 1947 (50
6 U.S.C. 401a) is amended

7 (1) in paragraph (2), by inserting before the pe-
8 riod the following: “, or international terrorist activi-
9 ties”; and

10 (2) in paragraph (3), by striking “and activities
11 conducted” and inserting “, and activities con-
12 ducted,”.

13 **SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT**
14 **AND MAINTENANCE OF INTELLIGENCE RELA-**
15 **TIONSHIPS TO ACQUIRE INFORMATION ON**
16 **TERRORISTS AND TERRORIST ORGANIZA-**
17 **TIONS.**

18 It is the sense of Congress that officers and employ-
19 ees of the intelligence community of the Federal Govern-
20 ment, acting within the course of their official duties,
21 should be encouraged, and should make every effort, to
22 establish and maintain intelligence relationships with any
23 person, entity, or group for the purpose of engaging in
24 lawful intelligence activities, including the acquisition of
25 information on the identity, location, finances, affiliations,
26 capabilities, plans, or intentions of a terrorist or terrorist



1 organization, or information on any other person, entity,
2 or group (including a foreign government) engaged in har-
3 boring, comforting, financing, aiding, or assisting a ter-
4 rorist or terrorist organization.

5 **SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL**
6 **TO CONGRESS OF REPORTS ON INTEL-**
7 **LIGENCE AND INTELLIGENCE-RELATED MAT-**
8 **TERS.**

9 (a) **AUTHORITY TO DEFER.** The Secretary of De-
10 fense, Attorney General, and Director of Central Intel-
11 ligence each may, during the effective period of this sec-
12 tion, defer the date of submittal to Congress of any cov-
13 ered intelligence report under the jurisdiction of such offi-
14 cial until February 1, 2002.

15 (b) **COVERED INTELLIGENCE REPORT.** Except as
16 provided in subsection (c), for purposes of subsection (a),
17 a covered intelligence report is as follows:

18 (1) Any report on intelligence or intelligence-re-
19 lated activities of the United States Government
20 that is required to be submitted to Congress by an
21 element of the intelligence community during the ef-
22 fective period of this section.

23 (2) Any report or other matter that is required
24 to be submitted to the Select Committee on Intel-
25 ligence of the Senate and Permanent Select Com-



1 mittee on Intelligence of the House of Representa-
2 tives by the Department of Defense or the Depart-
3 ment of Justice during the effective period of this
4 section.

5 (c) EXCEPTION FOR CERTAIN REPORTS. For pur-
6 poses of subsection (a), any report required by section 502
7 or 503 of the National Security Act of 1947 (50 U.S.C.
8 413a, 413b) is not a covered intelligence report.

9 (d) NOTICE TO CONGRESS. Upon deferring the date
10 of submittal to Congress of a covered intelligence report
11 under subsection (a), the official deferring the date of sub-
12 mittal of the covered intelligence report shall submit to
13 Congress notice of the deferral. Notice of deferral of a re-
14 port shall specify the provision of law, if any, under which
15 the report would otherwise be submitted to Congress.

16 (e) EXTENSION OF DEFERRAL. (1) Each official
17 specified in subsection (a) may defer the date of submittal
18 to Congress of a covered intelligence report under the ju-
19 risdiction of such official to a date after February 1, 2002,
20 if such official submits to the committees of Congress
21 specified in subsection (b)(2) before February 1, 2002, a
22 certification that preparation and submittal of the covered
23 intelligence report on February 1, 2002, will impede the
24 work of officers or employees who are engaged in
25 counterterrorism activities.



1 (2) A certification under paragraph (1) with respect
2 to a covered intelligence report shall specify the date on
3 which the covered intelligence report will be submitted to
4 Congress.

5 (f) EFFECTIVE PERIOD. The effective period of this
6 section is the period beginning on the date of the enact-
7 ment of this Act and ending on February 1, 2002.

8 (g) ELEMENT OF THE INTELLIGENCE COMMUNITY
9 DEFINED. In this section, the term “element of the intel-
10 ligence community” means any element of the intelligence
11 community specified or designated under section 3(4) of
12 the National Security Act of 1947 (50 U.S.C. 401a(4)).

13 **SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTEL-**
14 **LIGENCE OF FOREIGN INTELLIGENCE-RE-**
15 **LATED INFORMATION WITH RESPECT TO**
16 **CRIMINAL INVESTIGATIONS.**

17 (a) IN GENERAL. Title I of the National Security
18 Act of 1947 (50 U.S.C. 402 et seq.) is amended

19 (1) by redesignating subsection 105B as section
20 105C; and

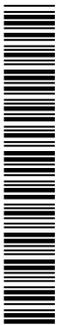
21 (2) by inserting after section 105A the fol-
22 lowing new section 105B:



1 “DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN
2 CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL
3 INVESTIGATIONS OF FOREIGN INTELLIGENCE
4 SOURCES

5 “SEC. 105B. (a) DISCLOSURE OF FOREIGN INTEL-
6 LIGENCE. (1) Except as otherwise provided by law and
7 subject to paragraph (2), the Attorney General, or the
8 head of any other department or agency of the Federal
9 Government with law enforcement responsibilities, shall
10 expeditiously disclose to the Director of Central Intel-
11 ligence, pursuant to guidelines developed by the Attorney
12 General in consultation with the Director, foreign intel-
13 ligence acquired by an element of the Department of Jus-
14 tice or an element of such department or agency, as the
15 case may be, in the course of a criminal investigation.

16 “(2) The Attorney General by regulation and in con-
17 sultation with the Director of Central Intelligence may
18 provide for exceptions to the applicability of paragraph (1)
19 for one or more classes of foreign intelligence, or foreign
20 intelligence with respect to one or more targets or matters,
21 if the Attorney General determines that disclosure of such
22 foreign intelligence under that paragraph would jeopardize
23 an ongoing law enforcement investigation or impair other
24 significant law enforcement interests.



1 “(b) PROCEDURES FOR NOTICE OF CRIMINAL INVES-
2 TIGATIONS. Not later than 180 days after the date of
3 enactment of this section, the Attorney General, in con-
4 sultation with the Director of Central Intelligence, shall
5 develop guidelines to ensure that after receipt of a report
6 from an element of the intelligence community of activity
7 of a foreign intelligence source or potential foreign intel-
8 ligence source that may warrant investigation as criminal
9 activity, the Attorney General provides notice to the Direc-
10 tor of Central Intelligence, within a reasonable period of
11 time, of his intention to commence, or decline to com-
12 mence, a criminal investigation of such activity.

13 “(c) PROCEDURES. The Attorney General shall de-
14 velop procedures for the administration of this section, in-
15 cluding the disclosure of foreign intelligence by elements
16 of the Department of Justice, and elements of other de-
17 partments and agencies of the Federal Government, under
18 subsection (a) and the provision of notice with respect to
19 criminal investigations under subsection (b).”.

20 (b) CLERICAL AMENDMENT. The table of contents
21 in the first section of that Act is amended by striking the
22 item relating to section 105B and inserting the following
23 new items:

“Sec. 105B. Disclosure of foreign intelligence acquired in criminal investiga-
tions; notice of criminal investigations of foreign intelligence
sources.

“Sec. 105C. Protection of the operational files of the National Imagery and
Mapping Agency.”.



1 **SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.**

2 (a) REPORT ON RECONFIGURATION. Not later than
3 February 1, 2002, the Attorney General, the Director of
4 Central Intelligence, and the Secretary of the Treasury
5 shall jointly submit to Congress a report on the feasibility
6 and desirability of reconfiguring the Foreign Terrorist
7 Asset Tracking Center and the Office of Foreign Assets
8 Control of the Department of the Treasury in order to
9 establish a capability to provide for the effective and effi-
10 cient analysis and dissemination of foreign intelligence re-
11 lating to the financial capabilities and resources of inter-
12 national terrorist organizations.

13 (b) REPORT REQUIREMENTS. (1) In preparing the
14 report under subsection (a), the Attorney General, the
15 Secretary, and the Director shall consider whether, and
16 to what extent, the capacities and resources of the Finan-
17 cial Crimes Enforcement Center of the Department of the
18 Treasury may be integrated into the capability con-
19 templated by the report.

20 (2) If the Attorney General, Secretary, and the Direc-
21 tor determine that it is feasible and desirable to undertake
22 the reconfiguration described in subsection (a) in order to
23 establish the capability described in that subsection, the
24 Attorney General, the Secretary, and the Director shall
25 include with the report under that subsection a detailed
26 proposal for legislation to achieve the reconfiguration.



1 **SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.**

2 (a) REPORT ON ESTABLISHMENT. (1) Not later
3 than February 1, 2002, the Director of Central Intel-
4 ligence shall, in consultation with the Director of the Fed-
5 eral Bureau of Investigation, submit to the appropriate
6 committees of Congress a report on the establishment and
7 maintenance within the intelligence community of an ele-
8 ment for purposes of providing timely and accurate trans-
9 lations of foreign intelligence for all other elements of the
10 intelligence community. In the report, the element shall
11 be referred to as the “National Virtual Translation Cen-
12 ter”.

13 (2) The report on the element described in paragraph
14 (1) shall discuss the use of state-of-the-art communica-
15 tions technology, the integration of existing translation ca-
16 pabilities in the intelligence community, and the utilization
17 of remote-connection capacities so as to minimize the need
18 for a central physical facility for the element.

19 (b) RESOURCES. The report on the element required
20 by subsection (a) shall address the following:

21 (1) The assignment to the element of a staff of
22 individuals possessing a broad range of linguistic
23 and translation skills appropriate for the purposes of
24 the element.

25 (2) The provision to the element of communica-
26 tions capabilities and systems that are commensu-



1 rate with the most current and sophisticated com-
2 munications capabilities and systems available to
3 other elements of intelligence community.

4 (3) The assurance, to the maximum extent
5 practicable, that the communications capabilities and
6 systems provided to the element will be compatible
7 with communications capabilities and systems uti-
8 lized by the Federal Bureau of Investigation in se-
9 curing timely and accurate translations of foreign
10 language materials for law enforcement investiga-
11 tions.

12 (4) The development of a communications in-
13 frastructure to ensure the efficient and secure use of
14 the translation capabilities of the element.

15 (c) SECURE COMMUNICATIONS. The report shall in-
16 clude a discussion of the creation of secure electronic com-
17 munications between the element described by subsection
18 (a) and the other elements of the intelligence community.

19 (d) DEFINITIONS. In this section:

20 (1) FOREIGN INTELLIGENCE. The term “for-
21 eign intelligence” has the meaning given that term
22 in section 3(2) of the National Security Act of 1947
23 (50 U.S.C. 401a(2)).

24 (2) ELEMENT OF THE INTELLIGENCE COMMU-
25 NITY. The term “element of the intelligence com-



1 community” means any element of the intelligence com-
2 munity specified or designated under section 3(4) of
3 the National Security Act of 1947 (50 U.S.C.
4 401a(4)).

5 **SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARD-**
6 **ING IDENTIFICATION AND USE OF FOREIGN**
7 **INTELLIGENCE.**

8 (a) PROGRAM REQUIRED. The Attorney General
9 shall, in consultation with the Director of Central Intel-
10 ligence, carry out a program to provide appropriate train-
11 ing to officials described in subsection (b) in order to as-
12 sist such officials in

13 (1) identifying foreign intelligence information
14 in the course of their duties; and

15 (2) utilizing foreign intelligence information in
16 the course of their duties, to the extent that the uti-
17 lization of such information is appropriate for such
18 duties.

19 (b) OFFICIALS. The officials provided training
20 under subsection (a) are, at the discretion of the Attorney
21 General and the Director, the following:

22 (1) Officials of the Federal Government who
23 are not ordinarily engaged in the collection, dissemi-
24 nation, and use of foreign intelligence in the per-
25 formance of their duties.



1 (2) Officials of State and local governments
2 who encounter, or may encounter in the course of a
3 terrorist event, foreign intelligence in the perform-
4 ance of their duties.

5 (c) AUTHORIZATION OF APPROPRIATIONS. There is
6 hereby authorized to be appropriated for the Department
7 of Justice such sums as may be necessary for purposes
8 of carrying out the program required by subsection (a).

9 **TITLE X—MISCELLANEOUS**

10 **SEC. 1001. PAYMENTS.**

11 (a) IN GENERAL. The Attorney General shall, sub-
12 ject to the availability of appropriations, pay \$250,000 to
13 the estates of each of the 12 United States citizens killed
14 in the 1998 terrorist bombings of the United States em-
15 bassies in Kenya and Tanzania.

16 (b) RIGHT TO SUE. Satisfaction of a claim under
17 this section waives any right the claimant may have to
18 file a suit (or to be a party to an action) in any court
19 for damages as a result of the 1998 terrorist-related
20 bombings of the United States embassies in Kenya and
21 Tanzania.

22 (c) AUTHORIZATION. There are authorized to be ap-
23 propriated for fiscal year 2002 not more than \$3,000,000
24 to carry out this section.



1 **SEC. 1002. REVIEW OF THE DEPARTMENT OF JUSTICE.**

2 The Inspector General of the Department of Justice
3 shall designate one official who shall

4 (1) review information and receive complaints
5 alleging abuses of civil rights and civil liberties by
6 employees and officials of the Department of Jus-
7 tice;

8 (2) make public through the Internet, radio, tel-
9 evision, and newspaper advertisements information
10 on the responsibilities and functions of, and how to
11 contact, the official; and

12 (3) submit to the Committee on the Judiciary
13 of the House of Representatives and the Committee
14 on the Judiciary of the Senate on a semi-annual
15 basis a report on the implementation of this sub-
16 section and detailing any abuses described in para-
17 graph (1), including a description of the use of
18 funds appropriations used to carry out this sub-
19 section.



107TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. SENSENBRENNER introduced the following bill; which was 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 inves-
tigatory 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.



Sec. 2. Construction; severability.

TITLE I ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

Sec. 101. Counterterrorism fund.

Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.

Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.

Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.

Sec. 105. Expansion of National Electronic Crime Task Force Initiative.

Sec. 106. Presidential authority.

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.

Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.

Sec. 205. Employment of translators by the Federal Bureau of Investigation.

Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.

Sec. 207. Duration of FISA surveillance of non United States persons who are agents of a foreign power.

Sec. 208. Designation of judges.

Sec. 209. Seizure of voice mail messages pursuant to warrants.

Sec. 210. Scope of subpoenas for records of electronic communications.

Sec. 211. Clarification of scope.

Sec. 212. Emergency disclosure of electronic communications to protect life and limb.

Sec. 213. Authority for delaying notice of the execution of a warrant.

Sec. 214. Pen register and trap and trace authority under FISA.

Sec. 215. Access to records and other items under the Foreign Intelligence Surveillance Act.

Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.

Sec. 217. Interception of computer trespasser communications.

Sec. 218. Foreign intelligence information.

Sec. 219. Single jurisdiction search warrants for terrorism.

Sec. 220. Nationwide service of search warrants for electronic evidence.

Sec. 221. Trade sanctions.

Sec. 222. Assistance to law enforcement agencies.

Sec. 223. Sunset.

TITLE III FINANCIAL INFRASTRUCTURE

Sec. 301. Laundering the proceeds of terrorism.

Sec. 302. Material support for terrorism.

Sec. 303. Assets of terrorist organizations.

Sec. 304. Technical clarification relating to provision of material support to terrorism.



Sec. 305. Extraterritorial jurisdiction.

TITLE IV PROTECTING THE BORDER

Subtitle A 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.

Sec. 404. Limited authority to pay overtime.

Sec. 405. Report on the integrated automated fingerprint identification system for points of entry and overseas consular posts.

Subtitle B Enhanced Immigration Provisions

Sec. 411. Definitions relating to terrorism.

Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review.

Sec. 413. Multilateral cooperation against terrorists.

Subtitle C Preservation of Immigration Benefits for Victims of Terrorism

Sec. 421. Special immigrant status.

Sec. 422. Extension of filing or reentry deadlines.

Sec. 423. Humanitarian relief for certain surviving spouses and children.

Sec. 424. "Age out" protection for children.

Sec. 425. Temporary administrative relief.

Sec. 426. Evidence of death, disability, or loss of employment.

Sec. 427. No benefits to terrorists or family members of terrorists.

Sec. 428. Definitions.

TITLE V REMOVING OBSTACLES TO INVESTIGATING TERRORISM

Sec. 501. Attorney General's authority to pay rewards to combat terrorism.

Sec. 502. Secretary of State's authority to pay rewards.

Sec. 503. DNA identification of terrorists and other violent offenders.

Sec. 504. Coordination with law enforcement.

Sec. 505. Miscellaneous national security authorities.

Sec. 506. Extension of Secret Service jurisdiction.

Sec. 507. Disclosure of educational records.

Sec. 508. Disclosure of information from NCES surveys.

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

Subtitle A Aid to Families of Public Safety Officers

Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.

Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers.

Sec. 613. Public safety officers benefit program payment increase.

Sec. 614. Office of Justice programs.

Subtitle B 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

- Sec. 711. Expansion of regional information sharing system to facilitate Federal State local law enforcement response related to terrorist attacks.

TITLE VIII STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

- Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.
- Sec. 804. Jurisdiction over crimes committed at U.S. facilities abroad.
- Sec. 805. Material support for terrorism.
- Sec. 806. Assets of terrorist organizations.
- Sec. 807. Technical clarification relating to provision of material support to terrorism.
- Sec. 808. Definition of Federal crime of terrorism.
- Sec. 809. No statute of limitation for certain terrorism offenses.
- Sec. 810. Alternate maximum penalties for terrorism offenses.
- Sec. 811. Penalties for terrorist conspiracies.
- Sec. 812. Post release supervision of terrorists.
- Sec. 813. Inclusion of acts of terrorism as racketeering activity.
- Sec. 814. Deterrence and prevention of cyberterrorism.
- Sec. 815. Additional defense to civil actions relating to preserving records in response to Government requests.
- Sec. 816. Development and support of cybersecurity forensic capabilities.

TITLE IX IMPROVED INTELLIGENCE

- Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
- Sec. 902. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.
- Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
- Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence related matters.
- Sec. 905. Disclosure to Director of Central Intelligence of foreign intelligence related information with respect to criminal investigations.
- Sec. 906. Foreign terrorist asset tracking center.
- Sec. 907. National Virtual Translation Center.
- Sec. 908. Training of government officials regarding identification and use of foreign intelligence.



1 **SEC. 2. CONSTRUCTION; SEVERABILITY.**

2 Any provision of this Act held to be invalid or unen-
3 forceable by its terms, or as applied to any person or cir-
4 cumstance, shall be construed so as to give it the max-
5 imum effect permitted by law, unless such holding shall
6 be one of utter invalidity or unenforceability, in which
7 event such provision shall be deemed severable from this
8 Act and shall not affect the remainder thereof or the appli-
9 cation of such provision to other persons not similarly situ-
10 ated or to other, dissimilar circumstances.

11 **TITLE I—ENHANCING DOMESTIC**
12 **SECURITY AGAINST TERRORISM**

13 **SEC. 101. COUNTERTERRORISM FUND.**

14 (a) **ESTABLISHMENT; AVAILABILITY.** There is here-
15 by established in the Treasury of the United States a sepa-
16 rate fund to be known as the “Counterterrorism Fund”,
17 amounts in which shall remain available without fiscal
18 year limitation

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

22 (A) reestablishing the operational capa-
23 bility of an office or facility that has been dam-
24 aged or destroyed as the result of any domestic
25 or international terrorism incident;



1 (B) providing support to counter, inves-
2 tigate, or prosecute domestic or international
3 terrorism, including, without limitation, paying
4 rewards in connection with these activities; and

5 (C) conducting terrorism threat assess-
6 ments of Federal agencies and their facilities;
7 and

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

13 (b) NO EFFECT ON PRIOR APPROPRIATIONS. Sub-
14 section (a) shall not be construed to affect the amount
15 or availability of any appropriation to the
16 Counterterrorism Fund made before the date of enact-
17 ment of this Act.

18 **SEC. 102. SENSE OF CONGRESS CONDEMNING DISCRIMINA-**
19 **TION AGAINST ARAB AND MUSLIM AMERI-**
20 **CANS.**

21 (a) FINDINGS. Congress makes the following find-
22 ings:

23 (1) Arab Americans, Muslim Americans, and
24 Americans from South Asia play a vital role in our



1 Nation and are entitled to nothing less than the full
2 rights of every American.

3 (2) The acts of violence that have been taken
4 against Arab and Muslim Americans since the Sep-
5 tember 11, 2001, attacks against the United States
6 should be and are condemned by all Americans who
7 value freedom.

8 (3) The concept of individual responsibility for
9 wrongdoing is sacrosanct in American society, and
10 applies equally to all religious, racial, and ethnic
11 groups.

12 (4) When American citizens commit acts of vio-
13 lence against those who are, or are perceived to be,
14 of Arab or Muslim descent, they should be punished
15 to the full extent of the law.

16 (5) Muslim Americans have become so fearful
17 of harassment that many Muslim women are chang-
18 ing the way they dress to avoid becoming targets.

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



1 (b) SENSE OF CONGRESS. It is the sense of Con-
2 gress that

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

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

10 (3) the Nation is called upon to recognize the
11 patriotism of fellow citizens from all ethnic, racial,
12 and religious backgrounds.

13 **SEC. 103. INCREASED FUNDING FOR THE TECHNICAL SUP-**
14 **PORT CENTER AT THE FEDERAL BUREAU OF**
15 **INVESTIGATION.**

16 There are authorized to be appropriated for the Tech-
17 nical Support Center established in section 811 of the
18 Antiterrorism and Effective Death Penalty Act of 1996
19 (Public Law 104 132) to help meet the demands for ac-
20 tivities to combat terrorism and support and enhance the
21 technical support and tactical operations of the FBI,
22 \$200,000,000 for each of the fiscal years 2002, 2003, and
23 2004.



1 **SEC. 104. REQUESTS FOR MILITARY ASSISTANCE TO EN-**
2 **FORCE PROHIBITION IN CERTAIN EMER-**
3 **GENCIES.**

4 Section 2332e of title 18, United States Code, is
5 amended

6 (1) by striking “2332e” and inserting “2332a”;

7 and

8 (2) by striking “chemical”.

9 **SEC. 105. EXPANSION OF NATIONAL ELECTRONIC CRIME**
10 **TASK FORCE INITIATIVE.**

11 The Director of the United States Secret Service
12 shall take appropriate actions to develop a national net-
13 work of electronic crime task forces, based on the New
14 York Electronic Crimes Task Force model, throughout the
15 United States, for the purpose of preventing, detecting,
16 and investigating various forms of electronic crimes, in-
17 cluding potential terrorist attacks against critical infra-
18 structure and financial payment systems.

19 **SEC. 106. PRESIDENTIAL AUTHORITY.**

20 Section 203 of the International Emergency Powers
21 Act (50 U.S.C. 1702) is amended

22 (1) in subsection (a)(1)

23 (A) at the end of subparagraph (A) (flush
24 to that subparagraph), by striking “; and” and
25 inserting a comma and the following:



1 “by any person, or with respect to any property,
2 subject to the jurisdiction of the United States;”;

3 (B) in subparagraph (B)

4 (i) by inserting “, block during the
5 pendency of an investigation” after “invest-
6 tigate”; and

7 (ii) by striking “interest;” and insert-
8 ing “interest by any person, or with re-
9 spect to any property, subject to the juris-
10 diction of the United States; and”;

11 (C) by striking “by any person, or with re-
12 spect to any property, subject to the jurisdiction
13 of the United States;” and

14 (D) by inserting at the end the following:

15 “(C) when the United States is engaged in
16 armed hostilities or has been attacked by a for-
17 eign country or foreign nationals, confiscate any
18 property, subject to the jurisdiction of the
19 United States, of any foreign person, foreign
20 organization, or foreign country that he deter-
21 mines has planned, authorized, aided, or en-
22 gaged in such hostilities or attacks against the
23 United States; and all right, title, and interest
24 in any property so confiscated shall vest, when,
25 as, and upon the terms directed by the Presi-



1 dent, in such agency or person as the President
2 may designate from time to time, and upon
3 such terms and conditions as the President may
4 prescribe, such interest or property shall be
5 held, used, administered, liquidated, sold, or
6 otherwise dealt with in the interest of and for
7 the benefit of the United States, and such des-
8 ignated agency or person may perform any and
9 all acts incident to the accomplishment or fur-
10 therance of these purposes.”; and

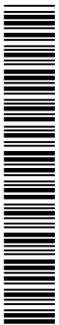
11 (2) by inserting at the end the following:

12 “(c) CLASSIFIED INFORMATION. In any judicial re-
13 view of a determination made under this section, if the
14 determination was based on classified information (as de-
15 fined in section 1(a) of the Classified Information Proce-
16 dures Act) such information may be submitted to the re-
17 viewing court ex parte and in camera. This subsection does
18 not confer or imply any right to judicial review.”.

