H. R. 1860

To modernize, shorten, and simplify the Federal criminal code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 2013

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To modernize, shorten, and simplify the Federal criminal code, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Criminal Code Modern-
ernization and Simplification Act of 2013”.

SEC. 2. REVISION OF PART I OF TITLE 18, UNITED STATES

CODE.

Part I of title 18, United States Code, is amended to read as follows:
“PART I—GENERAL PROVISIONS AND OFFENSES

“Chapter
“1. Definitions .......................................................... 1
“3. Criminal responsibility ........................................... 2
“5. Other general provisions ....................................... 21
“10. Violent crimes against persons ............................ 101
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“CHAPTER 1—DEFINITIONS

“1. Definitions for title.

“§ 1. Definitions for title

“In this title, the following definitions apply unless otherwise provided:

“(1) The term ‘person’ and the term ‘whoever’, unless the context otherwise requires, include any entity capable of holding a legal or beneficial interest in property as well as an individual, and where used as a victim of an offense, includes a government.

“(2) The term ‘minor’ means an individual who is less than 18 years of age.
“(3) The term ‘national of the United States’ has the meaning given in section 101(a)(22) of the Immigration and Nationality Act.

“(4) The term ‘organization’ means a person other than an individual.

“(5) The term ‘department’ means one of the executive departments enumerated in section 1 of title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the Government.

“(6) The term ‘agency’ means any department, independent establishment, commission, administration, authority, board, or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense.

“(7) The term ‘Postal Service’ means the United States Postal Service established under title 39, and every officer and employee of that Service, whether or not such officer or employee has taken the oath of office.

“(8) The term ‘court of the United States’ includes the District Court of Guam, the District
Court for the Northern Mariana Islands, and the
District Court of the Virgin Islands.

“(9) The term ‘foreign government’ except in
sections 102, 112, 121, 144, or 928, includes any
government, faction, or body of insurgents within a
country with which the United States is at peace, ir-
respective of recognition by the United States.

“(10) The term ‘crime of violence’ means—

“(A) an offense that has as an element the
use, attempted use, or threatened use of phys-
ical force against the person or property of an-
other; or

“(B) any other offense that is a felony and
that, by its nature, involves a substantial risk
that physical force against the person or prop-
erty of another may be used in the course of
committing the offense.

“(11) The term ‘petty offense’ means a Class B
misdemeanor, a Class C misdemeanor, or an infrac-
tion, for which the maximum fine is no greater than
the amount set forth for such an offense in
571(b)(6) or (7) in the case of an individual or sec-
tion 3571(c)(6) or (7) in the case of an organization.

“(12) The term ‘United States’, unless the con-
text otherwise requires, includes all places and
waters, continental or insular, subject to the juris-
diction of the United States.

“(13) The term ‘State’ means a State of the
United States, the District of Columbia, or any com-
monwealth, territory, or possession of the United
States.

“(14) The term ‘interstate commerce’ means
commerce between or among more than one State.

“(15) The term ‘foreign commerce’ means com-
merce with a foreign country.

“(16) The term ‘facility of interstate or foreign
commerce’ includes a means of transportation and
communication in or affecting interstate or foreign
commerce.

“(17) The term ‘health care benefit program’
means any public or private plan or contract, affect-
ing commerce, under which any medical benefit,
item, or service is provided to any individual, and in-
cludes any individual or entity who is providing a
medical benefit, item, or service for which payment
may be made under the plan or contract.

“(18) The term ‘Federal health care offense’
means a violation of—

“(A) section 655, 792, or 806 of this title,
or section 1128B of the Social Security Act; or
“(B) section 504, 651, 653, 772, 782, 801, 803, or 1017 of this title, section 411, 518, or 511 of the Employee Retirement Income Security Act of 1974, section 301 of the Federal Food, Drug, and Cosmetic Act, or section 501 of the Employee Retirement Income Security Act of 1974, if the violation relates to a health care benefit program.

“(19) The term ‘financial institution’ means—

“(A) an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

“(B) a credit union with accounts insured by the National Credit Union Administration;

“(C) a Federal home loan bank or a member of the Federal home loan bank system (as such terms are defined in section 2 of the Federal Home Loan Bank Act);

“(D) a System institution of the Farm Credit System (as defined in section 5.35(3) of the Farm Credit Act of 1971);

“(E) a small business investment company (as defined in section 103 of the Small Business Investment Act of 1958);
“(F) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act);

“(G) a Federal Reserve bank or a member bank of the Federal Reserve System;

“(H) an organization operating under section 25 or section 25A of the Federal Reserve Act;

“(I) a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978); and

“(J) a mortgage lending business or any person or entity that makes in whole or in part a federally related mortgage loan (as defined in section 3 of the Real Estate Settlement Procedures Act of 1974).

“(20) The term ‘mortgage lending business’ means an organization which finances or refines any debt secured by an interest in real estate, including private mortgage companies and any subsidiaries of such organizations, and whose activities affect interstate or foreign commerce.

“(21) The term ‘national bank’ is synonymous with ‘national banking association’.
“(22) The term ‘obligation or other security of any foreign government’ includes uncanceled stamps, whether or not demonetized.

“(23) The term ‘special maritime and territorial jurisdiction of the United States’ means the following:

“(A) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

“(B) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.
“(C) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

“(D) Any aircraft belonging in whole or in part to the United States, or any citizen thereof, or to any corporation created by or under the laws of the United States, or any State, while such aircraft is in flight over the high seas, or over any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

“(E) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle
is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.

“(F) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

“(G) To the extent permitted by international law, any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

“(H) With respect to offenses committed by or against a national of the United States—

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

“(ii) residences in foreign states and the land appurtenant or ancillary thereto, irrespective of ownership, used for purposes of those missions or entities or used by United States personnel assigned to those missions or entities.

Nothing in clause (ii) supersedes any treaty or international agreement. Clause (ii) does not apply with respect to an offense committed by a person described in section 3261(a).

“(24) The term ‘vessel of the United States’ means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State.

“(25) The term ‘serious bodily injury’ means—

“(A) bodily injury which involves—

“(i) a substantial risk of death or unconsciousness;

“(ii) extreme physical pain;

“(iii) protracted and obvious disfigurement; or
“(iv) protracted loss or impairment of
the function of a bodily member, organ, or
mental or sensory faculty; or
“(B) the condition of being a victim of
conduct that, had it occurred in the special
maritime or territorial jurisdiction of the
United States, would have violated subchapter
A of chapter 13.
“(26) The term ‘substantial bodily injury’
means bodily injury which involves—
“(A) a temporary but substantial disfigure-
ment; or
“(B) a temporary but substantial loss or
impairment of the function of any bodily mem-
ber, organ, or mental or sensory faculty.
“(27) The term ‘bodily injury’ means—
“(A) a cut, abrasion, bruise, burn, or dis-
figurement;
“(B) physical pain;
“(C) illness;
“(D) impairment of the function of a bod-
ily member, organ, or mental or sensory faculty;
or
“(E) any other injury to the body, no mat-
ter how temporary.
“(28) The term ‘controlled substance’ means a controlled substance as defined in section 102 of the Controlled Substances Act.

“CHAPTER 3—CRIMINAL RESPONSIBILITY

“2. Principals.
“3. Accessory after the fact.
“7. Solicitation to commit a crime of violence.

“§ 2. Principals

“(a) GENERALLY.—Whoever commits an offense against the United States or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal.

“(b) FOR CONDUCT OF OTHERS.—Whoever intentionally causes conduct by another that is an offense against the United States, is punishable as a principal for that offense.

“§ 3. Accessory after the fact

“(a) OFFENSE.—Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment, is an accessory after the fact.

“(b) PUNISHMENT.—Except as otherwise expressly provided by Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum
term of imprisonment or (notwithstanding section 3571) fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by life imprisonment or death, the accessory shall be imprisoned not more than 15 years.

§ 4. Misprision of felony

“Whoever, having knowledge of the actual commission of a felony offense against the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be imprisoned not more than three years.

§ 5. Conspiracy

“Unless otherwise provided by law, if two or more persons conspire to commit any offense against the United States, and one or more of such persons do any act to effect the object of the conspiracy, each shall be punished for the offense which is the object of the conspiracy.

§ 6. Attempt

“Unless otherwise provided by law, whoever attempts to commit an offense shall be punished as is provided for the completed offense.

§ 7. Solicitation to commit a crime of violence

“(a) OFFENSE.—Whoever, with intent that another person engage in a Federal offense that is a felony crime
of violence and under circumstances strongly corroborative of that intent, solicits such other person to engage in that offense, shall be imprisoned not more than one-half the maximum term of imprisonment or (notwithstanding section 3571) fined not more than one-half of the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by life imprisonment or death, shall be imprisoned for not more than 20 years.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not ‘voluntary and complete’ if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective.

“(c) LIMITATION ON DEFENSES.—It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because that person lacked the state of mind required for its commission, was incompetent or irresponsible, or is immune from prosecution, or not subject to, prosecution.
"CHAPTER 5—OTHER GENERAL PROVISIONS"

"SUBCHAPTER A—DEFENSES"

Sec. 21. Affirmative defenses.

"Affirmative defenses."

"If a provision of law provides an affirmative defense to a prosecution for an offense, the defendant must prove the elements of that defense by a preponderance of the evidence.

"§ 22. Insanity defense"

"(a) Affirmative Defense.—It is an affirmative defense to a prosecution under any Federal statute that, at the time of the commission of the acts constituting the offense, the defendant, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of his acts. Mental disease or defect does not otherwise constitute a defense.

"(b) Burden of Proof.—The defendant has the burden of proving the defense of insanity by clear and convincing evidence.

"SUBCHAPTER B—GENERAL RULES PERTAINING TO CRIMINAL OFFENSES"

"Sec.

1. Non-preemption.

2. Extraterritorial jurisdiction over derivative offenses."
“§ 31. Non-preemption

“The existence of a Federal criminal offense does not preclude the application of a State or local law to the conduct proscribed by the offense, unless the law specifically so provides or the State or local law requires conduct constituting the Federal criminal offense.

“§ 32. Extraterritorial jurisdiction over derivative offenses

“If extraterritorial jurisdiction exists for an offense defined by a provision of law, then extraterritorial jurisdiction also exists for any offense arising under chapter 3 as a result of conduct with respect the offense so defined.

“§ 33. State of mind requirements generally

“(a) FOR CONDUCT.—Unless otherwise provided in the provision defining an offense, the state of mind required to prove the conduct required for the offense is knowingly.

“(b) FOR CIRCUMSTANCES AND RESULTS.—Unless otherwise provided in the provision defining the offense, the state of mind required to prove the conduct required for the offense is the same as the state of mind required to prove the conduct.

“CHAPTER 10—VIOLENT CRIMES AGAINST PERSONS

“SUBCHAPTER A—HOMICIDE


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“102. Federally punishable homicides.
“103. Penalties for murders punishable under section 102; attempts.
“104. Penalties for manslaughters punishable under section 102; attempts.
“105. Misconduct or neglect of ship officers.

1 §101. Homicide

“Unless otherwise provided by an Act of Congress, if a Federal law makes the killing of a human being an offense, the following categories shall apply with respect to that offense:

“(1) MURDER.—

“(A) ELEMENTS OF OFFENSE.—Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

“(B) DEFINITIONS.—In this paragraph—
“(i) the term ‘assault’ means conduct that consists of an assault as described in section 111;

“(ii) the term ‘child’ means a child who is under the perpetrator’s care or control or at least six years younger than the perpetrator;

“(iii) the term ‘child abuse’ means intentionally causing death or serious bodily injury to a child;

“(iv) the term ‘pattern or practice of assault or torture’ means assault or torture engaged in on at least two occasions; and

“(v) the term ‘torture’ means conduct, whether or not committed under the color of law, that otherwise satisfies the definition of that term set forth in section 1292.

“(2) MANSLAUGHTER.—Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

“(A) VOLUNTARY.—Upon a sudden quarrel or heat of passion.

“(B) INVOLUNTARY.—In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due
caution and circumspection, of a lawful act which
might produce death.

§ 102. Federally punishable homicides

"In addition to any other homicides made punishable
by law, the following are Federal offenses:

“(1) Special maritime and territorial juris-
diction.—A killing of an individual in the special
maritime and territorial jurisdiction of the
United States.

“(2) Officers and employees and former
officers and employees of the United
states.—A killing of any officer or employee, or
any former officer or employee, of the United States
or of any agency in any branch of the United States
Government (including any member of the uni-
formed services) while such officer or employee is en-
gaged in or on account of the performance of official
duties, or any individual assisting such an officer or
employee in the performance of such duties or on ac-
count of that assistance.

“(3) Family members of officers and em-
ploees and former officers and employees
of the United States.—A killing, with the intent
to impede, intimidate, or interfere with an individual
described in paragraph (2) while that individual is
engaged in the performance of official duties, or
with intent to retaliate against such individual on
account of the performance of official duties of that
individual, of a member of that individual’s family.

“(4) FOREIGN OFFICIALS, OFFICIAL GUESTS,
AND INTERNATIONALLY PROTECTED PERSONS.—A
killing of a foreign official, official guest, or inter-
nationally protected person.

“(5) KILLINGS BY ESCAPED PRISONER.—A kill-
ing by an individual who has escaped from a Federal
correctional institution where the individual was con-
fined under a sentence for a term of life imprison-
ment.

“(6) CONGRESSIONAL, CABINET, AND SUPREME
COURT ASSASSINATION.—A killing of an individual
who is a Member of Congress or a Member-of-Con-
gress-elect, a member of the executive branch of the
Government who is the head, or a person nominated
to be head during the pendency of such nomination,
of a department listed in section 101 of title 5 or
the second ranking official in such department, the
Director (or a person nomrinated to be Director dur-
ing the pendency of such nomination) or Principal
Deputy Director of National Intelligence, the Direc-
tor (or a person nominated to be Director during the
pendency of such nomination) or Deputy Director of
the Central Intelligence Agency, or a Justice of the
United States, as defined in section 451 of title 28,
or a person nominated to be a Justice of the United
States, during the pendency of such nomination.

“(7) PRESIDENTIAL AND PRESIDENTIAL STAFF
ASSASSINATION.—A killing of an individual who is—

“(A) the President of the United States,

the President-elect, the Vice President, or, if

there is no Vice President, the officer next in

the order of succession to the Office of the

President of the United States, the Vice Presi-
dent-elect, or any person who is acting as Presi-
dent under the Constitution and laws of the

United States;

“(B) a major Presidential or Vice Presi-
dential candidate (as defined in section 3056);
or

“(C) a person appointed under section

105(a)(2)(A) of title 3 employed in the Execu-
tive Office of the President or appointed under

section 106(a)(1)(A) of title 3 employed in the

Office of the Vice President.
“(8) OF NATIONAL ABROAD.—A killing of an individual outside the United States who is a national of the United States.

“(9) KILLINGS BY PRISONER.—A killing of an individual by a person confined under a sentence of life imprisonment in a Federal correctional facility.

“§ 103. Penalties for murders punishable under section 102; attempts

“(a) MURDER.—A murder that is an offense under section 102 is punishable by—

“(1) death or imprisonment for life for first degree murder; and

“(2) imprisonment for any term of years or for life for second degree murder.

“(b) ATTEMPTED MURDER.—

“(1) GENERALLY.—Except as provided in paragraph (2), whoever attempts to commit a murder that is an offense under section 102 shall be imprisoned not more than 20 years.

“(2) SPECIAL RULE RELATING TO CONGRESSIONAL, CABINET, AND SUPREME COURT ASSASSINATIONS AND PRESIDENTIAL AND PRESIDENTIAL STAFF ASSASSINATIONS.—If the offense attempted is against an individual described in paragraph (6) or
(7) of section 102, the penalty is imprisonment for any term of years or for life.

§ 104. Penalties for manslaughters punishable under section 102; attempts

“(a) Penalty for Manslaughter.—A manslaughter that is an offense under section 102 is punishable by—

“(1) imprisonment for not more than ten years, for voluntary manslaughter; and

“(2) imprisonment for not more than six years, for involuntary manslaughter.

“(b) Attempted Manslaughter.—Whoever attempts to commit a manslaughter that would be punishable under section 102 shall be imprisoned not more than 7 years.

§ 105. Misconduct or neglect of ship officers

“(a) Officers.—Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and every owner, charterer, inspector, or other public officer, through whose fraud, neglect, connivance, misconduct, or violation of law the life of any person is destroyed, shall be imprisoned not more than ten years.
“(b) OWNERS.—When the owner or charterer of any steamboat or vessel is a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly caused or allowed such fraud, neglect, connivance, misconduct, or knowing violation of law, by which the life of any person is destroyed, shall be imprisoned not more than ten years.

“SUBCHAPTER B—ASSAULT AND RELATED OFFENSES

111. Assault.
112. Individuals federally protected from assault.
113. Interference with Federal officers and employees.
114. Domestic assault by a habitual offender.
115. Transportation for purposes of female genital mutilation.

§ 111. Assault

“Unless otherwise provided by Act of Congress, if a Federal law prohibits an assault against an individual, the following punishments shall apply with respect to that offense:

“(1) Assault with intent to commit murder, a felony under subchapter A of chapter 10, or with intent to maim, disfigure, or torture, by imprisonment for not more than 20 years.

“(2) Assault with intent to commit any felony, except murder or a felony under subchapter A of
chapter 10, by imprisonment for not more than ten
years.

“(3) Assault with a dangerous weapon, with in-
tent to do bodily harm, and without just cause or ex-
cuse, by imprisonment for not more than ten years.

“(4) Assault resulting in serious bodily injury,
by imprisonment for not more than ten years.

“(5) Assault resulting in substantial bodily in-
jury to an individual who has not attained the age
of 16 years, by imprisonment for not more than 5
years.

“(6) Assault by striking, beating, or wounding,
by imprisonment for not more than six months.

“(7) Simple assault, by imprisonment for not
more than six months, or if the victim of the assault
is an individual who has not attained the age of 16
years, by imprisonment for not more than 1 year.

§ 112. Individuals federally protected from assault

“It is an offense to assault any individual whose kill-
ing is a Federal offense under paragraph (1), (2), (3), (4),
(6), or (7) of section 102.

§ 113. Interference with Federal officers and em-
ployees

“Whoever interferes with any officer or employee of
the United States or of any agency in any branch of the
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United States Government (including any member of the
uniformed services) while such officer or employee is en-
gaged in or on account of the performance of official du-
ties, or any individual assisting such an officer or em-
ployee in the performance of such duties or on account
of that assistance while that person is engaged in, or on
account of, the performance, official duties shall be impris-
oned not more than one year.

“§ 114. Domestic assault by a habitual offender

“(a) In General.—Whoever commits a domestic ass-
sault within the special maritime and territorial jurisdic-
tion of the United States or Indian country and who has
a final conviction on at least 2 separate prior occasions
in Federal, State, or Indian tribal court proceedings for
offenses that would be, if subject to Federal jurisdiction—

“(1) any assault, sexual abuse, or serious vio-
lent felony against a spouse or intimate partner; or

“(2) an offense under section 161,

shall be imprisoned for a term of not more than 5 years,
but if substantial bodily injury results from the offense
under this section, the offender shall be imprisoned for
a term of not more than 10 years.

“(b) Domestic Assault Defined.—In this section,
the term ‘domestic assault’ means an assault committed
by a current or former spouse, parent, child, or guardian
of the victim, by a person with whom the victim shares
a child in common, by a person who is cohabitating with
or has cohabitated with the victim as a spouse, parent,
child, or guardian, or by a person similarly situated to a
spouse, parent, child, or guardian of the victim.

“§ 115. Transportation for purposes of female genital
mutilation

“Whoever, in or affecting interstate or foreign com-
merce, transports a person for purposes of circumcises,
excises, or infibulates the whole or any part of the labia
majora or labia minora or clitoris of another person who
has not attained the age of 18 years shall be fined under
this title or imprisoned not more than 5 years, or both.
(b) A surgical operation is not a violation of this section
if the operation is— (1) necessary to the health of the
person on whom it is performed, and is performed by a
person licensed in the place of its performance as a med-
ical practitioner; or (2) performed on a person in labor
or who has just given birth and is performed for medical
purposes connected with that labor or birth by a person
licensed in the place it is performed as a medical practi-
tioner, midwife, or person in training to become such a
practitioner or midwife.

“SUBCHAPTER C—KIDNAPPING

121. Kidnapping.
122. Ransom money.
§ 121. Kidnapping

(a) Basic Offense.—Except in the case of a child by the parent thereof, whoever, as made applicable by subsection (b), kidnaps an individual shall be imprisoned for any term of years or for life and, if death results to any individual, shall be punished by death or life imprisonment.

(b) Circumstances Required.—Subsection (a) applies if—

(1) the victim is transported in interstate or foreign commerce;

(2) the victim’s body is transported in interstate or foreign commerce and the victim was alive when the transportation began;

(3) the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense; or

(4) the victim is an individual whose killing is a Federal offense under paragraph (1), (2), (4), (6), or (7) of section 102.

(c) Presumption.—With respect to a violation of subsection (a), based on the circumstance described in
subsection (b)(1), the failure to release the victim within
24 hours after the victim was kidnapped creates a rebuttable
presumption that the victim has been transported in
interstate or foreign commerce. However, the fact that the
presumption under this section has not yet taken effect
does not preclude a Federal investigation of a possible vi-

“(d) Attempts.—Whoever attempts to violate sub-
section (a) shall be punished by imprisonment for not
more than 20 years but if the individual whose kidnapping
was attempted is described in paragraph (6) or (7) of sec-
tion 102, the offender shall be imprisoned for any term
of years or for life.