19 **TITLE II—ENHANCED**
20 **SURVEILLANCE PROCEDURES**

21 **SEC. 201. AUTHORITY TO INTERCEPT WIRE, ORAL, AND**
22 **ELECTRONIC COMMUNICATIONS RELATING**
23 **TO TERRORISM.**

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



1 (1) by redesignating paragraph (p), as so rededesignated 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
3
4
5 (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:

6
7
8
9
10 “(q) any criminal violation of section 229 (relating to chemical weapons); or sections 2332, 2332a, 2332b, 2332d, 2339A, or 2339B of this title (relating to terrorism); or”.

11
12
13
14 **SEC. 202. AUTHORITY TO INTERCEPT WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS RELATING TO COMPUTER FRAUD AND ABUSE OFFENSES.**

15
16
17
18 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),”.



1 **SEC. 203. AUTHORITY TO SHARE CRIMINAL INVESTIGATIVE**
2 **INFORMATION.**

3 (a) **AUTHORITY TO SHARE GRAND JURY INFORMA-**
4 **TION.**

5 (1) **IN GENERAL.** Rule 6(e)(3)(C) of the Fed-
6 eral Rules of Criminal Procedure is amended

7 (A) in clause (iii), by striking “or” at the
8 end;

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

11 (C) by inserting at the end the following:

12 “(v) when the matters involve foreign
13 intelligence or counterintelligence (as de-
14 fined in section 3 of the National Security
15 Act of 1947 (50 U.S.C. 401a)), or foreign
16 intelligence information (as defined in Rule
17 6(e)(3)(C)(ii)), to any other Federal law
18 enforcement, intelligence, protective, immi-
19 gration, national defense, or national secu-
20 rity official in order to assist the official
21 receiving that information in the perform-
22 ance of his official duties. Within a reason-
23 able time after such disclosure, an attorney
24 for the government shall file under seal a
25 notice with the court stating the fact that
26 such information was disclosed and the de-



1 partments, agencies, or entities to which
2 the disclosure was made.

3 Any Federal official who receives information
4 pursuant to clause (v) may use that information
5 only as necessary in the conduct of that per-
6 son's official duties subject to any limitations
7 on the unauthorized disclosure of such informa-
8 tion.”.

9 (2) DEFINITION. Rule 6(e)(3)(C) of the Fed-
10 eral Rules of Criminal Procedure, as amended by
11 paragraph (1), is amended by

12 (A) inserting “(i)” after “(C)”;

13 (B) redesignating clauses (i) through (v)
14 as subclauses (I) through (V), respectively; and

15 (C) inserting at the end the following:

16 “(ii) In this subparagraph, the term ‘for-
17 eign intelligence information’ means

18 “(I) information, whether or not con-
19 cerning a United States person, that re-
20 lates to the ability of the United States to
21 protect against

22 “(aa) actual or potential attack
23 or other grave hostile acts of a foreign
24 power or an agent of a foreign power;



1 “(bb) sabotage or international
2 terrorism by a foreign power or an
3 agent of a foreign power; or

4 “(cc) clandestine intelligence ac-
5 tivities by an intelligence service or
6 network of a foreign power or by an
7 agent of a foreign power; or

8 “(II) information, whether or not con-
9 cerning a United States person, with re-
10 spect to a foreign power or foreign terri-
11 tory that relates to

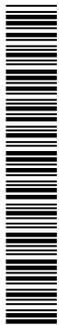
12 “(aa) the national defense or the
13 security of the United States; or

14 “(bb) the conduct of the foreign
15 affairs of the United States.”.

16 (b) AUTHORITY TO SHARE ELECTRONIC, WIRE, AND
17 ORAL INTERCEPTION INFORMATION.

18 (1) LAW ENFORCEMENT. Section 2517 of title
19 18, United States Code, is amended by inserting at
20 the end the following:

21 “(6) Any investigative or law enforcement officer, or
22 attorney for the Government, who by any means author-
23 ized by this chapter, has obtained knowledge of the con-
24 tents of any wire, oral, or electronic communication, or
25 evidence derived therefrom, may disclose such contents to



1 any other Federal law enforcement, intelligence, protec-
2 tive, immigration, national defense, or national security of-
3 ficial to the extent that such contents include foreign intel-
4 ligence or counterintelligence (as defined in section 3 of
5 the National Security Act of 1947 (50 U.S.C. 401a)), or
6 foreign intelligence information (as defined in subsection
7 (19) of section 2510 of this title), to assist the official
8 who is to receive that information in the performance of
9 his official duties. Any Federal official who receives infor-
10 mation pursuant to this provision may use that informa-
11 tion only as necessary in the conduct of that person's offi-
12 cial duties subject to any limitations on the unauthorized
13 disclosure of such information.”.

14 (2) DEFINITION. Section 2510 of title 18,
15 United States Code, is amended by

16 (A) in paragraph (17), by striking “and”
17 after the semicolon;

18 (B) in paragraph (18), by striking the pe-
19 riod and inserting “; and”; and

20 (C) by inserting at the end the following:

21 “(19) ‘foreign intelligence information’ means

22 “(A) information, whether or not con-
23 cerning a United States person, that relates to
24 the ability of the United States to protect
25 against



1 “(i) actual or potential attack or other
2 grave hostile acts of a foreign power or an
3 agent of a foreign power;

4 “(ii) sabotage or international ter-
5 rorism by a foreign power or an agent of
6 a foreign power; or

7 “(iii) clandestine intelligence activities
8 by an intelligence service or network of a
9 foreign power or by an agent of a foreign
10 power; or

11 “(B) information, whether or not con-
12 cerning a United States person, with respect to
13 a foreign power or foreign territory that relates
14 to

15 “(i) the national defense or the secu-
16 rity of the United States; or

17 “(ii) the conduct of the foreign affairs
18 of the United States.”.

19 (c) PROCEDURES. The Attorney General shall es-
20 tablish procedures for the disclosure of information pursu-
21 ant to section 2517(6) and Rule 6(e)(3)(C)(i)(V) of the
22 Federal Rules of Criminal Procedure that identifies a
23 United States person, as defined in section 101 of the For-
24 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
25 1801)).



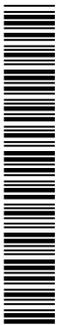
1 (d) FOREIGN INTELLIGENCE INFORMATION.

2 (1) IN GENERAL. Notwithstanding any other
3 provision of law, it shall be lawful for foreign intel-
4 ligence or counterintelligence (as defined in section
5 3 of the National Security Act of 1947 (50 U.S.C.
6 401a)) or foreign intelligence information obtained
7 as part of a criminal investigation to be disclosed to
8 any Federal law enforcement, intelligence, protective,
9 immigration, national defense, or national security
10 official in order to assist the official receiving that
11 information in the performance of his official duties.
12 Any Federal official who receives information pursu-
13 ant to this provision may use that information only
14 as necessary in the conduct of that person's official
15 duties subject to any limitations on the unauthorized
16 disclosure of such information.

17 (2) DEFINITION. In this subsection, the term
18 "foreign intelligence information" means

19 (A) information, whether or not concerning
20 a United States person, that relates to the abil-
21 ity of the United States to protect against

22 (i) actual or potential attack or other
23 grave hostile acts of a foreign power or an
24 agent of a foreign power;



1 (ii) sabotage or international ter-
2 rorism by a foreign power or an agent of
3 a foreign power; or

4 (iii) clandestine intelligence activities
5 by an intelligence service or network of a
6 foreign power or by an agent of a foreign
7 power; or

8 (B) information, whether or not concerning
9 a United States person, with respect to a for-
10 eign power or foreign territory that relates to

11 (i) the national defense or the security
12 of the United States; or

13 (ii) the conduct of the foreign affairs
14 of the United States.

15 **SEC. 204. CLARIFICATION OF INTELLIGENCE EXCEPTIONS**
16 **FROM LIMITATIONS ON INTERCEPTION AND**
17 **DISCLOSURE OF WIRE, ORAL, AND ELEC-**
18 **TRONIC COMMUNICATIONS.**

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

21 (1) by striking “this chapter or chapter 121”
22 and inserting “this chapter or chapter 121 or 206
23 of this title”; and

24 (2) by striking “wire and oral” and inserting
25 “wire, oral, and electronic”.



1 **SEC. 205. EMPLOYMENT OF TRANSLATORS BY THE FED-**
2 **ERAL BUREAU OF INVESTIGATION.**

3 (a) **AUTHORITY.** The Director of the Federal Bu-
4 reau of Investigation is authorized to expedite the employ-
5 ment of personnel as translators to support
6 counterterrorism investigations and operations without re-
7 gard to applicable Federal personnel requirements and
8 limitations.

9 (b) **SECURITY REQUIREMENTS.** The Director of the
10 Federal Bureau of Investigation shall establish such secu-
11 rity requirements as are necessary for the personnel em-
12 ployed as translators under subsection (a).

13 (c) **REPORT.** The Attorney General shall report to
14 the Committees on the Judiciary of the House of Rep-
15 resentatives and the Senate on

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

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

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



1 **SEC. 206. ROVING SURVEILLANCE AUTHORITY UNDER THE**
2 **FOREIGN INTELLIGENCE SURVEILLANCE ACT**
3 **OF 1978.**

4 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
5 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
6 ed by inserting “, or in circumstances where the Court
7 finds that the actions of the target of the application may
8 have the effect of thwarting the identification of a speci-
9 fied person, such other persons,” after “specified person”.

10 **SEC. 207. DURATION OF FISA SURVEILLANCE OF NON-**
11 **UNITED STATES PERSONS WHO ARE AGENTS**
12 **OF A FOREIGN POWER.**

13 (a) DURATION .

14 (1) SURVEILLANCE. Section 105(e)(1) of the
15 Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1805(e)(1)) is amended by

17 (A) inserting “(A)” after “except that”;
18 and

19 (B) inserting before the period the fol-
20 lowing: “, and (B) an order under this Act for
21 a surveillance targeted against an agent of a
22 foreign power, as defined in section
23 101(b)(1)(A) may be for the period specified in
24 the application or for 120 days, whichever is
25 less”.



1 (2) PHYSICAL SEARCH. Section 304(d)(1) of the
2 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1824(d)(1)) is amended by

4 (A) striking “forty-five” and inserting “90”;

5 (B) inserting “(A)” after “except that”; and

6 (C) inserting before the period the following: “,
7 and (B) an order under this section for a physical
8 search targeted against an agent of a foreign power
9 as defined in section 101(b)(1)(A) may be for the
10 period specified in the application or for 120 days,
11 whichever is less”.

12 (b) EXTENSION.

13 (1) IN GENERAL. Section 105(d)(2) of the
14 Foreign Intelligence Surveillance Act of 1978 (50
15 U.S.C. 1805(d)(2)) is amended by

16 (A) inserting “(A)” after “except that”;

17 and

18 (B) inserting before the period the fol-
19 lowing: “, and (B) an extension of an order
20 under this Act for a surveillance targeted
21 against an agent of a foreign power as defined
22 in section 101(b)(1)(A) may be for a period not
23 to exceed 1 year”.

24 (2) DEFINED TERM. Section 304(d)(2) of the
25 Foreign Intelligence Surveillance Act of 1978 (50



1 U.S.C. 1824(d)(2) is amended by inserting after
2 “not a United States person,” the following: “or
3 against an agent of a foreign power as defined in
4 section 101(b)(1)(A),”.

5 **SEC. 208. DESIGNATION OF JUDGES.**

6 Section 103(a) of the Foreign Intelligence Surveil-
7 lance Act of 1978 (50 U.S.C. 1803(a)) is amended by

8 (1) striking “seven district court judges” and
9 inserting “11 district court judges”; and

10 (2) inserting “of whom no fewer than 3 shall
11 reside within 20 miles of the District of Columbia”
12 after “circuits”.

13 **SEC. 209. SEIZURE OF VOICE-MAIL MESSAGES PURSUANT**
14 **TO WARRANTS.**

15 Title 18, United States Code, is amended

16 (1) in section 2510

17 (A) in paragraph (1), by striking beginning
18 with “and such” and all that follows through
19 “communication”; and

20 (B) in paragraph (14), by inserting “wire
21 or” after “transmission of”; and

22 (2) in subsections (a) and (b) of section 2703

23 (A) by striking “CONTENTS OF ELEC-
24 TRONIC” and inserting “CONTENTS OF WIRE OR
25 ELECTRONIC” each place it appears;



1 (B) by striking “contents of an electronic”
2 and inserting “contents of a wire or electronic”
3 each place it appears; and

4 (C) by striking “any electronic” and in-
5 serting “any wire or electronic” each place it
6 appears.

7 **SEC. 210. SCOPE OF SUBPOENAS FOR RECORDS OF ELEC-**
8 **TRONIC COMMUNICATIONS.**

9 Section 2703(c)(2) of title 18, United States Code,
10 as redesignated by section 212, is amended

11 (1) by striking “entity the name, address, local
12 and long distance telephone toll billing records, tele-
13 phone number or other subscriber number or iden-
14 tity, and length of service of a subscriber” and in-
15 serting the following: “entity the

16 “(A) name;

17 “(B) address;

18 “(C) local and long distance telephone connec-
19 tion records, or records of session times and dura-
20 tions;

21 “(D) length of service (including start date)
22 and types of service utilized;

23 “(E) telephone or instrument number or other
24 subscriber number or identity, including any tempo-
25 rarily assigned network address; and



1 “(F) means and source of payment (including
2 any credit card or bank account number),
3 of a subscriber”; and

4 (2) by striking “and the types of services the
5 subscriber or customer utilized,”.

6 **SEC. 211. CLARIFICATION OF SCOPE.**

7 Section 631 of the Communications Act of 1934 (47
8 U.S.C. 551) is amended

9 (1) in subsection (c)(2)

10 (A) in subparagraph (B), by striking “or”;

11 (B) in subparagraph (C), by striking the
12 period at the end and inserting “; or”; and

13 (C) by inserting at the end the following:

14 “(D) to a government entity as authorized
15 under chapters 119, 121, or 206 of title 18, United
16 States Code, except that such disclosure shall not in-
17 clude records revealing cable subscriber selection of
18 video programming from a cable operator.”; and

19 (2) in subsection (h), by striking “A govern-
20 mental entity” and inserting “Except as provided in
21 subsection (c)(2)(D), a governmental entity”.

22 **SEC. 212. EMERGENCY DISCLOSURE OF ELECTRONIC COM-**
23 **MUNICATIONS TO PROTECT LIFE AND LIMB.**

24 (a) DISCLOSURE OF CONTENTS.



1 (1) IN GENERAL. Section 2702 of title 18,
2 United States Code, is amended

3 (A) by striking the section heading and in-
4 serting the following:

5 **“§ 2702. Voluntary disclosure of customer commu-
6 nications or records”;**

7 (B) in subsection (a)

8 (i) in paragraph (2)(A), by striking
9 “and” at the end;

10 (ii) in paragraph (2)(B), by striking
11 the period and inserting “; and”; and

12 (iii) by inserting after paragraph (2)
13 the following:

14 “(3) a provider of remote computing service or
15 electronic communication service to the public shall
16 not knowingly divulge a record or other information
17 pertaining to a subscriber to or customer of such
18 service (not including the contents of communica-
19 tions covered by paragraph (1) or (2)) to any gov-
20 ernmental entity.”;

21 (C) in subsection (b), by striking “EXCEP-
22 TIONS. A person or entity” and inserting “EX-
23 CEPTIONS FOR DISCLOSURE OF COMMUNICA-
24 TIONS. A provider described in subsection
25 (a)”;



1 (D) in subsection (b)(6)
2 (i) in subparagraph (A)(ii), by strik-
3 ing “or”;
4 (ii) in subparagraph (B), by striking
5 the period and inserting “; or”; and
6 (iii) by adding after subparagraph (B)
7 the following:
8 “(C) if the provider reasonably believes
9 that an emergency involving immediate danger
10 of death or serious physical injury to any per-
11 son requires disclosure of the information with-
12 out delay.”; and
13 (E) by inserting after subsection (b) the
14 following:
15 “(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER
16 RECORDS. A provider described in subsection (a) may di-
17 vulge a record or other information pertaining to a sub-
18 scriber to or customer of such service (not including the
19 contents of communications covered by subsection (a)(1)
20 or (a)(2))
21 “(1) as otherwise authorized in section 2703;
22 “(2) with the lawful consent of the customer or
23 subscriber;



1 “(3) as may be necessarily incident to the ren-
2 dition of the service or to the protection of the rights
3 or property of the provider of that service;

4 “(4) to a governmental entity, if the provider
5 reasonably believes that an emergency involving im-
6 mediate danger of death or serious physical injury to
7 any person justifies disclosure of the information; or

8 “(5) to any person other than a governmental
9 entity.”.

10 (2) TECHNICAL AND CONFORMING AMEND-
11 MENT. The table of sections for chapter 121 of
12 title 18, United States Code, is amended by striking
13 the item relating to section 2702 and inserting the
14 following:

“2702. Voluntary disclosure of customer communications or records.”.

15 (b) REQUIREMENTS FOR GOVERNMENT ACCESS.

16 (1) IN GENERAL. Section 2703 of title 18,
17 United States Code, is amended

18 (A) by striking the section heading and in-
19 serting the following:

20 **“§ 2703. Required disclosure of customer communica-
21 tions or records”;**

22 (B) in subsection (c) by redesignating
23 paragraph (2) as paragraph (3);

24 (C) in subsection (c)(1)



1 (i) by striking “(A) Except as pro-
2 vided in subparagraph (B), a provider of
3 electronic communication service or remote
4 computing service may” and inserting “A
5 governmental entity may require a provider
6 of electronic communication service or re-
7 mote computing service to”;

8 (ii) by striking “covered by subsection
9 (a) or (b) of this section) to any person
10 other than a governmental entity.

11 “(B) A provider of electronic communica-
12 tion service or remote computing service shall
13 disclose a record or other information per-
14 taining to a subscriber to or customer of such
15 service (not including the contents of commu-
16 nications covered by subsection (a) or (b) of
17 this section) to a governmental entity” and in-
18 serting “)”;

19 (iii) by redesignating subparagraph
20 (C) as paragraph (2);

21 (iv) by redesignating clauses (i), (ii),
22 (iii), and (iv) as subparagraphs (A), (B),
23 (C), and (D), respectively;



1 (v) in subparagraph (D) (as redesignig-
2 nated) by striking the period and inserting
3 “; or”; and

4 (vi) by inserting after subparagraph
5 (D) (as redesignated) the following:

6 “(E) seeks information under paragraph
7 (2).”; and

8 (D) in paragraph (2) (as redesignated) by
9 striking “subparagraph (B)” and insert “para-
10 graph (1)”.

11 (2) TECHNICAL AND CONFORMING AMEND-
12 MENT. The table of sections for chapter 121 of
13 title 18, United States Code, is amended by striking
14 the item relating to section 2703 and inserting the
15 following:

“2703. Required disclosure of customer communications or records.”.

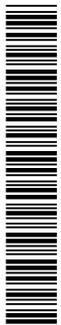
16 **SEC. 213. AUTHORITY FOR DELAYING NOTICE OF THE EXE-**
17 **CUTION OF A WARRANT.**

18 Section 3103a of title 18, United States Code, is
19 amended

20 (1) by inserting “(a) IN GENERAL. ” before
21 “In addition”; and

22 (2) by adding at the end the following:

23 “(b) DELAY. With respect to the issuance of any
24 warrant or court order under this section, or any other
25 rule of law, to search for and seize any property or mate-



1 rial that constitutes evidence of a criminal offense in viola-
2 tion of the laws of the United States, any notice required,
3 or that may be required, to be given may be delayed if

4 “(1) the court finds reasonable cause to believe
5 that providing immediate notification of the execu-
6 tion of the warrant may have an adverse result (as
7 defined in section 2705);

8 “(2) the warrant prohibits the seizure of any
9 tangible property, any wire or electronic communica-
10 tion (as defined in section 2510), or, except as ex-
11 pressly provided in chapter 121, any stored wire or
12 electronic information, except where the court finds
13 reasonable necessity for the seizure; and

14 “(3) the warrant provides for the giving of such
15 notice within a reasonable period of its execution,
16 which period may thereafter be extended by the
17 court for good cause shown.”.

18 **SEC. 214. PEN REGISTER AND TRAP AND TRACE AUTHOR-**
19 **ITY UNDER FISA.**

20 (a) APPLICATIONS AND ORDERS. Section 402 of the
21 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
22 1842) is amended

23 (1) in subsection (a)(1), by striking “for any in-
24 vestigation to gather foreign intelligence information
25 or information concerning international terrorism”



1 and inserting “for any investigation to protect
2 against international terrorism or clandestine intel-
3 ligence activities, provided that such investigation of
4 a United States person is not conducted solely upon
5 the basis of activities protected by the first amend-
6 ment to the Constitution”;

7 (2) by amending subsection (c)(2) to read as
8 follows:

9 “(2) a certification by the applicant that the in-
10 formation likely to be obtained is relevant to an on-
11 going investigation to protect against international
12 terrorism or clandestine intelligence activities, pro-
13 vided that such investigation of a United States per-
14 son is not conducted solely upon the basis of activi-
15 ties protected by the first amendment to the Con-
16 stitution.”;

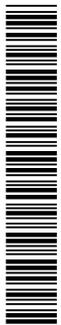
17 (3) by striking subsection (c)(3); and

18 (4) by amending subsection (d)(2)(A) to read
19 as follows:

20 “(A) shall specify

21 “(i) the identity, if known, of the per-
22 son who is the subject of the investigation;

23 “(ii) the identity, if known, of the per-
24 son to whom is leased or in whose name is
25 listed the telephone line or other facility to



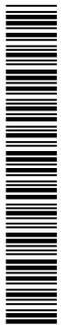
1 which the pen register or trap and trace
2 device is to be attached or applied;

3 “(iii) the attributes of the communica-
4 tions to which the order applies, such as
5 the number or other identifier, and, if
6 known, the location of the telephone line or
7 other facility to which the pen register or
8 trap and trace device is to be attached or
9 applied and, in the case of a trap and trace
10 device, the geographic limits of the trap
11 and trace order.”.

12 (b) AUTHORIZATION DURING EMERGENCIES. Sec-
13 tion 403 of the Foreign Intelligence Surveillance Act of
14 1978 (50 U.S.C. 1843) is amended

15 (1) in subsection (a), by striking “foreign intel-
16 ligence information or information concerning inter-
17 national terrorism” and inserting “information to
18 protect against international terrorism or clandestine
19 intelligence activities, provided that such investiga-
20 tion of a United States person is not conducted sole-
21 ly upon the basis of activities protected by the first
22 amendment to the Constitution”; and

23 (2) in subsection (b)(1), by striking “foreign in-
24 telligence information or information concerning
25 international terrorism” and inserting “information



1 to protect against international terrorism or clandestine
2 intelligence activities, provided that such investigation
3 of a United States person is not conducted
4 solely upon the basis of activities protected by the
5 first amendment to the Constitution”.