“(e) Special Rule for Certain Offenses In-
volving Children.—If the victim of an offense under
this section is a minor and the offender—
“(1) is not a minor; and
“(2) is not—
“(A) a parent;
“(B) a grandparent;
“(C) a brother;
“(D) a sister;
“(E) an aunt;
“(F) an uncle; or
“(G) an individual having legal custody of
the victim;
the sentence under this section for such offense shall in-
clude imprisonment for not less than 20 years.
“(f) DEFINITION.—As used in this section, the term
‘parent’ does not include a person whose parental rights
with respect to the victim of an offense under this section
have been terminated by a final court order.
“§122. Ransom money
“(a) FEDERAL.—Whoever receives, possesses, or dis-
poses of any money or other property, or any portion
thereof, which has at any time been delivered as ransom
or reward in connection with a violation of section 121,
knowing it to be such, shall be imprisoned not more than
ten years.
“(b) STATE.—Whoever transports, transmits, or
transfers in interstate or foreign commerce any proceeds
of a kidnapping punishable under State law by imprison-
ment for more than 1 year, or receives, possesses, con-
ceals, or disposes of any such proceeds after they have
crossed a State or United States boundary, knowing the
proceeds to have been unlawfully obtained, shall be impris-
oned not more than 10 years.
§ 123. Hostage taking

(a) OFFENSE.—Except as provided in subsection (b)
of this section, whoever, whether inside or outside the
United States, seizes or detains and threatens to kill, to
injure, or to continue to detain another person in order
to compel a third person or a governmental organization
to do or abstain from doing any act as an explicit or im-

clict condition for the release of the person detained shall
be punished by imprisonment for any term of years or for
life and, if the death of any person results, shall be pun-
ished by death or life imprisonment.

(b) EXCLUSIONS.—

(1) It is not an offense under this section if
the conduct required for the offense occurred outside
the United States unless—

(A) the offender or the person seized or
detained is a national of the United States;

(B) the offender is found in the United
States; or

(C) the governmental organization sought
to be compelled is the Government of the
United States.

(2) It is not an offense under this section if
the conduct required for the offense occurred inside
the United States, each alleged offender and each
person seized or detained are nationals of the United
States, and each alleged offender is found in the
United States, unless the governmental organization
sought to be compelled is the Government of the
United States.

§ 124. International parental kidnapping

(a) Offense.—Whoever removes a child from the
United States, or attempts to do so, or retains a child
(who has been in the United States) outside the United
States with intent to obstruct the lawful exercise of paren-
tal rights shall be imprisoned not more than 3 years.

(b) Definitions.—As used in this section—

(1) the term ‘child’ means a person who has
not attained the age of 16 years; and

(2) the term ‘parental rights’, with respect to
a child, means the right to physical custody of the
child—

(A) whether joint or sole (and includes
visiting rights); and

(B) whether arising by operation of law,
court order, or legally binding agreement of the
parties.

(c) Affirmative Defense.—It is an affirmative
defense under this section that—

(1) the defendant acted within the provisions
of a valid court order granting the defendant legal
custody or visitation rights and that order was obtained pursuant to the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and was in effect at the time of the offense;

“(2) the defendant was fleeing an incidence or pattern of domestic violence; or

“(3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond the defendant’s control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian of the child of such circumstances within 24 hours after the visitation period had expired and returned the child as soon as possible.

“(d) EFFECT ON HAGUE CONVENTION.—This section does not limit The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.

“SUBCHAPTER D—THREATS AGAINST SPECIALLY PROTECTED PERSONS

“131. Threats against officers or employees of the United States, and other specially protected persons.
§ 131. Threats against officers or employees of the United States, and other specially protected persons

“Whoever threatens to kill, kidnap, or inflict bodily harm upon—

“(1) an individual described in paragraph (2) or (3) of section 102 on account of the performance of official duties;

“(2) an individual described in paragraph (4), (6), or (7) of section 102;

“(3) a former President of the United States;

“(4) a member of the family of the President, the President-elect, the Vice President, or the Vice President-elect;

“(5) a major candidate for the office of President or Vice President, or a member of the family of such candidate; or

“(6) a person protected by the Secret Service under section 3056(a)(6);

shall be imprisoned for not more than 10 years.

“SUBCHAPTER E—DEFINITIONS AND GENERAL PROVISIONS FOR SUBCHAPTERS A THROUGH D

136. Definitions for subchapters A through D.
137. Special rules relating to offenses against certain types of victims.
§ 136. Definitions for subchapters A through D

Unless otherwise provided, in subchapters A through D, the following definitions apply:

“(1) The term ‘family’, with respect to an individual, means—

“(A) a spouse, parent, brother or sister, child, or person to whom the individual stands in loco parentis; or

“(B) any other person living in the individual’s household and related to the individual by blood or marriage.

“(2) The term ‘foreign government’ means the government of a foreign country, irrespective of recognition by the United States.

“(3) The term ‘foreign official’ means—

“(A) a Chief of State or the political equivalent, President, Vice President, Prime Minister, Ambassador, Foreign Minister, or other officer of Cabinet rank or above of a foreign government or the chief executive officer of an international organization, or any person who has previously served in such capacity, and any member of his family, while in the United States; or

“(B) any person of a foreign nationality who is duly notified to the United States as an
officer or employee of a foreign government or international organization, and who is in the United States on official business, and any member of that person’s family whose presence in the United States is in connection with the presence of such officer or employee.

“(4) The term ‘internationally protected person’ means an individual who is—

“(A) a Chief of State or the political equivalent, head of government, or Foreign Minister whenever such person is in a country other than his own and any member of that individual’s family accompanying that individual; or

“(B) any other representative, officer, employee, or agent of the United States Government, a foreign government, or international organization who at the time and place concerned is entitled pursuant to international law to special protection against attack upon his person, freedom, or dignity, and any member of that individual’s family then forming part of his household.

“(5) The term ‘international organization’ means a public international organization designated as such pursuant to section 1 of the International
Organizations Immunities Act or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

“(6) The term ‘official guest’ means a citizen or national of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State.

“(7) The terms ‘President-elect’ and ‘Vice President-elect’ mean those persons who are the apparently successful candidates for the offices of President and Vice President, respectively, as ascertained from the result of the general elections held to determine the electors of President and Vice President under sections 1 and 2 of title 3.

“§ 137. Special rules relating to offenses against certain types of victims

“(a) EXTRATERRITORIAL JURISDICTION.—

“(1) PRESIDENTIAL AND CONGRESSIONAL VICTIMS.—There is extraterritorial jurisdiction over an offense under any of subchapters A through D against a victim described in paragraph (6) or (7) of section 102.
“(2) Internationally protected persons.—There is extraterritorial jurisdiction over an offense under any of subchapters A through D the victim of which is an internationally protected person outside the United States, if—

“(A) the victim is a representative, officer, employee, or agent of the United States;

“(B) an offender is a national of the United States; or

“(C) an offender is afterwards found in the United States.

“(b) Use of military with respect to certain offenses.—With respect to an offense under this chapter, or an attempt or conspiracy to commit such an offense, if an element of the offense is that the victim be individual described in paragraph (6) or (7) of section 102, a foreign official, an internationally protected person, or an official guest, the Attorney General may request assistance from any Federal, State, or local agency, including the Army, Navy, and Air Force.

“(c) Special provisions relating to offenses involving presidential or congressional victims.—With respect to an offense under paragraph (6) or (7) of section 102—
“(1) if Federal investigative or prosecutive jurisdiction is asserted, that assertion suspends the exercise of jurisdiction by a State or local authority, under any applicable State or local law, until Federal action is terminated;

“(2) the Federal Bureau of Investigation shall have investigative authority; and

“(3) in a prosecution, the Government need not prove that the defendant knew that the victim of the offense was an individual who is protected by that paragraph.

“(d) Actions Required for Certain Homicide Prosecutions.—No prosecution shall be undertaken for an offense under section 102(8) unless the named official takes one of the following actions:

“(1) In the case of any such prosecution, the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions certifies that, in the judgment of the certifying official, such offense was intended to coerce, intimidate, or retaliate against a government or a civilian population.

“(2)(A) In the case of a killing by a national of the United States within the jurisdiction of another country, the Attorney General, the Deputy At-
torney General, or an Assistant Attorney General approves the prosecution, which function of approving prosecutions may not be delegated.

“(B) No prosecution shall be approved under this paragraph if prosecution has been previously undertaken by a foreign country for the same conduct. No prosecution shall be approved under this paragraph unless the Attorney General, in consultation with the Secretary of State, determines that the conduct took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person’s return. A determination by the Attorney General under this paragraph is not subject to judicial review.

“SUBCHAPTER F—ROBBERY, EXTORTION, AND RELATED THREATS

“141. Robbery in special maritime and territorial jurisdiction.
“142. Robbery of personal property of United States.
“143. Bank robbery and incidental crimes.
“144. Communication of ransom demands and other threatening communications in or affecting commerce.
“145. Extortion by officers or employees of the United States.
“146. Receiving the proceeds of extortion.

“§ 141. Robbery in special maritime and territorial jurisdiction

“Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes or attempts to take from the per-
son or presence of another anything of value, shall be im-
prisoned not more than 15 years.

§ 142. Robbery of personal property of United States

“Whoever robs or attempts to rob another of any kind or description of personal property belonging to the United States, shall be imprisoned not more than 15 years.

§ 143. Bank robbery and incidental crimes

“(a) BANK ROBBERY.—Whoever—

“(1) by force and violence, or by intimidation, takes, or attempts to take, from the person or pres-
ence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, con-
trol, management, or possession of, any bank, credit union, or any savings and loan association; or

“(2) enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan associa-
tion and in violation of any statute of the United States, or any larceny;
shall be imprisoned not more than 20 years.

“(b) Theft of Property Over $1,000 in Value.—Whoever takes and carries away, with intent to steal or purloin any property or money or any other thing of value exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be imprisoned not more than ten years.

“(c) Theft of Property of $1,000 or Less in Value.—Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding $1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be imprisoned not more than one year.

“(d) Receiving Stolen Bank Property.—Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any property or money or other thing of value which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b) or (c), knowing the same to be property which has been stolen shall be subject to the punishment provided in subsection (b) or (c) for the taker.
“(e) ASSAULTING PERSON OR PLACING LIFE IN JEOPARDY.—Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) through (c), assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be imprisoned not more than 25 years.

“(f) KILLING AND KIDNAPPING.—Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment.

“(g) DEFINITIONS.—As used in this section—

“(1) the term ‘bank’ means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), and any
institution the deposits of which are insured by the
Federal Deposit Insurance Corporation;

“(2) the term ‘credit union’ means any Federal
credit union and any State-chartered credit union
the accounts of which are insured by the National
Credit Union Administration Board, and any ‘Fed-
eral credit union’ as defined in section 2 of the Fed-
eral Credit Union Act;

“(3) the term ‘State-chartered credit union’ in-
cudes a credit union chartered under the laws of a
State; and

“(4) the term ‘savings and loan association’
means—

“(A) a Federal savings association or State
savings association (as defined in section 3(b)
of the Federal Deposit Insurance Act) having
accounts insured by the Federal Deposit Insur-
ance Corporation; and

“(B) a corporation described in section
3(b)(1)(C) of the Federal Deposit Insurance
Act that is operating under the laws of the
United States.
§ 144. Communication of ransom demands and other threatening communications in or affecting commerce

(a) KIDNAP RANSOM.—Whoever knowingly transmits, in or affecting interstate or foreign commerce, any communication containing any demand or request for a ransom or reward for the release of any kidnapped person shall be imprisoned not more than 20 years.

(b) THREATS TO KIDNAP OR INJURE.—Whoever, with intent to extort from any person any money or other thing of value, knowingly transmits, in or affecting interstate commerce, any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be imprisoned not more than 20 years.

(c) THREATS TO PROPERTY OR REPUTATION WITH INTENT TO EXTORT.—Whoever, with intent to extort from any person any money or other thing of value, knowingly transmits, in or affecting interstate or foreign commerce, any communication containing any threat—

(1) to injure the property or reputation of another or the reputation of a deceased person; or

(2) to accuse another of a crime;

shall be imprisoned not more than 10 years.
§ 145. Extortion by officers or employees of the United States

"Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing oneself to be or assuming to act as such, under color or pretense of office or employment commits or attempts an act of extortion, shall be imprisoned not more than three years; but if the amount so extorted or demanded does not exceed $1,000, the offender shall be imprisoned not more than one year.

§ 146. Receiving the proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property which was obtained from the commission of any offense under this subchapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years.

SUBCHAPTER G—EXTORTIONATE CREDIT TRANSACTIONS

§ 155. Making extortionate extensions of credit

"(a) OFFENSE.—Whoever makes any extortionate extension of credit shall be imprisoned not more than 20 years.
“(b) Prima Facie Evidence of Extortionate Transaction.—In any prosecution under this section, if it is shown that all of the following factors were present in connection with the extension of credit in question, there is prima facie evidence that the extension of credit was extortionate:

“(1) The repayment of the extension of credit, or the performance of any promise given in consideration thereof, would be unenforceable, through civil judicial processes against the debtor—

“(A) in the jurisdiction within which the debtor, if a natural person, resided; or

“(B) in every jurisdiction within which the debtor, if other than a natural person, was incorporated or qualified to do business at the time the extension of credit was made.

“(2) The extension of credit was made at a rate of interest in excess of an annual rate of 45 per centum calculated according to the actuarial method of allocating payments made on a debt between principal and interest, pursuant to which a payment is applied first to the accumulated interest and the balance is applied to the unpaid principal.

“(3) At the time the extension of credit was made, the debtor reasonably believed that either—
“(A) one or more extensions of credit by the creditor had been collected or attempted to be collected by extortionate means, or the non-repayment thereof had been punished by extortionate means; or

“(B) the creditor had a reputation for the use of extortionate means to collect extensions of credit or to punish the nonpayment thereof.

“(4) Upon the making of the extension of credit, the total of the extensions of credit by the creditor to the debtor then outstanding, including any unpaid interest or similar charges, exceeded $100.

“(c) REPUTATION EVIDENCE.—In any prosecution under this section, if evidence is introduced tending to show the existence of any of the circumstances described in subsection (b)(1) or (b)(2), and direct evidence of the actual belief of the debtor as to the creditor’s collection practices is not available, then for the purpose of showing the understanding of the debtor and the creditor at the time the extension of credit was made, the court may in its discretion allow evidence to be introduced tending to show the reputation as to collection practices of the creditor in any community of which the debtor was a member at the time of the extension.
§ 156. Financing extortionate extensions of credit

“Whoever knowingly advances money or property, whether as a gift, as a loan, as an investment, pursuant to a partnership or profit-sharing agreement, or otherwise, to any person, with reason to believe that it is the intention of that person to use the money or property so advanced directly or indirectly for the purpose of making extortionate extensions of credit, shall be imprisoned not more than 20 years.

§ 157. Collection of extensions of credit by extortionate means

“Whoever knowingly uses any extortionate means—

“(1) to collect or attempt to collect any extension of credit; or

“(2) to punish any person for nonrepayment of an extension of credit;

shall be imprisoned not more than 20 years.

§ 158. Definitions and rules of construction

“As used in this subchapter:

“(1) To extend credit means to make or renew any loan, or to enter into any agreement, tacit or express, whereby the repayment or satisfaction of any debt or claim, whether acknowledged or disputed, valid or invalid, and however arising, may or will be deferred.
“(2) The term ‘creditor’, with reference to any given extension of credit, refers to any person making that extension of credit, or to any person claiming by, under, or through any person making that extension of credit.

“(3) The term ‘debtor’, with reference to any given extension of credit, refers to any person to whom that extension of credit is made, or to any person who guarantees the repayment of that extension of credit, or in any manner undertakes to indemnify the creditor against loss resulting from the failure of any person to whom that extension of credit is made to repay the same.

“(4) The repayment of any extension of credit includes the repayment, satisfaction, or discharge in whole or in part of any debt or claim, acknowledged or disputed, valid or invalid, resulting from or in connection with that extension of credit.

“(5) To collect an extension of credit means to induce in any way any person to make repayment thereof.

“(6) An extortionate extension of credit is any extension of credit with respect to which it is the understanding of the creditor and the debtor at the time it is made that delay in making repayment or
failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person.

“(7) An extortionate means is any means which involves the use, or an express or implicit threat of use, of violence or other criminal means to cause harm to the person, reputation, or property of any person.

“(8) State law, including conflict of laws rules, governing the enforceability through civil judicial processes of repayment of any extension of credit or the performance of any promise given in consideration thereof shall be judicially noticed. This paragraph does not impair any authority which any court would otherwise have to take judicial notice of any matter of State law.

“SUBCHAPTER H—DOMESTIC VIOLENCE

“161. Interstate domestic violence; interstate stalking; interstate violations of custody orders.
’162. Pretrial release of defendant.
’163. Full faith and credit given to protection orders.
’164. Definitions.
’165. Repeat offenders.

§ 161. Interstate domestic violence; interstate stalking; interstate violations of custody orders

“(a) Offenses.—Whoever—
“(1) travels in interstate or foreign commerce or enters or leaves Indian country or within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass, or intimidate a spouse, intimate partner, or dating partner, and who, in the course of or as a result of such travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner;

“(2) causes a spouse, intimate partner, or dating partner to travel in interstate or foreign commerce or to enter or leave Indian country or within the special maritime and territorial jurisdiction of the United States by force, coercion, duress, or fraud, and who, in the course of, as a result of, or to facilitate such conduct or travel, commits or attempts to commit a crime of violence against that spouse, intimate partner, or dating partner;

“(3) travels in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States, or enters or leaves Indian country, with the intent to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate another person, and in the course of, or as a result of, such travel places that
person in reasonable fear of the death of, or serious bodily injury to, or causes substantial emotional distress to that person, a member of the family (as defined in section 136) of that person, or the spouse or intimate partner of that person; or

“(4) with the intent—

“(A) to kill, injure, harass, or place under surveillance with intent to kill, injure, harass, or intimidate, or cause substantial emotional distress to a person in another State or tribal jurisdiction or within the special maritime and territorial jurisdiction of the United States; or

“(B) to place a person in another State or tribal jurisdiction, or within the special maritime and territorial jurisdiction of the United States, in reasonable fear of the death of, or serious bodily injury to—

“(i) that person;

“(ii) a member of the family (as defined in section 136) of that person; or

“(iii) a spouse or intimate partner of that person;

uses the mail, any interactive computer service, or any facility of interstate or foreign commerce to engage in a course of conduct that causes substantial
emotional distress to that person or places that person in reasonable fear of the death of, or serious bodily injury to, any of the persons described in clauses (i) through (iii) of subparagraph (B);

“(5) travels in interstate or foreign commerce, or enters or leaves Indian country, with the intent to engage in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued, and subsequently engages in such conduct; or

“(6) causes another person to travel in interstate or foreign commerce or to enter or leave Indian country by force, coercion, duress, or fraud, and in the course of, as a result of, or to facilitate such conduct or travel engages in conduct that violates the portion of a protection order that prohibits or provides protection against violence, threats, or harassment against, contact or communication with, or physical proximity to, another person, or that would violate such a portion of a protection order in the jurisdiction in which the order was issued;
shall be punished as provided in subsection (b).

“(b) PUNISHMENT.—

“(1) IN GENERAL.—Whoever violates subsection (a) shall be imprisoned—

“(A) for life or any term of years, if death of the victim results;

“(B) for not more than 20 years, if permanent disfigurement or life threatening bodily injury to the victim results;

“(C) for not more than 10 years, if serious bodily injury to the victim results or if the offender uses a dangerous weapon during the offense;

“(D) as provided for the applicable conduct under subchapter A of chapter 13, if the offense would constitute an offense under that subchapter if the offense had occurred within the special maritime and territorial jurisdiction of the United States; and

“(E) for not more than 5 years, in any other case.

“(2) SPECIAL RULE.—Whoever violates paragraph (3) or (4) of subsection (a) in violation of a temporary or permanent civil or criminal injunction, restraining order, no-contact order, or other order
described in section 164 shall be punished by imprison- 
ment for not less than 1 year.

“§ 162. Pretrial release of defendant

“In any proceeding pursuant to section 3142 for the purpose of determining whether a defendant charged under this subchapter shall be released pending trial, or for the purpose of determining conditions of such release, the alleged victim shall be given an opportunity to be heard regarding the danger posed by the defendant.

“§ 163. Full faith and credit given to protection or- 
ders

“(a) FULL FAITH AND CREDIT.—Any protection order issued that is consistent with subsection (b) of this section by the court of one State or Indian tribe (the issuing State or Indian tribe) shall be accorded full faith and credit by the court of another State or Indian tribe, (the enforcing State or Indian tribe) and enforced by the court and law enforcement personnel of the other State or Indian tribe as if it were the order of the enforcing State or Indian tribe.

“(b) PROTECTION ORDER.—A protection order issued by a State, tribal, or territorial court is consistent with this subsection if—
“(1) such court has jurisdiction over the parties and matter under the law of such State or Indian tribe; and

“(2) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person’s right to due process; and in the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by State, tribal, or territorial law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent’s due process rights.

“(c) CROSS OR COUNTER PETITION.—A protection order issued by a State, tribal, or territorial court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

“(1) no cross or counter petition, complaint, or other written pleading was filed seeking such a protection order; or

“(2) a cross or counter petition has been filed and the court did not make specific findings that each party was entitled to such an order.

“(d) NOTIFICATION AND REGISTRATION.—
“(1) NOTIFICATION.—A State or Indian tribe according full faith and credit to an order by a court of another State or Indian tribe shall not notify or require notification of the party against whom a protection order has been issued that the protection order has been registered or filed in that enforcing State, tribal, or territorial jurisdiction unless requested to do so by the party protected under such order.

“(2) NO PRIOR REGISTRATION OR FILING AS PREREQUISITE FOR ENFORCEMENT.—Any protection order that is otherwise consistent with this section shall be accorded full faith and credit, notwithstanding failure to comply with any requirement that the order be registered or filed in the enforcing State, tribal, or territorial jurisdiction.

“(3) LIMITS ON INTERNET PUBLICATION OF REGISTRATION INFORMATION.—A State or Indian tribe shall not make available publicly on the Internet any information regarding the registration, filing of a petition for, or issuance of a protection order, restraining order, or injunction in either the issuing or enforcing State, tribal, or territorial jurisdiction, if such publication would be likely to publicly reveal the identity or location of the party protected under
such order. A State or Indian tribe may share court-generated and law-enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes.

“(e) Tribal Court Jurisdiction.—For purposes of this section, a tribal court shall have full civil jurisdiction to enforce protection orders, including authority to enforce any orders through civil contempt proceedings, exclusion of violators from Indian lands, and other appropriate mechanisms, in matters arising within the authority of the tribe.

“§ 164. Definitions

“As used in this subchapter—

“(1) the term ‘course of conduct’ means a pattern of conduct composed of 2 or more acts, demonstrating a continuity of purpose;

“(2) the term ‘enter or leave Indian country’ includes leaving the jurisdiction of one tribal government and entering the jurisdiction of another tribal government;

“(3) the term ‘protection order’ includes—

“(A) any injunction, restraining order, or any other order issued by a civil or criminal court for the purpose of preventing violent or threatening acts or harassment against, sexual
violence, or contact or communication with or
physical proximity to, another person, including
any temporary or final order issued by a civil
or criminal court whether obtained by filing an
independent action or as a pendente lite order
in another proceeding so long as any civil or
criminal order was issued in response to a com-
plaint, petition, or motion filed by or on behalf
of a person seeking protection; and

“(B) any support, child custody or visitation
provisions, orders, remedies or relief issued
as part of a protection order, restraining order,
or injunction pursuant to State, tribal, terri-
torial, or local law authorizing the issuance of
protection orders, restraining orders, or injunc-
tions for the protection of victims of domestic
violence, sexual assault, dating violence, or
stalking;

“(4) the term ‘spouse or intimate partner’ in-
cludes—

“(A) for purposes of—

“(i) all provisions except paragraphs
(3) and (4) of section 161—

“(I) a spouse or former spouse of
the abuser, a person who shares a
child in common with the abuser, and
a person who cohabits or has
cohabited as a spouse with the abuser;
or
“(II) a person who is or has been
in a social relationship of a romantic
or intimate nature with the abuser, as
determined by the length of the rela-
tionship, the type of relationship, and
the frequency of interaction between
the persons involved in the relation-
ship; and
“(ii) paragraphs (3) and (4) of section
161—
“(I) a spouse or former spouse of
the target of the stalking, a person
who shares a child in common with
the target of the stalking, and a per-
son who cohabits or has cohabited as
a spouse with the target of the stalk-
ing; or
“(II) a person who is or has been
in a social relationship of a romantic
or intimate nature with the target of
the stalking, as determined by the
length of the relationship, the type of
the relationship, and the frequency of
interaction between the persons in-
volved in the relationship; and

“(B) any other person similarly situated to
a spouse who is protected by the domestic or
family violence laws of the State or tribal juris-
diction in which the injury occurred or where
the victim resides;

“(5) the term ‘travel in interstate or foreign
commerce’ does not include travel from one State to
another by an individual who is a member of an In-
dian tribe and who remains at all times in the terri-
tory of the Indian tribe of which the individual is a
member; and

“(6) the term ‘dating partner’ refers to a per-
son who is or has been in a social relationship of a
romantic or intimate nature with the abuser; and
the existence of such a relationship is based on a
consideration of—

“(A) the length of the relationship;
“(B) the type of relationship; and
“(C) the frequency of interaction between
the persons involved in the relationship.
§ 165. Repeat offenders

(a) Maximum term of imprisonment.—The maximum term of imprisonment for a violation of this subchapter after a prior domestic violence or stalking offense shall be twice the term otherwise provided under this subchapter.

(b) Definition.—As used in this section, the term ‘prior domestic violence or stalking offense’ means a conviction for an offense—

(1) under section 161; or

(2) under State law for an offense consisting of conduct that would have been an offense under section 161 if the conduct had occurred within the special maritime and territorial jurisdiction of the United States, or in interstate or foreign commerce.

§ 171. Protection of unborn children

(a) Offense.—

(1) Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury to, a child, who is in utero at the time the conduct
takes place, is guilty of a separate offense under this section.

“(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child’s mother.

“(B) An offense under this section does not require proof that—

“(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

“(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

“(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A) and subject to subparagraph (D), be punished as provided under subchapter A for the like offense.

“(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.
“(b) Provisions Referred To.—The provisions referred to in subsection (a) are the following:

“(1) Sections 102, 112, 121, 123, 131, 143, 161, 201(a)(1), 204, 271, 273, 501, 502, 506, 507, 584(j), 593, 601, 614(d), (f), (h)(1), and (i), 631, 873, 892, 895, 897, 898, 1131, 1132, 1137, 1138, 1204(a), 1216, 1291, 1296, 1305, 1331, 1345, and 1373.


“(c) Rule of Construction.—Nothing in this section shall be construed to permit the prosecution—

“(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

“(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

“(3) of any woman with respect to her unborn child.

“(d) Definitions.—As used in this section—

“(1) the term ‘unborn child’ means a child in utero; and
“(2) the term ‘child in utero’ or ‘child, who is in utero’ means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.

§ 172. Partial-birth abortions prohibited

“(a) Offense.—Any physician who, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be imprisoned not more than 2 years. This subsection does not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

“(b) Definitions.—As used in this section—

“(1) the term ‘partial-birth abortion’ means an abortion in which the person performing the abortion—

“(A) deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of per-
forming an overt act that the person knows will
kill the partially delivered living fetus; and

“(B) performs the overt act, other than
completion of delivery, that kills the partially
delivered living fetus; and

“(2) the term ‘physician’ means a doctor of
medicine or osteopathy legally authorized to practice
medicine and surgery by the State in which the doc-
tor performs such activity, or any other individual
legally authorized by the State to perform abortions,
but any individual who is not a physician or not oth-
erwise legally authorized by the State to perform
abortions, but who nevertheless directly performs a
partial-birth abortion, shall be subject to the provi-
sions of this section.

“(c) CIVIL ACTION.—

“(1) The father, if married to the mother at the
time she receives a partial-birth abortion procedure,
and if the mother has not attained the age of 18
years at the time of the abortion, the maternal
grandparents of the fetus, may in a civil action ob-
tain appropriate relief, unless the pregnancy resulted
from the plaintiff’s criminal conduct or the plaintiff
consented to the abortion.

“(2) Such relief shall include—
“(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

“(B) statutory damages equal to three times the cost of the partial-birth abortion.

“(d) **HEARING.**—

“(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician’s conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

“(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

“(e) **EXCLUSION.**—A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 based on a violation of this section.
"CHAPTER 13—SEX CRIMES

Subchapter
A. Sexual abuse
B. Transport for illegal sexual activity
C. Sexual exploitation of children
D. Sex offender registry
E. General provisions and definitions

"SUBCHAPTER A—SEXUAL ABUSE

201. Sexual abuse.
202. Abusive sexual contact.
203. Special rules and defenses.
204. Sexual abuse resulting in death.
205. Definitions for subchapter.

§ 201. Sexual abuse
(a) Offenses.—As made applicable and punished in subsection (b), the following offenses have the following elements:

(1) AGGRAVATED SEXUAL ABUSE OF A CHILD.—Whoever—

(A) knowingly engages in a sexual act with another person—

(i) who has not attained the age of 12 years; or

(ii) who has attained the age of 12 years but has not attained the age of 16 years (and is at least 4 years younger than the person so engaging); or

(B) crosses a state line with the intent to engage in a sexual act with a person who has not attained the age of 12 years;
is guilty of aggravated sexual abuse of a child.

“(2) AGGRAVATED SEXUAL ABUSE.—Whoever—

“(A) knowingly causes another person to engage in a sexual act—

“(i) by using force against that other person; or

“(ii) by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, substantial risk of unconsciousness, or kidnapping; or

“(B) knowingly—

“(i) renders another person unconscious and thereby engages in a sexual act with that other person; or

“(ii) administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby—

“(I) substantially impairs the ability of that other person to appraise or control conduct; and
“(II) engages in a sexual act with that other person;
is guilty of aggravated sexual abuse.

“(3) SEXUAL ABUSE.—Whoever knowingly—

“(A) causes another person to engage in a sexual act by threatening or placing that other person in fear (other than by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, substantial risk of unconsciousness, or kidnapping); or

“(B) engages in a sexual act with another person if that other person is—

“(i) incapable of appraising the nature of the conduct; or

“(ii) physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act;
is guilty of sexual abuse.

“(4) SEXUAL ABUSE OF A WARD.—Whoever knowingly engages in a sexual act with another person who is—

“(A) in official detention; and
“(B) under the custodial, supervisory, or disciplinary authority of the person so engaging;

is guilty of sexual abuse of a ward.

“(b) Penalties and Circumstances for Federal Offense.—

“(1) Penalties.—

“(A) Aggravated Sexual Abuse of a Child.—Whoever commits aggravated sexual abuse of a child in a place described in paragraph (2) or by crossing a State line with the intent to engage in a sexual act with a person who has not attained the age of 12 years shall be imprisoned not less than 30 years or for life.

If the offender has previously been convicted of another Federal offense under subsection (a)(1) or (a)(2), or of a State offense that would have been an offense under either such provision had the offense occurred in a Federal prison, the defendant shall be punished by death or life imprisonment.

“(B) Aggravated Sexual Abuse.—Whoever commits aggravated sexual abuse in a place described in paragraph (2) shall be imprisoned for any term of years or for life.
“(C) SEXUAL ABUSE.—Whoever commits sexual abuse in a place described in paragraph (2) shall be imprisoned not more than 20 years.

“(D) SEXUAL ABUSE OF A WARD.—Whoever commits sexual abuse of a ward in a place described in paragraph (2) shall be imprisoned not more than 15 years.

“(2) CIRCUMSTANCES.—The places referred to in paragraph (1) are—

“(A) the special maritime and territorial jurisdiction of the United States; or

“(B) a Federal prison or any prison institution or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General.

§ 202. Abusive sexual contact

“Whoever engages in sexual contact with another person—

“(1) under circumstances in which, if the sexual contact had been a sexual act, the sexual contact would be punishable under section 201(b)(1)(A), shall be imprisoned for any term of years or for life;

“(2) under circumstances in which, if the sexual contact had been a sexual act, the sexual contact
would be punishable under section 201(b)(1)(B),
shall be imprisoned not more than 10 years;

“(3) under circumstances in which, if the sexual
contact had been a sexual act, the sexual contact
would be punishable under section 201(b)(1)(C),
shall be imprisoned not more than 3 years; and

“(4) under circumstances in which, if the sexual
contact had been a sexual act, the sexual contact
would be punishable under section 201(b)(1)(D),
shall be imprisoned not more than 2 years.

§ 203. Special rules and defenses

“(a) Proof of State of Mind as to Age.—In a
prosecution under subsection (a)(1), the Government need
not prove that the defendant knew the age of the other
person engaging in the sexual act or that the requisite age
difference existed between the persons so engaging.

“(b) Defenses.—

“(1) Aggravated Sexual Abuse of a Child
or Sexual Contact Involving a Minor.—It is an
affirmative defense to a prosecution under this sub-
chapter for an offense involving a minor where an
element of the offense is that the minor not be 16
years of age or older that the defendant reasonably
believed the minor to be 16 years of age or older.
“(2) Marriage in certain cases.—It is an affirmative defense to prosecution for an offense under this subchapter involving a sexual act or sexual contact with a ward, that the ward was married to the person engaging in the sexual act or contact at the time of the alleged offense.

§ 204. Sexual abuse resulting in death

“Whoever, in the course of an offense under this subchapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

§ 205. Definitions for subchapter

“As used in this subchapter—

“(1) the term ‘sexual act’ means—

“(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

“(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

“(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse,
humiliate, harass, degrade, or arouse or gratify
the sexual desire of any person; or

“(D) the intentional touching, not through
the clothing, of the genitalia of another person
who has not attained the age of 16 years, with
an intent to abuse, humiliate, harass, degrade,
or arouse or gratify the sexual desire of any
person;

“(2) the term ‘sexual contact’ means the inten-
tional touching, either directly or through the cloth-
ing, of the genitalia, anus, groin, breast, inner thigh,
or buttocks of any person, with an intent to abuse,
humiliate, harass, degrade, or arouse or gratify the
sexual desire of any person;

“(3) the term ‘official detention’ means—

“(A) detention by a Federal officer or em-
ployee, or under the direction of a Federal offi-
cer or employee, following arrest for an offense;
following surrender in lieu of arrest for an of-
fense; following a charge or conviction of an of-
fense, or an allegation or finding of juvenile de-
linquency; following commitment as a material
witness; following civil commitment in lieu of
criminal proceedings or pending resumption of
criminal proceedings that are being held in
abeyance, or pending extradition, deportation, or exclusion; or

“(B) custody by a Federal officer or employee, or under the direction of a Federal officer or employee, for purposes incident to any detention described in subparagraph (A) of this paragraph, including transportation, medical diagnosis or treatment, court appearance, work, and recreation;

but does not include supervision or other control (other than custody during specified hours or days) after release on bail, probation, or parole, or after release following a finding of juvenile delinquency.

“SUBCHAPTER B—TRANSPORT FOR ILLEGAL SEXUAL ACTIVITY

“211. Transportation generally.
“212. Coercion and enticement.
“213. Transportation of minors.
“214. Use of interstate facilities to transmit information about a minor.

§ 211. Transportation generally

“Whoever knowingly transports an individual in interstate or foreign commerce, or in any territory or possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not more than 10 years.
§ 212. Coercion and enticement

(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any territory or possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not more than 20 years.

(b) Whoever, using any facility of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly persuades, induces, entices, or coerces any minor to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not less than 5 years and not more than 30 years.

§ 213. Transportation of minors

(a) Transportation with intent to engage in criminal sexual activity.—Whoever transports a minor in interstate or foreign commerce, or in any territory or possession of the United States, with intent that the minor engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, shall be imprisoned not less than 5 years and not more than 30 years.
“(b) Travel With Intent To Engage in Illicit Sexual Conduct.—Whoever travels in interstate commerce or travels into the United States, or, being a United States citizen or an alien admitted for permanent residence in the United States, travels in foreign commerce, for the purpose of engaging in any illicit sexual conduct shall be imprisoned not more than 30 years.

“(c) Engaging in Illicit Sexual Conduct in Foreign Places.—Any United States citizen or alien admitted for permanent residence who travels in foreign commerce, and engages in any illicit sexual conduct shall be imprisoned not more than 30 years.

“(d) Ancillary Offenses.—Whoever, for the purpose of commercial advantage or private financial gain, arranges, induces, procures, or facilitates the travel of a person knowing that such a person is traveling in interstate commerce or foreign commerce for the purpose of engaging in illicit sexual conduct shall be imprisoned not more than 30 years.

“(e) Definition.—As used in this section, the term ‘illicit sexual conduct’ means—

“(1) a sexual act (as defined in section 205) with a minor that would be in violation of subchapter A if the sexual act occurred in the special
maritime and territorial jurisdiction of the United States;

“(2) any commercial sex act (as defined in section 1265) with a minor; or

“(3) the production of child pornography (as defined in section 225).

“(f) DEFENSE.—In a prosecution under this section based on illicit sexual conduct as defined in subsection (e)(2), it is an affirmative defense that the defendant reasonably believed that the person with whom the defendant engaged in the commercial sex act had attained the age of 18 years.

“§ 214. Use of interstate facilities to transmit information about a minor

“Whoever, using a facility of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, knowingly transmits the name, address, telephone number, social security number, or electronic mail address of another individual, knowing that such other individual has not attained the age of 16 years, with the intent to entice, encourage, offer, or solicit any person to engage in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be imprisoned not more than 5 years.
“SUBCHAPTER C—SEXUAL EXPLOITATION OF CHILDREN

§ 221. Sexual exploitation of children.
§ 222. Selling or buying of children.
§ 223. Certain activities relating to material involving the sexual exploitation of minors and child pornography.
§ 224. Misleading domain names on the Internet.
§ 225. Definitions for subchapter.
§ 226. Recordkeeping requirements.
§ 227. Failure to report child abuse.

§ 221. Sexual exploitation of children

(a) OFFENSE.—Whoever, as made applicable in subsection (b)—

(1) either—

(A) employs, uses, persuades, induces, entices, or coerces any minor to engage in, or who has a minor assist any other person to engage in, any sexually explicit conduct for the purpose of producing any visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct; or

(B) transports any minor in interstate or foreign commerce, or in any territory or possession of the United States, with the intent that such minor engage in such conduct for such purpose; or

(2) being a parent, legal guardian, or person having custody or control of a minor knowingly permits such minor to engage in, or to assist any other
person to engage in, sexually explicit conduct for the
purpose of producing any visual depiction of such
conduct or for the purpose of transmitting a live vis-
ual depiction of such conduct;
shall be punished as provided under subsection (e).

“(b) APPLICABILITY.—Subsection (a) applies if—

“(1) the person engaging in that conduct knows
or has reason to know that such visual depiction will
be transported or transmitted in or affecting inter-
state or foreign commerce;

“(2) such visual depiction was produced using
materials that have been transported in or affecting
interstate or foreign commerce;

“(3) such visual depiction has actually been
transported or transmitted in or affecting interstate
or foreign commerce; or

“(4) the conduct constituting the offense occurs
in or affects interstate or foreign commerce.

“(c) EXTRATERRITORIAL JURISDICTION.—There is
extraterritorial jurisdiction over an offense under sub-
section (a)(1) if the offender—

“(1) intends such visual depiction to be trans-
ported to the United States; or

“(2) transports such visual depiction to the
United States.
“(d) ADVERTISEMENTS.—(1) Whoever, as made applicable by paragraph (2), knowingly makes, prints, or publishes, or causes to be made, printed, or published, any notice or advertisement seeking or offering—

“(A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct; or

“(B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct;

shall be punished as provided under subsection (e).

“(2) Paragraph (1) applies if—

“(A) such person knows or has reason to know that such notice or advertisement will be transported in or affecting interstate or foreign commerce; or

“(B) such notice or advertisement is transported in or affecting interstate or foreign commerce.

“(e) PUNISHMENT.—Whoever violates this section shall be imprisoned not less than 15 years nor more than 30 years, but if such person has one prior conviction under this subchapter, subchapter A or B of this chapter, subchapter F of chapter 35, or under section 920 of title 10

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(article 120 of the Uniform Code of Military Justice), or
under the laws of any State relating to the sexual exploi-
tation of children, such person shall be imprisoned for not
less than 25 years nor more than 50 years, but if such
person has 2 or more such prior convictions, such person
shall be imprisoned not less than 35 years nor more than
life. Whoever, in the course of an offense under this sec-
tion, engages in conduct that results in the death of a per-
son, shall be punished by death or imprisoned for any term
of years or for life.

§ 222. Selling or buying of children

“(a) Transfer of Custody.—Whoever, as made
applicable by subsection (d) and with a mental state de-
scribed in subsection (e) having custody or control of a
minor, transfers that custody or control, or offers to do
so, shall be punished by imprisonment for not less than
30 years or for life.

“(b) Obtaining Custody.—Whoever, as made ap-
plicable by subsection (d) and with a mental state de-
scribed in subsection (e), obtains custody or control of a
minor, or offers to do so, shall be punished by imprison-
ment for not less than 30 years or for life.

“(c) Mental State.—The mental state referred to
in subsections (a) and (b) is—
“(1) knowledge that, as a consequence of the transfer of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

“(2) intent to promote either—

“(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

“(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

“(d) FEDERAL NEXUS.—Conduct described in subsections (a) and (b) is an offense if—

“(1) in the course of the conduct the minor or the person engaging in the conduct travel in interstate or foreign commerce;

“(2) any offer described in such subsections was communicated or transported in or affecting interstate or foreign commerce; or

“(3) the conduct took place in any territory or possession of the United States.
§ 223. Certain activities relating to material involving the sexual exploitation of minors and child pornography

(a) OFFENSE.—Whoever, in a circumstance described in subsection (b)—

(1) knowingly—

(A) transports an exploitative visual depiction or child pornography;

(B) receives, or distributes, any exploitative visual depiction or child pornography; or

(C) reproduces any exploitative visual depiction or child pornography for distribution;

(2) knowingly—

(A) sells or possesses with intent to sell any exploitative visual depiction or child pornography; or

(B) possesses or accesses with intent to view an exploitative visual depiction or child pornography;

(3) knowingly advertises, promotes, presents, distributes, or solicits any material or purported material in a manner that reflects the belief, or that is intended to cause another to believe, that the material or purported material contains an exploitative visual depiction or child pornography; or
“(4) knowingly produces with intent to distribute, or distributes, by any means, including a computer, child pornography that is an adapted or modified depiction of an identifiable minor; shall be punished as provided in subsection (c).

“(b) CIRCUMSTANCE REQUIRED.—The circumstance referred to in subsection (a) is any one of the following:

“(1) The conduct occurs in the special maritime and territorial jurisdiction of the United States, or in the Indian country as defined in section 871.

“(2) The conduct is in or affects interstate or foreign commerce.

“(3) The exploitative visual depiction or child pornography is transported in or affecting interstate or foreign commerce, or was produced using materials which have been so transported.

“(c) PUNISHMENT.—

“(1) Whoever violates paragraph (1), (2)(A), or (3) of subsection (a) shall be imprisoned not less than 5 years and not more than 20 years, but if such person has a prior relevant conviction, such person shall be imprisoned for not less than 15 years nor more than 40 years.

“(2) Whoever violates paragraph (2)(B) of subsection (a) shall be imprisoned not more than 10
years, but if any visual depiction involved in the offense involved a prepubescent minor or a minor who had not attained 12 years of age, such person shall be fined under this title and imprisoned for not more than 20 years, or if such person has a prior relevant conviction, such person shall be imprisoned for not less than 10 years nor more than 20 years.

“(3) Whoever violates paragraph (4) of subsection (a) shall be imprisoned not more than 15 years.

“(4) In this subsection, the term ‘prior relevant conviction’ means a prior conviction under this chapter, subchapter A or B of this chapter, subchapter F of chapter 35, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any State relating to aggravated sexual abuse, sexual abuse, or abusive sexual conduct involving a minor or ward, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography.