6 **SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER**
7 **THE FOREIGN INTELLIGENCE SURVEIL-**
8 **LANCE ACT.**

9 Title V of the Foreign Intelligence Surveillance Act
10 of 1978 (50 U.S.C. 1861 et seq.) is amended by striking
11 sections 501 through 503 and inserting the following:

12 **“SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR**
13 **FOREIGN INTELLIGENCE AND INTER-**
14 **NATIONAL TERRORISM INVESTIGATIONS.**

15 “(a)(1) The Director of the Federal Bureau of Inves-
16 tigation or a designee of the Director (whose rank shall
17 be no lower than Assistant Special Agent in Charge) may
18 make an application for an order requiring the production
19 of any tangible things (including books, records, papers,
20 documents, and other items) for an investigation to pro-
21 tect against international terrorism or clandestine intel-
22 ligence activities, provided that such investigation of a
23 United States person is not conducted solely upon the
24 basis of activities protected by the first amendment to the
25 Constitution.



1 “(2) An investigation conducted under this section
2 shall

3 “(A) be conducted under guidelines approved by
4 the Attorney General under Executive Order 12333
5 (or a successor order); and

6 “(B) not be conducted of a United States per-
7 son solely upon the basis of activities protected by
8 the first amendment to the Constitution of the
9 United States.

10 “(b) Each application under this section

11 “(1) shall be made to

12 “(A) a judge of the court established by
13 section 103(a); or

14 “(B) a United States Magistrate Judge
15 under chapter 43 of title 28, United States
16 Code, who is publicly designated by the Chief
17 Justice of the United States to have the power
18 to hear applications and grant orders for the
19 production of tangible things under this section
20 on behalf of a judge of that court; and

21 “(2) shall specify that the records concerned
22 are sought for an authorized investigation conducted
23 in accordance with subsection (a)(2) to protect
24 against international terrorism or clandestine intel-
25 ligence activities.



1 “(c)(1) Upon an application made pursuant to this
2 section, the judge shall enter an ex parte order as re-
3 quested, or as modified, approving the release of records
4 if the judge finds that the application meets the require-
5 ments of this section.

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

9 “(d) No person shall disclose to any other person
10 (other than those persons necessary to produce the tan-
11 gible things under this section) that the Federal Bureau
12 of Investigation has sought or obtained tangible things
13 under this section.

14 “(e) A person who, in good faith, produces tangible
15 things under an order pursuant to this section shall not
16 be liable to any other person for such production. Such
17 production shall not be deemed to constitute a waiver of
18 any privilege in any other proceeding or context.

19 **“SEC. 502. CONGRESSIONAL OVERSIGHT.**

20 “(a) On a semiannual basis, the Attorney General
21 shall fully inform the Permanent Select Committee on In-
22 telligence of the House of Representatives and the Select
23 Committee on Intelligence of the Senate concerning all re-
24 quests for the production of tangible things under section
25 402.



1 “(b) On a semiannual basis, the Attorney General
2 shall provide to the Committees on the Judiciary of the
3 House of Representatives and the Senate a report setting
4 forth with respect to the preceding 6-month period

5 “(1) the total number of applications made for
6 orders approving requests for the production of tan-
7 gible things under section 402; and

8 “(2) the total number of such orders either
9 granted, modified, or denied.”.

10 **SEC. 216. MODIFICATION OF AUTHORITIES RELATING TO**
11 **USE OF PEN REGISTERS AND TRAP AND**
12 **TRACE DEVICES.**

13 (a) GENERAL LIMITATIONS. Section 3121(e) of title
14 18, United States Code, is amended

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

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

19 (3) by striking “call processing” and inserting
20 “the processing and transmitting of wire or elec-
21 tronic communications so as not to include the con-
22 tents of any wire or electronic communications”.

23 (b) ISSUANCE OF ORDERS.

24 (1) IN GENERAL. Section 3123(a) of title 18,
25 United States Code, is amended to read as follows:



1 “(a) IN GENERAL.

2 “(1) ATTORNEY FOR THE GOVERNMENT.

3 Upon an application made under section 3122(a)(1),
4 the court shall enter an ex parte order authorizing
5 the installation and use of a pen register or trap and
6 trace device anywhere within the United States, if
7 the court finds that the attorney for the Government
8 has certified to the court that the information likely
9 to be obtained by such installation and use is rel-
10 evant to an ongoing criminal investigation. The
11 order, upon service of that order, shall apply to any
12 person or entity providing wire or electronic commu-
13 nication service in the United States whose assist-
14 ance may facilitate the execution of the order.
15 Whenever such an order is served on any person or
16 entity not specifically named in the order, upon re-
17 quest of such person or entity, the attorney for the
18 Government or law enforcement or investigative offi-
19 cer that is serving the order shall provide written or
20 electronic certification that the order applies to the
21 person or entity being served.

22 “(2) STATE INVESTIGATIVE OR LAW ENFORCE-
23 MENT OFFICER. Upon an application made under
24 section 3122(a)(2), the court shall enter an ex parte
25 order authorizing the installation and use of a pen



1 register or trap and trace device within the jurisdic-
2 tion of the court, if the court finds that the State
3 law enforcement or investigative officer has certified
4 to the court that the information likely to be ob-
5 tained by such installation and use is relevant to an
6 ongoing criminal investigation.

7 “(3)(A) Where the law enforcement agency im-
8 plementing an ex parte order under this subsection
9 seeks to do so by installing and using its own pen
10 register or trap and trace device on a packet-
11 switched data network of a provider of electronic
12 communication service to the public, the agency shall
13 ensure that a record will be maintained which will
14 identify

15 “(i) any officer or officers who installed
16 the device and any officer or officers who
17 accessed the device to obtain information from
18 the network;

19 “(ii) the date and time the device was in-
20 stalled, the date and time the device was
21 uninstalled, and the date, time, and duration of
22 each time the device is accessed to obtain infor-
23 mation;



1 “(iii) the configuration of the device at the
2 time of its installation and any subsequent
3 modification thereof; and

4 “(iv) any information which has been col-
5 lected by the device.

6 To the extent that the pen register or trap and trace
7 device can be set automatically to record this infor-
8 mation electronically, the record shall be maintained
9 electronically throughout the installation and use of
10 such device.

11 “(B) The record maintained under subpara-
12 graph (A) shall be provided ex parte and under seal
13 to the court which entered the ex parte order au-
14 thorizing the installation and use of the device with-
15 in 30 days after termination of the order (including
16 any extensions thereof).”.

17 (2) CONTENTS OF ORDER. Section 3123(b)(1)
18 of title 18, United States Code, is amended

19 (A) in subparagraph (A)

20 (i) by inserting “or other facility”
21 after “telephone line”; and

22 (ii) by inserting before the semicolon
23 at the end “or applied”; and

24 (B) by striking subparagraph (C) and in-
25 serting the following:



1 “(C) the attributes of the communications
2 to which the order applies, including the num-
3 ber or other identifier and, if known, the loca-
4 tion of the telephone line or other facility to
5 which the pen register or trap and trace device
6 is to be attached or applied, and, in the case of
7 an order authorizing installation and use of a
8 trap and trace device under subsection (a)(2),
9 the geographic limits of the order; and”.

10 (3) NONDISCLOSURE REQUIREMENTS. Section
11 3123(d)(2) of title 18, United States Code, is
12 amended

13 (A) by inserting “or other facility” after
14 “the line”; and

15 (B) by striking “, or who has been ordered
16 by the court” and inserting “or applied, or who
17 is obligated by the order”.

18 (c) DEFINITIONS.

19 (1) COURT OF COMPETENT JURISDICTION.
20 Section 3127(2) of title 18, United States Code, is
21 amended by striking subparagraph (A) and inserting
22 the following:

23 “(A) any district court of the United
24 States (including a magistrate judge of such a
25 court) or any United States court of appeals



1 having jurisdiction over the offense being inves-
2 tigated; or”.

3 (2) PEN REGISTER. Section 3127(3) of title
4 18, United States Code, is amended

5 (A) by striking “electronic or other im-
6 pulses” and all that follows through “is at-
7 tached” and inserting “dialing, routing, ad-
8 dressing, or signaling information transmitted
9 by an instrument or facility from which a wire
10 or electronic communication is transmitted, pro-
11 vided, however, that such information shall not
12 include the contents of any communication”;
13 and

14 (B) by inserting “or process” after “de-
15 vice” each place it appears.

16 (3) TRAP AND TRACE DEVICE. Section
17 3127(4) of title 18, United States Code, is
18 amended

19 (A) by striking “of an instrument” and all
20 that follows through the semicolon and insert-
21 ing “or other dialing, routing, addressing, and
22 signaling information reasonably likely to iden-
23 tify the source of a wire or electronic commu-
24 nication, provided, however, that such informa-



1 tion shall not include the contents of any com-
2 munication;” and

3 (B) by inserting “or process” after “a de-
4 vice”.

5 (4) CONFORMING AMENDMENT. Section
6 3127(1) of title 18, United States Code, is
7 amended

8 (A) by striking “and”; and

9 (B) by inserting “, and ‘contents’” after
10 “electronic communication service”.

11 (5) TECHNICAL AMENDMENT. Section 3124(d)
12 of title 18, United States Code, is amended by strik-
13 ing “the terms of”.

14 **SEC. 217. INTERCEPTION OF COMPUTER TRESPASSER COM-**
15 **MUNICATIONS.**

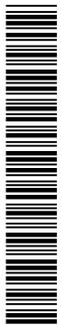
16 Chapter 119 of title 18, United States Code, is
17 amended

18 (1) in section 2510

19 (A) in paragraph (18), by striking “and”
20 at the end;

21 (B) in paragraph (19), by striking the pe-
22 riod and inserting a semicolon; and

23 (C) by inserting after paragraph (19) the
24 following:



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

3 “(21) ‘computer trespasser’

4 “(A) means a person who accesses a pro-
5 tected computer without authorization and thus
6 has no reasonable expectation of privacy in any
7 communication transmitted to, through, or from
8 the protected computer; and

9 “(B) does not include a person known by
10 the owner or operator of the protected computer
11 to have an existing contractual relationship with
12 the owner or operator of the protected computer
13 for access to all or part of the protected com-
14 puter.”; and

15 (2) in section 2511(2), by inserting at the end
16 the following:

17 “(i) It shall not be unlawful under this chapter for
18 a person acting under color of law to intercept the wire
19 or electronic communications of a computer trespasser
20 transmitted to, through, or from the protected computer,
21 if

22 “(I) the owner or operator of the protected
23 computer authorizes the interception of the com-
24 puter trespasser’s communications on the protected
25 computer;



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

3 “(III) the person acting under color of law has
4 reasonable grounds to believe that the contents of
5 the computer trespasser’s communications will be
6 relevant to the investigation; and

7 “(IV) such interception does not acquire com-
8 munications other than those transmitted to or from
9 the computer trespasser.”.

10 **SEC. 218. FOREIGN INTELLIGENCE INFORMATION.**

11 Sections 104(a)(7)(B) and section 303(a)(7)(B) (50
12 U.S.C. 1804(a)(7)(B) and 1823(a)(7)(B)) of the Foreign
13 Intelligence Surveillance Act of 1978 are each amended
14 by striking “the purpose” and inserting “a significant pur-
15 pose”.

16 **SEC. 219. SINGLE-JURISDICTION SEARCH WARRANTS FOR**
17 **TERRORISM.**

18 Rule 41(a) of the Federal Rules of Criminal Proce-
19 dure is amended by inserting after “executed” the fol-
20 lowing: “and (3) in an investigation of domestic terrorism
21 or international terrorism (as defined in section 2331 of
22 title 18, United States Code), by a Federal magistrate
23 judge in any district in which activities related to the ter-
24 rorism may have occurred, for a search of property or for
25 a person within or outside the district”.



1 **SEC. 220. NATIONWIDE SERVICE OF SEARCH WARRANTS**
2 **FOR ELECTRONIC EVIDENCE.**

3 Chapter 121 of title 18, United States Code, is
4 amended

5 (1) in section 2703, by striking “under the
6 Federal Rules of Criminal Procedure” every place it
7 appears and inserting “using the procedures de-
8 scribed in the Federal Rules of Criminal Procedure
9 by a court with jurisdiction over the offense under
10 investigation”; and

11 (2) in section 2711

12 (A) in paragraph (1), by striking “and”;

13 (B) in paragraph (2), by striking the pe-
14 riod and inserting “; and”; and

15 (C) by inserting at the end the following:

16 “(3) the term ‘court of competent jurisdiction’
17 has the meaning assigned by section 3127, and in-
18 cludes any Federal court within that definition,
19 without geographic limitation.”.

20 **SEC. 221. TRADE SANCTIONS.**

21 (a) IN GENERAL. The Trade Sanctions Reform and
22 Export Enhancement Act of 2000 (Public Law 106 387;
23 114 Stat. 1549A 67) is amended

24 (1) by amending section 904(2)(C) to read as
25 follows:



1 “(C) used to facilitate the design, develop-
2 ment, or production of chemical or biological
3 weapons, missiles, or weapons of mass destruc-
4 tion.”;

5 (2) in section 906(a)(1)

6 (A) by inserting “, the Taliban or the ter-
7 ritory of Afghanistan controlled by the
8 Taliban,” after “Cuba”; and

9 (B) by inserting “, or in the territory of
10 Afghanistan controlled by the Taliban,” after
11 “within such country”; and

12 (3) in section 906(a)(2), by inserting “, or to
13 any other entity in Syria or North Korea” after
14 “Korea”.

15 (b) APPLICATION OF THE TRADE SANCTIONS RE-
16 FORM AND EXPORT ENHANCEMENT ACT. Nothing in the
17 Trade Sanctions Reform and Export Enhancement Act of
18 2000 shall limit the application or scope of any law estab-
19 lishing criminal or civil penalties, including any executive
20 order or regulation promulgated pursuant to such laws (or
21 similar or successor laws), for the unlawful export of any
22 agricultural commodity, medicine, or medical device to

23 (1) a foreign organization, group, or person
24 designated pursuant to Executive Order 12947 of
25 June 25, 1995;



1 (2) a Foreign Terrorist Organization pursuant
2 to the Antiterrorism and Effective Death Penalty
3 Act of 1996 (Public Law 104 132);

4 (3) a foreign organization, group, or person
5 designated pursuant to Executive Order 13224 (Sep-
6 tember 23, 2001);

7 (4) any narcotics trafficking entity designated
8 pursuant to Executive Order 12978 (October 21,
9 1995) or the Foreign Narcotics Kingpin Designation
10 Act (Public Law 106 120); or

11 (5) any foreign organization, group, or persons
12 subject to any restriction for its involvement in
13 weapons of mass destruction or missile proliferation.

14 **SEC. 222. ASSISTANCE TO LAW ENFORCEMENT AGENCIES.**

15 Nothing in this Act shall impose any additional tech-
16 nical obligation or requirement on a provider of a wire or
17 electronic communication service or other person to fur-
18 nish facilities or technical assistance. A provider of a wire
19 or electronic communication service, landlord, custodian,
20 or other person who furnishes facilities or technical assist-
21 ance pursuant to section 216 shall be reasonably com-
22 pensated for such reasonable expenditures incurred in pro-
23 viding such facilities or assistance.



1 **SEC. 223. SUNSET.**

2 This title and the amendments made by this title
3 (other than sections 203(a), 203(c), 205, 208, 211, 213,
4 219, 221, and 222, and the amendments made by those
5 sections) shall cease to have any effect on December 31,
6 2006, other than with respect to any investigation that
7 began before that date.

8 **TITLE III—FINANCIAL**
9 **INFRASTRUCTURE**

10 **SEC. 301. LAUNDERING THE PROCEEDS OF TERRORISM.**

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

13 **SEC. 302. MATERIAL SUPPORT FOR TERRORISM.**

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

16 (1) in subsection (a), by adding at the end the
17 following “A violation of this section may be pros-
18 ecuted in any Federal judicial district in which the
19 underlying offense was committed, or in any other
20 Federal judicial district as provided by law.”; and

21 (2) in subsection (b), by striking “or other fi-
22 nancial securities” and inserting “or monetary in-
23 struments or financial securities”.



1 **SEC. 303. ASSETS OF TERRORIST ORGANIZATIONS.**

2 Section 981(a)(1) of title 18, United States Code, is
3 amended by inserting after subparagraph (F) the fol-
4 lowing:

5 “(G) All assets, foreign or domestic

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

14 “(ii) acquired or maintained by any person
15 for the purpose of supporting, planning, con-
16 ducting, or concealing an act of domestic ter-
17 rorism or international terrorism (as defined in
18 section 2331) against the United States, citi-
19 zens or residents of the United States, or their
20 property; or

21 “(iii) derived from, involved in, or used or
22 intended to be used to commit any act of do-
23 mestic terrorism or international terrorism (as
24 defined in section 2331) against the United
25 States, citizens or residents of the United
26 States, or their property.”.



1 **SEC. 304. TECHNICAL CLARIFICATION RELATING TO PROVI-**
2 **SION OF MATERIAL SUPPORT TO TER-**
3 **RORISM.**

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

7 **SEC. 305. EXTRATERRITORIAL JURISDICTION.**

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

10 “(h) Any person who, outside the jurisdiction of the
11 United States, engages in any act that, if committed with-
12 in the jurisdiction of the United States, would constitute
13 an offense under subsection (a) or (b) of this section, shall
14 be subject to the fines, penalties, imprisonment, and for-
15 feiture provided in this title if

16 “(1) the offense involves an access device
17 issued, owned, managed, or controlled by a financial
18 institution, account issuer, credit card system mem-
19 ber, or other entity within the jurisdiction of the
20 United States; and

21 “(2) the person transports, delivers, conveys,
22 transfers to or through, or otherwise stores, secrets,
23 or holds within the jurisdiction of the United States,
24 any article used to assist in the commission of the
25 offense or the proceeds of such offense or property
26 derived therefrom.”.



1 **TITLE IV—PROTECTING THE**
2 **BORDER**
3 **Subtitle A—Protecting the**
4 **Northern Border**

5 **SEC. 401. ENSURING ADEQUATE PERSONNEL ON THE**
6 **NORTHERN BORDER.**

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

11 **SEC. 402. NORTHERN BORDER PERSONNEL.**

12 There are authorized to be appropriated

13 (1) such sums as may be necessary to triple the
14 number of Border Patrol personnel (from the num-
15 ber authorized under current law), and the necessary
16 personnel and facilities to support such personnel, in
17 each State along the Northern Border;

18 (2) such sums as may be necessary to triple the
19 number of Customs Service personnel (from the
20 number authorized under current law), and the nec-
21 essary personnel and facilities to support such per-
22 sonnel, at ports of entry in each State along the
23 Northern Border;

24 (3) such sums as may be necessary to triple the
25 number of INS inspectors (from the number author-



1 ized on the date of enactment of this Act), and the
2 necessary personnel and facilities to support such
3 personnel, at ports of entry in each State along the
4 Northern Border; and

5 (4) an additional \$50,000,000 each to the Im-
6 migration and Naturalization Service and the United
7 States Customs Service for purposes of making im-
8 provements in technology for monitoring the North-
9 ern Border and acquiring additional equipment at
10 the Northern Border.

11 **SEC. 403. ACCESS BY THE DEPARTMENT OF STATE AND**
12 **THE INS TO CERTAIN IDENTIFYING INFORMA-**
13 **TION IN THE CRIMINAL HISTORY RECORDS**
14 **OF VISA APPLICANTS AND APPLICANTS FOR**
15 **ADMISSION TO THE UNITED STATES.**

16 (a) AMENDMENT OF THE IMMIGRATION AND NA-
17 TIONALITY ACT. Section 105 of the Immigration and
18 Nationality Act (8 U.S.C. 1105) is amended

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

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

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

24 (4) by adding at the end the following:



1 “(b)(1) The Attorney General and the Director of the
2 Federal Bureau of Investigation shall provide the Depart-
3 ment of State and the Service access to the criminal his-
4 tory record information contained in the National Crime
5 Information Center’s Interstate Identification Index
6 (NCIC-III), Wanted Persons File, and to any other files
7 maintained by the National Crime Information Center
8 that may be mutually agreed upon by the Attorney Gen-
9 eral and the agency receiving the access, for the purpose
10 of determining whether or not a visa applicant or appli-
11 cant for admission has a criminal history record indexed
12 in any such file.

13 “(2) Such access shall be provided by means of ex-
14 tracts of the records for placement in the automated visa
15 lookout or other appropriate database, and shall be pro-
16 vided without any fee or charge.

17 “(3) The Federal Bureau of Investigation shall pro-
18 vide periodic updates of the extracts at intervals mutually
19 agreed upon with the agency receiving the access. Upon
20 receipt of such updated extracts, the receiving agency shall
21 make corresponding updates to its database and destroy
22 previously provided extracts.

23 “(4) Access to an extract does not entitle the Depart-
24 ment of State to obtain the full content of the cor-
25 responding automated criminal history record. To obtain



1 the full content of a criminal history record, the Depart-
2 ment of State shall submit the applicant's fingerprints and
3 any appropriate fingerprint processing fee authorized by
4 law to the Criminal Justice Information Services Division
5 of the Federal Bureau of Investigation.

6 “(c) The provision of the extracts described in sub-
7 section (b) may be reconsidered by the Attorney General
8 and the receiving agency upon the development and de-
9 ployment of a more cost-effective and efficient means of
10 sharing the information.

11 “(d) For purposes of administering this section, the
12 Department of State shall, prior to receiving access to
13 NCIC data but not later than 4 months after the date
14 of enactment of this subsection, promulgate final
15 regulations

16 “(1) to implement procedures for the taking of
17 fingerprints; and

18 “(2) to establish the conditions for the use of
19 the information received from the Federal Bureau of
20 Investigation, in order

21 “(A) to limit the dissemination of such
22 information;

23 “(B) to ensure that such information is
24 used solely to determine whether or not to issue



1 a visa to an alien or to admit an alien to the
2 United States;

3 “(C) to ensure the security, confidentiality,
4 and destruction of such information; and

5 “(D) to protect any privacy rights of indi-
6 viduals who are subjects of such information.”.

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

12 (c) TECHNOLOGY STANDARD TO CONFIRM IDEN-
13 TITY.

14 (1) IN GENERAL. The Attorney General and
15 the Secretary of State jointly, through the National
16 Institute of Standards and Technology (NIST), and
17 in consultation with the Secretary of the Treasury
18 and other Federal law enforcement and intelligence
19 agencies the Attorney General or Secretary of State
20 deems appropriate, shall within 2 years after the
21 date of enactment of this section, develop and certify
22 a technology standard that can confirm the identity
23 of a person applying for a United States visa or
24 such person seeking to enter the United States pur-
25 suant to a visa.



1 (2) INTEGRATED. The technology standard de-
2 veloped pursuant to paragraph (1), shall be the tech-
3 nological basis for a cross-agency, cross-platform
4 electronic system that is a cost-effective, efficient,
5 fully integrated means to share law enforcement and
6 intelligence information necessary to confirm the
7 identity of such persons applying for a United States
8 visa or such person seeking to enter the United
9 States pursuant to a visa.

10 (3) ACCESSIBLE. The electronic system de-
11 scribed in paragraph (2), once implemented, shall be
12 readily and easily accessible to

13 (A) all consular officers responsible for the
14 issuance of visas;

15 (B) all Federal inspection agents at all
16 United States border inspection points; and

17 (C) all law enforcement and intelligence of-
18 ficers as determined by regulation to be respon-
19 sible for investigation or identification of aliens
20 admitted to the United States pursuant to a
21 visa.

22 (4) REPORT. Not later than 18 months after
23 the date of enactment of this Act, and every 2 years
24 thereafter, the Attorney General and the Secretary
25 of State shall jointly, in consultation with the Sec-



1 retary of Treasury, report to Congress describing
2 the development, implementation and efficacy of the
3 technology standard and electronic database system
4 described in this subsection.