“(d) AFFIRMATIVE DEFENSES.—(1) It is an affirmative defense to a charge of violating paragraph (2)(B) of subsection (a) that the defendant—
“(A) possessed less than three matters containing any visual depiction proscribed by that paragraph; and

“(B) promptly and in good faith, and without retaining or allowing any person, other than a law enforcement agency, to access any visual depiction or copy thereof—

“(i) took reasonable steps to destroy each such visual depiction; or

“(ii) reported the matter to a law enforcement agency and afforded that agency access to each such visual depiction.

“(2) It is an affirmative defense to a charge of violating paragraph (1), (2), or (4) of subsection (a) that—

“(A)(i) the alleged child pornography was produced using an actual person or persons engaging in sexually explicit conduct; and

“(ii) each such person was an adult at the time the material was produced; or

“(B) the alleged child pornography was not produced using any actual minor.

No affirmative defense under subsection (d)(2) shall be available in any prosecution that involves child pornography as described in section 225(5). A defendant may not assert an affirmative defense to a charge of violating
paragraph (1), (2), or (4) of subsection (a) unless, within
the time provided for filing pretrial motions or at such
time prior to trial as the judge may direct, but in no event
later than 14 days before the commencement of the trial,
the defendant provides the court and the United States
with notice of the intent to assert such defense and the
substance of any expert or other specialized testimony or
evidence upon which the defendant intends to rely. If the
defendant fails to comply with this subsection, the court
shall, absent a finding of extraordinary circumstances that
prevented timely compliance, prohibit the defendant from
asserting such defense to a charge of violating paragraph
(1), (2), or (4) of subsection (a) or presenting any evi-
dence for which the defendant has failed to provide proper
and timely notice.

“(e) Admissibility of Evidence.—On motion of
the Government, in any prosecution under this subchapter
or section 1445, except for good cause shown, the name,
address, social security number, or other nonphysical iden-
tifying information, other than the age or approximate
age, of any minor who is depicted in any child pornog-
raphy shall not be admissible and may be redacted from
any otherwise admissible evidence, and the jury shall be
instructed, upon request of the United States, that it can
draw no inference from the absence of such evidence in
deciding whether the child pornography depicts an actual minor.

“(f) Exploitative Visual Depiction Defined.—In this section, a visual depiction is an exploitative visual depiction if—

“(1) the producing of such visual depiction involves the use of a child engaging in sexually explicit conduct; and

“(2) such visual depiction is of such conduct.

“§ 224. Misleading domain names on the Internet

“(a) Obscenity.—Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a person into viewing material constituting obscenity shall be imprisoned not more than 2 years.

“(b) Material Harmful to Minors.—Whoever knowingly uses a misleading domain name on the Internet with the intent to deceive a minor into viewing material that is harmful to minors on the Internet shall be imprisoned not more than 10 years.

“(c) Definition.—For the purposes of this section—

“(1) a domain name that includes a word or words to indicate the sexual content of the site, such as ‘sex’ or ‘porn’, is not misleading;
“(2) the term ‘material that is harmful to minors’ means any communication, consisting of nudity, sex, or excretion, that, taken as a whole and with reference to its context—

“(A) predominantly appeals to a prurient interest of minors;

“(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

“(C) lacks serious literary, artistic, political, or scientific value for minors; and

“(3) as used in this subsection, the term ‘sex’ means acts of masturbation, sexual intercourse, or physical contact with a person’s genitals, or the condition of human male or female genitals when in a state of sexual stimulation or arousal.

§ 225. Definitions for subchapter

“In this subchapter the following definitions apply:

“(1)(A) Except as provided in subparagraph (B), the term ‘sexually explicit conduct’ means actual or simulated—

“(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal,
whether between persons of the same or opposite sex;

“(ii) bestiality;

“(iii) masturbation;

“(iv) sadistic or masochistic abuse; or

“(v) lascivious exhibition of the genitals or pubic area of any person.

“(B) For purposes of paragraph 5(B), the term ‘sexually explicit conduct’ means—

“(i) graphic sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, or lascivious simulated sexual intercourse where the genitals, breast, or pubic area of any person is exhibited;

“(ii) graphic or lascivious simulated—

“(I) bestiality;

“(II) masturbation; or

“(III) sadistic or masochistic abuse;

or

“(iii) graphic or simulated lascivious exhibition of the genitals or pubic area of any person.
“(2) The term ‘producing’ means producing, directing, manufacturing, issuing, publishing, or advertising:

“(3) The term ‘visual depiction’ includes undeveloped film and videotape, data stored on computer disk or by electronic means which is capable of conversion into a visual image, and data which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format.

“(4) The term ‘custody or control’ includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.

“(5) The term ‘child pornography’ means any visual depiction of sexually explicit conduct, where—

“(A) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct;

“(B) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or

“(C) such visual depiction has been created, adapted, or modified to appear that an
identifiable minor is engaging in sexually explicit conduct.

“(6) The term ‘identifiable minor’—

“(A) means a person—

“(i)(I) who was a minor at the time the visual depiction was created, adapted, or modified; or

“(II) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

“(ii) who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

“(B) shall not be construed to require proof of the actual identity of the identifiable minor.

“(7) The term ‘graphic’, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.
“(8) The term ‘indistinguishable’ used with respect to a depiction, means virtually indistinguishable, in that the depiction is such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

“§ 226. Recordkeeping requirements

“(a) Duty To Keep Records.—Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

“(1) contains one or more visual depictions made after November 1, 1990, of actual sexually explicit conduct; and

“(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

“(b) Duty To Ascertain Certain Information.—Any person to whom subsection (a) applies shall,
with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

“(1) ascertain, by examination of an identification document containing such information, the performer’s name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

“(2) ascertain any name, other than the performer’s present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

“(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

“(c) WHERE RECORDS MAINTAINED AND AVAILABILITY FOR INSPECTION.—Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times.

“(d) EXCLUSION OF EVIDENCE.—
“(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

“(2) Paragraph (1) of this subsection does not preclude the use of such information or evidence in a prosecution or other action for a violation of this subchapter or subchapter F of chapter 35, or for a violation of any applicable provision of law with respect to the furnishing of false information.

“(e) STATEMENT.—

“(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

“(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual em-
ployed by such organization responsible for main-
taining the records required by this section.

“(f) UNLAWFUL ACTS.—It shall be unlawful—

“(1) for any person to whom subsection (a) ap-
plies to fail to create or maintain the records as re-
quired by subsections (a) and (c) or by any regula-
tion promulgated under this section;

“(2) for any person to whom subsection (a) ap-
plies knowingly to make any false entry in or know-
ingly to fail to make an appropriate entry in, any
record required by subsection (b) of this section or
any regulation promulgated under this section;

“(3) for any person to whom subsection (a) ap-
plies knowingly to fail to comply with subsection (e)
or any regulation promulgated pursuant to that sub-
section; and

“(4) for any person knowingly to sell or other-
wise transfer, or offer for sale or transfer, any book,
magazine, periodical, film, video, or other matter,
produce in whole or in part with materials which
have been mailed or shipped in interstate or foreign
commerce or which is intended for shipment in
interstate or foreign commerce, which—
“(A) contains one or more visual depictions made after November 1, 1990, of actual sexually explicit conduct; and

“(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

“(g) REGULATIONS.—The Attorney General shall issue appropriate regulations to carry out this section.

“(h) DEFINITIONS.—As used in this section—

“(1) the term ‘actual sexually explicit conduct’ means actual but not simulated conduct as defined in clauses (i) through (v) of section 225(1)(A);

“(2) ‘identification document’ has the meaning given that term in section 783;

“(3) the term ‘produces’ means to produce, manufacture, or publish any book, magazine, peri-
odical, film, video tape, computer generated image, digital image, or picture, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

“(4) the term ‘performer’ includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

“(i) P ENALTY FOR ANY VIOLATION OF THIS SECTION.—Whoever violates this section shall be imprisoned for not more than 5 years. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 10 years but not less than 2 years.

“§ 227. Failure to report child abuse

“Whoever, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection
(c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be imprisoned not more than 1 year.

“SUBCHAPTER D—SEX OFFENDER REGISTRY

“241. Failure to register.

§ 241. Failure to register

“(a) IN GENERAL.—Whoever—

“(1) is required to register under the Sex Offender Registration and Notification Act;

“(2)(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

“(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

“(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

shall be imprisoned not more than 10 years.
“(b) AFFIRMATIVE DEFENSE.—In a prosecution for a violation under subsection (a), it is an affirmative defense that—

“(1) uncontrollable circumstances prevented the individual from complying;

“(2) the individual did not contribute to the creation of such circumstances in reckless disregard of the requirement to comply; and

“(3) the individual complied as soon as such circumstances ceased to exist.

“(c) CRIME OF VIOLENCE.—

“(1) IN GENERAL.—An individual described in subsection (a) who commits a crime of violence under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States shall be imprisoned for not less than 5 years and not more than 30 years.

“(2) ADDITIONAL PUNISHMENT.—The punishment provided in paragraph (1) shall be in addition and consecutive to the punishment provided for the violation described in subsection (a).
“SUBCHAPTER E—GENERAL PROVISIONS AND DEFINITIONS

§ 255. Repeat offenders.

§ 256. Civil remedy for personal injuries.

§ 255. Repeat offenders

(a) MAXIMUM TERM OF IMPRISONMENT.—The maximum term of imprisonment for a violation of subchapter A or B after a prior sex offense conviction shall be twice the term of imprisonment otherwise provided by this chapter, unless section 3559(e) applies.

(b) DEFINITIONS.—In this section the term ‘prior sex offense conviction’ means a conviction for an offense—

(1) under subchapter A, B, or C of this chapter or section 1265; or

(2) under State law consisting of conduct that would have been an offense under this chapter if the conduct had occurred within the special maritime and territorial jurisdiction of the United States.

§ 256. Civil remedy for personal injuries

(a) IN GENERAL.—Any person who, while a minor, was a victim of a violation of section 201, 202, 203, 211, 212, 213, 221, 222, or 223 and who suffers personal injury as a result of such violation may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney’s fee. Any person as
described in the preceding sentence shall be deemed to have sustained damages of no less than $150,000 in value.

“(b) STATUTE OF LIMITATIONS.—Any action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues or in the case of a person under a legal disability, not later than three years after the disability.

“CHAPTER 15—NATIONAL SECURITY AND RELATED CRIMES

“Subchapter
‘A. Treason, sedition, and subversive activities
‘B. Terrorism
‘C. Military and navy
‘D. Civil disorders and riots
‘E. Espionage and censorship
‘F. Immigration and nationality

“SUBCHAPTER A—TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

“§ 261. Treason.

“Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death or be imprisoned for any term of years not less than five, and shall be incapable of holding any office under the United States.
§ 262. Misprision of treason

"Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be imprisoned not more than seven years.

§ 263. Rebellion or insurrection

"Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority of the United States or the laws thereof, or gives aid or comfort thereto, shall be imprisoned not more than ten years and shall be incapable of holding any office under the United States.

§ 264. Seditious conspiracy

"If two or more persons in any State, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the author-
ity thereof, they shall each be imprisoned not more than
20 years.

§ 265. Advocating overthrow of Government

“(a) In General.—Whoever—

“(1) knowingly advocates, advises, or teaches
the duty, necessity, desirability, or propriety of over-
throwing or destroying the Government of the
United States or the government of any State, or
the government of any political subdivision therein,
by force or violence, or by the assassination of any
officer of any such government;

“(2) with intent to cause the overthrow or de-
struction of any such government, prints, publishes,
edits, issues, circulates, sells, distributes, or publicly
displays any written or printed matter advocating,
advising, or teaching the duty, necessity, desirability,
or propriety of overthrowing or destroying any gov-
ernment in the United States by force or violence;
or

“(3) organizes or helps to organize any society,
group, or assembly of persons who teach, advocate,
or encourage the overthrow or destruction of any
such government by force or violence; or becomes or
is a member of, or affiliates with, any such society,
group, or assembly of persons, knowing the purposes thereof;

shall be imprisoned not more than 20 years, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following the conviction.

“(b) DEFINITION.—As used in this section, the term ‘organize’, with respect to any society, group, or assembly of persons, includes the recruiting of new members, the forming of new units, and the regrouping or expansion of existing clubs, classes, and other units of such society, group, or assembly of persons.

“SUBCHAPTER B—TERRORISM

‘271. Weapons of mass destruction, and explosives and other lethal devices.
‘272. Atomic weapons.
‘274. Financial transactions.
‘275. Missile systems designed to destroy aircraft.
‘276. Radiological dispersal devices.
‘277. Harboring or concealing terrorists.
‘278. Providing material support to terrorists.
‘279. Providing material support or resources to designated foreign terrorist organizations.
‘280. Prohibitions against the financing of terrorism.
‘281. Receiving military-type training from a foreign terrorist organization.
‘282. Civil remedies.
‘283. Definitions for subchapter.

§271. Weapons of mass destruction, and explosives and other lethal devices

“(a) OFFENSE.—Whoever, without lawful authority, uses, threatens, to use, a weapon of mass destruction or an explosive or other lethal device—
“(1) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

“(2) against a national of the United States while such national is outside of the United States;

“(3) against any person or property within the United States, if the offense is in, or affects, interstate or foreign commerce; or

“(4) against any person or property outside of the United States, if the offender is a national of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘weapon of mass destruction’ means—

“(A) any destructive device as defined in section 581;

“(B) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
“(C) any weapon involving a biological agent, toxin, or vector (as those terms are in defined in section 627);  
“(D) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life; or
“(E) any lethal device or explosive; 
“(2) the term ‘property’ includes all real and personal property;  
“(3) the term ‘explosive’ has the meaning given in section 614(j) insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage; and  
“(4) the term ‘other lethal device’ means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 627) or radiation or radioactive material. 

§ 272. Atomic weapons

“(a) OFFENSE.—Whoever, except as provided in section 91 of the Atomic Energy Act of 1954, in or affecting interstate or foreign commerce in the United States, or as made applicable by subsection (b) outside the United
States, knowingly participates in the development of, man-
ufactures, produces, transfers, acquires, receives, pos-
sesses, imports, exports, or uses, or possesses and threat-
ens to use, any atomic weapon. Nothing in this section
modifies section 31 a. or section 101 of the Atomic Energy
Act of 1954.

“(b) Federal Nexus to Conduct Outside of
the United States.—Conduct outside the United
States is prohibited by subsection (a) if—

“(1) the offense is committed by a national of
the United States; or

“(2) the offense is committed against a national
of the United States.

“§273. Acts of terrorism transcending national
boundaries

“(a) Prohibited Acts.—

“(1) Offenses.—Whoever, involving conduct
transcending national boundaries and as made appli-
cable by subsection (b)—

“(A) kills, kidnaps, maims, commits an as-
sault resulting in serious bodily injury, or ass-
saults with a dangerous weapon any person
within the United States; or

“(B) creates a substantial risk of serious
bodily injury to any other person by destroying
or damaging any structure, conveyance, or
other real or personal property within the
United States or by attempting or conspiring to
destroy or damage any structure, conveyance,
or other real or personal property within the
United States;
in violation of the laws of any State, or the United
States, shall be punished as prescribed in subsection
(e).

“(2) TREATMENT OF THREATS.—Whoever
threatens to commit an offense under paragraph (1)
shall be punished under subsection (e).

“(b) APPLICABILITY.—

“(1) IN GENERAL.—Subsection (a) applies if—

“(A) the mail or any facility of interstate
or foreign commerce is used in furtherance of
the offense;

“(B) the offense obstructs, delays, or af-
fects interstate or foreign commerce, or would
have so obstructed, delayed, or affected inter-
state or foreign commerce if the offense had
been consummated;

“(C) the victim, or intended victim, is the
United States Government, a member of the
uniformed services, or any official, officer, em-
ployee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

“(D) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

“(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

“(F) the offense is committed within the special maritime and territorial jurisdiction of the United States.

“(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Subsection (a) applies with respect to all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (F) of paragraph (1) is applicable to at least one offender.

“(c) PENALTIES.—
“(1) GENERALLY.—Whoever violates this sec-

tion shall be punished—

“(A) for a killing, or if death results to

any person from any other conduct prohibited

by this section, by death, or by imprisonment

for any term of years or for life;

“(B) for kidnapping, by imprisonment for

any term of years or for life;

“(C) for maiming, by imprisonment for not

more than 35 years;

“(D) for assault with a dangerous weapon

or assault resulting in serious bodily injury, by

imprisonment for not more than 30 years;

“(E) for destroying or damaging any

structure, conveyance, or other real or personal

property, by imprisonment for not more than

25 years;

“(F) for attempting or conspiring to com-

mit an offense, for any term of years up to the

maximum punishment that would have applied

had the offense been completed; and

“(G) for threatening to commit an offense

under this section, by imprisonment for not

more than 10 years.
“(2) Consecutive Sentence.—Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

“(d) Proof Requirements.—The following shall apply to prosecutions under this section:

“(1) Knowledge.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

“(2) State Law.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

“(e) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over any offense under this section.

“(f) Requests for Military Assistance.—The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 271 during an emergency situation involving a weapon of mass destruction. The authority to
make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

“(g) DEFINITIONS.—As used in this section—

“(1) the term ‘conduct transcending national boundaries’ means conduct occurring outside of the United States in addition to the conduct occurring in the United States;

“(2) the term ‘territorial sea of the United States’ means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law; and

“(3) the term ‘Federal crime of terrorism’ means an offense that—

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

“(B) is a violation of—

“(i) section 1301 (relating to destruction of aircraft or aircraft facilities), 1305 (relating to violence at international airports), 571 (relating to arson within special maritime and territorial jurisdiction),
621 or 623 (relating to biological weapons), 624 (relating to variola virus), 631 (relating to chemical weapons), 102(2), (4), (6), (7), or (8) (relating to certain Federally punishable homicides), 121 (relating to kidnapping) if the victim is an individual whose killing is an offense under 102(6) or (7), 601 (relating to prohibited transactions involving nuclear materials), 612(m) or (n) (relating to plastic explosives), 614(f)(2) or (3) (relating to arson and bombing of Government property risking or causing death), 614(i) (relating to arson and bombing of property used in interstate commerce), 593(c) (relating to killing or attempted killing during an attack on a Federal facility with a dangerous weapon), 924(a) (relating to conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country), 787(a)(1) or (a)(5)(A) (relating to fraud and related activity in connection with computers), 123 (relating to hostage taking), 1201 (relating to government property or contracts), 1202 (relating to de-
struction of communication lines, stations, or systems), 1203 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1205(a) (relating to destruction of an energy facility), 1331 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air), 1345 (relating to violence against maritime navigation), 271 (relating to weapons of mass destruction, and explosives and other lethal devices), 273 (relating to acts of terrorism transcending national boundaries), 275 (relating to missile systems designed to destroy aircraft), 276 (relating to radiological dispersal devices), 277 (relating to harboring terrorists), 278 (relating to providing material support to terrorists), 279 (relating to providing material support to terrorist organizations), 280 (relating to prohibitions against the financing of terrorism), 281 (relating to receiving military-
type training from a foreign terrorist organization), or 1291 (relating to torture);

“(ii) section 92 (relating to prohibitions governing atomic weapons) or 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954;

“(iii) section 46502 (relating to aircraft piracy), the second sentence of section 46504 (relating to assault on a flight crew with a dangerous weapon), section 46505(b)(3) or (e) (relating to explosive or incendiary devices, or endangerment of human life by means of weapons, on aircraft), section 46506 if homicide or attempted homicide is involved (relating to application of certain criminal laws to acts on aircraft), or section 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49;

or

“(iv) section 1010A of the Controlled Substances Import and Export Act (relating to narco-terrorism).
§ 274. Financial transactions

(a) Offense.—Except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act of 1979 as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be imprisoned for not more than 10 years.

(b) Definitions.—As used in this section—

(1) the term ‘financial transaction’ has the same meaning as in section 1451; and

(2) the term ‘United States person’ means any—

(A) United States citizen or national;

(B) permanent resident alien;

(C) juridical person organized under the laws of the United States; or

(D) any person in the United States.

§ 275. Missile systems designed to destroy aircraft

(a) Unlawful conduct.—

(1) In general.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, im-
port, export, or use, or possess and threaten to
use—

“(A) an explosive or incendiary rocket or
missile that is guided by any system designed to
enable the rocket or missile to—

“(i) seek or proceed toward energy ra-
diated or reflected from an aircraft or to-
ward an image locating an aircraft; or

“(ii) otherwise direct or guide the
rocket or missile to an aircraft;

“(B) any device designed or intended to
launch or guide a rocket or missile described in
subparagraph (A); or

“(C) any part or combination of parts de-
signed or redesigned for use in assembling or
fabricating a rocket, missile, or device described
in subparagraph (A) or (B).

“(2) NONWEAPON.—Paragraph (1)(A) does not
apply to any device that is neither designed nor re-
designed for use as a weapon.

“(3) EXCLUDED CONDUCT.—This subsection
does not apply with respect to—

“(A) conduct by or under the authority of
the United States or any department or agency
thereof or of a State or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;

“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or con-
spires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Whoever violates subsection (a) shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

“(2) OTHER CIRCUMSTANCES.—Whoever, in the course of a violation of subsection (a), uses or possesses and threatens to use, any item or items described in subsection (a), shall be imprisoned for not less than 30 years or imprisoned for life.

“(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person’s violation of subsection (a), the person shall be punished by imprisonment for life.

“(d) DEFINITION.—As used in this section, the term ‘aircraft’ has the definition set forth in section 40102(a)(6) of title 49.

§ 276. Radiological dispersal devices

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, im-
port, export, or use, or possess and threaten to use—

“(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

“(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

“(2) EXCEPTION.—This subsection does not apply with respect to—

“(A) conduct by or under the authority of the United States or any department or agency thereof; or

“(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;
“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Whoever violates subsection (a) shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

“(2) OTHER CIRCUMSTANCES.—Whoever, in the course of a violation of subsection (a), uses or possesses and threatens to use, any item or items described in subsection (a), shall be imprisoned for not less than 30 years or imprisoned for life.

“(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person’s violation of sub-
section (a), the person shall be punished by imprison-
ment for life.

“§ 277. Harboring or concealing terrorists

“(a) Offense.—Whoever harbors or conceals any person who he knows, or has reasonable grounds to be-
lieve, has committed, or is about to commit, an offense under section 1301 (relating to destruction of aircraft or aircraft facilities), section 621 (relating to biological weapons), section 631 (relating to chemical weapons), section 601 (relating to nuclear materials), paragraph (2) or (3) of section 614(f) (relating to arson and bombing of gov-
ernment property risking or causing injury or death), sec-
tion 1205(a) (relating to the destruction of an energy fa-
cility), section 1345 (relating to violence against maritime navigation), section 271 (relating to weapons of mass de-
struction), or section 273 (relating to acts of terrorism transcending national boundaries) of this title, section 236(a) (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954, or section 46502 (re-
lating to aircraft piracy) of title 49, shall imprisoned not more than ten years.

“(b) Venue.—A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law.
**§ 278. Providing material support to terrorists**

“(a) OFFENSE.—Whoever provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 102(2), (4), (6), (7), or (8), 112 if the victim is an individual whose killing is an offense under section 102(6), (7), or (8), 121 if the victim is an individual whose killing is an offense under section 102(6) or (7), 123, 271, 273, 571, 593(c), 601, 612(m) or (n), 614(f) or (i), 621, 631, 924, 1201, 1202, 1203, 1205, 1281, 1291, 1297, 1301, 1305, 1331, or 1345 of this title, section 236 of the Atomic Energy Act of 1954, section 46502 or 60123(b) of title 49, or any offense listed in section 273(g)(3)(B) (except for sections 278 and 279) or in preparation for, or in carrying out, the concealment of an escape from the commission of any such violation shall be imprisoned not more than 15 years. A violation of this section may be prosecuted in any Federal judicial district in which the underlying offense was committed, or in any other Federal judicial district as provided by law, and, if the death of any person results, shall be imprisoned for any term of years or for life.

“(b) DEFINITIONS.—As used in this section—
“(1) the term ‘material support or resources’ means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

“(2) the term ‘training’ means instruction or teaching designed to impart a specific skill, as opposed to general knowledge; and

“(3) the term ‘expert advice or assistance’ means advice or assistance derived from scientific, technical or other specialized knowledge.

“§ 279. Providing material support or resources to designated foreign terrorist organizations

“(a) Prohibited Activities.—

“(1) Unlawful Conduct.—Whoever knowingly provides material support or resources to a foreign terrorist organization shall be imprisoned not more than 15 years, or both, and if the death of any person results, shall be imprisoned for any term of
years or for life. To violate this paragraph, a person
must have knowledge that the organization is a des-
ignated terrorist organization (as defined in sub-
section (g)(6)), that the organization has engaged or
engages in terrorist activity (as defined in section
212(a)(3)(B) of the Immigration and Nationality
Act), or that the organization has engaged or en-
gages in terrorism (as defined in section 140(d)(2)
of the Foreign Relations Authorization Act, Fiscal
Years 1988 and 1989).

“(2) FINANCIAL INSTITUTIONS.—Except as au-
thorized by the Secretary, any financial institution
that becomes aware that it has possession of, or con-
trol over, any funds in which a foreign terrorist or-
ganization, or its agent, has an interest, shall—

“(A) retain possession of, or maintain con-
trol over, such funds; and

“(B) report to the Secretary the existence
of such funds in accordance with regulations
issued by the Secretary.

“(b) CIVIL PENALTY.—Any financial institution that
knowingly fails to comply with subsection (a)(2) shall be
subject to a civil penalty in an amount that is the greater
of—

“(1) $50,000 per violation; or
“(2) twice the amount of which the financial in-
stitution was required under subsection (a)(2) to re-
tain possession or control.

“(c) INJUNCTION.—Whenever it appears to the Sec-
etary or the Attorney General that any person is engaged
in, or is about to engage in, any act that constitutes, or
would constitute, a violation of this section, the Attorney
General may initiate civil action in a district court of the
United States to enjoin such violation.

“(d) EXTRATERRITORIAL JURISDICTION.—There is
extraterritorial jurisdiction over an offense under this sec-
tion.

“(e) CLASSIFIED INFORMATION IN CIVIL PRO-
CEEDINGS BROUGHT BY THE UNITED STATES.—

“(1) DISCOVERY OF CLASSIFIED INFORMATION
BY DEFENDANTS.—

“(A) REQUEST BY UNITED STATES.—In
any civil proceeding under this section, upon re-
quest made ex parte and in writing by the
United States, a court, upon a sufficient show-
ing, may authorize the United States to—

“(i) redact specified items of classified
information from documents to be intro-
duced into evidence or made available to
the defendant through discovery under the
Federal Rules of Civil Procedure;

“(ii) substitute a summary of the in-
formation for such classified documents; or

“(iii) substitute a statement admitting
relevant facts that the classified informa-
tion would tend to prove.

“(B) Order granting request.—If the
court enters an order granting a request under
this paragraph, the entire text of the documents
to which the request relates shall be sealed and
preserved in the records of the court to be made
available to the appellate court in the event of
an appeal.

“(C) Denial of request.—If the court
enters an order denying a request of the United
States under this paragraph, the United States
may take an immediate, interlocutory appeal in
accordance with paragraph (5). For purposes of
such an appeal, the entire text of the docu-
ments to which the request relates, together
with any transcripts of arguments made ex
parte to the court in connection therewith, shall
be maintained under seal and delivered to the
appellate court.
“(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

“(A) EXHIBITS.—To prevent unnecessary or inadvertent disclosure of classified information in a civil proceeding brought by the United States under this section, the United States may petition the court ex parte to admit, in lieu of classified writings, recordings, or photographs, one or more of the following:

“(i) Copies of items from which classified information has been redacted.

“(ii) Stipulations admitting relevant facts that specific classified information would tend to prove.

“(iii) A declassified summary of the specific classified information.

“(B) DETERMINATION BY COURT.—The court shall grant a request under this paragraph if the court finds that the redacted item, stipulation, or summary is sufficient to allow the defendant to prepare a defense.

“(3) TAKING OF TRIAL TESTIMONY.—

“(A) OBJECTION.—During the examination of a witness in any civil proceeding brought by the United States under this subsection, the
United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible.

“(B) ACTION BY COURT.—In determining whether a response is admissible, the court shall take precautions to guard against the compromise of any classified information, including—

“(i) permitting the United States to provide the court, ex parte, with a proffer of the witness’s response to the question or line of inquiry; and

“(ii) requiring the defendant to provide the court with a proffer of the nature of the information that the defendant seeks to elicit.

“(C) OBLIGATION OF DEFENDANT.—In any civil proceeding under this section, it shall be the defendant’s obligation to establish the relevance and materiality of any classified information sought to be introduced.

“(4) APPEAL.—If the court enters an order denying a request of the United States under this subsection, the United States may take an immediate
interlocutory appeal in accordance with paragraph (5).

“(5) INTERLOCUTORY APPEAL.—

“(A) SUBJECT OF APPEAL.—An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

“(i) authorizing the disclosure of classified information;

“(ii) imposing sanctions for nondisclosure of classified information; or

“(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

“(B) EXPEDITED CONSIDERATION.—

“(i) IN GENERAL.—An appeal taken pursuant to this paragraph, either before or during trial, shall be expedited by the court of appeals.

“(ii) APPEALS PRIOR TO TRIAL.—If an appeal is of an order made prior to trial, an appeal shall be taken not later than 14 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved.
“(iii) Appeals during trial.—If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved, and the court of appeals—

“(I) shall hear argument on such appeal not later than 4 days after the adjournment of the trial, excluding intermediate weekends and holidays;

“(II) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

“(III) shall render its decision not later than 4 days after argument on appeal, excluding intermediate weekends and holidays; and

“(IV) may dispense with the issuance of a written opinion in rendering its decision.

“(C) Effect of ruling.—An interlocutory appeal and decision does not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.
“(6) CONSTRUCTION.—Nothing in this sub-
section shall prevent the United States from seeking
protective orders or asserting privileges ordinarily
available to the United States to protect against the
disclosure of classified information, including the in-
vocation of the military and State secrets privilege.
“(f) DEFINITIONS.—As used in this section—
“(1) the term ‘classified information’ has the
meaning given that term in section 1(a) of the Clas-
sified Information Procedures Act;
“(2) the term ‘funds’ includes coin or currency
of the United States or any other country, traveler’s
checks, personal checks, bank checks, money orders,
stocks, bonds, debentures, drafts, letters of credit,
any other negotiable instrument, and any electronic
representation of any of the foregoing;
“(3) the term ‘material support or resources’
has the same meaning given that term in section
278 (including the definitions of ‘training’ and ‘ex-
pert advice or assistance’ in that section);
“(4) the term ‘Secretary’ means the Secretary
of the Treasury; and
“(5) the term ‘terrorist organization’ means an
organization designated as a terrorist organization
under section 219 of the Immigration and Nationality Act.

“(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term ‘personnel’ unless that person has knowingly provided a foreign terrorist organization with 1 or more individuals (who may be or include himself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization’s direction and control.

“(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

“(i) EXCEPTION.—No person may be prosecuted under this section in connection with the term ‘personnel’, ‘training’, or ‘expert advice or assistance’ if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General. The Secretary of State may not approve the provision of any material
support that may be used to carry out terrorist activity
(as defined in section 212(a)(3)(B)(iii) of the Immigration
and Nationality Act).

§ 280. Prohibitions against the financing of ter-
orism

(a) Offenses.—

(1) In general.—Whoever, in a circumstance
described in subsection (b), by any means, directly
or indirectly, unlawfully and knowingly provides or
collects funds with the intention that such funds be
used, or with the knowledge that such funds are to
be used, in full or in part, in order to carry out—

(A) an act which constitutes an offense
within the scope of a treaty specified in sub-
section (e)(7), as implemented by the United
States, or

(B) any other act intended to cause death
or serious bodily injury to a civilian, or to any
other person not taking an active part in the
hostilities in a situation of armed conflict, when
the purpose of such act, by its nature or con-
text, is to intimidate a population, or to compel
a government or an international organization
to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).
“(2) Relationship to Predicate ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

“(b) Jurisdiction.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

“(1) the offense takes place in the United States and—

“(A) a perpetrator was a national of another state or a stateless person;

“(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

“(C) on board an aircraft which is operated by the government of another state;

“(D) a perpetrator is found outside the United States;

“(E) was directed toward or resulted in the carrying out of a predicate act against—

“(i) a national of another state; or

“(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;
“(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

“(G) was directed toward or resulted in the carrying out of a predicate act—

“(i) outside the United States; or

“(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

“(2) the offense takes place outside the United States and—

“(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

“(B) a perpetrator is found in the United States; or

“(C) was directed toward or resulted in the carrying out of a predicate act against—

“(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other dip-
diplomatic or consular premises of the United States;

“(ii) any person or property within the United States;

“(iii) any national of the United States or the property of such national; or

“(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

“(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

“(4) the offense is committed on board an aircraft which is operated by the United States; or

“(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

“(c) CONCEALMENT.—Whoever—

“(1)(A) is in the United States; or

“(B) is outside the United States and is a national of the United States or a legal entity orga-
nized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

“(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support or resources, or any funds or proceeds of such funds—

“(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 279; or

“(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).

“(d) PENALTIES.—

“(1) SUBSECTION (a).—Whoever violates subsection (a) shall be imprisoned for not more than 20 years.

“(2) SUBSECTION (c).—Whoever violates subsection (c) shall be imprisoned for not more than 10 years.

“(e) DEFINITIONS.—In this section—
“(1) the term ‘funds’ means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

“(2) the term ‘government facility’ means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

“(3) the term ‘proceeds’ means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

“(4) the term ‘provides’ includes giving, donating, and transmitting;

“(5) the term ‘collects’ includes raising and receiving;
“(6) the term ‘predicate act’ means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

“(7) the term ‘treaty’ means—

“(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

“(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

“(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

“(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

“(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

“(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to
the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

“(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

“(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

“(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

“(8) the term ‘intergovernmental organization’ includes international organizations;

“(9) the term ‘international organization’ has the same meaning as in section 136;

“(10) the term ‘armed conflict’ does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

“(11) the term ‘material support or resources’ has the same meaning given that term in section 279(f)(3); and
“(12) the term ‘state’ has the same meaning as that term has under international law, and includes all political subdivisions thereof.

“(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).

“§281. Receiving military-type training from a foreign terrorist organization

“(a) OFFENSE.—Whoever, if a circumstance exists that is described in section 279(d), knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act as a foreign terrorist organization shall be imprisoned for ten years. To violate this subsection, a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (b)(3)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of

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the Immigration and Nationality Act), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘military-type training’ includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 271(b)(1));

“(2) the term ‘critical infrastructure’ means systems and assets vital to national defense, national security, economic security, public health or safety including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned; examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services),
and transportation systems and services (including highways, mass transit, airlines, and airports); and

“(3) the term ‘foreign terrorist organization’ means an organization designated as a terrorist or-

ganization under section 219(a)(1) of the Immigra-

tion and Nationality Act.

§ 282. Civil remedies

“(a) ACTION AND JURISDICTION.—Any national of the United States who suffers any loss by reason of an act of international terrorism, or the estate, survivors, or heirs of that national, may in a civil action in any appro-

priate district court of the United States recover threefold the damages sustained and the cost of the suit, including attorney’s fees.

“(b) E STOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 102, 111, 112, 121, or 123 of this title or section 46314, 46502, 46505, or 46506 of title 49 shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

“(c) E STOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit
under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

“(d) General Venue.—A civil action under this section may be instituted the United States district court for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

“(e) Special Maritime or Territorial Jurisdiction.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, then a civil action under this section may be instituted in the United States district court for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

“(f) Service on Witnesses.—A witness in a civil action brought under this section may be served in any other district where the defendant resides, is found, or has an agent.

“(g) Convenience of the Forum.—The district court shall not dismiss any action brought under this section on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—
“(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

“(2) that foreign court is significantly more convenient and appropriate; and

“(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

“(h) STATUTE OF LIMITATIONS.—

“(1) Subject to subsection (b), a civil action under this section shall not be maintained unless commenced within 10 years after the date the cause of action accrued.

“(2) The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant’s whereabouts, shall not be included in the 10-year period set forth in paragraph (1).

“(i) ACTS OF WAR.—No action shall be maintained under this section for injury or loss by reason of an act of war.

“(j) LIMITATION ON DISCOVERY.—If a party to an action under this section seeks to discover the investigative
files of the Department of Justice, the Assistant Attorney
General, Deputy Attorney General, or Attorney General
may object on the ground that compliance will interfere
with a criminal investigation or prosecution of the inci-
dent, or a national security operation related to the inci-
dent, which is the subject of the civil litigation. The court
shall evaluate any such objections in camera and shall stay
the discovery if the court finds that granting the discovery
request will substantially interfere with a criminal inves-
tigation or prosecution of the incident or a national secu-
rity operation related to the incident. The court shall con-
sider the likelihood of criminal prosecution by the Govern-
ment and other factors it deems to be appropriate. A stay
of discovery under this subsection shall constitute a bar
to the granting of a motion to dismiss under rules
12(b)(6) and 56 of the Federal Rules of Civil Procedure.
If the court grants a stay of discovery under this sub-
section, it may stay the action in the interests of justice.

“(k) Stay of Action for Civil Remedies.—

“(1) The Attorney General may intervene in
any civil action brought under this section for the
purpose of seeking a stay of the civil action. A stay
shall be granted if the court finds that the continu-
ation of the civil action will substantially interfere
with a criminal prosecution which involves the same
subject matter and in which an indictment has been
returned, or interfere with national security oper-
ations related to the terrorist incident that is the
subject of the civil action. A stay may be granted for
up to 6 months. The Attorney General may petition
the court for an extension of the stay for additional
6-month periods until the criminal prosecution is
completed or dismissed.

“(2) In a proceeding under this subsection, the
Attorney General may request that any order issued
by the court for release to the parties and the public
omit any reference to the basis on which the stay
was sought.

“(1) Suits Against Governments.—No action
shall be maintained under this section against—

“(1) the United States, an agency of the United
States, or an officer or employee of the United
States or any agency thereof acting within his or her
official capacity or under color of legal authority; or

“(2) a foreign state, an agency of a foreign
state, or an officer or employee of a foreign state or
an agency thereof acting within his or her official
capacity or under color of legal authority.
“(m) Exclusive Jurisdiction.—The district courts of the United States shall have exclusive original jurisdiction over an action brought under this section.

§ 283. Definitions for subchapter

“As used in this subchapter—

“(1) the term ‘international terrorism’ means activities that—

“(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping; and

“(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they
appear intended to intimidate or coerce, or the
locale in which their perpetrators operate or
seek asylum;

“(2) the term ‘act of war’ means any act occurring in the course of—

“(A) declared war;

“(B) armed conflict, whether or not war
has been declared, between two or more na-
tions; or

“(C) armed conflict between military forces
of any origin; and

“(3) the term ‘domestic terrorism’ means activi-
ties that—

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

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian
population;

“(ii) to influence the policy of a gov-
ernment by intimidation or coercion; or

“(iii) to affect the conduct of a gov-
ernment by mass destruction, assassina-
tion, or kidnapping; and
“(C) occur primarily within the territorial jurisdiction of the United States.

“SUBCHAPTER C—MILITARY AND NAVY

§ 291. Entering military, naval, or Coast Guard property

“Whoever—

“(1) within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

“(2) reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof;

shall be or imprisoned not more than six months.

§ 292. Use of Army and Air Force as posse comitatus

“Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, knowingly uses any part of the Army or the Air
Force as a posse comitatus or otherwise to execute the
laws shall be imprisoned not more than two years.

§ 293. Disruptions of funerals of members or former
members of the Armed Forces

“(a) Offense.—Whoever engages in disruptive ac-
tivity at a covered funeral of a member or former member
of the Armed services or at a covered residence shall be
imprisoned not more than one year.

“(b) Civil Remedies.—

“(1) District courts.—The district courts of
the United States shall have jurisdiction—

“(A) to prevent and restrain violations of
this section; and

“(B) for the adjudication of any claims for
relief under this section.

“(2) Attorney General.—The Attorney Gen-
eral may institute proceedings under this section.

“(3) Claims.—Any person, including a sur-
viving member of the deceased individual’s family,
who suffers injury as a result of conduct that vio-
lates this section may—

“(A) sue therefor in any appropriate
United States district court or in any court of
competent jurisdiction; and
“(B) recover damages as provided in subsection (c) and the cost of the suit, including reasonable attorneys’ fees.

“(4) Estoppel.—A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by a person or by the United States.

“(c) Actual and Statutory Damages.—

“(1) In General.—In addition to any penalty imposed under subsection (a), a violator of this section is liable in an action under subsection (b) for actual or statutory damages as provided in this subsection.

“(2) Actions by Private Persons.—A person bringing an action under subsection (b)(3) may elect, at any time before final judgment is rendered, to recover the actual damages suffered by him or her as a result of the violation or, instead of actual damages, an award of statutory damages for each violation involved in the action.

“(3) Actions by Attorney General.—In any action under subsection (b)(2), the Attorney General
is entitled to recover an award of statutory damages
for each violation involved in the action notwith-
standing any recovery under subsection (b)(3).

“(4) Statutory Damages.—A court may
award, as the court considers just, statutory dam-
ages in a sum of not less than $25,000 or more than
$50,000 per violation.

“(d) Rebuttable Presumption.—It shall be a re-
buttable presumption that the violation was committed
willfully for purposes of determining relief under this sec-
tion if the violator, or a person acting in concert with the
violator, did not have reasonable grounds to believe, either
from the attention or publicity sought by the violator or
other circumstance, that the conduct of such violator or
person would not disturb or tend to disturb the peace or
good order of such funeral, impede or tend to impede the
access to or egress from such funeral, or disturb or tend
to disturb the peace of any surviving member of the de-
ceased individual’s family who may be found on or near
the residence, home, or domicile of the deceased individ-
ual’s family on the date of the service or ceremony.

“(e) Definitions.—As used in this section—
“(1) the term ‘disruptive activity’ means—
“(A) during the period beginning 120 min-
utes before and ending 120 minutes after such
funeral, knowingly making noise or a diversion
with intent to disturb the peace and good order
of the funeral that—

“(i) is not part of the funeral; and

“(ii) takes place within the boundaries
of the location of such funeral or takes
place within 300 feet of the point of the
intersection between the boundary of the
location of such funeral and a road, path-
way, or other route of ingress to or egress
from the location of such funeral;

“(B) intentionally and without authorization, within 500 feet of the boundary of the lo-
cation of such funeral, impeding access to or
egress from the location of the funeral; or

“(C) knowingly making a noise or diver-
sion with intent to disturb the peace of persons
that takes place on or near the boundary of a
covered residence.

“(2) the term ‘covered funeral’ means a cere-
mony or memorial service held in connection with
the burial or cremation of a member or former mem-
ber of the Armed Forces, which is not located at a
cemetery under the control of the National Cemetery
(3) the term ‘covered residence’ means a residence, home, or domicile of any surviving member of the deceased individual’s family.

(4) the term ‘Armed Forces’ has the meaning given the term in section 101 of title 10;

(5) the term ‘boundary of the location’, with respect to the place a covered funeral is held, means—

(A) the property line of the place, if the place is cemetery, mortuary, or house of worship; and

(B) the reasonable property line of any other location.

(6) the term ‘family’ has the meaning given such term in section 136.

§ 294. Demonstrations at cemeteries under the control of the national cemetery administration and at Arlington National Cemetery

“Whoever violates section 2413 of title 38 shall be imprisoned for not more than one year.
§ 295. Prohibition on attacks on United States servicemen on account of service

(a) IN GENERAL.—Whoever knowingly assaults or batters a United States serviceman or a family member of a United States serviceman, or who knowingly destroys or injures the property of such serviceman or family member, on account of the military service of that serviceman or status of that individual as a United States serviceman, or who attempts or conspires to do so, shall

“(1) in the case of a simple assault, or destruction or injury to property in which the damage or attempted damage to such property is not more than $500, be fined under this title in an amount not less than $500 nor more than $10,000 and imprisoned not more than 2 years;

“(2) in the case of destruction or injury to property in which the damage or attempted damage to such property is more than $500, be fined under this title in an amount not less than $1000 nor more than $100,000 and imprisoned not more than 5 years; and

“(3) in the case of a battery, or an assault resulting in bodily injury, be fined under this title in an amount not less than $2,500 and imprisoned not less than 6 months nor more than 10 years.
“(b) EXCEPTION.—This section does not apply to conduct by a person who is subject to the Uniform Code of Military Justice.