5 (d) STATUTORY CONSTRUCTION. Nothing in this
6 section, or in any other law, shall be construed to limit
7 the authority of the Attorney General or the Director of
8 the Federal Bureau of Investigation to provide access to
9 the criminal history record information contained in the
10 National Crime Information Center's (NCIC) Interstate
11 Identification Index (NCIC-III), or to any other informa-
12 tion maintained by the NCIC, to any Federal agency or
13 officer authorized to enforce or administer the immigra-
14 tion laws of the United States, for the purpose of such
15 enforcement or administration, upon terms that are con-
16 sistent with the National Crime Prevention and Privacy
17 Compact Act of 1998 (subtitle A of title II of Public Law
18 105 251; 42 U.S.C. 14611 16) and section 552a of title
19 5, United States Code.

20 **SEC. 404. LIMITED AUTHORITY TO PAY OVERTIME.**

21 The matter under the headings "Immigration And
22 Naturalization Service: Salaries and Expenses, Enforce-
23 ment And Border Affairs" and "Immigration And Natu-
24 ralization Service: Salaries and Expenses, Citizenship And
25 Benefits, Immigration And Program Direction" in the De-



1 partment of Justice Appropriations Act, 2001 (as enacted
2 into law by Appendix B (H.R. 5548) of Public Law 106
3 553 (114 Stat. 2762A 58 to 2762A 59)) is amended by
4 striking the following each place it occurs: “*Provided*, That
5 none of the funds available to the Immigration and Natu-
6 ralization Service shall be available to pay any employee
7 overtime pay in an amount in excess of \$30,000 during
8 the calendar year beginning January 1, 2001:”.

9 **SEC. 405. REPORT ON THE INTEGRATED AUTOMATED FIN-**
10 **GERPRINT IDENTIFICATION SYSTEM FOR**
11 **POINTS OF ENTRY AND OVERSEAS CONSULAR**
12 **POSTS.**

13 (a) IN GENERAL. The Attorney General, in con-
14 sultation with the appropriate heads of other Federal
15 agencies, including the Secretary of State, Secretary of the
16 Treasury, and the Secretary of Transportation, shall re-
17 port to Congress on the feasibility of enhancing the Inte-
18 grated Automated Fingerprint Identification System
19 (IAFIS) of the Federal Bureau of Investigation and other
20 identification systems in order to better identify a person
21 who holds a foreign passport or a visa and may be wanted
22 in connection with a criminal investigation in the United
23 States or abroad, before the issuance of a visa to that per-
24 son or the entry or exit by that person from the United
25 States.



1 (b) AUTHORIZATION OF APPROPRIATIONS. There is
2 authorized to be appropriated not less than \$2,000,000
3 to carry out this section.

4 **Subtitle B—Enhanced Immigration**
5 **Provisions**

6 **SEC. 411. DEFINITIONS RELATING TO TERRORISM.**

7 (a) GROUNDS OF INADMISSIBILITY. Section
8 212(a)(3) of the Immigration and Nationality Act (8
9 U.S.C. 1182(a)(3)) is amended

10 (1) in subparagraph (B)

11 (A) in clause (i)

12 (i) by amending subclause (IV) to
13 read as follows:

14 “(IV) is a representative (as de-
15 fined in clause (v)) of

16 “(aa) a foreign terrorist or-
17 ganization, as designated by the
18 Secretary of State under section
19 219, or

20 “(bb) a political, social or
21 other similar group whose public
22 endorsement of acts of terrorist
23 activity the Secretary of State
24 has determined undermines



1 United States efforts to reduce or
2 eliminate terrorist activities,”;

3 (ii) in subclause (V), by inserting “or”
4 after “section 219,”; and

5 (iii) by adding at the end the fol-
6 lowing new subclauses:

7 “(VI) has used the alien’s posi-
8 tion of prominence within any country
9 to endorse or espouse terrorist activ-
10 ity, or to persuade others to support
11 terrorist activity or a terrorist organi-
12 zation, in a way that the Secretary of
13 State has determined undermines
14 United States efforts to reduce or
15 eliminate terrorist activities, or

16 “(VII) is the spouse or child of
17 an alien who is inadmissible under
18 this section, if the activity causing the
19 alien to be found inadmissible oc-
20 curred within the last 5 years,”;

21 (B) by redesignating clauses (ii), (iii), and
22 (iv) as clauses (iii), (iv), and (v), respectively;

23 (C) in clause (i)(II), by striking “clause
24 (iii)” and inserting “clause (iv)”;



1 (D) by inserting after clause (i) the fol-
2 lowing:

3 “(ii) EXCEPTION. Subclause (VII) of
4 clause (i) does not apply to a spouse or
5 child

6 “(I) who did not know or should
7 not reasonably have known of the ac-
8 tivity causing the alien to be found in-
9 admissible under this section; or

10 “(II) whom the consular officer
11 or Attorney General has reasonable
12 grounds to believe has renounced the
13 activity causing the alien to be found
14 inadmissible under this section.”;

15 (E) in clause (iii) (as redesignated by sub-
16 paragraph (B))

17 (i) by inserting “it had been” before
18 “committed in the United States”; and

19 (ii) in subclause (V)(b), by striking
20 “or firearm” and inserting “, firearm, or
21 other weapon or dangerous device”;

22 (F) by amending clause (iv) (as redesi-
23 gnated by subparagraph (B)) to read as follows:

24 “(iv) ENGAGE IN TERRORIST ACTIVITY
25 DEFINED. As used in this chapter, the



1 term 'engage in terrorist activity' means,
2 in an individual capacity or as a member
3 of an organization

4 “(I) to commit or to incite to
5 commit, under circumstances indi-
6 cating an intention to cause death or
7 serious bodily injury, a terrorist activ-
8 ity;

9 “(II) to prepare or plan a ter-
10 rorist activity;

11 “(III) to gather information on
12 potential targets for terrorist activity;

13 “(IV) to solicit funds or other
14 things of value for

15 “(aa) a terrorist activity;

16 “(bb) a terrorist organiza-
17 tion described in clauses (vi)(I)
18 or (vi)(II); or

19 “(cc) a terrorist organiza-
20 tion described in clause (vi)(III),
21 unless the solicitor can dem-
22 onstrate that he did not know,
23 and should not reasonably have
24 known, that the solicitation



1 would further the organization's
2 terrorist activity;
3 “(V) to solicit any individual
4 “(aa) to engage in conduct
5 otherwise described in this
6 clause;
7 “(bb) for membership in a
8 terrorist organization described
9 in clauses (vi)(I) or (vi)(II); or
10 “(cc) for membership in a
11 terrorist organization described
12 in clause (vi)(III), unless the so-
13 licitor can demonstrate that he
14 did not know, and should not
15 reasonably have known, that the
16 solicitation would further the or-
17 ganization's terrorist activity; or
18 “(VI) to commit an act that the
19 actor knows, or reasonably should
20 know, affords material support, in-
21 cluding a safe house, transportation,
22 communications, funds, transfer of
23 funds or other material financial ben-
24 efit, false documentation or identifica-
25 tion, weapons (including chemical, bi-



1 logical, or radiological weapons), ex-
2 plosives, or training
3 “*(aa)* for the commission of
4 a terrorist activity;
5 “*(bb)* to any individual who
6 the actor knows, or reasonably
7 should know, has committed or
8 plans to commit a terrorist activ-
9 ity;
10 “*(cc)* to a terrorist organiza-
11 tion described in clauses *(vi)*(I)
12 or *(vi)*(II); or
13 “*(dd)* to a terrorist organi-
14 zation described in clause
15 *(vi)*(III), unless the actor can
16 demonstrate that he did not
17 know, and should not reasonably
18 have known, that the act would
19 further the organization’s ter-
20 rorist activity.
21 This clause shall not apply to any ma-
22 terial support the alien afforded to an
23 organization or individual that has
24 committed terrorist activity, if the
25 Secretary of State, after consultation



1 with the Attorney General, or the At-
2 torney General, after consultation
3 with the Secretary of State, concludes
4 in his sole unreviewable discretion,
5 that this clause should not apply.”;
6 and

7 (G) by adding at the end the following new
8 clause:

9 “(vi) TERRORIST ORGANIZATION DE-
10 FINED. As used in clause (i)(VI) and
11 clause (iv), the term ‘terrorist organiza-
12 tion’ means an organization

13 “(I) designated under section
14 219;

15 “(II) otherwise designated, upon
16 publication in the Federal Register, by
17 the Secretary of State in consultation
18 with or upon the request of the Attor-
19 ney General, as a terrorist organiza-
20 tion, after finding that it engages in
21 the activities described in subclause
22 (I), (II), or (III) of clause (iv), or that
23 it provides material support to further
24 terrorist activity; or



1 “(III) that is a group of two or
2 more individuals, whether organized
3 or not, which engages in the activities
4 described in subclause (I), (II), or
5 (III) of clause (iv).”; and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(F) ASSOCIATION WITH TERRORIST ORGA-
9 NIZATIONS. Any alien who the Secretary of
10 State, after consultation with the Attorney Gen-
11 eral, or the Attorney General, after consultation
12 with the Secretary of State, determines has
13 been associated with a terrorist organization
14 and intends while in the United States to en-
15 gage solely, principally, or incidentally in activi-
16 ties that could endanger the welfare, safety, or
17 security of the United States is inadmissible.”.

18 (b) CONFORMING AMENDMENTS.

19 (1) Section 237(a)(4)(B) of the Immigration
20 and Nationality Act (8 U.S.C. 1227(a)(4)(B)) is
21 amended by striking “section 212(a)(3)(B)(iii)” and
22 inserting “section 212(a)(3)(B)(iv)”.

23 (2) Section 208(b)(2)(A)(v) of the Immigration
24 and Nationality Act (8 U.S.C. 1158(b)(2)(A)(v)) is



1 amended by striking “or (IV)” and inserting “(IV),
2 or (VI)”.

3 (c) RETROACTIVE APPLICATION OF AMENDMENTS.

4 (1) IN GENERAL. Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall take effect on the date of enact-
7 ment of this Act and shall apply to

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

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

13 (i) in removal proceedings on or after
14 such date (except for proceedings in which
15 there has been a final administrative deci-
16 sion before such date); or

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

19 (2) SPECIAL RULE FOR ALIENS IN EXCLUSION
20 OR DEPORTATION PROCEEDINGS. Notwithstanding
21 any other provision of law, sections 212(a)(3)(B)
22 and 237(a)(4)(B) of the Immigration and Nation-
23 ality Act, as amended by this Act, shall apply to all
24 aliens in exclusion or deportation proceedings on or
25 after the date of enactment of this Act (except for



1 proceedings in which there has been a final adminis-
2 trative decision before such date) as if such pro-
3 ceedings were removal proceedings.

4 (3) SPECIAL RULE FOR SECTION 219 ORGANIZA-
5 TIONS AND ORGANIZATIONS DESIGNATED UNDER
6 SECTION 212(a)(3)(B)(vi)(II).

7 (A) IN GENERAL. Notwithstanding para-
8 graphs (1) and (2), no alien shall be considered
9 inadmissible under section 212(a)(3) of the Im-
10 migration and Nationality Act (8 U.S.C.
11 1182(a)(3)), or deportable under section
12 237(a)(4)(B) of such Act (8 U.S.C.
13 1227(a)(4)(B)), by reason of the amendments
14 made by subsection (a), on the ground that the
15 alien engaged in a terrorist activity described in
16 subclause (IV)(bb), (V)(bb), or (VI)(cc) of sec-
17 tion 212(a)(3)(B)(iv) of such Act (as so amend-
18 ed) with respect to a group at any time when
19 the group was not a terrorist organization des-
20 ignated by the Secretary of State under section
21 219 of such Act (8 U.S.C. 1189) or otherwise
22 designated under section 212(a)(3)(B)(vi)(II).

23 (B) STATUTORY CONSTRUCTION. Sub-
24 paragraph (A) shall not be construed to prevent
25 an alien from being considered inadmissible or



1 deportable for having engaged in a terrorist
2 activity

3 (i) described in subclause (IV)(bb),
4 (V)(bb), or (VI)(cc) of section
5 212(a)(3)(B)(iv) of such Act (as so amend-
6 ed) with respect to a terrorist organization
7 at any time when such organization was
8 designated by the Secretary of State under
9 section 219 of such Act or otherwise des-
10 ignated under section 212(a)(3)(B)(vi)(II);
11 or

12 (ii) described in subclause (IV)(cc),
13 (V)(cc), or (VI)(dd) of section
14 212(a)(3)(B)(iv) of such Act (as so amend-
15 ed) with respect to a terrorist organization
16 described in section 212(a)(3)(B)(vi)(III).

17 (4) EXCEPTION. The Secretary of State, in
18 consultation with the Attorney General, may deter-
19 mine that the amendments made by this section
20 shall not apply with respect to actions by an alien
21 taken outside the United States before the date of
22 enactment of this Act upon the recommendation of
23 a consular officer who has concluded that there is
24 not reasonable ground to believe that the alien knew



1 or reasonably should have known that the actions
2 would further a terrorist activity.

3 (c) DESIGNATION OF FOREIGN TERRORIST ORGANI-
4 ZATIONS. Section 219(a) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1189(a)) is amended

6 (1) in paragraph (1)(B), by inserting “or ter-
7 rorism (as defined in section 140(d)(2) of the For-
8 eign Relations Authorization Act, Fiscal Years 1988
9 and 1989 (22 U.S.C. 2656f(d)(2)), or retains the ca-
10 pability and intent to engage in terrorist activity or
11 terrorism)” after “212(a)(3)(B)”;

12 (2) in paragraph (1)(C), by inserting “or ter-
13 rorism” after “terrorist activity”;

14 (3) by amending paragraph (2)(A) to read as
15 follows:

16 “(A) NOTICE.

17 “(i) TO CONGRESSIONAL LEADERS.

18 Seven days before making a designation
19 under this subsection, the Secretary shall,
20 by classified communication, notify the
21 Speaker and Minority Leader of the House
22 of Representatives, the President pro tem-
23 pore, Majority Leader, and Minority Lead-
24 er of the Senate, and the members of the
25 relevant committees, in writing, of the in-



1 tent to designate an organization under
2 this subsection, together with the findings
3 made under paragraph (1) with respect to
4 that organization, and the factual basis
5 therefor.

6 “(ii) PUBLICATION IN FEDERAL REG-
7 ISTER. The Secretary shall publish the
8 designation in the Federal Register seven
9 days after providing the notification under
10 clause (i).”;

11 (4) in paragraph (2)(B)(i), by striking “sub-
12 paragraph (A)” and inserting “subparagraph
13 (A)(ii)”;

14 (5) in paragraph (2)(C), by striking “paragraph
15 (2)” and inserting “paragraph (2)(A)(i)”;

16 (6) in paragraph (3)(B), by striking “sub-
17 section (c)” and inserting “subsection (b)”;

18 (7) in paragraph (4)(B), by inserting after the
19 first sentence the following: “The Secretary also may
20 redesignate such organization at the end of any 2-
21 year redesignation period (but not sooner than 60
22 days prior to the termination of such period) for an
23 additional 2-year period upon a finding that the rel-
24 evant circumstances described in paragraph (1) still
25 exist. Any redesignation shall be effective imme-



1 diately following the end of the prior 2-year designa-
2 tion or redesignation period unless a different effec-
3 tive date is provided in such redesignation.”;

4 (8) in paragraph (6)(A)

5 (A) by inserting “or a redesignation made
6 under paragraph (4)(B)” after “paragraph
7 (1)”;

8 (B) in clause (i)

9 (i) by inserting “or redesignation”
10 after “designation” the first place it ap-
11 pears; and

12 (ii) by striking “of the designation”;
13 and

14 (C) in clause (ii), by striking “of the des-
15 igation”;

16 (9) in paragraph (6)(B)

17 (A) by striking “through (4)” and insert-
18 ing “and (3)”;

19 (B) by inserting at the end the following
20 new sentence: “Any revocation shall take effect
21 on the date specified in the revocation or upon
22 publication in the Federal Register if no effec-
23 tive date is specified.”;



1 (10) in paragraph (7), by inserting “, or the
2 revocation of a redesignation under paragraph (6),”
3 after “paragraph (5) or (6)”; and

4 (11) in paragraph (8)

5 (A) by striking “paragraph (1)(B)” and
6 inserting “paragraph (2)(B), or if a redesigna-
7 tion under this subsection has become effective
8 under paragraph (4)(B)”;

9 (B) by inserting “or an alien in a removal
10 proceeding” after “criminal action”; and

11 (C) by inserting “or redesignation” before
12 “as a defense”.

13 **SEC. 412. MANDATORY DETENTION OF SUSPECTED TER-**
14 **RORISTS; HABEAS CORPUS; JUDICIAL RE-**
15 **VIEW.**

16 (a) IN GENERAL. The Immigration and Nationality
17 Act (8 U.S.C. 1101 et seq.) is amended by inserting after
18 section 236 the following:

19 “MANDATORY DETENTION OF SUSPECTED
20 TERRORISTS; HABEAS CORPUS; JUDICIAL REVIEW

21 “SEC. 236A. (a) DETENTION OF TERRORIST
22 ALIENS.

23 “(1) CUSTODY. The Attorney General shall
24 take into custody any alien who is certified under
25 paragraph (3).



1 “(2) RELEASE. Except as provided in para-
2 graphs (5) and (6), the Attorney General shall main-
3 tain custody of such an alien until the alien is re-
4 moved from the United States. Except as provided
5 in paragraph (6), such custody shall be maintained
6 irrespective of any relief from removal for which the
7 alien may be eligible, or any relief from removal
8 granted the alien, until the Attorney General deter-
9 mines that the alien is no longer an alien who may
10 be certified under paragraph (3).

11 “(3) CERTIFICATION. The Attorney General
12 may certify an alien under this paragraph if the At-
13 torney General has reasonable grounds to believe
14 that the alien

15 “(A) is described in section
16 212(a)(3)(A)(i), 212(a)(3)(A)(iii),
17 212(a)(3)(B), 237(a)(4)(A)(i),
18 237(a)(4)(A)(iii), or 237(a)(4)(B); or

19 “(B) is engaged in any other activity that
20 endangers the national security of the United
21 States.

22 “(4) NONDELEGATION. The Attorney General
23 may delegate the authority provided under para-
24 graph (3) only to the Commissioner. The Commis-
25 sioner may not delegate such authority.



1 “(5) COMMENCEMENT OF PROCEEDINGS. The
2 Attorney General shall place an alien detained under
3 paragraph (1) in removal proceedings, or shall
4 charge the alien with a criminal offense, not later
5 than 7 days after the commencement of such deten-
6 tion. If the requirement of the preceding sentence is
7 not satisfied, the Attorney General shall release the
8 alien.

9 “(6) LIMITATION ON INDEFINITE DETEN-
10 TION. An alien detained under paragraph (1) who
11 has not been removed under section 241(a)(1)(A),
12 and whose removal is unlikely in the reasonably fore-
13 seeable future, may be detained for additional peri-
14 ods of up to six months if the release of the alien
15 will not protect the national security of the United
16 States or adequately ensure the safety of the com-
17 munity or any person.

18 “(b) HABEAS CORPUS AND JUDICIAL REVIEW.

19 “(1) IN GENERAL. Judicial review of any ac-
20 tion or decision relating to this section (including ju-
21 dicial review of the merits of a determination made
22 under subsection (a)(3) or (a)(6)) is available exclu-
23 sively in habeas corpus proceedings consistent with
24 this subsection. Except as provided in the preceding
25 sentence, no court shall have jurisdiction to review,



1 by habeas corpus petition or otherwise, any such ac-
2 tion or decision.

3 “(2) APPLICATION.

4 “(A) IN GENERAL. Notwithstanding any
5 other provision of law, including section
6 2241(a) of title 28, United States Code, habeas
7 corpus proceedings described in paragraph (1)
8 may be initiated only by an application filed
9 with

10 “(i) the Supreme Court;

11 “(ii) any justice of the Supreme
12 Court;

13 “(iii) any circuit judge of the United
14 States Court of Appeals for the District of
15 Columbia Circuit; or

16 “(iv) any district court otherwise hav-
17 ing jurisdiction to entertain it.

18 “(B) APPLICATION TRANSFER. Section
19 2241(b) of title 28, United States Code, shall
20 apply to an application for a writ of habeas cor-
21 pus described in subparagraph (A).

22 “(3) APPEALS. Notwithstanding any other
23 provision of law, including section 2253 of title 28,
24 in habeas corpus proceedings described in paragraph
25 (1) before a circuit or district judge, the final order



1 shall be subject to review, on appeal, by the United
2 States Court of Appeals for the District of Columbia
3 Circuit. There shall be no right of appeal in such
4 proceedings to any other circuit court of appeals.

5 “(4) RULE OF DECISION. The law applied by
6 the Supreme Court and the United States Court of
7 Appeals for the District of Columbia Circuit shall be
8 regarded as the rule of decision in habeas corpus
9 proceedings described in paragraph (1).

10 “(c) STATUTORY CONSTRUCTION. The provisions of
11 this section shall not be applicable to any other provision
12 of the Immigration and Nationality Act.”.

13 (b) CLERICAL AMENDMENT. The table of contents
14 of the Immigration and Nationality Act is amended by in-
15 serting after the item relating to section 236 the following:

“Sec. 236A. Mandatory detention of suspected terrorist; habeas corpus; judicial
review.”.

16 (c) REPORTS. Not later than 6 months after the
17 date of the enactment of this Act, and every 6 months
18 thereafter, the Attorney General shall submit a report to
19 the Committee on the Judiciary of the House of Rep-
20 resentatives and the Committee on the Judiciary of the
21 Senate, with respect to the reporting period, on

22 (1) the number of aliens certified under section
23 236A(a)(3) of the Immigration and Nationality Act,
24 as added by subsection (a);



- 1 (2) the grounds for such certifications;
2 (3) the nationalities of the aliens so certified;
3 (4) the length of the detention for each alien so
4 certified; and
5 (5) the number of aliens so certified who
6 (A) were granted any form of relief from
7 removal;
8 (B) were removed;
9 (C) the Attorney General has determined
10 are no longer aliens who may be so certified; or
11 (D) were released from detention.

12 **SEC. 413. MULTILATERAL COOPERATION AGAINST TERROR-**
13 **ISTS.**

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

16 (1) by striking “except that in the discretion
17 of” and inserting the following: “except that

18 “(1) in the discretion of”; and

19 (2) by adding at the end the following:

20 “(2) the Secretary of State, in the Secretary’s
21 discretion and on the basis of reciprocity, may pro-
22 vide to a foreign government information in the De-
23 partment of State’s computerized visa lookout data-
24 base and, when necessary and appropriate, other



1 records covered by this section related to informa-
2 tion in the database

3 “(A) with regard to individual aliens, at
4 any time on a case-by-case basis for the pur-
5 pose of preventing, investigating, or punishing
6 acts that would constitute a crime in the United
7 States, including, but not limited to, terrorism
8 or trafficking in controlled substances, persons,
9 or illicit weapons; or

10 “(B) with regard to any or all aliens in the
11 database, pursuant to such conditions as the
12 Secretary of State shall establish in an agree-
13 ment with the foreign government in which that
14 government agrees to use such information and
15 records for the purposes described in subpara-
16 graph (A) or to deny visas to persons who
17 would be inadmissible to the United States.”.

18 **Subtitle C—Preservation of Immigra-**
19 **tion Benefits for Victims of**
20 **Terrorism**

21 **SEC. 421. SPECIAL IMMIGRANT STATUS.**

22 (a) IN GENERAL. For purposes of the Immigration
23 and Nationality Act (8 U.S.C. 1101 et seq.), the Attorney
24 General may provide an alien described in subsection (b)
25 with the status of a special immigrant under section



1 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the
2 alien

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

7 (2) is otherwise eligible to receive an immigrant
8 visa and is otherwise admissible to the United States
9 for permanent residence, except in determining such
10 admissibility, the grounds for inadmissibility speci-
11 fied in section 212(a)(4) of such Act (8 U.S.C.
12 1182(a)(4)) shall not apply.

13 (b) ALIENS DESCRIBED.

14 (1) PRINCIPAL ALIENS. An alien is described
15 in this subsection if

16 (A) the alien was the beneficiary of

17 (i) a petition that was filed with the
18 Attorney General on or before September
19 11, 2001

20 (I) under section 204 of the Im-
21 migration and Nationality Act (8
22 U.S.C. 1154) to classify the alien as
23 a family-sponsored immigrant under
24 section 203(a) of such Act (8 U.S.C.
25 1153(a)) or as an employment-based



1 immigrant under section 203(b) of
2 such Act (8 U.S.C. 1153(b)); or
3 (II) under section 214(d) (8
4 U.S.C. 1184(d)) of such Act to au-
5 thorize the issuance of a non-
6 immigrant visa to the alien under sec-
7 tion 101(a)(15)(K) of such Act (8
8 U.S.C. 1101(a)(15)(K)); or
9 (ii) an application for labor certifi-
10 cation under section 212(a)(5)(A) of such
11 Act (8 U.S.C. 1182(a)(5)(A)) that was
12 filed under regulations of the Secretary of
13 Labor on or before such date; and
14 (B) such petition or application was re-
15 voked or terminated (or otherwise rendered
16 null), either before or after its approval, due to
17 a specified terrorist activity that directly re-
18 sulted in
19 (i) the death or disability of the peti-
20 tioner, applicant, or alien beneficiary; or
21 (ii) loss of employment due to physical
22 damage to, or destruction of, the business
23 of the petitioner or applicant.
24 (2) SPOUSES AND CHILDREN.



1 (A) IN GENERAL. An alien is described in
2 this subsection if

3 (i) the alien was, on September 10,
4 2001, the spouse or child of a principal
5 alien described in paragraph (1); and

6 (ii) the alien
7 (I) is accompanying such prin-
8 cipal alien; or

9 (II) is following to join such prin-
10 cipal alien not later than September
11 11, 2003.

12 (B) CONSTRUCTION. For purposes of
13 construing the terms “accompanying” and “fol-
14 lowing to join” in subparagraph (A)(ii), any
15 death of a principal alien that is described in
16 paragraph (1)(B)(i) shall be disregarded.

17 (3) GRANDPARENTS OF ORPHANS. An alien is
18 described in this subsection if the alien is a grand-
19 parent of a child, both of whose parents died as a
20 direct result of a specified terrorist activity, if either
21 of such deceased parents was, on September 10,
22 2001, a citizen or national of the United States or
23 an alien lawfully admitted for permanent residence
24 in the United States.



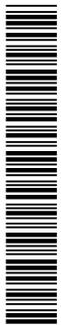
1 (c) PRIORITY DATE. Immigrant visas made avail-
2 able under this section shall be issued to aliens in the
3 order in which a petition on behalf of each such alien is
4 filed with the Attorney General under subsection (a)(1),
5 except that if an alien was assigned a priority date with
6 respect to a petition described in subsection (b)(1)(A)(i),
7 the alien may maintain that priority date.

8 (d) NUMERICAL LIMITATIONS. For purposes of the
9 application of sections 201 through 203 of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1151 1153) in any fis-
11 cal year, aliens eligible to be provided status under this
12 section shall be treated as special immigrants described
13 in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27))
14 who are not described in subparagraph (A), (B), (C), or
15 (K) of such section.

16 **SEC. 422. EXTENSION OF FILING OR REENTRY DEADLINES.**

17 (a) AUTOMATIC EXTENSION OF NONIMMIGRANT STA-
18 TUS.

19 (1) IN GENERAL. Notwithstanding section 214
20 of the Immigration and Nationality Act (8 U.S.C.
21 1184), in the case of an alien described in paragraph
22 (2) who was lawfully present in the United States as
23 a nonimmigrant on September 10, 2001, the alien
24 may remain lawfully in the United States in the
25 same nonimmigrant status until the later of



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

4 (B) 1 year after the death or onset of dis-
5 ability described in paragraph (2).

6 (2) ALIENS DESCRIBED.

7 (A) PRINCIPAL ALIENS. An alien is de-
8 scribed in this paragraph if the alien was dis-
9 abled as a direct result of a specified terrorist
10 activity.

11 (B) SPOUSES AND CHILDREN. An alien is
12 described in this paragraph if the alien was, on
13 September 10, 2001, the spouse or child of

14 (i) a principal alien described in sub-
15 paragraph (A); or

16 (ii) an alien who died as a direct re-
17 sult of a specified terrorist activity.

18 (3) AUTHORIZED EMPLOYMENT. During the
19 period in which a principal alien or alien spouse is
20 in lawful nonimmigrant status under paragraph (1),
21 the alien shall be provided an “employment author-
22 ized” endorsement or other appropriate document
23 signifying authorization of employment not later
24 than 30 days after the alien requests such authoriza-
25 tion.



1 (b) NEW DEADLINES FOR EXTENSION OR CHANGE
2 OF NONIMMIGRANT STATUS.

3 (1) FILING DELAYS. In the case of an alien
4 who was lawfully present in the United States as a
5 nonimmigrant on September 10, 2001, if the alien
6 was prevented from filing a timely application for an
7 extension or change of nonimmigrant status as a di-
8 rect result of a specified terrorist activity, the alien's
9 application shall be considered timely filed if it is
10 filed not later than 60 days after it otherwise would
11 have been due.

12 (2) DEPARTURE DELAYS. In the case of an
13 alien who was lawfully present in the United States
14 as a nonimmigrant on September 10, 2001, if the
15 alien is unable timely to depart the United States as
16 a direct result of a specified terrorist activity, the
17 alien shall not be considered to have been unlawfully
18 present in the United States during the period be-
19 ginning on September 11, 2001, and ending on the
20 date of the alien's departure, if such departure oc-
21 curs on or before November 11, 2001.

22 (3) SPECIAL RULE FOR ALIENS UNABLE TO RE-
23 TURN FROM ABROAD.

24 (A) PRINCIPAL ALIENS. In the case of an
25 alien who was in a lawful nonimmigrant status



1 on September 10, 2001, but who was not
2 present in the United States on such date, if
3 the alien was prevented from returning to the
4 United States in order to file a timely applica-
5 tion for an extension of nonimmigrant status as
6 a direct result of a specified terrorist activity

7 (i) the alien's application shall be con-
8 sidered timely filed if it is filed not later
9 than 60 days after it otherwise would have
10 been due; and

11 (ii) the alien's lawful nonimmigrant
12 status shall be considered to continue until
13 the later of

14 (I) the date such status otherwise
15 would have terminated if this sub-
16 paragraph had not been enacted; or

17 (II) the date that is 60 days
18 after the date on which the applica-
19 tion described in clause (i) otherwise
20 would have been due.

21 (B) SPOUSES AND CHILDREN. In the case
22 of an alien who is the spouse or child of a prin-
23 cipal alien described in subparagraph (A), if the
24 spouse or child was in a lawful nonimmigrant
25 status on September 10, 2001, the spouse or



1 child may remain lawfully in the United States
2 in the same nonimmigrant status until the later
3 of

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

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

12 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
13 TION.

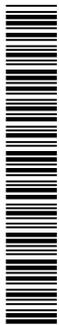
14 (A) FILING DELAYS. For purposes of
15 paragraph (1), circumstances preventing an
16 alien from timely acting are

17 (i) office closures;
18 (ii) mail or courier service cessations
19 or delays; and

20 (iii) other closures, cessations, or
21 delays affecting case processing or travel
22 necessary to satisfy legal requirements.

23 (B) DEPARTURE AND RETURN DELAYS.

24 For purposes of paragraphs (2) and (3), cir-



1 cumstances preventing an alien from timely act-
2 ing are

3 (i) office closures;

4 (ii) airline flight cessations or delays;

5 and

6 (iii) other closures, cessations, or
7 delays affecting case processing or travel
8 necessary to satisfy legal requirements.

9 (c) DIVERSITY IMMIGRANTS.

10 (1) WAIVER OF FISCAL YEAR LIMITATION.

11 Notwithstanding section 203(e)(2) of the Immigra-
12 tion and Nationality Act (8 U.S.C. 1153(e)(2)), an
13 immigrant visa number issued to an alien under sec-
14 tion 203(c) of such Act for fiscal year 2001 may be
15 used by the alien during the period beginning on Oc-
16 tober 1, 2001, and ending on April 1, 2002, if the
17 alien establishes that the alien was prevented from
18 using it during fiscal year 2001 as a direct result of
19 a specified terrorist activity.

20 (2) WORLDWIDE LEVEL. In the case of an
21 alien entering the United States as a lawful perma-
22 nent resident, or adjusting to that status, under
23 paragraph (1), the alien shall be counted as a diver-
24 sity immigrant for fiscal year 2001 for purposes of
25 section 201(e) of the Immigration and Nationality



1 Act (8 U.S.C. 1151(e)), unless the worldwide level
2 under such section for such year has been exceeded,
3 in which case the alien shall be counted as a diver-
4 sity immigrant for fiscal year 2002.

5 (3) TREATMENT OF FAMILY MEMBERS OF CER-
6 TAIN ALIENS. In the case of a principal alien
7 issued an immigrant visa number under section
8 203(c) of the Immigration and Nationality Act (8
9 U.S.C. 1153(c)) for fiscal year 2001, if such prin-
10 cipal alien died as a direct result of a specified ter-
11 rorist activity, the aliens who were, on September
12 10, 2001, the spouse and children of such principal
13 alien shall, if not otherwise entitled to an immigrant
14 status and the immediate issuance of a visa under
15 subsection (a), (b), or (c) of section 203 of such Act,
16 be entitled to the same status, and the same order
17 of consideration, that would have been provided to
18 such alien spouse or child under section 203(d) of
19 such Act if the principal alien were not deceased.

20 (4) CIRCUMSTANCES PREVENTING TIMELY AC-
21 TION. For purposes of paragraph (1), cir-
22 cumstances preventing an alien from using an immi-
23 grant visa number during fiscal year 2001 are

24 (A) office closures;



1 (B) mail or courier service cessations or
2 delays;

3 (C) airline flight cessations or delays; and

4 (D) other closures, cessations, or delays af-
5 fecting case processing or travel necessary to
6 satisfy legal requirements.

7 (d) EXTENSION OF EXPIRATION OF IMMIGRANT
8 VISAS.

9 (1) IN GENERAL. Notwithstanding the limita-
10 tions under section 221(c) of the Immigration and
11 Nationality Act (8 U.S.C. 1201(c)), in the case of
12 any immigrant visa issued to an alien that expires
13 or expired before December 31, 2001, if the alien
14 was unable to effect entry into the United States as
15 a direct result of a specified terrorist activity, then
16 the period of validity of the visa is extended until
17 December 31, 2001, unless a longer period of valid-
18 ity is otherwise provided under this subtitle.

19 (2) CIRCUMSTANCES PREVENTING ENTRY. For
20 purposes of this subsection, circumstances pre-
21 venting an alien from effecting entry into the United
22 States are

23 (A) office closures;

24 (B) airline flight cessations or delays; and



1 (C) other closures, cessations, or delays af-
2 fecting case processing or travel necessary to
3 satisfy legal requirements.

4 (e) GRANTS OF PAROLE EXTENDED.

5 (1) IN GENERAL. In the case of any parole
6 granted by the Attorney General under section
7 212(d)(5) of the Immigration and Nationality Act (8
8 U.S.C. 1182(d)(5)) that expires on a date on or
9 after September 11, 2001, if the alien beneficiary of
10 the parole was unable to return to the United States
11 prior to the expiration date as a direct result of a
12 specified terrorist activity, the parole is deemed ex-
13 tended for an additional 90 days.

14 (2) CIRCUMSTANCES PREVENTING RETURN.

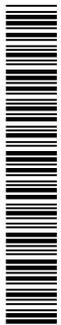
15 For purposes of this subsection, circumstances pre-
16 venting an alien from timely returning to the United
17 States are

18 (A) office closures;

19 (B) airline flight cessations or delays; and

20 (C) other closures, cessations, or delays af-
21 fecting case processing or travel necessary to
22 satisfy legal requirements.

23 (f) VOLUNTARY DEPARTURE. Notwithstanding sec-
24 tion 240B of the Immigration and Nationality Act (8
25 U.S.C. 1229c), if a period for voluntary departure under



1 such section expired during the period beginning on Sep-
2 tember 11, 2001, and ending on October 11, 2001, such
3 voluntary departure period is deemed extended for an ad-
4 ditional 30 days.

5 **SEC. 423. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING**
6 **SPOUSES AND CHILDREN.**

7 (a) TREATMENT AS IMMEDIATE RELATIVES.

8 (1) SPOUSES. Notwithstanding the second
9 sentence of section 201(b)(2)(A)(i) of the Immigra-
10 tion and Nationality Act (8 U.S.C.
11 1151(b)(2)(A)(i)), in the case of an alien who was
12 the spouse of a citizen of the United States at the
13 time of the citizen's death and was not legally sepa-
14 rated from the citizen at the time of the citizen's
15 death, if the citizen died as a direct result of a speci-
16 fied terrorist activity, the alien (and each child of
17 the alien) shall be considered, for purposes of section
18 201(b) of such Act, to remain an immediate relative
19 after the date of the citizen's death, but only if the
20 alien files a petition under section 204(a)(1)(A)(ii)
21 of such Act within 2 years after such date and only
22 until the date the alien remarries. For purposes of
23 such section 204(a)(1)(A)(ii), an alien granted relief
24 under the preceding sentence shall be considered an



1 alien spouse described in the second sentence of sec-
2 tion 201(b)(2)(A)(i) of such Act.

3 (2) CHILDREN.

4 (A) IN GENERAL. In the case of an alien
5 who was the child of a citizen of the United
6 States at the time of the citizen's death, if the
7 citizen died as a direct result of a specified ter-
8 rorist activity, the alien shall be considered, for
9 purposes of section 201(b) of the Immigration
10 and Nationality Act (8 U.S.C. 1151(b)), to re-
11 main an immediate relative after the date of the
12 citizen's death (regardless of changes in age or
13 marital status thereafter), but only if the alien
14 files a petition under subparagraph (B) within
15 2 years after such date.

16 (B) PETITIONS. An alien described in
17 subparagraph (A) may file a petition with the
18 Attorney General for classification of the alien
19 under section 201(b)(2)(A)(i) of the Immigra-
20 tion and Nationality Act (8 U.S.C.
21 1151(b)(2)(A)(i)). For purposes of such Act,
22 such a petition shall be considered a petition
23 filed under section 204(a)(1)(A) of such Act (8
24 U.S.C. 1154(a)(1)(A)).



1 (b) SPOUSES, CHILDREN, UNMARRIED SONS AND
2 DAUGHTERS OF LAWFUL PERMANENT RESIDENT
3 ALIENS.

4 (1) IN GENERAL. Any spouse, child, or unmar-
5 ried son or daughter of an alien described in para-
6 graph (3) who is included in a petition for classifica-
7 tion as a family-sponsored immigrant under section
8 203(a)(2) of the Immigration and Nationality Act (8
9 U.S.C. 1153(a)(2)) that was filed by such alien be-
10 fore September 11, 2001, shall be considered (if the
11 spouse, child, son, or daughter has not been admit-
12 ted or approved for lawful permanent residence by
13 such date) a valid petitioner for preference status
14 under such section with the same priority date as
15 that assigned prior to the death described in para-
16 graph (3)(A). No new petition shall be required to
17 be filed. Such spouse, child, son, or daughter may be
18 eligible for deferred action and work authorization.

19 (2) SELF-PETITIONS. Any spouse, child, or
20 unmarried son or daughter of an alien described in
21 paragraph (3) who is not a beneficiary of a petition
22 for classification as a family-sponsored immigrant
23 under section 203(a)(2) of the Immigration and Na-
24 tionality Act may file a petition for such classifica-
25 tion with the Attorney General, if the spouse, child,



1 son, or daughter was present in the United States
2 on September 11, 2001. Such spouse, child, son, or
3 daughter may be eligible for deferred action and
4 work authorization.

5 (3) ALIENS DESCRIBED. An alien is described
6 in this paragraph if the alien

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

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

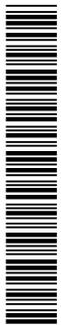
12 (c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY
13 SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-
14 BASED IMMIGRANTS.

15 (1) IN GENERAL. Any alien who was, on Sep-
16 tember 10, 2001, the spouse or child of an alien de-
17 scribed in paragraph (2), and who applied for ad-
18 justment of status prior to the death described in
19 paragraph (2)(A), may have such application adju-
20 dicated as if such death had not occurred.

21 (2) ALIENS DESCRIBED. An alien is described
22 in this paragraph if the alien

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

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



1 (i) an alien lawfully admitted for per-
2 manent residence in the United States by
3 reason of having been allotted a visa under
4 section 203(b) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1153(b)); or

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

10 (d) WAIVER OF PUBLIC CHARGE GROUNDS. In de-
11 termining the admissibility of any alien accorded an immi-
12 gration benefit under this section, the grounds for inad-
13 missibility specified in section 212(a)(4) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1182(a)(4)) shall not
15 apply.

16 **SEC. 424. "AGE-OUT" PROTECTION FOR CHILDREN.**

17 For purposes of the administration of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1101 et seq.), in the
19 case of an alien

20 (1) whose 21st birthday occurs in September
21 2001, and who is the beneficiary of a petition or ap-
22 plication filed under such Act on or before Sep-
23 tember 11, 2001, the alien shall be considered to be
24 a child for 90 days after the alien's 21st birthday



1 for purposes of adjudicating such petition or applica-
2 tion; and

3 (2) whose 21st birthday occurs after September
4 2001, and who is the beneficiary of a petition or ap-
5 plication filed under such Act on or before Sep-
6 tember 11, 2001, the alien shall be considered to be
7 a child for 45 days after the alien's 21st birthday
8 for purposes of adjudicating such petition or applica-
9 tion.

10 **SEC. 425. TEMPORARY ADMINISTRATIVE RELIEF.**

11 The Attorney General, for humanitarian purposes or
12 to ensure family unity, may provide temporary administra-
13 tive relief to any alien who

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

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

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

21 **SEC. 426. EVIDENCE OF DEATH, DISABILITY, OR LOSS OF**
22 **EMPLOYMENT.**

23 (a) IN GENERAL. The Attorney General shall estab-
24 lish appropriate standards for evidence demonstrating, for



1 purposes of this subtitle, that any of the following oc-
2 curred as a direct result of a specified terrorist activity:

3 (1) Death.

4 (2) Disability.

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

7 (b) WAIVER OF REGULATIONS. The Attorney Gen-
8 eral shall carry out subsection (a) as expeditiously as pos-
9 sible. The Attorney General is not required to promulgate
10 regulations prior to implementing this subtitle.

11 **SEC. 427. NO BENEFITS TO TERRORISTS OR FAMILY MEM-**
12 **BERS OF TERRORISTS.**

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

16 (1) any individual culpable for a specified ter-
17 rorist activity; or

18 (2) any family member of any individual de-
19 scribed in paragraph (1).

20 **SEC. 428. DEFINITIONS.**

21 (a) APPLICATION OF IMMIGRATION AND NATION-
22 ALITY ACT PROVISIONS. Except as otherwise specifically
23 provided in this subtitle, the definitions used in the Immi-
24 gration and Nationality Act (excluding the definitions ap-



1 plicable exclusively to title III of such Act) shall apply in
2 the administration of this subtitle.

3 (b) SPECIFIED TERRORIST ACTIVITY. For purposes
4 of this subtitle, the term “specified terrorist activity”
5 means any terrorist activity conducted against the Govern-
6 ment or the people of the United States on September 11,
7 2001.

8 **TITLE V—REMOVING OBSTA-**
9 **CLES TO INVESTIGATING**
10 **TERRORISM**

11 **SEC. 501. ATTORNEY GENERAL’S AUTHORITY TO PAY RE-**
12 **WARDS TO COMBAT TERRORISM.**

13 (a) PAYMENT OF REWARDS TO COMBAT TER-
14 RORISM. Funds available to the Attorney General may
15 be used for the payment of rewards pursuant to public
16 advertisements for assistance to the Department of Jus-
17 tice to combat terrorism and defend the Nation against
18 terrorist acts, in accordance with procedures and regula-
19 tions established or issued by the Attorney General.

20 (b) CONDITIONS. In making rewards under this
21 section

22 (1) no such reward of \$250,000 or more may
23 be made or offered without the personal approval of
24 either the Attorney General or the President;



1 (2) the Attorney General shall give written no-
2 tice to the Chairmen and ranking minority members
3 of the Committees on Appropriations and the Judici-
4 ary of the Senate and of the House of Representa-
5 tives not later than 30 days after the approval of a
6 reward under paragraph (1);

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

11 (4) neither the failure of the Attorney General
12 to authorize a payment nor the amount authorized
13 shall be subject to judicial review; and

14 (5) no such reward shall be subject to any per-
15 son or aggregate reward spending limitation established
16 by law, unless that law expressly refers to this sec-
17 tion, and no reward paid pursuant to any such offer
18 shall count toward any such aggregate reward
19 spending limitation.

20 **SEC. 502. SECRETARY OF STATE'S AUTHORITY TO PAY RE-**
21 **WARDS.**

22 Section 36 of the State Department Basic Authorities
23 Act of 1956 (Public Law 885, August 1, 1956; 22 U.S.C.
24 2708) is amended

25 (1) in subsection (b)



1 (A) in paragraph (4), by striking “or” at
2 the end;

3 (B) in paragraph (5), by striking the pe-
4 riod at the end and inserting “, including by
5 dismantling an organization in whole or signifi-
6 cant part; or”; and

7 (C) by adding at the end the following:

8 “(6) the identification or location of an indi-
9 vidual who holds a key leadership position in a ter-
10 rorist organization.”;

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

14 (3) in subsection (e)(1), by inserting “, except
15 as personally authorized by the Secretary of State if
16 he determines that offer or payment of an award of
17 a larger amount is necessary to combat terrorism or
18 defend the Nation against terrorist acts.” after
19 “\$5,000,000”.

20 **SEC. 503. DNA IDENTIFICATION OF TERRORISTS AND**
21 **OTHER VIOLENT OFFENDERS.**

22 Section 3(d)(2) of the DNA Analysis Backlog Elimini-
23 nation Act of 2000 (42 U.S.C. 14135a(d)(2)) is amended
24 to read as follows:



1 “(2) In addition to the offenses described in
2 paragraph (1), the following offenses shall be treated
3 for purposes of this section as qualifying Federal of-
4 fenses, as determined by the Attorney General:

5 “(A) Any offense listed in section
6 2332b(g)(5)(B) of title 18, United States Code.

7 “(B) Any crime of violence (as defined in
8 section 16 of title 18, United States Code).

9 “(C) Any attempt or conspiracy to commit
10 any of the above offenses.”.

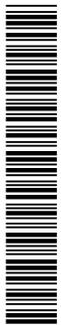
11 **SEC. 504. COORDINATION WITH LAW ENFORCEMENT.**

12 (a) INFORMATION ACQUIRED FROM AN ELECTRONIC
13 SURVEILLANCE. Section 106 of the Foreign Intelligence
14 Surveillance Act of 1978 (50 U.S.C. 1806), is amended
15 by adding at the end the following:

16 “(k)(1) Federal officers who conduct electronic sur-
17 veillance to acquire foreign intelligence information under
18 this title may consult with Federal law enforcement offi-
19 cers to coordinate efforts to investigate or protect
20 against

21 “(A) actual or potential attack or other grave
22 hostile acts of a foreign power or an agent of a for-
23 eign power;

24 “(B) sabotage or international terrorism by a
25 foreign power or an agent of a foreign power; or



1 “(C) clandestine intelligence activities by an in-
2 telligence service or network of a foreign power or by
3 an agent of a foreign power.