“(c) DEFINITIONS.—In this section

“(1) the term ‘Armed Forces’ has the meaning given that term in section 101 of title 10;

“(2) the term ‘family’ has the meaning given that term in section 136; and

“(3) the term ‘United States serviceman’—

“(A) means a member of the Armed Forces; and

“(B) includes a former member of the Armed Forces during the 5-year period beginning on the date of the discharge from the Armed Forces of that member of the Armed Forces.

“SUBCHAPTER D—CIVIL DISORDERS AND RIOTS

“§296. Civil disorders

“(a) OFFENSE.—Whoever—

“(1) teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing
or having reason to know or intending that the same
will be unlawfully employed for use in, or in further-
ance of, a civil disorder which is in or affects inter-
state or foreign commerce or the performance of any
federally protected function;

“(2) transports or manufactures for transpor-
tation in or affecting interstate or foreign commerce
any firearm or explosive or incendiary device, know-
ing or having reason to know or intending that the
same will be used unlawfully in furtherance of a civil
disorder; or

“(3) commits or attempts to commit any act to
obstruct, impede, or interfere with any fireman or
law enforcement officer lawfully engaged in the law-
ful performance of official duties incident to and
during the commission of a civil disorder which is in
or affects commerce or the conduct or performance
of any federally protected function;

shall be imprisoned not more than five years.

“(b) Law Enforcement Exclusion.—Nothing in
this section makes unlawful any act of any law enforce-
ment officer which is performed in the lawful performance
of official duties.

“(c) Definitions.—The following definitions apply
in this section:
“(1) The term ‘civil disorder’ means any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

“(2) The term ‘federally protected function’ means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof; and such term includes the collection and distribution of the United States mails.

“(3) The term ‘firearm’ means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon.

“(4) The term ‘explosive or incendiary device’ means—

“(A) dynamite and all other forms of high explosives;

“(B) any explosive bomb, grenade, missile, or similar device; and

“(C) any incendiary bomb or grenade, fire bomb, or similar device, including any device which—
“(i) consists of or includes a breakable container including a flammable liquid or compound, and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound; and

“(ii) can be carried or thrown by one individual acting alone.

“(5) The term ‘fireman’ means any member of a fire department (including a volunteer fire department) of any State, any political subdivision of a State.

“(6) The term ‘law enforcement officer’ means any officer or employee of the United States, of any State or any political subdivision of a State while engaged in the enforcement or prosecution of any of the criminal laws of the United States or of that State or subdivision; and such term includes members of the National Guard (as defined in section 101 of title 10), members of the organized militia of a State (as defined in section 101 of title 10), and members of the Armed Forces of the United States, while engaged in suppressing acts of violence or restoring law and order during a civil disorder.
“SUBCHAPTER E—ESPIONAGE AND CENSORSHIP

§ 301. General provisions for subchapter.
(a) DEFINITION.—In this subchapter, the term ‘foreign power’ has the meaning given that term in section 101(a) of the Foreign Intelligence Surveillance Act of 1978.

(b) EXCLUSION RELATING TO LAWFUL DEMANDS OF CONGRESS.—Nothing in this subchapter prohibits the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

§ 302. Gathering or transmitting defense information

Whoever, with intent or reason to believe that the information will be used to the injury of the United States, or to the advantage of any foreign power, knowingly—

(1) obtains information connected with the national defense; or

(2) provides information connected with the national defense to any person not entitled to receive it;
shall be imprisoned for life or for any term of years, and if death results, shall be subject to the death penalty.

“§ 303. Losing defense information

“Whoever, having lawful possession or control of any information connected with the national defense—

“(1) recklessly permits that information to be lost, stolen, or destroyed; or

“(2) knowing that the information has been lost, or stolen, or destroyed, fails to make prompt report of that fact to an appropriate superior officer; shall be imprisoned not more than 10 years.

“§ 304. Disclosure of classified and other similarly protected information

“(a) Offense.—Whoever knowingly provides protected information to a person not entitled to receive it, or knowingly uses protected information to the injury of the United States, or to the advantage of any foreign power shall be imprisoned not more than 10 years.

“(b) Definitions.—In this section—

“(1) the term ‘protected information’ means any classified information or any Restricted Data (as defined for the purposes of the Atomic Energy Act of 1954);

“(2) the term ‘classified information’ means information which, at the time of a violation of this
section, is, for reasons of national security, specifically designated by a United States Government authority for limited or restricted dissemination or distribution—

“(A) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign power;

“(B) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign power for cryptographic or communication intelligence purposes;

“(C) concerning the communication intelligence activities of the United States or any foreign power; or

“(D) obtained by the processes of communication intelligence from the communications of any foreign power, knowing the same to have been obtained by such processes; and

“(3) the terms ‘code’, ‘cipher’, and ‘cryptographic system’ include any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing
the contents, significance, or meanings of communications.

“SUBCHAPTER F—IMMIGRATION AND NATIONALITY

§ 311. False statement in application and use of passport.

Whoever—

“(1) knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

“(2) knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement;

shall be imprisoned not more than 15 years.
§ 312. Forgery or false use of passport

“Whoever—

“(1) falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

“(2) knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same;

shall be imprisoned not more than 15 years.

§ 313. Misuse of passport

“Whoever—

“(1) knowingly uses, or attempts to use, any passport issued or designed for the use of another;

“(2) knowingly uses or attempts to use any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports;

or

“(3) knowingly furnishes, disposes of, or delivers a passport to any person, for use by another
than the person for whose use it was originally
issued and designed;
shall be imprisoned not more than 15 years.

§314. Fraud and misuse of visas, permits, and other
documents

“(a) Forgery and similar conduct.—Whoever—
“(1) knowingly forges, counterfeits, alters, or
falsely makes any immigrant or nonimmigrant visa,
permit, border crossing card, alien registration re-
cceipt card, or other document prescribed by statute
or regulation for entry into or as evidence of author-
ized stay or employment in the United States, or ut-
ters, uses, attempts to use, possesses, obtains, ac-
cepts, or receives any such visa, permit, border
crossing card, alien registration receipt card, or
other document prescribed by statute or regulation
for entry into or as evidence of authorized stay or
employment in the United States, knowing it to be
forged, counterfeited, altered, or falsely made, or to
have been procured by means of any false claim or
statement, or to have been otherwise procured by
fraud or unlawfully obtained;
“(2) except under direction of the Attorney
General or the Secretary of Homeland Security, or
other proper officer, knowingly possesses any blank
permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or non-immigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or Secretary of Homeland Security for the printing of such visas, permits, or documents;

“(3) when applying for an immigrant or non-immigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

“(4) knowingly makes under oath, or as permitted under penalty of perjury under section 1746
of title 28, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact; shall be imprisoned not more than 15 years.

“(b) USE OF FORGED OF SIMILAR DOCUMENTS.—

Whoever uses—

“(1) an identification document, knowing or having reason to know that the document was not issued lawfully for the use of the possessor;

“(2) an identification document knowing (or having reason to know) that the document is false;

or

“(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be imprisoned not more than 5 years.

“(c) EXCLUSION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence
agency of the United States, or any activity authorized
under chapter 224 of title 18.

“§ 315. Procurement of citizenship or naturalization
unlawfully

“Whoever—

“(1) knowingly procures or attempts to procure,
contrary to law, the naturalization of any person, or
documentary or other evidence of naturalization or
of citizenship; or

“(2) whether for himself or another person not
entitled thereto, knowingly issues, procures or ob-
tains or applies for or otherwise attempts to procure
or obtain naturalization, or citizenship, or a declara-
tion of intention to become a citizen, or a certificate
of arrival or any certificate or evidence of national-
ization or citizenship, documentary or otherwise, or
duplicates or copies of any of the foregoing;

shall be imprisoned not more than 15 years.

“§ 316. Sale of naturalization or citizenship papers

“Whoever unlawfully sells or disposes of a declaration
of intention to become a citizen, certificate of naturaliza-
tion, certificate of citizenship or copies or duplicates or
other documentary evidence of naturalization or citizen-
ship, shall be imprisoned 15 years.
“§ 317. Penalties related to removal

“(a) Penalty for Failure To Depart.—

“(1) In general.—Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a) of the Immigration and Nationality Act, who—

“(A) knowingly fails or refuses to depart from the United States within a period of 90 days from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,

“(B) knowingly fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure,

“(C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien’s departure pursuant to such, or

“(D) knowingly fails or refuses to present himself or herself for removal at the time and place required by the Attorney General pursuant to such order,
shall be imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a) of the Immigration and Nationality Act).

“(2) EXCEPTION.—It is not a violation of paragraph (1) to take any proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien’s release from incarceration or custody.

“(3) SUSPENSION.—The court may for good cause suspend the sentence of an alien under this subsection and order the alien’s release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as—

“(A) the age, health, and period of detention of the alien;

“(B) the effect of the alien’s release upon the national security and public peace or safety;

“(C) the likelihood of the alien’s resuming or following a course of conduct which made or would make the alien deportable;
“(D) the character of the efforts made by such alien himself and by representatives of the country or countries to which the alien’s removal is directed to expedite the alien’s departure from the United States;

“(E) the reason for the inability of the Government of the United States to secure passports, other travel documents, or removal facilities from the country or countries to which the alien has been ordered removed; and

“(F) the eligibility of the alien for discretionary relief under the immigration laws.

“(b) FAILURE TO COMPLY WITH TERMS OF RELEASE UNDER SUPERVISION.—An alien who knowingly fails to comply with regulations or requirements issued pursuant to section 241(a)(3) of the Immigration and Nationality Act or knowingly give false information in response to an inquiry under such section shall be imprisoned for not more than one year.

“(c) PENALTIES RELATING TO VESSELS AND AIRCRAFT.—

“(1) CIVIL PENALTIES.—

“(A) FAILURE TO CARRY OUT CERTAIN ORDERS.—If the Attorney General is satisfied that a person has violated subsection (d) or (e)
of section 241 of the Immigration and Nationality Act, the person shall pay to the Commissioner the sum of $2,000 for each violation.

“(B) Failure to remove alien stowaways.—If the Attorney General is satisfied that a person has failed to remove an alien stowaway as required under section 241(d)(2) of the Immigration and Nationality Act, the person shall pay to the Commissioner the sum of $5,000 for each alien stowaway not removed.

“(C) No compromise.—The Attorney General may not compromise the amount of such penalty under this paragraph.

“(2) Clearing vessels and aircraft.—

“(A) Clearance before decision on liability.—A vessel or aircraft may be granted clearance before a decision on liability is made under paragraph (1) only if a bond approved by the Attorney General or an amount sufficient to pay the civil penalty is deposited with the Commissioner.

“(B) Prohibition on clearance while penalty unpaid.—A vessel or aircraft may not be granted clearance if a civil penalty imposed under paragraph (1) is not paid.
“(d) Discontinuing Granting Visas to Nationals of Country Denying or Delaying Accepting Alien.—On being notified by the Attorney General that the government of a foreign country denies or unreasonably delays accepting an alien who is a citizen, subject, national, or resident of that country after the Attorney General asks whether the government will accept the alien under this section, the Secretary of State shall order consular officers in that foreign country to discontinue granting immigrant visas or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of that country until the Attorney General notifies the Secretary that the country has accepted the alien.

“§ 318. Bringing in and harboring certain aliens

“(a) Criminal Penalties.—(1)(A) Whoever—

“(i) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;
“(ii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

“(iii) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

“(iv) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law;

“(v) engages in any conspiracy to commit any of the preceding acts;

shall be punished as provided in subparagraph (B).

“(B) Whoever violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—
“(i) in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be imprisoned not more than 10 years;

“(ii) in the case of a violation of subparagraph (A) (ii), (iii), (iv), or (v)(II) be imprisoned not more than 5 years;

“(iii) in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury to, or places in jeopardy the life of, any person, be imprisoned not more than 20 years; and

“(iv) in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life.

“(C) It is not a violation of clause (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call,
allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

“(2) Whoever, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs—

“(A) be imprisoned not more than one year; or

“(B) in the case of—

“(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,
“(ii) an offense done for the purpose of commercial advantage or private financial gain, or

“(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be imprisoned not less than 5 nor more than 15 years.

“(3)(A) Whoever, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be imprisoned for not more than 5 years.

“(B) An alien described in this subparagraph is an alien who—

“(i) is an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act), and

“(ii) has been brought into the United States in violation of this subsection.

“(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if—
“(A) the offense was part of an ongoing commercial organization or enterprise;

“(B) aliens were transported in groups of 10 or more; and

“(C)(i) aliens were transported in a manner that endangered their lives; or

“(ii) the aliens presented a life-threatening health risk to people in the United States.

“(b) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

“(c) AUDIOVISUALLY PRESERVED DEPOSITIONS.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped (or otherwise audiovisually preserved) deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unable to testify, may be admitted into evidence in an action brought for that violation if the witness was available for cross examination and the deposition otherwise complies with the Federal Rules of Evidence.
“(d) Outreach Program.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall develop and implement an outreach program to educate the public in the United States and abroad about the penalties for bringing in and harboring aliens in violation of this section.

“§ 319. Entry of alien at improper time or place; misrepresentation and concealment of facts

“(a) Entry.—Any alien who—

“(1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers;

“(2) eludes examination or inspection by immigration officers; or

“(3) attempts to enter or obtains entry to the United States by a knowingly false or misleading representation or the knowingly concealment of a material fact;

shall, for the first commission of any such offense, be imprisoned not more than 6 months, and, for a subsequent commission of any such offense, be imprisoned not more than 2 years.

“(b) Apprehension While Entering.—Any alien who is apprehended while entering (or attempting to
enter) the United States at a time or place other than
as designated by immigration officers shall be subject to
a civil penalty of—

“(1) at least $50 and not more than $250 for
each such entry (or attempted entry); or

“(2) twice the amount specified in paragraph
(1) in the case of an alien who has been previously
subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to,
and not in lieu of, any criminal or other civil penalties
that may be imposed.

“(c) MARRIAGE.—An individual who knowingly en-
ters into a marriage for the purpose of evading any provi-
sion of the immigration laws shall be imprisoned for not
more than 5 years.

“(d) COMMERCIAL ENTERPRISE.—Whoever know-
ingly establishes a commercial enterprise for the purpose
of evading any provision of the immigration laws shall be
imprisoned for not more than 5 years.

§ 320. Reentry of removed alien

“(a) OFFENSE.—Subject to subsection (b), any alien
who—

“(1) has been denied admission, excluded, de-
ported, or removed or has departed the United
States while an order of exclusion, deportation, or removal is outstanding; and

“(2) thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this or any prior Act,

shall be imprisoned not more than 2 years.

“(b) INCREASED PENALTY.—In the case of any alien violating subsection (a)—

“(1) whose removal was subsequent to a conviction for commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony), such alien shall be imprisoned not more than 10 years;

“(2) whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be imprisoned not more than 20 years;
“(3) who has been excluded from the United States pursuant to section 235(c) of the Immigration and Nationality Act because the alien was excludable under section 212(a)(3)(B) of such Act or who has been removed from the United States pursuant to title V of such Act, and who thereafter, without the permission of the Attorney General, enters the United States, or attempts to do so, shall be imprisoned for a period of 10 years, which sentence shall not run concurrently with any other sentence; or

“(4) who was removed from the United States pursuant to section 241(a)(4)(B) of such Act who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien’s reentry) shall be imprisoned for not more than 10 years.

For the purposes of this subsection, the term ‘removal’ includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.

“(c) REENTRY.—Any alien deported pursuant to section 242(h)(2) of the Immigration and Nationality Act
who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien’s reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.

“(d) Challenge of Validity of Order.—In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

“(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

“(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

“(3) the entry of the order was fundamentally unfair.
§ 321. Aiding or assisting certain aliens to enter the United States

“Whoever knowingly aids or assists any alien inadmissible under section 212(a)(2) of the Immigration and Nationality Act (insofar as an alien inadmissible under such section has been convicted of an aggravated felony) or section 212(a)(3) of such Act (other than subparagraph (E) thereof) to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be or imprisoned not more than 10 years.

§ 322. Increased penalty for certain terrorism related offenses

“Whoever violates this subchapter shall, if the maximum imprisonment for the offense is less but for this section, be imprisoned not more than 25 years if the offense was committed to facilitate an act of international terrorism (as defined in section 283), and 20 years (if the offense was committed to facilitate a drug trafficking crime (as defined in section 592).

CHAPTER 17—DRUG CRIMES

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§ 401. Definitions for chapter

“As used in this chapter—

“(1) a term defined for the purposes of the Controlled Substances Act or the Controlled Substances Import and Export Act has the same meaning in this chapter;

“(2) the term ‘large quantity of a major drug’ means—

“(A) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

“(B) 5 kilograms or more of a mixture or substance containing a detectable amount of—

“(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, eegonine, and derivatives of eegonine or their salts have been removed;

“(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;
“(iii) ecegonine, its derivatives, their salts, isomers, and salts of isomers; or

“(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);

“(C) 280 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

“(D) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

“(E) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

“(F) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1–(2-phenylethyl)–4-piperidiny] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1–(2-phenylethyl)–4-piperidiny] propanamide;

“(G) 1000 kilograms or more of a mixture or substance containing a detectable amount of
marihuana, or 1,000 or more marihuana plants regardless of weight; or

“(H) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

“(3) the term ‘substantial quantity of a major drug’ means—

“(A) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

“(B) 500 grams or more of a mixture or substance containing a detectable amount of—

“(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, eegonine, and derivatives of eegonine or their salts have been removed;

“(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

“(iii) eegonine, its derivatives, their salts, isomers, and salts of isomers; or

“(iv) any compound, mixture, or preparation which contains any quantity of any
of the substances referred to in clauses (i) through (iii);

“(C) 28 grams or more of a mixture or substance described in subparagraph (B) which contains cocaine base;

“(D) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

“(E) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

“(F) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1–(2-phenylethyl)–4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1–(2-phenylethyl)–4-piperidinyl] propanamide;

“(G) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight; or

“(H) 5 grams or more of methamphetamine, its salts, isomers, and salts of its iso-
mers or 50 grams or more of a mixture or sub-
stance containing a detectable amount of meth-
amphetamine, its salts, isomers, or salts of its
isomers;

“(4) the term ‘date rape drug’ means gamma
hydroxybutyric acid (including when scheduled as an
approved drug product for purposes of section
3(a)(1)(B) of the Hillory J. Farias and Samantha
Reid Date-Rape Drug Prohibition Act of 2000), or
1 gram of flunitrazepam;

“(5) the term ‘repeat offender’ means a person
who is convicted under this chapter after a prior
conviction for a felony drug offense;

“(6) the term ‘career offender’ means a person
who is convicted under this chapter after two or
more prior convictions for a felony drug offense;

“(7) the term ‘midlevel quantity of marijuana’
means less than 50 kilograms of marihuana, except
in the case of 50 or more marihuana plants regard-
less of weight; and

“(8) the term ‘larger quantity of hashish’
means less than ten kilograms of hashish or one
kilogram of hashish oil.
§ 402. Basic offenses

Except as authorized by this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act, whoever knowingly—

“(1) manufactures, distributes, or dispenses, or possesses with intent to manufacture, distribute, or dispense, a controlled substance;

“(2) creates, distributes, or dispenses, or possesses with intent to distribute or dispense, a counterfeit substance;

“(3) imports or exports a controlled substance in violation of section 1002, 1003, or 1007 of the Controlled Substances Import and Export Act;

“(4) brings or possesses on board a vessel, aircraft, or vehicle a controlled substance in violation of section 1005 of that Act; or

“(5) manufactures, possesses with intent to distribute, or distributes a controlled substance in violation of section 1009 of that Act;

shall be punished as provided in this chapter.

§ 403. Basic punishment structure

“(a) LARGE QUANTITIES OF MAJOR DRUGS.—

“(1) PRISON.—If the violation of section 402 involves a large quantity of a major drug, the offender shall be imprisoned not less than ten years, or for life. If the offender is a repeat offender or if
death or serious bodily injury results to any person from the offense, the term shall not be less than 20 years. If the offender is a career offender, the term shall be life.

“(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $10,000,000, and if the offender is a repeat offender, not more than $20,000,000.

“(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of at least 5 years, but if the offender is a repeat offender, for a period of 10 years.

“(b) SUBSTANTIAL QUANTITIES OF MAJOR DRUGS.—

“(1) PRISON.—If the violation of section 402 involves a substantial quantity of a major drug, the offender shall be imprisoned not less than five years nor more than 40 years, but if death or serious bodily injury results to any person from the offense, not less than 20 years, or for life. If the offender is a repeat offender, the term shall not be less than 10 years, or life, but if death or serious bodily injury results to any person from the offense, the term shall be life.
“(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $5,000,000 if the offender is an individual or $25,000,000 if the offender is an organization. If the offender is a repeat offender, the fine shall be not more than $8,000,000 if the offender is an individual or $50,000,000 if the offender is an organization.

“(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of at least 4 years, but if the offender is a repeat offender, for a period of at least 8 years.

“(c) LESSER QUANTITIES OF MAJOR DRUGS AND ANY QUANTITY OF CERTAIN OTHER SUBSTANCES.—

“(1) PRISON.—If the violation of section 402 involves a controlled substance in schedule I or II, in a lesser quantity than those described in section 401(3) if such substance is listed therein, or a date rape drug, the offender shall be imprisoned not more than 20 years, but if death or serious bodily injury results to any person from the offense, not less than 20 years, or life. If the offender is a repeat offender, the term shall not be more than 30 years, but if death or serious bodily injury results to any person
from the offense, the term shall not be less than 20
years, or life.

“(2) FINE.—An offender to whom paragraph
(1) applies shall be fined not more than $1,000,000
if the offender is an individual or $5,000,000 if the
offender is an organization. If the offender is a re-
peat offender, the fine shall be not more than
$2,000,000 if the offender is an individual or
$10,000,000 if the offender is an organization.

“(3) SUPERVISED RELEASE.—An offender to
whom paragraph (1) applies shall be sentenced to
supervised release for a period of at least 3 years,
but if the offender is a repeat offender, for a period
of at least 6 years.

“(d) MIDLEVEL QUANTITIES OF MARIJUANA AND
LARGER QUANTITIES OF HASHISH.—

“(1) PRISON.—If the violation of section 402
involves a midlevel quantity of marijuana or a larger
quantity of hashish, the offender shall be imprisoned
not more than five years, or if a repeat offender, not
more than 10 years.

“(2) FINE.—An offender to whom paragraph
(1) applies shall be fined not more than $250,000 if
the offender is an individual or $1,000,000 if the of-
fender is an organization. If the offender is a repeat
offender, the fine shall be not more than $500,000 if the offender is an individual or $2,000,000 if the offender is an organization.

“(3) SUPERVISED RELEASE.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of at least 2 years, but if the offender is a repeat offender, for a period of at least 4 years.

“(e) SCHEDULE III SUBSTANCES.—

“(1) PRISON.—If the violation of section 402 involves a schedule III substance for which a penalty is not imposed in a previous subsection, the offender shall be imprisoned not more than 10 years, but if death or serious bodily injury results to any person from the offense, not more than 15 years. If the offender is a repeat offender, the term shall not be more than 20 years, but if death or serious bodily injury results to any person from the offense, the term shall not be more than 30 years.

“(2) FINE.—An offender to whom paragraph (1) applies shall be fined not more than $500,000 if the offender is an individual or $2,500,000 if the offender is an organization. If the offender is a repeat offender, the fine shall be not more than $1,000,000
if the offender is an individual or $5,000,000 if the offender is an organization.

“(3) Supervised release.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of at least 2 years, but if the offender is a repeat offender, for a period of at least 4 years.

“(f) Schedule IV Substances.—

“(1) Prison.—If the violation of section 402 involves a schedule IV substance, the offender shall be imprisoned not more than 5 years. If the offender is a repeat offender, the term shall be not more than 10 years and sentenced to supervised release for at least one year. If the offender is a repeat offender, the offender shall be imprisoned not more than 10 years and sentenced to supervised release for at least two years.

“(2) Fine.—An offender to whom paragraph (1) applies shall be fined not more than $250,000 if the offender is an individual or $1,000,000 if the offender is an organization. If the offender is a repeat offender, the fine shall be not more than $500,000 if the offender is an individual or $2,000,000 if the offender is an organization.
“(3) Supervised release.—An offender to whom paragraph (1) applies shall be sentenced to supervised release for a period of at least one year, but if the offender is a repeat offender, for a period of at least 2 years.

“(g) Schedule V Substances.—

“(1) Prison.—If the violation of section 402 involves a schedule V substance, the offender shall be imprisoned not more than one year. If the offender is a repeat offender, the term shall be not more than four years.

“(2) Fine.—An offender to whom paragraph (1) applies shall be fined not more than $100,000 if the offender is an individual or $250,000 if the offender is an organization. If the offender is a repeat offender, the fine shall be not more than $200,000 if the offender is an individual or $500,000 if the offender is an organization.

§ 404. Offenses involving protected persons

“(a) Distribution with intent to commit a crime of violence.—

“(1) In general.—Whoever, with intent to commit a crime of violence (including an offense that would also be punishable under section 201 if the conduct occurred in the special maritime and
territorial jurisdiction of the United States) against an individual, violates section 402 by distributing a controlled substance or controlled substance analogue to that individual without that individual’s knowledge, shall be imprisoned not more than 20 years.

“(2) DEFINITION.—As used in this subsection, the term ‘without that individual’s knowledge’ means that the individual is unaware that a substance with the ability to alter that individual’s ability to appraise conduct or to decline participation in or communicate unwillingness to participate in conduct is administered to the individual.

“(b) ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING CONTROLLED SUBSTANCE.—Whoever, while manufacturing a controlled substance in violation of this chapter or the Controlled Substances Act, or attempting or conspiring to do so, or transporting materials, including chemicals, to do so, knowingly creates a risk of harm to human life shall be imprisoned not more than ten years.

“(c) DISTRIBUTION TO MINORS.—

“(1) FIRST OFFENSES.—Except as provided in section 407 and in paragraph (2), any person at least 18 years of age who violates section 402 by dis-
tributing a controlled substance to a person under 21 years of age is subject to (A) twice the maximum punishment authorized by section 403, and (B) at least twice any term of supervised release authorized by section 403, for a first offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise provided by section 403, a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this subsection do not apply to offenses involving 5 grams or less of marihuana.

“(2) SECOND AND SUBSEQUENT OFFENSES.— Except as provided in section 407, if the offender under paragraph (1) has a prior conviction under paragraph (1) (or under section 303(b)(2) of the Federal Food, Drug, and Cosmetic Act as in effect prior to the effective date of section 701(b) of the Controlled Substances Act) is subject to (A) three times the maximum punishment authorized by section 403, and (B) at least three times any term of supervised release authorized by section 403, for a second offense or subsequent offense involving the same controlled substance and schedule. Except to the extent a greater minimum sentence is otherwise...
provision by section 403, a term of imprisonment
under this subsection shall be not less than one year.
Penalties for third and subsequent convictions shall
those provided by section 403(a) for offenses involving
large quantities of major drugs under that section.

“(d) ADULTS USING MINORS.—Whoever, being at
least 21 years of age, knowingly—

“(1) employs, hires, uses, persuades, induces,
entices, or coerces a minor to violate section 402; or

“(2) employs, hires, uses, persuades, induces,
entices, or coerces a minor to assist in avoiding de-
tection or apprehension, for any offense under sec-
tion 402, by any Federal, State, or local law enforce-
ment official,
is punishable by a term of imprisonment, a fine, or both,
up to triple those authorized by section 403.

“(e) YOUNG ADULTS USING MINORS.—

“(1) Whoever, not being a minor, knowingly—

“(A) employs, hires, uses, persuades, in-
duces, entices, or coerces, a minor to violate
this chapter, the Controlled Substances Act, or
the Controlled Substances Import and Export
Act;
“(B) employs, hires, uses, persuades, induces, entices, or coerces, a minor to assist in avoiding detection or apprehension, for violation of this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act, by any Federal, State, or local law enforcement official; or

“(C) receives a controlled substance from a minor, other than a family member, in violation of this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act; shall be imprisoned for up to twice the maximum term otherwise authorized and sentenced to at least twice any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall not be less than one year.

“(2) Whoever violates paragraph (1) after a prior conviction under paragraph (1) of this section, shall be imprisoned for up to three times the maximum term otherwise authorized and sentenced to at least three times any term of supervised release otherwise authorized for a first offense. Except to the extent a greater minimum sentence is otherwise pro-
vided, a term of imprisonment under this subsection shall not be less than one year. Penalties for third and subsequent convictions shall be those provided by section 403(a) for offenses involving large quantities of major drugs under that section.

“(f) Providing Controlled Substances to Minor.—Whoever violates subsection (c) or (d)—

“(1) by knowingly providing or distributing a controlled substance or a controlled substance analogue to a minor; or

“(2) if the person employed, hired, or used is 14 years of age or younger;

shall be subject to a term of imprisonment for not more than five years, in addition to any other punishment authorized by this chapter.

“(g) Pregnant Persons.—Except as authorized by this chapter or the Controlled Substances Act, it shall be unlawful for any person to knowingly or intentionally provide or distribute any controlled substance to a pregnant individual in violation of any provision of this title. Whoever violates this subsection shall be subject to the same penalties as are provided for a violation of subsection (c).
§ 405. Enhancement for offenses involving protected places

(a) Cultivation on Federal Property.—The maximum fine that may be imposed for a violation of section 402 by cultivating a controlled substance on Federal property shall be the greater of the amount otherwise provided in this chapter or—

(1) $500,000 if the defendant is an individual;

or

(2) $1,000,000 if the defendant is an organization.

(b) Use of Hazardous Substance on Federal Land.—Whoever, in the course of a violation of section 402, knowingly uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

(1) creates a serious hazard to humans, wildlife, or domestic animals,

(2) degrades or harms the environment or natural resources, or

(3) pollutes an aquifer, spring, stream, river, or body of water,

shall be imprisoned not more than five years.

(c) Boobytraps.—

(1) Whoever knowingly assembles, maintains, or places a boobytrap on Federal property where a controlled substance is being manufactured, distrib-
uted, or dispensed shall be imprisoned not more
than ten years.

“(2) If the offender has one or more prior con-
victions for an offense under this subsection, the of-
fender shall be imprisoned not more than 20 years.

“(3) As used in this subsection, the term ‘boo-
bytrap’ means any concealed or camouflaged device
designed to cause bodily injury when triggered by
any action of any unsuspecting person making con-
tact with the device. Such term includes guns, am-
munition, or explosive devices attached to trip wires
or other triggering mechanisms, sharpened stakes,
and lines or wires with hooks attached.

“(d) SAFETY REST AREAS.—

“(1) ENHANCEMENT.—Whoever violates section
402 by distributing or possessing with intent to dis-
tribute a controlled substance in or on, or within
1,000 feet of, a truck stop or safety rest area is sub-
ject to—

“(A) in the case of a first offense under
this subsection subject to—

“(i) twice the maximum punishment

provided in section 403; and
“(ii) twice any term of supervised release authorized by section 403 for a first offense; and

“(B) in the case of an offense under this subsection after a prior conviction under this subsection—

“(i) three times the maximum punishment authorized by section 403; and

“(ii) three times any term of supervised release authorized by section 403 for a first offense.

“(2) DEFINITIONS.—As used in this subsection—

“(A) the term ‘safety rest area’ means a roadside facility with parking facilities for the rest or other needs of motorists; and

“(B) the term ‘truck stop’ means a facility (including any parking lot appurtenant thereto) that—

“(i) has the capacity to provide fuel or service, or both, to any commercial motor vehicle (as defined in section 31301 of title 49), operating in commerce (as defined in that section); and
“(ii) is located within 2,500 feet of
the National System of Interstate and De-
fense Highways or the Federal-Aid Pri-
mary System.

§ 406. Maintaining drug-involved premises

“(a) In General.—Except as authorized by this
chapter or the Controlled Substances Act, it shall be un-
lawful to—

“(1) knowingly open, lease, rent, use, or main-
tain any place, whether permanently or temporarily,
for the purpose of manufacturing, distributing, or
using any controlled substance; or

“(2) manage or control any place, whether per-
manently or temporarily, either as an owner, lessee,
agent, employee, occupant, or mortgagee, and know-
ingly and intentionally rent, lease, profit from, or
make available for use, with or without compensa-
tion, the place for the purpose of unlawfully manu-
facturing, storing, distributing, or using a controlled
substance.

“(b) Punishment.—Whoever violates subsection (a)
of this section shall be sentenced to a term of imprison-
ment of not more than 20 years or a fine of not more
than $500,000, or both, or a fine of $2,000,000 for an
organization.
“(c) Restitution.—A violation of subsection (a) shall be considered an offense against property for purposes of section 3663A(c)(1)(A)(ii).

“(d) Civil Penalty.—

“(1) Whoever violates subsection (a) shall be subject to a civil penalty of not more than the greater of—

“(A) $250,000; or

“(B) 2 times the gross receipts, either known or estimated, that were derived from each violation that is attributable to the person.

“(2) If a civil penalty is calculated under paragraph (1)(B), and there is more than 1 defendant, the court may apportion the penalty between multiple violators, but each violator shall be jointly and severally liable for the civil penalty under this subsection.

“§ 407. Distribution in or near schools

“(a) In General.—Whoever violates section 402 or 406 by distributing, possessing with intent to distribute, or manufacturing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a
public housing authority, or within 100 feet of a public
or private youth center, public swimming pool, or video
arcade facility, is (except as provided in subsection (b))
subject to—

“(1) twice the maximum punishment authorized
by section 403; and

“(2) at least twice any term of supervised re-
lease authorized by section 403 for a first offense.
A fine up to twice that authorized by section 403 may
be imposed in addition to any term of imprisonment au-
thorized by this subsection. Except to the extent a greater
minimum sentence is otherwise provided by section 403,
a person shall be sentenced under this subsection to a
term of imprisonment of not less than one year. The man-
datory minimum sentencing provisions of this paragraph
do not apply to offenses involving 5 grams or less of mari-
huana.

“(b) SECOND OR SUBSEQUENT OFFENSES.—Who-
ever violates subsection (a) after a prior conviction under
subsection (a) is subject to punishment—

“(1) by the greater of—

“(A) a term of imprisonment not less than
three years and not more than life imprison-
ment; or
“(B) three times the maximum punishment authorized by section 403 for a first offense;

and

“(2) at least three times any term of supervised release authorized by section 403 for a first offense.

A fine up to three times that authorized by section 403 may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 403, a person shall be sentenced under this subsection to a term of imprisonment of not less than three years. Penalties for third and subsequent convictions shall be governed by section 403.

“(c) Special Rule for Mandatory Minimum Sentences.—In the case of any mandatory minimum sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.

“(d) Definitions.—As used in this section—

“(1) the term ‘playground’ means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public,
and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards;

“(2) the term ‘youth center’ means any recreational facility or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities;

“(3) the term ‘video arcade facility’ means any facility, legally accessible to minors, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten machines that are either pinball or video machines; and

“(4) the term ‘swimming pool’ includes any parking lot appurtenant thereto.

“§ 408. Listed chemicals

“(a) OFFENSE.—Whoever knowingly—

“(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this chapter or the Controlled Substances Act;

“(2) possesses or distributes, a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a
controlled substance except as authorized by this
chapter or the Controlled Substances Act; or

“(3) with the intent of causing the evasion of
the recordkeeping or reporting requirements of sec-
tion 310 of the Controlled Substances Act, or the
regulations issued under that section, receives or dis-
tributes a reportable amount of any listed chemical
in units small enough so that the making of records
or filing of reports under that section is not re-
quired;

shall be imprisoned not more than 20 years in the case
of a violation of paragraph (1) or (2) involving a list I
chemical or not more than 10 years in any other case.

“(b) INJUNCTIONS.—In addition to any other appli-
cable penalty, any person convicted of a felony violation
of this section relating to the receipt, distribution, manu-
facture, exportation, or importation of a listed chemical
may be enjoined from engaging in any transaction involv-
ing a listed chemical for not more than ten years.

“(c) ADDITIONAL OFFENSES.—

“(1) Whoever knowingly distributes a listed
chemical in violation of this chapter or the Con-
trolled Substances Act (other than in violation of a
recordkeeping or reporting requirement of section
310 of such Act) shall be imprisoned not more than
5 years.

“(2) Whoever knowingly possesses any listed
chemical, with knowledge that the recordkeeping or
reporting requirements of section 310 of such Act
have not been adhered to, if, after such knowledge
is acquired, such person does not take immediate
steps to remedy the violation shall be imprisoned not
more than one year.

“§ 409. Domestic regulatory offenses

“(a) UNLAWFUL CONDUCT GENERALLY.—It shall be
unlawful for any person—

“(1) who is subject to the requirements of part
C of the Controlled Substances Act to distribute or
dispense a controlled substance in violation of sec-
tion 309 of that Act;

“(2) who is a registrant to distribute or dis-
pense a controlled substance not authorized by his
registration to another registrant or other author-
ized person or to manufacture a controlled substance
not authorized by his registration;

“(3) who is a registrant to distribute a con-
trolled substance in violation of section 305 of the
Controlled Substances Act;
“(4) to remove, alter, or obliterate a symbol or label required by section 305 of the Controlled Substances Act;

“(5) to refuse or negligently fail to make, keep, or furnish any record, report, notification, declaration, order or order form, statement, invoice, or information required under the Controlled Substances Act or the Controlled Substances Import and Export Act;

“(6) to refuse any entry into any premises or inspection authorized by the Controlled Substances Act or the Controlled Substances Import and Export Act;

“(7) to remove, break, injure, or deface a seal placed upon controlled substances pursuant to section 304(f) or 511 of the Controlled Substances Act or to remove or dispose of substances so placed under seal;

“(8) to use, to his own advantage, or to reveal, other than to duly authorized officers or employees of the United States, or to the courts when relevant in any judicial proceeding under this title or title III, any information acquired in the course of an inspection authorized by the Controlled Substances Act concerning any method or process which as a trade
secret is entitled to protection, or to use to his own
advantage or reveal (other than as authorized by
section 310 of that Act) any information that is con-
fidential under such section;

“(9) who is a regulated person to engage in a
regulated transaction without obtaining the identi-
fication required by 310(a)(3) of the Controlled Sub-
stances Act;

“(10) negligently to fail to keep a record, make
a report, or self-certify as required under section
310 of the Controlled Substances Act;

“(11) to distribute a laboratory supply to a per-
son who uses, or attempts to use, that laboratory
supply to manufacture a controlled substance or a
listed chemical, in violation of this chapter, the Con-
trolled Substances Act, or the Controlled Substances
Import and Export Act, with reckless disregard for
the illegal uses to which such a laboratory supply
will be put;

“(12) who is a regulated seller, or a distributor
required to submit reports under subsection (b)(3)
of section 310 of the Controlled Substances Act—

“(A) to sell at retail a scheduled listed
chemical product in violation of paragraph (1)
of subsection (d) of such section, knowing at
the time of the transaction involved (inde-
pendent of consulting the logbook under sub-
section (e)(1)(A)(iii) of such section) that the
transaction is a violation; or

“(B) to knowingly or recklessly sell at re-
tail such a product in violation of paragraph (2)
of such subsection (d);

“(13) who is a regulated seller to knowingly or
recklessly sell at retail a scheduled listed chemical
product in violation of subsection (e) of section 310
of the Controlled Substances Act;

“(14) who is a regulated seller or an employee
or agent of such seller to disclose, in violation of reg-
ulations under subparagraph (C) of section
310(e)(1) of the Controlled Substances Act, informa-
tion in logbooks under subparagraph (A)(iii) of such
section, or to refuse to provide such a logbook to
Federal, State, or local law enforcement authorities;
or

“(15) to distribute a scheduled listed chemical
product to a regulated seller, or to a regulated per-
son referred to in section 310(b)(3)(B) of the Con-
trolled Substances Act, unless such regulated seller
or regulated person is, at the time of such distribu-
tion, currently registered with the Drug Enforce-
ment Administration, or on the list of persons referred to under section 310(e)(1)(B)(v) of that Act. For purposes of paragraph (15), if the distributor is temporarily unable to access the list of persons referred to under section 310(e)(1)(B)(v) of the Controlled Substances Act, the distributor may rely on a written, faxed, or electronic copy of a certificate of self-certification submitted by the regulated seller or regulated person, provided the distributor confirms within 7 business days of the distribution that such regulated seller or regulated person is on the list referred to under section 310(e)(1)(B)(v) of that Act.

“(b) DEFINITION.—As used in paragraph (11) of subsection (a), the term ‘laboratory supply’ means a listed chemical or any chemical, substance, or item on a special surveillance list published by the Attorney General, which contains chemicals, products, materials, or equipment used in the manufacture of controlled substances and listed chemicals. For purposes of that paragraph, there is a rebuttable presumption of reckless disregard at trial if the Attorney General notifies a firm in writing that a laboratory supply sold by the firm, or any other person or firm, has been used by a customer of the notified firm, or distributed further by that customer, for the unlawful production of controlled substances or listed chemicals a firm
distributes and 2 weeks or more after the notification the
notified firm distributes a laboratory supply to the cus-
tomer.

“(c) SCHEDULE I AND II SUBSTANCES.—It shall be
unlawful for any person who is a registrant to manufac-
ture a controlled substance in schedule I or II which is—

“(1) not expressly authorized by the registra-
tion and by a quota assigned to that registrant pur-
suant to section 306 of the Controlled Substances
Act; or

“(2) in excess of a quota assigned to that reg-
istrant pursuant to section 306.

“(d) CIVIL PENALTY.—

“(1)(A) Except as provided in subparagraph
(B) of this paragraph and paragraph (2), whoever
violates this section shall, with respect to any such
violation, be subject to a civil penalty of not more
than $25,000.

“(B) In the case of a violation of paragraph (5)
or (10) of subsection (a), the civil penalty shall not
exceed $10,000.

“(2)(A) Whoever knowingly violates this section
shall, except as otherwise provided in subparagraph
(B), be imprisoned not more than one year.
“(B) If a violation referred to in subparagraph (A) was committed after one or more prior convictions of the offender for an offense punishable under this paragraph (2), or for a crime under any other provision of any law of the United States relating to controlled substances, narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 2 years.

“(C) In addition to the penalties set forth elsewhere in this title, any business that violates paragraph (11) of subsection (a) shall, with respect to the first such violation, be subject to a civil penalty of not more than $250,000, but shall not be subject to criminal penalties under this section, and shall, for any succeeding violation, be subject to a civil fine of not more than $250,000 or double the last previously imposed penalty, whichever is greater.