4 “(2) Coordination authorized under paragraph (1)
5 shall not preclude the certification required by section
6 104(a)(7)(B) or the entry of an order under section 105.”.

7 (b) INFORMATION ACQUIRED FROM A PHYSICAL
8 SEARCH. Section 305 of the Foreign Intelligence Surveil-
9 lance Act of 1978 (50 U.S.C. 1825) is amended by adding
10 at the end the following:

11 “(k)(1) Federal officers who conduct physical
12 searches to acquire foreign intelligence information under
13 this title may consult with Federal law enforcement offi-
14 cers to coordinate efforts to investigate or protect
15 against

16 “(A) actual or potential attack or other grave
17 hostile acts of a foreign power or an agent of a for-
18 eign power;

19 “(B) sabotage or international terrorism by a
20 foreign power or an agent of a foreign power; or

21 “(C) clandestine intelligence activities by an in-
22 telligence service or network of a foreign power or by
23 an agent of a foreign power.



1 “(2) Coordination authorized under paragraph (1)
2 shall not preclude the certification required by section
3 303(a)(7) or the entry of an order under section 304.”.

4 **SEC. 505. MISCELLANEOUS NATIONAL SECURITY AUTHORI-**
5 **TIES.**

6 (a) TELEPHONE TOLL AND TRANSACTIONAL
7 RECORDS. Section 2709(b) of title 18, United States
8 Code, is amended

9 (1) in the matter preceding paragraph (1), by
10 inserting “at Bureau headquarters or a Special
11 Agent in Charge in a Bureau field office designated
12 by the Director” after “Assistant Director”;

13 (2) in paragraph (1)

14 (A) by striking “in a position not lower
15 than Deputy Assistant Director”; and

16 (B) by striking “made that” and all that
17 follows and inserting the following: “made that
18 the name, address, length of service, and toll
19 billing records sought are relevant to an author-
20 ized investigation to protect against inter-
21 national terrorism or clandestine intelligence ac-
22 tivities, provided that such an investigation of a
23 United States person is not conducted solely on
24 the basis of activities protected by the first



1 amendment to the Constitution of the United
2 States; and”;

3 (3) in paragraph (2)

4 (A) by striking “in a position not lower
5 than Deputy Assistant Director”; and

6 (B) by striking “made that” and all that
7 follows and inserting the following: “made that
8 the information sought is relevant to an author-
9 ized investigation to protect against inter-
10 national terrorism or clandestine intelligence ac-
11 tivities, provided that such an investigation of a
12 United States person is not conducted solely
13 upon the basis of activities protected by the
14 first amendment to the Constitution of the
15 United States.”.

16 (b) FINANCIAL RECORDS. Section 1114(a)(5)(A) of
17 the Right to Financial Privacy Act of 1978 (12 U.S.C.
18 3414(a)(5)(A)) is amended

19 (1) by inserting “in a position not lower than
20 Deputy Assistant Director at Bureau headquarters
21 or a Special Agent in Charge in a Bureau field office
22 designated by the Director” after “designee”; and

23 (2) by striking “sought” and all that follows
24 and inserting “sought for foreign counter intel-
25 ligence purposes to protect against international ter-



1 rorism or clandestine intelligence activities, provided
2 that such an investigation of a United States person
3 is not conducted solely upon the basis of activities
4 protected by the first amendment to the Constitution
5 of the United States.”.

6 (c) CONSUMER REPORTS. Section 624 of the Fair
7 Credit Reporting Act (15 U.S.C. 1681u) is amended

8 (1) in subsection (a)

9 (A) by inserting “in a position not lower
10 than Deputy Assistant Director at Bureau
11 headquarters or a Special Agent in Charge of a
12 Bureau field office designated by the Director”
13 after “designee” the first place it appears; and

14 (B) by striking “in writing that” and all
15 that follows through the end and inserting the
16 following: “in writing, that such information is
17 sought for the conduct of an authorized inves-
18 tigation to protect against international ter-
19 rorism or clandestine intelligence activities, pro-
20 vided that such an investigation of a United
21 States person is not conducted solely upon the
22 basis of activities protected by the first amend-
23 ment to the Constitution of the United
24 States.”;

25 (2) in subsection (b)



1 (A) by inserting “in a position not lower
2 than Deputy Assistant Director at Bureau
3 headquarters or a Special Agent in Charge of a
4 Bureau field office designated by the Director”
5 after “designee” the first place it appears; and

6 (B) by striking “in writing that” and all
7 that follows through the end and inserting the
8 following: “in writing that such information is
9 sought for the conduct of an authorized inves-
10 tigation to protect against international ter-
11 rorism or clandestine intelligence activities, pro-
12 vided that such an investigation of a United
13 States person is not conducted solely upon the
14 basis of activities protected by the first amend-
15 ment to the Constitution of the United
16 States.”; and
17 (3) in subsection (c)

18 (A) by inserting “in a position not lower
19 than Deputy Assistant Director at Bureau
20 headquarters or a Special Agent in Charge in a
21 Bureau field office designated by the Director”
22 after “designee of the Director”; and

23 (B) by striking “in camera that” and all
24 that follows through “States.” and inserting the
25 following: “in camera that the consumer report



1 is sought for the conduct of an authorized in-
2 vestigation to protect against international ter-
3 rorism or clandestine intelligence activities, pro-
4 vided that such an investigation of a United
5 States person is not conducted solely upon the
6 basis of activities protected by the first amend-
7 ment to the Constitution of the United
8 States.”.

9 **SEC. 506. EXTENSION OF SECRET SERVICE JURISDICTION.**

10 (a) CONCURRENT JURISDICTION UNDER 18 U.S.C.
11 1030. Section 1030(d) of title 18, United States Code,
12 is amended to read as follows:

13 “(d)(1) The United States Secret Service shall, in ad-
14 dition to any other agency having such authority, have the
15 authority to investigate offenses under this section.

16 “(2) The Federal Bureau of Investigation shall have
17 primary authority to investigate offenses under subsection
18 (a)(1) for any cases involving espionage, foreign counter-
19 intelligence, information protected against unauthorized
20 disclosure for reasons of national defense or foreign rela-
21 tions, or Restricted Data (as that term is defined in sec-
22 tion 11y of the Atomic Energy Act of 1954 (42 U.S.C.
23 2014(y)), except for offenses affecting the duties of the
24 United States Secret Service pursuant to section 3056(a)
25 of this title.



1 “(3) Such authority shall be exercised in accordance
2 with an agreement which shall be entered into by the Sec-
3 retary of the Treasury and the Attorney General.”.

4 (b) REAUTHORIZATION OF JURISDICTION UNDER 18
5 U.S.C. 1344. Section 3056(b)(3) of title 18, United
6 States Code, is amended by striking “credit and debit card
7 frauds, and false identification documents or devices” and
8 inserting “access device frauds, false identification docu-
9 ments or devices, and any fraud or other criminal or un-
10 lawful activity in or against any federally insured financial
11 institution”.

12 **SEC. 507. DISCLOSURE OF EDUCATIONAL RECORDS.**

13 Section 444 of the General Education Provisions Act
14 (20 U.S.C. 1232g), is amended by adding after subsection
15 (i) a new subsection (j) to read as follows:

16 “(j) INVESTIGATION AND PROSECUTION OF TER-
17 RORISM.

18 “(1) IN GENERAL. Notwithstanding sub-
19 sections (a) through (i) or any provision of State
20 law, the Attorney General (or any Federal officer or
21 employee, in a position not lower than an Assistant
22 Attorney General, designated by the Attorney Gen-
23 eral) may submit a written application to a court of
24 competent jurisdiction for an ex parte order requir-



1 ing an educational agency or institution to permit
2 the Attorney General (or his designee) to

3 “(A) collect education records in the pos-
4 session of the educational agency or institution
5 that are relevant to an authorized investigation
6 or prosecution of an offense listed in section
7 2332b(g)(5)(B) of title 18 United States Code,
8 or an act of domestic or international terrorism
9 as defined in section 2331 of that title; and

10 “(B) for official purposes related to the in-
11 vestigation or prosecution of an offense de-
12 scribed in paragraph (1)(A), retain, dissemi-
13 nate, and use (including as evidence at trial or
14 in other administrative or judicial proceedings)
15 such records, consistent with such guidelines as
16 the Attorney General, after consultation with
17 the Secretary, shall issue to protect confiden-
18 tiality.

19 “(2) APPLICATION AND APPROVAL.

20 “(A) IN GENERAL. An application under
21 paragraph (1) shall certify that there are spe-
22 cific and articulable facts giving reason to be-
23 lieve that the education records are likely to
24 contain information described in paragraph
25 (1)(A).



1 “(B) The court shall issue an order de-
2 scribed in paragraph (1) if the court finds that
3 the application for the order includes the certifi-
4 cation described in subparagraph (A).

5 “(3) PROTECTION OF EDUCATIONAL AGENCY
6 OR INSTITUTION. An educational agency or institu-
7 tion that, in good faith, produces education records
8 in accordance with an order issued under this sub-
9 section shall not be liable to any person for that pro-
10 duction.

11 “(4) RECORD-KEEPING. Subsection (b)(4)
12 does not apply to education records subject to a
13 court order under this subsection.”.

14 **SEC. 508. DISCLOSURE OF INFORMATION FROM NCES SUR-**
15 **VEYS.**

16 Section 408 of the National Education Statistics Act
17 of 1994 (20 U.S.C. 9007), is amended by adding after
18 subsection (b) a new subsection (c) to read as follows:

19 “(c) INVESTIGATION AND PROSECUTION OF TER-
20 RORISM.

21 “(1) IN GENERAL. Notwithstanding sub-
22 sections (a) and (b), the Attorney General (or any
23 Federal officer or employee, in a position not lower
24 than an Assistant Attorney General, designated by
25 the Attorney General) may submit a written applica-



1 tion to a court of competent jurisdiction for an ex
2 parte order requiring the Secretary to permit the At-
3 torney General (or his designee) to

4 “(A) collect reports, records, and informa-
5 tion (including individually identifiable informa-
6 tion) in the possession of the center that are
7 relevant to an authorized investigation or pros-
8 ecution of an offense listed in section
9 2332b(g)(5)(B) of title 18, United States Code,
10 or an act of domestic or international terrorism
11 as defined in section 2331 of that title; and

12 “(B) for official purposes related to the in-
13 vestigation or prosecution of an offense de-
14 scribed in paragraph (1)(A), retain, dissemi-
15 nate, and use (including as evidence at trial or
16 in other administrative or judicial proceedings)
17 such information, consistent with such guide-
18 lines as the Attorney General, after consultation
19 with the Secretary, shall issue to protect con-
20 fidentiality.

21 “(2) APPLICATION AND APPROVAL.

22 “(A) IN GENERAL. An application under
23 paragraph (1) shall certify that there are spe-
24 cific and articulable facts giving reason to be-



1 believe that the information sought is described in
2 paragraph (1)(A).

3 “(B) The court shall issue an order de-
4 scribed in paragraph (1) if the court finds that
5 the application for the order includes the certifi-
6 cation described in subparagraph (A).

7 “(3) PROTECTION. An officer or employee
8 of the Department who, in good faith, produces
9 information in accordance with an order issued
10 under this subsection does not violate sub-
11 section (b)(2) and shall not be liable to any per-
12 son for that production.”.

13 **TITLE VI—PROVIDING FOR VIC-**
14 **TIMS OF TERRORISM, PUBLIC**
15 **SAFETY OFFICERS, AND**
16 **THEIR FAMILIES**
17 **Subtitle A—Aid to Families of**
18 **Public Safety Officers**

19 **SEC. 611. EXPEDITED PAYMENT FOR PUBLIC SAFETY OFFI-**
20 **CERS INVOLVED IN THE PREVENTION, INVES-**
21 **TIGATION, RESCUE, OR RECOVERY EFFORTS**
22 **RELATED TO A TERRORIST ATTACK.**

23 (a) IN GENERAL. Notwithstanding the limitations
24 of subsection (b) of section 1201 or the provisions of sub-
25 sections (c), (d), and (e) of such section or section 1202



1 of title I of the Omnibus Crime Control and Safe Streets
2 Act of 1968 (42 U.S.C. 3796, 3796a), upon certification
3 (containing identification of all eligible payees of benefits
4 pursuant to section 1201 of such Act) by a public agency
5 that a public safety officer employed by such agency was
6 killed or suffered a catastrophic injury producing perma-
7 nent and total disability as a direct and proximate result
8 of a personal injury sustained in the line of duty as de-
9 scribed in section 1201 of such Act in connection with pre-
10 vention, investigation, rescue, or recovery efforts related
11 to a terrorist attack, the Director of the Bureau of Justice
12 Assistance shall authorize payment to qualified bene-
13 ficiaries, said payment to be made not later than 30 days
14 after receipt of such certification, benefits described under
15 subpart 1 of part L of such Act (42 U.S.C. 3796 et seq.).

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

21 **SEC. 612. TECHNICAL CORRECTION WITH RESPECT TO EX-**
22 **PEDITED PAYMENTS FOR HEROIC PUBLIC**
23 **SAFETY OFFICERS.**

24 Section 1 of Public Law 107-37 (an Act to provide
25 for the expedited payment of certain benefits for a public



1 safety officer who was killed or suffered a catastrophic in-
2 jury as a direct and proximate result of a personal injury
3 sustained in the line of duty in connection with the ter-
4 rorist attacks of September 11, 2001) is amended by

5 (1) inserting before “by a” the following: “(con-
6 taining identification of all eligible payees of benefits
7 pursuant to section 1201)”;

8 (2) inserting “producing permanent and total
9 disability” after “suffered a catastrophic injury”;
10 and

11 (2) striking “1201(a)” and inserting “1201”.

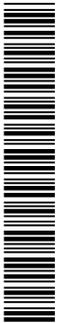
12 **SEC. 613. PUBLIC SAFETY OFFICERS BENEFIT PROGRAM**
13 **PAYMENT INCREASE.**

14 (a) PAYMENTS. Section 1201(a) of the Omnibus
15 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
16 3796) is amended by striking “\$100,000” and inserting
17 “\$250,000”.

18 (b) APPLICABILITY. The amendment made by sub-
19 section (a) shall apply to any death or disability occurring
20 on or after January 1, 2001.

21 **SEC. 614. OFFICE OF JUSTICE PROGRAMS.**

22 Section 112 of title I of section 101(b) of division
23 A of Public Law 105 277 and section 108(a) of appendix
24 A of Public Law 106 113 (113 Stat. 1501A 20) are
25 amended



1 (1) after “that Office”, each place it occurs, by
2 inserting “(including, notwithstanding any contrary
3 provision of law (unless the same should expressly
4 refer to this section), any organization that admin-
5 isters any program established in title 1 of Public
6 Law 90 351)”;

7 (2) by inserting “functions, including any”
8 after “all”.

9 **Subtitle B—Amendments to the**
10 **Victims of Crime Act of 1984**

11 **SEC. 621. CRIME VICTIMS FUND.**

12 (a) DEPOSIT OF GIFTS IN THE FUND. Section
13 1402(b) of the Victims of Crime Act of 1984 (42 U.S.C.
14 10601(b)) is amended

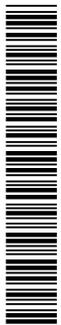
15 (1) in paragraph (3), by striking “and” at the
16 end;

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

19 (3) by adding at the end the following:

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

22 (b) FORMULA FOR FUND DISTRIBUTIONS. Section
23 1402(c) of the Victims of Crime Act of 1984 (42 U.S.C.
24 10601(c)) is amended to read as follows:



1 “(c) FUND DISTRIBUTION; RETENTION OF SUMS IN
2 FUND; AVAILABILITY FOR EXPENDITURE WITHOUT FIS-
3 CAL YEAR LIMITATION.

4 “(1) Subject to the availability of money in the
5 Fund, in each fiscal year, beginning with fiscal year
6 2003, the Director shall distribute not less than 90
7 percent nor more than 110 percent of the amount
8 distributed from the Fund in the previous fiscal
9 year, except the Director may distribute up to 120
10 percent of the amount distributed in the previous
11 fiscal year in any fiscal year that the total amount
12 available in the Fund is more than 2 times the
13 amount distributed in the previous fiscal year.

14 “(2) In each fiscal year, the Director shall dis-
15 tribute amounts from the Fund in accordance with
16 subsection (d). All sums not distributed during a fis-
17 cal year shall remain in reserve in the Fund to be
18 distributed during a subsequent fiscal year. Notwith-
19 standing any other provision of law, all sums depos-
20 ited in the Fund that are not distributed shall re-
21 main in reserve in the Fund for obligation in future
22 fiscal years, without fiscal year limitation.”.

23 (c) ALLOCATION OF FUNDS FOR COSTS AND
24 GRANTS. Section 1402(d)(4) of the Victims of Crime Act
25 of 1984 (42 U.S.C. 10601(d)(4)) is amended



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

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

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

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

9 (d) ANTITERRORISM EMERGENCY RESERVE. Sec-
10 tion 1402(d)(5) of the Victims of Crime Act of 1984 (42
11 U.S.C. 10601(d)(5)) is amended to read as follows:

12 “(5)(A) In addition to the amounts distributed
13 under paragraphs (2), (3), and (4), the Director
14 may set aside up to \$50,000,000 from the amounts
15 transferred to the Fund for use in responding to the
16 airplane hijackings and terrorist acts that occurred
17 on September 11, 2001, as an antiterrorism emer-
18 gency reserve. The Director may replenish any
19 amounts expended from such reserve in subsequent
20 fiscal years by setting aside up to 5 percent of the
21 amounts remaining in the Fund in any fiscal year
22 after distributing amounts under paragraphs (2), (3)
23 and (4). Such reserve shall not exceed \$50,000,000.

24 “(B) The antiterrorism emergency reserve re-
25 ferred to in subparagraph (A) may be used for sup-



1 plemental grants under section 1404B and to pro-
2 vide compensation to victims of international ter-
3 rorism under section 1404C.

4 “(C) Amounts in the antiterrorism emergency
5 reserve established pursuant to subparagraph (A)
6 may be carried over from fiscal year to fiscal year.
7 Notwithstanding subsection (c) and section 619 of
8 the Departments of Commerce, Justice, and State,
9 the Judiciary, and Related Agencies Appropriations
10 Act, 2001 (and any similar limitation on Fund obli-
11 gations in any future Act, unless the same should
12 expressly refer to this section), any such amounts
13 carried over shall not be subject to any limitation on
14 obligations from amounts deposited to or available in
15 the Fund.”.

16 (e) VICTIMS OF SEPTEMBER 11, 2001. Amounts
17 transferred to the Crime Victims Fund for use in respond-
18 ing to the airplane hijackings and terrorist acts (including
19 any related search, rescue, relief, assistance, or other simi-
20 lar activities) that occurred on September 11, 2001, shall
21 not be subject to any limitation on obligations from
22 amounts deposited to or available in the Fund,
23 notwithstanding

24 (1) section 619 of the Departments of Com-
25 merce, Justice, and State, the Judiciary, and Re-



1 lated Agencies Appropriations Act, 2001, and any
2 similar limitation on Fund obligations in such Act
3 for Fiscal Year 2002; and

4 (2) subsections (c) and (d) of section 1402 of
5 the Victims of Crime Act of 1984 (42 U.S.C.
6 10601).

7 **SEC. 622. CRIME VICTIM COMPENSATION.**

8 (a) ALLOCATION OF FUNDS FOR COMPENSATION
9 AND ASSISTANCE. Paragraphs (1) and (2) of section
10 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C.
11 10602(a)) are amended by inserting “in fiscal year 2002
12 and of 60 percent in subsequent fiscal years” after “40
13 percent”.

14 (b) LOCATION OF COMPENSABLE CRIME. Section
15 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42
16 U.S.C. 10602(b)(6)(B)) is amended by striking “are out-
17 side the United States (if the compensable crime is ter-
18 rorism, as defined in section 2331 of title 18), or”.

19 (c) RELATIONSHIP OF CRIME VICTIM COMPENSA-
20 TION TO MEANS-TESTED FEDERAL BENEFIT PRO-
21 GRAMS. Section 1403 of the Victims of Crime Act of
22 1984 (42 U.S.C. 10602) is amended by striking subsection
23 (c) and inserting the following:

24 “(c) EXCLUSION FROM INCOME, RESOURCES, AND
25 ASSETS FOR PURPOSES OF MEANS TESTS. Notwith-



1 standing any other law (other than title IV of Public Law
2 107 42), for the purpose of any maximum allowed income,
3 resource, or asset eligibility requirement in any Federal,
4 State, or local government program using Federal funds
5 that provides medical or other assistance (or payment or
6 reimbursement of the cost of such assistance), any amount
7 of crime victim compensation that the applicant receives
8 through a crime victim compensation program under this
9 section shall not be included in the income, resources, or
10 assets of the applicant, nor shall that amount reduce the
11 amount of the assistance available to the applicant from
12 Federal, State, or local government programs using Fed-
13 eral funds, unless the total amount of assistance that the
14 applicant receives from all such programs is sufficient to
15 fully compensate the applicant for losses suffered as a re-
16 sult of the crime.”.

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

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

22 (2) in paragraph (4), by inserting “the United
23 States Virgin Islands,” after “the Commonwealth of
24 Puerto Rico,”.



1 (e) RELATIONSHIP OF ELIGIBLE CRIME VICTIM COM-
2 PENSATION PROGRAMS TO THE SEPTEMBER 11TH VICTIM
3 COMPENSATION FUND.

4 (1) IN GENERAL. Section 1403(e) of the Vic-
5 tims of Crime Act of 1984 (42 U.S.C. 10602(e)) is
6 amended by inserting “including the program estab-
7 lished under title IV of Public Law 107 42,” after
8 “Federal program,”.

9 (2) COMPENSATION. With respect to any com-
10 pensation payable under title IV of Public Law 107
11 42, the failure of a crime victim compensation pro-
12 gram, after the effective date of final regulations
13 issued pursuant to section 407 of Public Law 107
14 42, to provide compensation otherwise required pur-
15 suant to section 1403 of the Victims of Crime Act
16 of 1984 (42 U.S.C. 10602) shall not render that
17 program ineligible for future grants under the Vic-
18 tims of Crime Act of 1984.

19 **SEC. 623. CRIME VICTIM ASSISTANCE.**

20 (a) ASSISTANCE FOR VICTIMS IN THE DISTRICT OF
21 COLUMBIA, PUERTO RICO, AND OTHER TERRITORIES
22 AND POSSESSIONS. Section 1404(a) of the Victims of
23 Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by
24 adding at the end the following:



1 “(6) An agency of the Federal Government per-
2 forming local law enforcement functions in and on
3 behalf of the District of Columbia, the Common-
4 wealth of Puerto Rico, the United States Virgin Is-
5 lands, or any other territory or possession of the
6 United States may qualify as an eligible crime victim
7 assistance program for the purpose of grants under
8 this subsection, or for the purpose of grants under
9 subsection (c)(1).”.

10 (b) PROHIBITION ON DISCRIMINATION AGAINST CER-
11 TAIN VICTIMS. Section 1404(b)(1) of the Victims of
12 Crime Act of 1984 (42 U.S.C. 10603(b)(1)) is amended

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

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

17 (3) by adding at the end the following:

18 “(F) does not discriminate against victims
19 because they disagree with the way the State is
20 prosecuting the criminal case.”.

21 (c) GRANTS FOR PROGRAM EVALUATION AND COM-
22 PLIANCE EFFORTS. Section 1404(c)(1)(A) of the Vic-
23 tims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A))
24 is amended by inserting “, program evaluation, compliance
25 efforts,” after “demonstration projects”.



1 (d) ALLOCATION OF DISCRETIONARY GRANTS. Sec-
2 tion 1404(c)(2) of the Victims of Crime Act of 1984 (42
3 U.S.C. 10603(c)(2)) is amended

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

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

8 (e) FELLOWSHIPS AND CLINICAL INTERNSHIPS.

9 Section 1404(c)(3) of the Victims of Crime Act of 1984
10 (42 U.S.C. 10603(c)(3)) is amended

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

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

15 (3) by adding at the end the following:

16 “(E) use funds made available to the Di-
17 rector under this subsection

18 “(i) for fellowships and clinical intern-
19 ships; and

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



1 **SEC. 624. VICTIMS OF TERRORISM.**

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

6 “(b) VICTIMS OF TERRORISM WITHIN THE UNITED
7 STATES. The Director may make supplemental grants as
8 provided in section 1402(d)(5) to States for eligible crime
9 victim compensation and assistance programs, and to vic-
10 tim service organizations, public agencies (including Fed-
11 eral, State, or local governments) and nongovernmental
12 organizations that provide assistance to victims of crime,
13 which shall be used to provide emergency relief, including
14 crisis response efforts, assistance, compensation, training
15 and technical assistance, and ongoing assistance, including
16 during any investigation or prosecution, to victims of ter-
17 rorist acts or mass violence occurring within the United
18 States.”.

19 (b) ASSISTANCE TO VICTIMS OF INTERNATIONAL
20 TERRORISM. Section 1404B(a)(1) of the Victims of
21 Crime Act of 1984 (42 U.S.C. 10603b(a)(1)) is amended
22 by striking “who are not persons eligible for compensation
23 under title VIII of the Omnibus Diplomatic Security and
24 Antiterrorism Act of 1986”.

25 (c) COMPENSATION TO VICTIMS OF INTERNATIONAL
26 TERRORISM. Section 1404C(b) of the Victims of Crime



1 of 1984 (42 U.S.C. 10603c(b)) is amended by adding at
2 the end the following: “The amount of compensation
3 awarded to a victim under this subsection shall be reduced
4 by any amount that the victim received in connection with
5 the same act of international terrorism under title VIII
6 of the Omnibus Diplomatic Security and Antiterrorism
7 Act of 1986.”.

8 **TITLE VII—INCREASED INFOR-**
9 **MATION SHARING FOR CRIT-**
10 **ICAL INFRASTRUCTURE PRO-**
11 **TECTION**

12 **SEC. 711. EXPANSION OF REGIONAL INFORMATION SHAR-**
13 **ING SYSTEM TO FACILITATE FEDERAL-STATE-**
14 **LOCAL LAW ENFORCEMENT RESPONSE RE-**
15 **LATED TO TERRORIST ATTACKS.**

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

19 (1) in subsection (a), by inserting “and ter-
20 rorist conspiracies and activities” after “activities”;

21 (2) in subsection (b)

22 (A) in paragraph (3), by striking “and”
23 after the semicolon;

24 (B) by redesignating paragraph (4) as
25 paragraph (5);



1 (C) by inserting after paragraph (3) the
2 following:

3 “(4) establishing and operating secure informa-
4 tion sharing systems to enhance the investigation
5 and prosecution abilities of participating enforce-
6 ment agencies in addressing multi-jurisdictional ter-
7 rorist conspiracies and activities; and (5)”;

8 (3) by inserting at the end the following:

9 “(d) AUTHORIZATION OF APPROPRIATION TO THE
10 BUREAU OF JUSTICE ASSISTANCE. There are authorized
11 to be appropriated to the Bureau of Justice Assistance
12 to carry out this section \$50,000,000 for fiscal year 2002
13 and \$100,000,000 for fiscal year 2003.”.

14 **TITLE VIII—STRENGTHENING**
15 **THE CRIMINAL LAWS**
16 **AGAINST TERRORISM**

17 **SEC. 801. TERRORIST ATTACKS AND OTHER ACTS OF VIO-**
18 **LENCE AGAINST MASS TRANSPORTATION**
19 **SYSTEMS.**

20 Chapter 97 of title 18, United States Code, is amend-
21 ed by adding at the end the following:

22 **“§ 1993. Terrorist attacks and other acts of violence**
23 **against mass transportation systems**

24 “(a) GENERAL PROHIBITIONS. Whoever willfully



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

3 “(2) places or causes to be placed any biological
4 agent or toxin for use as a weapon, destructive sub-
5 stance, or destructive device in, upon, or near a
6 mass transportation vehicle or ferry, without pre-
7 viously obtaining the permission of the mass trans-
8 portation provider, and with intent to endanger the
9 safety of any passenger or employee of the mass
10 transportation provider, or with a reckless disregard
11 for the safety of human life;

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

24 “(4) removes appurtenances from, damages, or
25 otherwise impairs the operation of a mass transpor-



1 tation signal system, including a train control sys-
2 tem, centralized dispatching system, or rail grade
3 crossing warning signal;

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

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

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

22 “(8) attempts, threatens, or conspires to do any
23 of the aforesaid acts,
24 shall be fined under this title or imprisoned not more than
25 twenty years, or both, if such act is committed, or in the



1 case of a threat or conspiracy such act would be com-
2 mitted, on, against, or affecting a mass transportation
3 provider engaged in or affecting interstate or foreign com-
4 merce, or if in the course of committing such act, that
5 person travels or communicates across a State line in
6 order to commit such act, or transports materials across
7 a State line in aid of the commission of such act.

8 “(b) AGGRAVATED OFFENSE. Whoever commits an
9 offense under subsection (a) in a circumstance in which

10 “(1) the mass transportation vehicle or ferry
11 was carrying a passenger at the time of the offense;
12 or

13 “(2) the offense has resulted in the death of
14 any person,

15 shall be guilty of an aggravated form of the offense and
16 shall be fined under this title or imprisoned for a term
17 of years or for life, or both.

18 “(c) DEFINITIONS. In this section

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

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



1 “(3) the term ‘destructive device’ has the mean-
2 ing given to that term in section 921(a)(4) of this
3 title;

4 “(4) the term ‘destructive substance’ has the
5 meaning given to that term in section 31 of this
6 title;

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

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

15 “(7) the term ‘State’ has the meaning given to
16 that term in section 2266 of this title; and

17 “(8) the term ‘toxin’ has the meaning given to
18 that term in section 178(2) of this title.”.

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

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

22 **SEC. 802. DEFINITION OF DOMESTIC TERRORISM.**

23 (a) DOMESTIC TERRORISM DEFINED. Section 2331
24 of title 18, United States Code, is amended



1 (1) in paragraph (1)(B)(iii), by striking “by as-
2 sassination or kidnapping” and inserting “by mass
3 destruction, assassination, or kidnapping”;

4 (2) in paragraph (3), by striking “and”;

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

7 (4) by adding at the end the following:

8 “(5) the term ‘domestic terrorism’ means activi-
9 ties that

10 “(A) involve acts dangerous to human life
11 that are a violation of the criminal laws of the
12 United States or of any State;

13 “(B) appear to be intended

14 “(i) to intimidate or coerce a civilian
15 population;

16 “(ii) to influence the policy of a gov-
17 ernment by intimidation or coercion; or

18 “(iii) to affect the conduct of a gov-
19 ernment by mass destruction, assassina-
20 tion, or kidnapping; and

21 “(C) occur primarily within the territorial
22 jurisdiction of the United States.”.

23 (b) CONFORMING AMENDMENT. Section 3077(1) of
24 title 18, United States Code, is amended to read as fol-
25 lows:



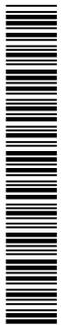
1 “(1) ‘act of terrorism’ means an act of domestic
2 or international terrorism as defined in section
3 2331;”.

4 **SEC. 803. PROHIBITION AGAINST HARBORING TERRORISTS.**

5 (a) IN GENERAL. Chapter 113B of title 18, United
6 States Code, is amended by adding after section 2338 the
7 following new section:

8 **“§ 2339. Harboring or concealing terrorists**

9 “(a) Whoever harbors or conceals any person who he
10 knows, or has reasonable grounds to believe, has com-
11 mitted, or is about to commit, an offense under section
12 32 (relating to destruction of aircraft or aircraft facilities),
13 section 175 (relating to biological weapons), section 229
14 (relating to chemical weapons), section 831 (relating to
15 nuclear materials), paragraph (2) or (3) of section 844(f)
16 (relating to arson and bombing of government property
17 risking or causing injury or death), section 1366(a) (relat-
18 ing to the destruction of an energy facility), section 2280
19 (relating to violence against maritime navigation), section
20 2332a (relating to weapons of mass destruction), or sec-
21 tion 2332b (relating to acts of terrorism transcending na-
22 tional boundaries) of this title, section 236(a) (relating to
23 sabotage of nuclear facilities or fuel) of the Atomic Energy
24 Act of 1954 (42 U.S.C. 2284(a)), or section 46502 (relat-



1 ing to aircraft piracy) of title 49, shall be fined under this
2 title or imprisoned not more than ten years, or both.”.

3 “(b) A violation of this section may be prosecuted in
4 any Federal judicial district in which the underlying of-
5 fense was committed, or in any other Federal judicial dis-
6 trict as provided by law.”.

7 (b) TECHNICAL AMENDMENT. The chapter analysis
8 for chapter 113B of title 18, United States Code, is
9 amended by inserting after the item for section 2338 the
10 following:

“2339. Harboring or concealing terrorists.”.

11 **SEC. 804. JURISDICTION OVER CRIMES COMMITTED AT U.S.**
12 **FACILITIES ABROAD.**

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

15 “(9) With respect to offenses committed by or
16 against a United States national, as defined in sec-
17 tion 1203(c) of this title

18 “(A) the premises of United States diplo-
19 matic, consular, military or other United States
20 Government missions or entities in foreign
21 States, including the buildings, parts of build-
22 ings, and land appurtenant or ancillary thereto
23 or used for purposes of those missions or enti-
24 ties, irrespective of ownership; and



1 “(B) residences in foreign States and the
2 land appurtenant or ancillary thereto, irrespec-
3 tive of ownership, used for purposes of those
4 missions or entities or used by United States
5 personnel assigned to those missions or entities.
6 Nothing in this paragraph shall be deemed to super-
7 sede any treaty or international agreement with
8 which this paragraph conflicts. This paragraph does
9 not apply with respect to an offense committed by
10 a person described in section 3261(a) of this title.”.

11 **SEC. 805. MATERIAL SUPPORT FOR TERRORISM.**

12 (a) IN GENERAL. Section 2339A of title 18, United
13 States Code, is amended

14 (1) in subsection (a)

15 (A) by striking “, within the United
16 States,”;

17 (B) by inserting “229,” after “175,”;

18 (C) by inserting “1993,” after “1992,”;

19 (D) by inserting “, section 236 of the
20 Atomic Energy Act of 1954 (42 U.S.C. 2284),”
21 after “of this title”;

22 (E) by inserting “or 60123(b)” after
23 “46502”; and

24 (F) by inserting at the end the following:
25 “A violation of this section may be prosecuted



1 in any Federal judicial district in which the un-
2 derlying offense was committed, or in any other
3 Federal judicial district as provided by law.”;
4 and

5 (2) in subsection (b)

6 (A) by striking “or other financial securi-
7 ties” and inserting “or monetary instruments
8 or financial securities”; and

9 (B) by inserting “expert advice or assist-
10 ance,” after “training,”.

11 (b) TECHNICAL AMENDMENT. Section
12 1956(c)(7)(D) of title 18, United States Code, is amended
13 by inserting “or 2339B” after “2339A”.

14 **SEC. 806. ASSETS OF TERRORIST ORGANIZATIONS.**

15 Section 981(a)(1) of title 18, United States Code, is
16 amended by inserting at the end the following:

17 “(G) All assets, foreign or domestic

18 “(i) of any individual, entity, or organiza-
19 tion engaged in planning or perpetrating any
20 act of domestic or international terrorism (as
21 defined in section 2331) against the United
22 States, citizens or residents of the United
23 States, or their property, and all assets, foreign
24 or domestic, affording any person a source of
25 influence over any such entity or organization;



1 “(ii) acquired or maintained by any person
2 for the purpose of supporting, planning, con-
3 ducting, or concealing an act of domestic or
4 international terrorism (as defined in section
5 2331) against the United States, citizens or
6 residents of the United States, or their prop-
7 erty; or

8 “(iii) derived from, involved in, or used or
9 intended to be used to commit any act of do-
10 mestic or international terrorism (as defined in
11 section 2331) against the United States, citi-
12 zens or residents of the United States, or their
13 property.”.

14 **SEC. 807. TECHNICAL CLARIFICATION RELATING TO PROVI-**
15 **SION OF MATERIAL SUPPORT TO TER-**
16 **RORISM.**

17 No provision of the Trade Sanctions Reform and Ex-
18 port Enhancement Act of 2000 (title IX of Public Law
19 106 387) shall be construed to limit or otherwise affect
20 section 2339A or 2339B of title 18, United States Code.

21 **SEC. 808. DEFINITION OF FEDERAL CRIME OF TERRORISM.**

22 Section 2332b of title 18, United States Code, is
23 amended

24 (1) in subsection (f), by inserting after “ter-
25 rorism” the following: “and any violation of section



1 351(e), 844(e), 844(f)(1), 956(b), 1361, 1366(b),
2 1366(c), 1751(e), 2152, or 2156 of this title,” be-
3 fore “and the Secretary”; and

4 (2) in subsection (g)(5)(B), by striking clauses
5 (i) through (iii) and inserting the following:

6 “(i) section 32 (relating to destruction
7 of aircraft or aircraft facilities), 37 (relat-
8 ing to violence at international airports),
9 81 (relating to arson within special mari-
10 time and territorial jurisdiction), 175 or
11 175b (relating to biological weapons), 229
12 (relating to chemical weapons), subsection
13 (a), (b), (c), or (d) of section 351 (relating
14 to congressional, cabinet, and Supreme
15 Court assassination and kidnaping), 831
16 (relating to nuclear materials), 842(m) or
17 (n) (relating to plastic explosives), 844(f)
18 (2) through (3) (relating to arson and
19 bombing of Government property risking
20 or causing death), 844(i) (relating to arson
21 and bombing of property used in interstate
22 commerce), 930(c) (relating to killing or
23 attempted killing during an attack on a
24 Federal facility with a dangerous weapon),
25 956(a)(1) (relating to conspiracy to mur-



1 der, kidnap, or maim persons abroad),
2 1030(a)(1) (relating to protection of com-
3 puters), 1030(a)(5)(A)(i) resulting in dam-
4 age as defined in 1030(a)(5)(B)(ii)
5 through (v) (relating to protection of com-
6 puters), 1114 (relating to killing or at-
7 tempted killing of officers and employees of
8 the United States), 1116 (relating to mur-
9 der or manslaughter of foreign officials, of-
10 ficial guests, or internationally protected
11 persons), 1203 (relating to hostage tak-
12 ing), 1362 (relating to destruction of com-
13 munication lines, stations, or systems),
14 1363 (relating to injury to buildings or
15 property within special maritime and terri-
16 torial jurisdiction of the United States),
17 1366(a) (relating to destruction of an en-
18 ergy facility), 1751 (a) through (d) (relat-
19 ing to Presidential and Presidential staff
20 assassination and kidnaping), 1992 (relat-
21 ing to wrecking trains), 1993 (relating to
22 terrorist attacks and other acts of violence
23 against mass transportation systems),
24 2155 (relating to destruction of national
25 defense materials, premises, or utilities),



1 2280 (relating to violence against maritime
2 navigation), 2281 (relating to violence
3 against maritime fixed platforms), 2332
4 (relating to certain homicides and other vi-
5 olence against United States nationals oc-
6 ccurring outside of the United States),
7 2332a (relating to use of weapons of mass
8 destruction), 2332b (relating to acts of ter-
9 rorism transcending national boundaries),
10 2339 (relating to harboring terrorists),
11 2339A (relating to providing material sup-
12 port to terrorists), 2339B (relating to pro-
13 viding material support to terrorist organi-
14 zations), or 2340A (relating to torture) of
15 this title;

16 “(ii) section 236 (relating to sabotage
17 of nuclear facilities or fuel) of the Atomic
18 Energy Act of 1954 (42 U.S.C. 2284); or

19 “(iii) section 46502 (relating to air-
20 craft piracy), the second sentence of sec-
21 tion 46504 (relating to assault on a flight
22 crew with a dangerous weapon), section
23 46505(b)(3) or (c) (relating to explosive or
24 incendiary devices, or endangerment of
25 human life by means of weapons, on air-



1 craft), section 46506 if homicide or at-
2 tempted homicide is involved (relating to
3 application of certain criminal laws to acts
4 on aircraft), or section 60123(b) (relating
5 to destruction of interstate gas or haz-
6 ardous liquid pipeline facility) of title 49.”.

7 **SEC. 809. NO STATUTE OF LIMITATION FOR CERTAIN TER-**
8 **RORISM OFFENSES.**

9 (a) IN GENERAL. Section 3286 of title 18, United
10 States Code, is amended to read as follows:

11 **“§ 3286. Extension of statute of limitation for certain**
12 **terrorism offenses.**

13 “(a) EIGHT-YEAR LIMITATION. Notwithstanding
14 section 3282, no person shall be prosecuted, tried, or pun-
15 ished for any noncapital offense involving a violation of
16 any provision listed in section 2332b(g)(5)(B), or a viola-
17 tion of section 112, 351(e), 1361, or 1751(e) of this title,
18 or section 46504, 46505, or 46506 of title 49, unless the
19 indictment is found or the information is instituted within
20 8 years after the offense was committed. Notwithstanding
21 the preceding sentence, offenses listed in section 3295 are
22 subject to the statute of limitations set forth in that sec-
23 tion.

24 “(b) NO LIMITATION. Notwithstanding any other
25 law, an indictment may be found or an information insti-



1 tuted at any time without limitation for any offense listed
2 in section 2332b(g)(5)(B), if the commission of such of-
3 fense resulted in, or created a foreseeable risk of, death
4 or serious bodily injury to another person.”.

5 (b) APPLICATION. The amendments made by this
6 section shall apply to the prosecution of any offense com-
7 mitted before, on, or after the date of enactment of this
8 section.

9 **SEC. 810. ALTERNATE MAXIMUM PENALTIES FOR TER-**
10 **RORISM OFFENSES.**

11 (a) ARSON. Section 81 of title 18, United States
12 Code, is amended in the second undesignated paragraph
13 by striking “not more than twenty years” and inserting
14 “for any term of years or for life”.

15 (b) DESTRUCTION OF AN ENERGY FACILITY. Sec-
16 tion 1366 of title 18, United States Code, is amended

17 (1) in subsection (a), by striking “ten” and in-
18 serting “20”; and

19 (2) by adding at the end the following:

20 “(d) Whoever is convicted of a violation of subsection
21 (a) or (b) that has resulted in the death of any person
22 shall be subject to imprisonment for any term of years
23 or life.”.

24 (c) MATERIAL SUPPORT TO TERRORISTS. Section
25 2339A(a) of title 18, United States Code, is amended



1 (1) by striking “10” and inserting “15”; and

2 (2) by striking the period and inserting “, and,
3 if the death of any person results, shall be impris-
4 oned for any term of years or for life.”.

5 (d) MATERIAL SUPPORT TO DESIGNATED FOREIGN
6 TERRORIST ORGANIZATIONS. Section 2339B(a)(1) of
7 title 18, United States Code, is amended

8 (1) by striking “10” and inserting “15”; and

9 (2) by striking the period after “or both” and
10 inserting “, and, if the death of any person results,
11 shall be imprisoned for any term of years or for
12 life.”.

13 (e) DESTRUCTION OF NATIONAL-DEFENSE MATE-
14 RIALS. Section 2155(a) of title 18, United States Code,
15 is amended

16 (1) by striking “ten” and inserting “20”; and

17 (2) by striking the period at the end and insert-
18 ing “, and, if death results to any person, shall be
19 imprisoned for any term of years or for life.”.

20 (f) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.
21 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
22 2284), is amended

23 (1) by striking “ten” each place it appears and
24 inserting “20”;



1 (2) in subsection (a), by striking the period at
2 the end and inserting “, and, if death results to any
3 person, shall be imprisoned for any term of years or
4 for life.”; and

5 (3) in subsection (b), by striking the period at
6 the end and inserting “, and, if death results to any
7 person, shall be imprisoned for any term of years or
8 for life.”.

9 (g) SPECIAL AIRCRAFT JURISDICTION OF THE
10 UNITED STATES. Section 46505(c) of title 49, United
11 States Code, is amended

12 (1) by striking “15” and inserting “20”; and

13 (2) by striking the period at the end and insert-
14 ing “, and, if death results to any person, shall be
15 imprisoned for any term of years or for life.”.

16 (h) DAMAGING OR DESTROYING AN INTERSTATE GAS
17 OR HAZARDOUS LIQUID PIPELINE FACILITY. Section
18 60123(b) of title 49, United States Code, is amended

19 (1) by striking “15” and inserting “20”; and

20 (2) by striking the period at the end and insert-
21 ing “, and, if death results to any person, shall be
22 imprisoned for any term of years or for life.”.

23 **SEC. 811. PENALTIES FOR TERRORIST CONSPIRACIES.**

24 (a) ARSON. Section 81 of title 18, United States
25 Code, is amended in the first undesignated paragraph



1 (1) by striking “, or attempts to set fire to or
2 burn”; and

3 (2) by inserting “or attempts or conspires to do
4 such an act,” before “shall be imprisoned”.

5 (b) KILLINGS IN FEDERAL FACILITIES. Section
6 930(c) of title 18, United States Code, is amended

7 (1) by striking “or attempts to kill”;

8 (2) by inserting “or attempts or conspires to do
9 such an act,” before “shall be punished”; and

10 (3) by striking “and 1113” and inserting
11 “1113, and 1117”.

12 (c) COMMUNICATIONS LINES, STATIONS, OR SYS-
13 TEMS. Section 1362 of title 18, United States Code, is
14 amended in the first undesignated paragraph

15 (1) by striking “or attempts willfully or mali-
16 ciously to injure or destroy”; and

17 (2) by inserting “or attempts or conspires to do
18 such an act,” before “shall be fined”.

19 (d) BUILDINGS OR PROPERTY WITHIN SPECIAL
20 MARITIME AND TERRITORIAL JURISDICTION. Section
21 1363 of title 18, United States Code, is amended

22 (1) by striking “or attempts to destroy or in-
23 jure”; and



1 (2) by inserting “or attempts or conspires to do
2 such an act,” before “shall be fined” the first place
3 it appears.

4 (e) WRECKING TRAINS. Section 1992 of title 18,
5 United States Code, is amended by adding at the end the
6 following:

7 “(e) A person who conspires to commit any offense
8 defined in this section shall be subject to the same pen-
9 alties (other than the penalty of death) as the penalties
10 prescribed for the offense, the commission of which was
11 the object of the conspiracy.”.

12 (f) MATERIAL SUPPORT TO TERRORISTS. Section
13 2339A of title 18, United States Code, is amended by in-
14 serting “or attempts or conspires to do such an act,” be-
15 fore “shall be fined”.

16 (g) TORTURE. Section 2340A of title 18, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 “(e) CONSPIRACY. A person who conspires to com-
20 mit an offense under this section shall be subject to the
21 same penalties (other than the penalty of death) as the
22 penalties prescribed for the offense, the commission of
23 which was the object of the conspiracy.”.



1 (h) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.
2 Section 236 of the Atomic Energy Act of 1954 (42 U.S.C.
3 2284), is amended

4 (1) in subsection (a)

5 (A) by striking “, or who intentionally and
6 willfully attempts to destroy or cause physical
7 damage to”;

8 (B) in paragraph (4), by striking the pe-
9 riod at the end and inserting a comma; and

10 (C) by inserting “or attempts or conspires
11 to do such an act,” before “shall be fined”; and
12 (2) in subsection (b)

13 (A) by striking “or attempts to cause”;
14 and

15 (B) by inserting “or attempts or conspires
16 to do such an act,” before “shall be fined”.

17 (i) INTERFERENCE WITH FLIGHT CREW MEMBERS
18 AND ATTENDANTS. Section 46504 of title 49, United
19 States Code, is amended by inserting “or attempts or con-
20 spires to do such an act,” before “shall be fined”.

21 (j) SPECIAL AIRCRAFT JURISDICTION OF THE
22 UNITED STATES. Section 46505 of title 49, United
23 States Code, is amended by adding at the end the fol-
24 lowing:



1 “(e) CONSPIRACY. If two or more persons conspire
2 to violate subsection (b) or (c), and one or more of such
3 persons do any act to effect the object of the conspiracy,
4 each of the parties to such conspiracy shall be punished
5 as provided in such subsection.”.

6 (k) DAMAGING OR DESTROYING AN INTERSTATE GAS
7 OR HAZARDOUS LIQUID PIPELINE FACILITY. Section
8 60123(b) of title 49, United States Code, is amended

9 (1) by striking “, or attempting to damage or
10 destroy,”; and

11 (2) by inserting “, or attempting or conspiring
12 to do such an act,” before “shall be fined”.

13 **SEC. 812. POST-RELEASE SUPERVISION OF TERRORISTS.**

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

16 “(j) SUPERVISED RELEASE TERMS FOR TERRORISM
17 PREDICATES. Notwithstanding subsection (b), the au-
18 thorized term of supervised release for any offense listed
19 in section 2332b(g)(5)(B), the commission of which re-
20 sulted in, or created a foreseeable risk of, death or serious
21 bodily injury to another person, is any term of years or
22 life.”.



1 **SEC. 813. INCLUSION OF ACTS OF TERRORISM AS RACKET-**
2 **EERING ACTIVITY.**

3 Section 1961(1) of title 18, United States Code, is
4 amended

5 (1) by striking “or (F)” and inserting “(F)”;
6 and

7 (2) by inserting before the semicolon at the end
8 the following: “, or (G) any act that is indictable
9 under any provision listed in section
10 2332b(g)(5)(B)”.

11 **SEC. 814. DETERRENCE AND PREVENTION OF**
12 **CYBERTERRORISM.**

13 (a) CLARIFICATION OF PROTECTION OF PROTECTED
14 COMPUTERS. Section 1030(a)(5) of title 18, United
15 States Code, is amended

16 (1) by inserting “(i)” after (A)”;

17 (2) by redesignating subparagraphs (B) and
18 (C) as clauses (ii) and (iii), respectively;

19 (3) by adding “and” at the end of clause (iii),
20 as so redesignated; and

21 (4) by adding at the end the following:

22 “(B) caused (or, in the case of an at-
23 tempted offense, would, if completed, have
24 caused) conduct described in in clause (i), (ii),
25 or (iii) of subparagraph (A) that resulted in



1 “(i) loss to 1 or more persons during
2 any 1-year period (including loss resulting
3 from a related course of conduct affecting
4 1 or more other protected computers) ag-
5 gregating at least \$5,000 in value;

6 “(ii) the modification or impairment,
7 or potential modification or impairment, of
8 the medical examination, diagnosis, treat-
9 ment, or care of 1 or more individuals;

10 “(iii) physical injury to any person;

11 “(iv) a threat to public health or safe-
12 ty; or

13 “(v) damage affecting a computer sys-
14 tem used by or for a Government entity in
15 furtherance of the administration of jus-
16 tice, national defense, or national secu-
17 rity;”.

18 (b) PENALTIES. Section 1030(e) of title 18, United
19 States Code is amended

20 (1) in paragraph (2)

21 (A) in subparagraph (A)

22 (i) by inserting “except as provided in
23 subparagraph (B),” before “a fine”;

24 (ii) by striking “(a)(5)(C)” and in-
25 serting “(a)(5)(A)(iii)”; and



1 (iii) by striking “and’ at the end;

2 (B) in subparagraph (B), by inserting “or
3 an attempt to commit an offense punishable
4 under this subparagraph,” after “subsection
5 (a)(2),” in the matter preceding clause (i); and

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

8 (2) in paragraph (3)

9 (A) by striking “, (a)(5)(A), (a)(5)(B),”
10 both places it appears; and

11 (B) by striking “and” at the end; and

12 (3) by striking “(a)(5)(C)” and inserting
13 “(a)(5)(A)(iii)”;

14 (4) by adding at the end the following new
15 paragraphs:

16 “(4)(A) a fine under this title, imprisonment
17 for not more than 10 years, or both, in the case of
18 an offense under subsection (a)(5)(A)(i), or an at-
19 tempt to commit an offense punishable under that
20 subsection;

21 “(B) a fine under this title, imprisonment
22 for not more than 5 years, or both, in the case
23 of an offense under subsection (a)(5)(A)(ii), or
24 an attempt to commit an offense punishable
25 under that subsection;



1 “(C) a fine under this title, imprisonment
2 for not more than 20 years, or both, in the case
3 of an offense under subsection (a)(5)(A)(i) or
4 (a)(5)(A)(ii), or an attempt to commit an of-
5 fense punishable under either subsection, that
6 occurs after a conviction for another offense
7 under this section.”.

8 (c) DEFINITIONS. Subsection (e) of section 1030 of
9 title 18, United States Code is amended

10 (1) in paragraph (2)(B), by inserting “, includ-
11 ing a computer located outside the United States”
12 before the semicolon;

13 (2) in paragraph (7), by striking “and” at the
14 end;

15 (3) by striking paragraph (8) and inserting the
16 following new paragraph (8):

17 “(8) the term ‘damage’ means any impairment
18 to the integrity or availability of data, a program, a
19 system, or information;”;

20 (4) in paragraph (9), by striking the period at
21 the end and inserting a semicolon; and

22 (5) by adding at the end the following new
23 paragraphs:

24 “(10) the term ‘conviction’ shall include a con-
25 viction under the law of any State for a crime pun-



1 ishable by imprisonment for more than 1 year, an
2 element of which is unauthorized access, or exceed-
3 ing authorized access, to a computer;

4 “(11) the term ‘loss’ includes any reasonable
5 cost to any victim, including the cost of responding
6 to an offense, conducting a damage assessment, and
7 restoring the data, program, system, or information
8 to its condition prior to the offense, and any revenue
9 lost, cost incurred, or other consequential damages
10 incurred because of interruption of service;

11 “(12) the term ‘person’ means any individual,
12 firm, corporation, educational institution, financial
13 institution, governmental entity, or legal or other en-
14 tity;”.

15 (d) DAMAGES IN CIVIL ACTIONS. Subsection (g) of
16 section 1030 of title 18, United States Code is amended

17 (1) by striking the second sentence and insert-
18 ing the following new sentences: “A suit for a viola-
19 tion of subsection (a)(5) may be brought only if the
20 conduct involves one of the factors enumerated in
21 subsection (a)(5)(B). Damages for a violation involv-
22 ing only conduct described in subsection (a)(5)(B)(i)
23 are limited to economic damages.”; and

24 (2) by adding at the end the following: “No ac-
25 tion may be brought under this subsection for the



1 negligent design or manufacture of computer hard-
2 ware, computer software, or firmware.”.

3 (e) AMENDMENT OF SENTENCING GUIDELINES RE-
4 LATING TO CERTAIN COMPUTER FRAUD AND ABUSE.

5 Pursuant to its authority under section 994(p) of title 28,
6 United States Code, the United States Sentencing Com-
7 mission shall amend the Federal sentencing guidelines to
8 ensure that any individual convicted of a violation of sec-
9 tion 1030 of title 18, United States Code, can be subjected
10 to appropriate penalties, without regard to any mandatory
11 minimum term of imprisonment.

12 **SEC. 815. ADDITIONAL DEFENSE TO CIVIL ACTIONS RELAT-**
13 **ING TO PRESERVING RECORDS IN RESPONSE**
14 **TO GOVERNMENT REQUESTS.**

15 Section 2707(e)(1) of title 18, United States Code,
16 is amended by inserting after “or statutory authorization”
17 the following: “(including a request of a governmental en-
18 tity under section 2703(f) of this title)”.

19 **SEC. 816. DEVELOPMENT AND SUPPORT OF**
20 **CYBERSECURITY FORENSIC CAPABILITIES.**

21 (a) IN GENERAL. The Attorney General shall estab-
22 lish such regional computer forensic laboratories as the
23 Attorney General considers appropriate, and provide sup-
24 port to existing computer forensic laboratories, in order



1 that all such computer forensic laboratories have the
2 capability

3 (1) to provide forensic examinations with re-
4 spect to seized or intercepted computer evidence re-
5 lating to criminal activity (including cyberterrorism);

6 (2) to provide training and education for Fed-
7 eral, State, and local law enforcement personnel and
8 prosecutors regarding investigations, forensic anal-
9 yses, and prosecutions of computer-related crime (in-
10 cluding cyberterrorism);

11 (3) to assist Federal, State, and local law en-
12 forcement in enforcing Federal, State, and local
13 criminal laws relating to computer-related crime;

14 (4) to facilitate and promote the sharing of
15 Federal law enforcement expertise and information
16 about the investigation, analysis, and prosecution of
17 computer-related crime with State and local law en-
18 forcement personnel and prosecutors, including the
19 use of multijurisdictional task forces; and

20 (5) to carry out such other activities as the At-
21 torney General considers appropriate.

22 (b) AUTHORIZATION OF APPROPRIATIONS.

23 (1) AUTHORIZATION. There is hereby author-
24 ized to be appropriated in each fiscal year



1 \$50,000,000 for purposes of carrying out this sec-
2 tion.

3 (2) AVAILABILITY. Amounts appropriated pur-
4 suant to the authorization of appropriations in para-
5 graph (1) shall remain available until expended.

6 **TITLE IX—IMPROVED**
7 **INTELLIGENCE**

8 **SEC. 901. RESPONSIBILITIES OF DIRECTOR OF CENTRAL**
9 **INTELLIGENCE REGARDING FOREIGN INTEL-**
10 **LIGENCE COLLECTED UNDER FOREIGN IN-**
11 **TELLIGENCE SURVEILLANCE ACT OF 1978.**

12 Section 103(e) of the National Security Act of 1947
13 (50 U.S.C. 403 3(c)) is amended

14 (1) by redesignating paragraphs (6) and (7) as
15 paragraphs (7) and (8), respectively; and

16 (2) by inserting after paragraph (5) the fol-
17 lowing new paragraph (6):

18 “(6) establish requirements and priorities for
19 foreign intelligence information to be collected under
20 the Foreign Intelligence Surveillance Act of 1978
21 (50 U.S.C. 1801 et seq.), and provide assistance to
22 the Attorney General to ensure that information de-
23 rived from electronic surveillance or physical
24 searches under that Act is disseminated so it may be
25 used efficiently and effectively for foreign intel-



1 ligence purposes, except that the Director shall have
2 no authority to direct, manage, or undertake elec-
3 tronic surveillance or physical search operations pur-
4 suant to that Act unless otherwise authorized by
5 statute or executive order;”.

6 **SEC. 902. INCLUSION OF INTERNATIONAL TERRORIST AC-**
7 **TIVITIES WITHIN SCOPE OF FOREIGN INTEL-**
8 **LIGENCE UNDER NATIONAL SECURITY ACT**
9 **OF 1947.**

10 Section 3 of the National Security Act of 1947 (50
11 U.S.C. 401a) is amended

12 (1) in paragraph (2), by inserting before the pe-
13 riod the following: “, or international terrorist activi-
14 ties”; and

15 (2) in paragraph (3), by striking “and activities
16 conducted” and inserting “, and activities con-
17 ducted,”.

18 **SEC. 903. SENSE OF CONGRESS ON THE ESTABLISHMENT**
19 **AND MAINTENANCE OF INTELLIGENCE RELA-**
20 **TIONSHIPS TO ACQUIRE INFORMATION ON**
21 **TERRORISTS AND TERRORIST ORGANIZA-**
22 **TIONS.**

23 It is the sense of Congress that officers and employ-
24 ees of the intelligence community of the Federal Govern-
25 ment, acting within the course of their official duties,



1 should be encouraged, and should make every effort, to
2 establish and maintain intelligence relationships with any
3 person, entity, or group for the purpose of engaging in
4 lawful intelligence activities, including the acquisition of
5 information on the identity, location, finances, affiliations,
6 capabilities, plans, or intentions of a terrorist or terrorist
7 organization, or information on any other person, entity,
8 or group (including a foreign government) engaged in har-
9 boring, comforting, financing, aiding, or assisting a ter-
10 rorist or terrorist organization.

11 **SEC. 904. TEMPORARY AUTHORITY TO DEFER SUBMITTAL**
12 **TO CONGRESS OF REPORTS ON INTEL-**
13 **LIGENCE AND INTELLIGENCE-RELATED MAT-**
14 **TERS.**

15 (a) **AUTHORITY TO DEFER.** The Secretary of De-
16 fense, Attorney General, and Director of Central Intel-
17 ligence each may, during the effective period of this sec-
18 tion, defer the date of submittal to Congress of any cov-
19 ered intelligence report under the jurisdiction of such offi-
20 cial until February 1, 2002.

21 (b) **COVERED INTELLIGENCE REPORT.** Except as
22 provided in subsection (c), for purposes of subsection (a),
23 a covered intelligence report is as follows:

24 (1) Any report on intelligence or intelligence-re-
25 lated activities of the United States Government



1 that is required to be submitted to Congress by an
2 element of the intelligence community during the ef-
3 fective period of this section.

4 (2) Any report or other matter that is required
5 to be submitted to the Select Committee on Intel-
6 ligence of the Senate and Permanent Select Com-
7 mittee on Intelligence of the House of Representa-
8 tives by the Department of Defense or the Depart-
9 ment of Justice during the effective period of this
10 section.

11 (c) EXCEPTION FOR CERTAIN REPORTS. For pur-
12 poses of subsection (a), any report required by section 502
13 or 503 of the National Security Act of 1947 (50 U.S.C.
14 413a, 413b) is not a covered intelligence report.

15 (d) NOTICE TO CONGRESS. Upon deferring the date
16 of submittal to Congress of a covered intelligence report
17 under subsection (a), the official deferring the date of sub-
18 mittal of the covered intelligence report shall submit to
19 Congress notice of the deferral. Notice of deferral of a re-
20 port shall specify the provision of law, if any, under which
21 the report would otherwise be submitted to Congress.

22 (e) EXTENSION OF DEFERRAL. (1) Each official
23 specified in subsection (a) may defer the date of submittal
24 to Congress of a covered intelligence report under the ju-
25 risdiction of such official to a date after February 1, 2002,



1 if such official submits to the committees of Congress
2 specified in subsection (b)(2) before February 1, 2002, a
3 certification that preparation and submittal of the covered
4 intelligence report on February 1, 2002, will impede the
5 work of officers or employees who are engaged in
6 counterterrorism activities.

7 (2) A certification under paragraph (1) with respect
8 to a covered intelligence report shall specify the date on
9 which the covered intelligence report will be submitted to
10 Congress.

11 (f) EFFECTIVE PERIOD. The effective period of this
12 section is the period beginning on the date of the enact-
13 ment of this Act and ending on February 1, 2002.

14 (g) ELEMENT OF THE INTELLIGENCE COMMUNITY
15 DEFINED. In this section, the term “element of the intel-
16 ligence community” means any element of the intelligence
17 community specified or designated under section 3(4) of
18 the National Security Act of 1947 (50 U.S.C. 401a(4)).

19 **SEC. 905. DISCLOSURE TO DIRECTOR OF CENTRAL INTEL-**
20 **LIGENCE OF FOREIGN INTELLIGENCE-RE-**
21 **LATED INFORMATION WITH RESPECT TO**
22 **CRIMINAL INVESTIGATIONS.**

23 (a) IN GENERAL. Title I of the National Security
24 Act of 1947 (50 U.S.C. 402 et seq.) is amended



1 (1) by redesignating subsection 105B as section
2 105C; and

3 (2) by inserting after section 105A the fol-
4 lowing new section 105B:

5 “DISCLOSURE OF FOREIGN INTELLIGENCE ACQUIRED IN
6 CRIMINAL INVESTIGATIONS; NOTICE OF CRIMINAL
7 INVESTIGATIONS OF FOREIGN INTELLIGENCE
8 SOURCES

9 “SEC. 105B. (a) DISCLOSURE OF FOREIGN INTEL-
10 LIGENCE. (1) Except as otherwise provided by law and
11 subject to paragraph (2), the Attorney General, or the
12 head of any other department or agency of the Federal
13 Government with law enforcement responsibilities, shall
14 expeditiously disclose to the Director of Central Intel-
15 ligence, pursuant to guidelines developed by the Attorney
16 General in consultation with the Director, foreign intel-
17 ligence acquired by an element of the Department of Jus-
18 tice or an element of such department or agency, as the
19 case may be, in the course of a criminal investigation.

20 “(2) The Attorney General by regulation and in con-
21 sultation with the Director of Central Intelligence may
22 provide for exceptions to the applicability of paragraph (1)
23 for one or more classes of foreign intelligence, or foreign
24 intelligence with respect to one or more targets or matters,
25 if the Attorney General determines that disclosure of such
26 foreign intelligence under that paragraph would jeopardize



1 an ongoing law enforcement investigation or impair other
2 significant law enforcement interests.

3 “(b) PROCEDURES FOR NOTICE OF CRIMINAL INVES-
4 TIGATIONS. Not later than 180 days after the date of
5 enactment of this section, the Attorney General, in con-
6 sultation with the Director of Central Intelligence, shall
7 develop guidelines to ensure that after receipt of a report
8 from an element of the intelligence community of activity
9 of a foreign intelligence source or potential foreign intel-
10 ligence source that may warrant investigation as criminal
11 activity, the Attorney General provides notice to the Direc-
12 tor of Central Intelligence, within a reasonable period of
13 time, of his intention to commence, or decline to com-
14 mence, a criminal investigation of such activity.

15 “(c) PROCEDURES. The Attorney General shall de-
16 velop procedures for the administration of this section, in-
17 cluding the disclosure of foreign intelligence by elements
18 of the Department of Justice, and elements of other de-
19 partments and agencies of the Federal Government, under
20 subsection (a) and the provision of notice with respect to
21 criminal investigations under subsection (b).”.

22 (b) CLERICAL AMENDMENT. The table of contents
23 in the first section of that Act is amended by striking the
24 item relating to section 105B and inserting the following
25 new items:



“Sec. 105B. Disclosure of foreign intelligence acquired in criminal investigations; notice of criminal investigations of foreign intelligence sources.

“Sec. 105C. Protection of the operational files of the National Imagery and Mapping Agency.”.

1 **SEC. 906. FOREIGN TERRORIST ASSET TRACKING CENTER.**

2 (a) REPORT ON RECONFIGURATION. Not later than
3 February 1, 2002, the Attorney General, the Director of
4 Central Intelligence, and the Secretary of the Treasury
5 shall jointly submit to Congress a report on the feasibility
6 and desirability of reconfiguring the Foreign Terrorist
7 Asset Tracking Center and the Office of Foreign Assets
8 Control of the Department of the Treasury in order to
9 establish a capability to provide for the effective and effi-
10 cient analysis and dissemination of foreign intelligence re-
11 lating to the financial capabilities and resources of inter-
12 national terrorist organizations.

13 (b) REPORT REQUIREMENTS. (1) In preparing the
14 report under subsection (a), the Attorney General, the
15 Secretary, and the Director shall consider whether, and
16 to what extent, the capacities and resources of the Finan-
17 cial Crimes Enforcement Center of the Department of the
18 Treasury may be integrated into the capability con-
19 templated by the report.

20 (2) If the Attorney General, Secretary, and the Direc-
21 tor determine that it is feasible and desirable to undertake
22 the reconfiguration described in subsection (a) in order to
23 establish the capability described in that subsection, the



1 Attorney General, the Secretary, and the Director shall
2 include with the report under that subsection a detailed
3 proposal for legislation to achieve the reconfiguration.

4 **SEC. 907. NATIONAL VIRTUAL TRANSLATION CENTER.**

5 (a) REPORT ON ESTABLISHMENT. (1) Not later
6 than February 1, 2002, the Director of Central Intel-
7 ligence shall, in consultation with the Director of the Fed-
8 eral Bureau of Investigation, submit to the appropriate
9 committees of Congress a report on the establishment and
10 maintenance within the intelligence community of an ele-
11 ment for purposes of providing timely and accurate trans-
12 lations of foreign intelligence for all other elements of the
13 intelligence community. In the report, the element shall
14 be referred to as the "National Virtual Translation Cen-
15 ter".

16 (2) The report on the element described in paragraph
17 (1) shall discuss the use of state-of-the-art communica-
18 tions technology, the integration of existing translation ca-
19 pabilities in the intelligence community, and the utilization
20 of remote-connection capacities so as to minimize the need
21 for a central physical facility for the element.

22 (b) RESOURCES. The report on the element required
23 by subsection (a) shall address the following:

24 (1) The assignment to the element of a staff of
25 individuals possessing a broad range of linguistic



1 and translation skills appropriate for the purposes of
2 the element.

3 (2) The provision to the element of communica-
4 tions capabilities and systems that are commensu-
5 rate with the most current and sophisticated com-
6 munications capabilities and systems available to
7 other elements of intelligence community.

8 (3) The assurance, to the maximum extent
9 practicable, that the communications capabilities and
10 systems provided to the element will be compatible
11 with communications capabilities and systems uti-
12 lized by the Federal Bureau of Investigation in se-
13 curing timely and accurate translations of foreign
14 language materials for law enforcement investiga-
15 tions.

16 (4) The development of a communications in-
17 frastructure to ensure the efficient and secure use of
18 the translation capabilities of the element.

19 (c) SECURE COMMUNICATIONS. The report shall in-
20 clude a discussion of the creation of secure electronic com-
21 munications between the element described by subsection
22 (a) and the other elements of the intelligence community.

23 (d) DEFINITIONS. In this section:

24 (1) FOREIGN INTELLIGENCE. The term “for-
25 eign intelligence” has the meaning given that term



1 in section 3(2) of the National Security Act of 1947
2 (50 U.S.C. 401a(2)).

3 (2) ELEMENT OF THE INTELLIGENCE COMMU-
4 NITY. The term “element of the intelligence com-
5 munity” means any element of the intelligence com-
6 munity specified or designated under section 3(4) of
7 the National Security Act of 1947 (50 U.S.C.
8 401a(4)).

9 **SEC. 908. TRAINING OF GOVERNMENT OFFICIALS REGARD-**
10 **ING IDENTIFICATION AND USE OF FOREIGN**
11 **INTELLIGENCE.**

12 (a) PROGRAM REQUIRED. The Attorney General
13 shall, in consultation with the Director of Central Intel-
14 ligence, carry out a program to provide appropriate train-
15 ing to officials described in subsection (b) in order to as-
16 sist such officials in

17 (1) identifying foreign intelligence information
18 in the course of their duties; and

19 (2) utilizing foreign intelligence information in
20 the course of their duties, to the extent that the uti-
21 lization of such information is appropriate for such
22 duties.

23 (b) OFFICIALS. The officials provided training
24 under subsection (a) are, at the discretion of the Attorney
25 General and the Director, the following:



1 (1) Officials of the Federal Government who
2 are not ordinarily engaged in the collection, dissemi-
3 nation, and use of foreign intelligence in the per-
4 formance of their duties.

5 (2) Officials of State and local governments
6 who encounter, or may encounter in the course of a
7 terrorist event, foreign intelligence in the perform-
8 ance of their duties.

9 (c) AUTHORIZATION OF APPROPRIATIONS. There is
10 hereby authorized to be appropriated for the Department
11 of Justice such sums as may be necessary for purposes
12 of carrying out the program required by subsection (a).