“(3) Except under the conditions specified in paragraph (2) of this subsection, a violation of this section does not constitute a crime, and a judgment for the United States and imposition of a civil penalty pursuant to paragraph (1) shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.
§ 410. Additional domestic regulatory offenses

(a) GENERALLY.—It shall be unlawful for any person knowingly—

(1) as a registrant to distribute a controlled substance classified in schedule I or II, in the course of legitimate business, except pursuant to an order or an order form as required by section 308 of the Controlled Substances Act;

(2) to use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, expired, or issued to another person;

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4)(A) to furnish false or fraudulent material information in, or omit any material information from, any application, report, record, or other document required to be made, kept, or filed under this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act; or

(B) to present false or fraudulent identification where the person is receiving or purchasing a listed chemical and the person is required to present
identification under section 310(a) of the Controlled
Substances Act;

“(5) to make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof so as to render such drug a counterfeit substance;

“(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled substance or listed chemical, knowing, intending, or having reasonable cause to believe, that it will be used to manufacture a controlled substance or listed chemical in violation of this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act;

“(7) to manufacture, distribute, export, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, or gelatin capsule, or any equipment, chemical, product, or material which may be used to manufacture a controlled sub-

stance or listed chemical, knowing, intending, or
having reasonable cause to believe, that it will be
used to manufacture a controlled substance or listed
chemical in violation of this chapter, the Controlled
Substances Act, or the Controlled Substances Im-
port and Export Act, or, in the case of an export-
tation, in violation of this chapter, the Controlled
Substances Act, the Controlled Substances Import
and Export Act, or of the laws of the country to
which it is exported;

“(8) to create a chemical mixture for the pur-
pose of evading a requirement of section 310 of the
Controlled Substances Act or to receive a chemical
mixture created for that purpose; or

“(9) to distribute, import, or export a list I
chemical without the registration required by the
Controlled Substances Act or the Controlled Sub-
stances Import and Export Act.

“(b) USE OF COMMUNICATION FACILITY.—

“(1) It shall be unlawful for any person know-
ingly or intentionally to use any communication fa-
cility in committing or in causing or facilitating the
commission of any felony under this chapter, the
Controlled Substances Act, or the Controlled Sub-
stances Import and Export Act.
“(2) Each separate use of a communication facility shall be a separate offense under this subsection.

“(3) As used in this subsection, the term ‘communication facility’ means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures, or sounds of all kinds and includes mail, telephone, wire, radio, and all other means of communication.

“(c) ADVERTISING.—

“(1) It shall be unlawful for any person to place in any newspaper, magazine, handbill, or other publications, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a schedule I controlled substance.

“(2) As used in this subsection the term ‘advertisement’ includes such advertisements as those for a catalog of schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a schedule I controlled substance. The term ‘advertisement’ does not include material which merely advocates the use of a similar material, which advocates a position or practice, and does not at-
tempt to propose or facilitate an actual transaction
in a schedule I controlled substance.

“(d) Penalties.—

“(1) Except as provided in paragraph (2), who-
ever knowingly violates this section shall be impris-
oned not more than 4 years; except that if any per-
son commits such a violation after being convicted
for a felony under any law of the United States re-
lating to controlled substances, narcotic drugs, mari-
huana, or depressant or stimulant substances, such
person shall be sentenced to a term of imprisonment
of not more than 8 years.

“(2) Whoever, with the intent to manufacture
or to facilitate the manufacture of methamphet-
amine, violates paragraph (6) or (7) of subsection
(a), shall be imprisoned not more than 10 years; ex-
cept that if any person commits such a violation
after one or more prior convictions of that persons
for a violation of any law of the United States or
any State relating to controlled substances or listed
chemicals, such person shall be imprisoned not more
than 20 years.

“(e) Injunction Relating to Engaging in
Transactions.—In addition to any other applicable pen-
alty, any person convicted of a felony violation of this sec-
tion relating to the receipt, distribution, manufacture, exportation, or importation of a listed chemical may be enjoined from engaging in any transaction involving a listed chemical for not more than ten years.

“(f) DECLARATORY AND OTHER RELIEF.—

“(1) In addition to any penalty provided in this section, the Attorney General is authorized to commence a civil action for appropriate declaratory or injunctive relief relating to a violation of this section, section 406, or section 409.

“(2) Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business.

“(3) Any order or judgment issued by the court pursuant to this subsection shall be tailored to restrain the violation.

“(4) The court shall proceed as soon as practicable to the hearing and determination of such an action. An action under this subsection is governed by the Federal Rules of Civil Procedure except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.
§ 411. Penalty for simple possession

(a) ELEMENTS OF OFFENSE.—It shall be unlawful for any person knowingly—

“(1) to possess a controlled substance unless such substance was obtained directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of professional practice, or except as otherwise authorized by this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act; or

“(2) to possess any list I chemical obtained pursuant to or under authority of a registration issued to that person under section 303 of the Controlled Substances Act or section 1008 of the Controlled Substances Import and Export Act, if that registration has been revoked or suspended, if that registration has expired, or if the registrant has ceased to do business in the manner contemplated by his registration.

(b) PUNISHMENT.—

“(1) GENERALLY.—Whoever violates subsection (a) shall be imprisoned not more than 1 year, except that if the offense is after a prior conviction of the offender under this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act, or for any drug, narcotic, or chem-
icle offense chargeable under the law of any State, the offender shall be imprisoned not less than 15 days nor more than 2 years and if the offense is after two or more such convictions, the offender shall be sentenced to a term of imprisonment for not less than 90 days but not more than 3 years.

“(2) FLUNITRAZEPAM.—Notwithstanding any penalty provided in this subsection, any person convicted under this subsection for the possession of flunitrazepam shall be imprisoned for not more than 3 years. The imposition or execution of a minimum sentence required to be imposed under this subsection shall not be suspended or deferred.

“(3) COSTS.—Further, upon conviction, a person who violates this subsection shall be fined the reasonable costs of the investigation and prosecution of the offense, including the costs of prosecution of an offense as defined in sections 1918 and 1920 of title 28, except that this sentence does not apply and a fine under this section need not be imposed if the court determines the defendant lacks the ability to pay.

“(c) DEFINITION.—As used in this section, the term ‘drug, narcotic, or chemical offense’ means any offense which proscribes the possession, distribution, manufa-
ture, cultivation, sale, transfer, or the attempt or con-
sspiracy to possess, distribute, manufacture, cultivate, sell
or transfer any substance the possession of which is pro-
hibited under this chapter or the Controlled Substances
Act.

“§ 412. Civil penalty for possession of small amounts
of certain controlled substances

“(a) IN GENERAL.—An individual who knowingly
possesses a controlled substance listed in section 401(2)
in violation of section 411 in an amount that, as specified
by regulation of the Attorney General, is a personal use
amount shall be liable to the United States for a civil pen-
alty in an amount not to exceed $10,000.

“(b) INCOME AND NET ASSETS.—The income and
net assets of an individual shall not be relevant to the de-
termination whether to assess a civil penalty under this
section or to prosecute the individual criminally. However,
in determining the amount of a penalty under this section,
the income and net assets of an individual shall be consid-
ered.

“(c) PRIOR CONVICTION.—A civil penalty may not be
assessed under this section if the individual previously was
convicted of a Federal or State offense relating to a con-
trolled substance.
“(d) Limitation on Number of Assessments.—

A civil penalty may not be assessed on an individual under this section on more than two separate occasions.

“(e) Assessment.—A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

“(f) Compromise.—The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

“(g) Judicial Review.—If the Attorney General issues an order pursuant to subsection (e) after a hearing described in such subsection, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, bring a civil action in the appropriate district court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall
be determined de novo, and shall include the right of a
trial by jury, the right to counsel, and the right to confront
witnesses. The facts of the violation shall be proved beyond
a reasonable doubt.

“(h) CIVIL ACTION.—If an individual does not re-
quest a hearing pursuant to subsection (e) and the Attor-
ney General issues an order pursuant to such subsection,
or if an individual does not under subsection (g) seek judi-
cial review of such an order, the Attorney General may
commence a civil action in any appropriate district court
of the United States for the purpose of recovering the
amount assessed and an amount representing interest at
a rate computed in accordance with section 1961 of title
28. Such interest shall accrue from the expiration of the
30-day period described in subsection (g). In such an ac-
tion, the decision of the Attorney General to issue the
order, and the amount of the penalty assessed by the At-
torney General, shall not be subject to review.

“(i) LIMITATION.—The Attorney General may not
under this section commence proceeding against an indi-
vidual after the expiration of the 5-year period beginning
on the date on which the individual allegedly violated sub-
section (a).

“(j) EXPUNGEMENT PROCEDURES.—The Attorney
General shall dismiss the proceedings under this section
against an individual upon application of such individual at any time after the expiration of 3 years if—

“(1) the individual has not previously been assessed a civil penalty under this section;

“(2) the individual has paid the assessment;

“(3) the individual has complied with any conditions imposed by the Attorney General;

“(4) the individual has not been convicted of a Federal or State offense relating to a controlled substance; and

“(5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

A nonpublic record of a disposition under this subsection shall be retained by the Department of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this section or the results thereof in response to an inquiry made of him for any purpose.
“§ 413. Continuing criminal enterprise

“(a) Engaging in Enterprise.—

“(1) Whoever engages in a continuing criminal enterprise shall be imprisoned for any term of years not less than 20, or for life.

“(2) If a person engages in such activity after a prior conviction of that person under this section, the offender shall be imprisoned any term of years not less than 30, or for life.

“(b) Aggravated Offense.—Whoever engages in a continuing criminal enterprise shall be imprisoned for life under subsection (a), if—

“(1) such person is the principal administrator, organizer, or leader of the enterprise or is one of several such principal administrators, organizers, or leaders; and

“(2)(A) the violation referred to in subsection (c)(1) involved at least 300 times the quantity of a substance described in section 401(3); or

“(B) the enterprise, or any other enterprise in which the defendant was the principal or one of several principal administrators, organizers, or leaders, received $10 million dollars in gross receipts during any twelve-month period of its existence for the manufacture, importation, or distribution of a substance described in section 401(3).
“(c) Definition of ‘Continuing Criminal Enterprise’.—For purposes of this section, a ‘continuing criminal enterprise’ occurs when—

“(1) a person violates any provision of this chapter the punishment for which is a felony, and

“(2) such violation is a part of a continuing series of violations of this chapter—

“(A) which are undertaken by such person in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management, and

“(B) from which such person obtains substantial income or resources.

“(d) Special Rule for Sentencing.—In the case of any sentence imposed under this section, imposition or execution of such sentence shall not be suspended, probation shall not be granted, and the Act of July 15, 1932 (D.C. Code, secs. 24–203—24–207), does not apply.

“(e) Death Penalty.—

“(1) In addition to the other penalties set forth in this section, whoever—

“(A) while engaging in or working in furtherance of a continuing criminal enterprise, or

engaging in an offense punishable under section
403(a) intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results; and

“(B) during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this chapter intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer’s official duties and such killing results;

shall be imprisoned any term of year not less than 20, or for life, or may be sentenced to death.

“(2) As used in paragraph (1)(B), the term ‘law enforcement officer’ means a public servant authorized by law to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.

“§ 414. Drug paraphernalia

“(a) Offense.—Whoever—

“(1) sells or offers for sale drug paraphernalia;
“(2) uses a facility of interstate or foreign commerce to transport drug paraphernalia; or
“(3) imports or exports drug paraphernalia;
shall be imprisoned not more than three years.
“(b) DEFINITION.—The term ‘drug paraphernalia’ means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful under this chapter or the Controlled Substances Act. It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, methamphetamine, or amphetamines into the human body, such as—
“(1) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
“(2) water pipes;
“(3) carburetion tubes and devices;
“(4) smoking and carburetion masks;
“(5) roach clips: meaning objects used to hold burning material, such as a marihuana cigarette,
that has become too small or too short to be held
in the hand;

“(6) miniature spoons with level capacities of
one-tenth cubic centimeter or less;

“(7) chamber pipes;

“(8) carburetor pipes;

“(9) electric pipes;

“(10) air-driven pipes;

“(11) chillums;

“(12) bongs;

“(13) ice pipes or chillers;

“(14) wired cigarette papers; or

“(15) cocaine freebase kits.

“(c) FACTORS WHICH MAY BE CONSIDERED.—In
determining whether an item constitutes drug para-
phernalia, in addition to all other logically relevant factors,
the following may be considered:

“(1) Instructions, oral or written, provided with
the item concerning its use.

“(2) Descriptive materials accompanying the
item which explain or depict its use.

“(3) National and local advertising concerning
its use.

“(4) The manner in which the item is displayed
for sale.
“(5) Whether the owner, or anyone in control of the item, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

“(6) Direct or circumstantial evidence of the ratio of sales of the item to the total sales of the business enterprise.

“(7) The existence and scope of legitimate uses of the item in the community.

“(8) Expert testimony concerning its use.

“(d) Exclusions.—This section does not apply to—

“(1) any person authorized by local, State, or Federal law to manufacture, possess, or distribute such items; or

“(2) any item that, in the normal lawful course of business, is imported, exported, transported, or sold through the mail or by any other means, and traditionally intended for use with tobacco products, including any pipe, paper, or accessory.

“§ 415. Proceedings to establish prior convictions

“(a) Filing of Information.—

“(1) No person who is convicted of an offense under this chapter shall be sentenced to increased punishment by reason of one or more prior convictions, unless before trial, or before entry of a plea
of guilty, the United States attorney files an information with the court (and serves a copy of such information on the person or counsel for the person) stating in writing the previous convictions to be relied upon. Upon a showing by the United States attorney that facts regarding prior convictions could not with due diligence be obtained prior to trial or before entry of a plea of guilty, the court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

“(2) An information may not be filed under this section if the increased punishment which may be imposed is imprisonment for a term in excess of three years unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

“(b) AFFIRMATION OR DENIAL OF PREVIOUS CONVICTION.—If the United States attorney files an information under this section, the court shall after conviction but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether
he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

“(c) Denial, Written Response, and Hearing.—

“(1) If the person denies any allegation of the information of prior conviction, or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the United States attorney. The court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the United States attorney to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by subsection (a)(1). The hearing shall be before the court without a jury and either party may introduce evidence. Except as otherwise provided in paragraph (2) of this subsection, the United States attorney shall have the burden of proof beyond a reasonable doubt on any
issue of fact. At the request of either party, the court shall enter findings of fact and conclusions of law.

“(2) A person claiming that a conviction alleged in the information was obtained in violation of the Constitution of the United States shall set forth his claim, and the factual basis therefor, with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction, not raised by response to the information before an increased sentence is imposed in reliance thereon, shall be waived unless good cause be shown for failure to make a timely challenge.

“(d) IMPOSITION OF SENTENCE.—

“(1) If the person files no response to the information, or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the court shall proceed to impose sentence upon him as provided by this part.

“(2) If the court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is in-
valid, or that the person is otherwise not subject to
an increased sentence as a matter of law, the court
shall, at the request of the United States attorney,
postpone sentence to allow an appeal from that de-
termination. If no such request is made, the court
shall impose sentence as provided by this part. The
person may appeal from an order postponing sen-
tence as if sentence had been pronounced and a final
judgment of conviction entered.

“(e) Challenges of Validity of Prior Convic-
tions.—No person who is convicted of an offense under
this chapter may challenge the validity of any prior convic-
tion alleged under this section which occurred more than
five years before the date of the information alleging such
prior conviction.

“§ 416. Anhydrous ammonia

“(a) In General.—It is unlawful for any person—
“(1) to steal anhydrous ammonia, or
“(2) to transport stolen anhydrous ammonia
across State lines,
knowing, intending, or having reasonable cause to believe
that such anhydrous ammonia will be used to manufacture
a controlled substance in violation of this part.

“(b) Punishment.—Whoever violates subsection (a)
shall be imprisoned in accordance with section 410(d) as
if such violation were a violation of a provision of section 410.

§ 417. Controlled substances import and export listed chemical offenses

"Whoever knowingly—

“(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this chapter, the Controlled Substances Act, or the Controlled Substances Import and Export Act;

“(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

“(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this chapter, the Controlled Substances Act, or the Controlled Substances Import or Export Act;

“(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reason-
able cause to believe, that the chemical will be used
to manufacture a controlled substance in violation of
the laws of the country to which the chemical is ex-
ported;

“(5) imports or exports a listed chemical, with
the intent to evade the reporting or recordkeeping
requirements of section 1018 applicable to such im-
portation or exportation by falsely representing to
the Attorney General that the importation or export-
ation qualifies for a waiver of the 15-day notifica-
tion requirement granted pursuant to section
1018(e) (2) or (3) of the Controlled Substances Im-
port and Export Act by misrepresenting the actual
country of final destination of the listed chemical or
the actual listed chemical being imported or ex-
ported;

“(6) imports or exports a listed chemical in viol-
ation of section 1007 or 1018 of the Controlled
Substances Import and Export Act; or

“(7) manufactures, possesses with intent to dis-
tribute, or distributes a listed chemical in violation
of section 1009 of the Controlled Substances Import
and Export Act;

shall be imprisoned not more than 20 years in the case
of a violation of paragraph (1) or (3) involving a list I
chemical or not more than 10 years in the case of a violation of this subsection other than a violation of paragraph (1) or (3) involving a list I chemical, or both.

“§ 418. Prohibited Acts related to foreign terrorist organizations or terrorist persons and groups

“(a) OFFENSE.—Whoever, as made applicable in subsection (b), engages in conduct that would be punishable under section 402(1) or 402(2) if committed within the jurisdiction of the United States, knowing or intending to provide, directly or indirectly, anything of pecuniary value to any person or organization that has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), shall be sentenced to a term of imprisonment of not less than twice the minimum punishment under section 403, and not more than life. Notwithstanding section 3583, any sentence imposed under this subsection shall include a term of supervised release of at least 5 years in addition to such term of imprisonment.

“(b) APPLICABILITY.—The conduct described in subsection (a) is an offense if—
“(1) the prohibited drug activity or the terrorist
offense is in violation of the criminal laws of the
United States;
“(2) the offense, the prohibited drug activity, or
the terrorist offense occurs in or affects interstate or
foreign commerce;
“(3) an offender provides anything of pecuniary
value for a terrorist offense that causes or is de-
signed to cause death or serious bodily injury to a
national of the United States while that national is
outside the United States, or substantial damage to
the property of a legal entity organized under the
laws of the United States (including any of its
States, districts, commonwealths, territories, or pos-
sessions) while that property is outside of the United
States;
“(4) the offense or the prohibited drug activity
occurs in whole or in part outside of the United
States (including on the high seas), and a perpe-
trator of the offense or the prohibited drug activity
is a national of the United States or a legal entity
organized under the laws of the United States (in-
cluding any of its States, districts, commonwealths,
territories, or possessions); or
“(5) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States.

“(c) PROOF REQUIREMENTS.—To violate subsection (a), a person must have knowledge that the person or organization has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989).

“(d) DEFINITION.—As used in this section, the term ‘anything of pecuniary value’ has the meaning given the term in section 506.

§ 419. Offenses involving the Internet

“(a) INTERNET SALES OF DATE RAPE DRUGS.—

“(1) Whoever knowingly uses the Internet to distribute a date rape drug to any person, knowing or with reasonable cause to believe that—

“(A) the drug would be used in the commission of criminal sexual conduct; or

“(B) the person is not an authorized purchaser;

shall be imprisoned not more than 20 years.

“(2) As used in this subsection:
“(A) The term ‘date rape drug’ means—
   “(i) gamma hydroxybutyric acid (GHB) or any controlled substance ana-
   logue of GHB, including gamma butyro-
   lactone (GBL) or 1,4-butanediol;
   “(ii) ketamine;
   “(iii) flunitrazepam; or
   “(iv) any substance which the Attor-
   ney General designates, pursuant to the rulemaking procedures prescribed by sec-
   tion 553 of title 5, to be used in commit-
   ting rape or sexual assault.

The Attorney General is authorized to remove any substance from the list of date rape drugs pursuant to the same rulemaking authority.

“(B) The term ‘authorized purchaser’ means any of the following persons, provided such person has acquired the controlled sub-
stance in accordance with this chapter:
   “(i) A person with a valid prescription that is issued for a legitimate medical pur-
pose in the usual course of professional practice that is based upon a qualifying med-
ical relationship by a practitioner reg-
istered by the Attorney General. A ‘quali-
fying medical relationship’ means a med-
ical relationship that exists when the prac-
titioner has conducted at least 1 medical
evaluation with the authorized purchaser
in the physical presence of the practitioner,
without regard to whether portions of the
evaluation are conducted by other heath
professionals. The preceding sentence shall
not be construed to imply that 1 medical
evaluation demonstrates that a prescription
has been issued for a legitimate medical
purpose within the usual course of profes-
sional practice.

“(ii) Any practitioner or other reg-
istrant who is otherwise authorized by
their registration to dispense, procure, pur-
chase, manufacture, transfer, distribute,
import, or export the substance under this
chapter.

“(iii) A person or entity providing
documentation that establishes the name,
address, and business of the person or en-
tity and which provides a legitimate pur-
pose for using any ‘date rape drug’ for
which a prescription is not required.
“(3) The Attorney General is authorized to promulgate regulations for record-keeping and reporting by persons handling 1,4-butanediol in order to implement and enforce the provisions of this section. Any record or report required by such regulations shall be considered a record or report required under this chapter.

“(b) Offenses Involving Dispensing of Controlled Substances by Means of the Internet.—

“(1) In general.—It shall be unlawful for any person to knowingly or intentionally—

“(A) deliver, distribute, or dispense a controlled substance by means of the Internet, except as authorized by this subchapter; or

“(B) aid or abet any activity described in subparagraph (A) that is not authorized by this subchapter.

“(2) Examples.—Examples of activities that violate paragraph (1) include, but are not limited to, knowingly or intentionally—

“(A) delivering, distributing, or dispensing a controlled substance by means of the Internet by an online pharmacy that is not validly registered with a modification authorizing such activity as required by section 823(f) of the Con-
controlled Substances Act (unless exempt from such registration);

“(B) writing a prescription for a controlled substance for the purpose of delivery, distribution, or dispensation by means of the Internet in violation of section 829(e) of the Controlled Substances Act;

“(C) serving as an agent, intermediary, or other entity that causes the Internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance in a manner not authorized by section 823(f) or 829(e) of the Controlled Substances Act;

“(D) offering to fill a prescription for a controlled substance based solely on a consumer’s completion of an online medical questionnaire; and

“(E) making a material false, fictitious, or fraudulent statement or representation in a notification or declaration under subsection (d) or (e), respectively, of section 831 of the Controlled Substances Act.

“(3) INAPPLICABILITY.—

“(A) This subsection does not apply to—
“(i) the delivery, distribution, or dispensation of controlled substances by non-practitioners to the extent authorized by their registration under this subchapter;

“(ii) the placement on the Internet of material that merely advocates the use of a controlled substance or includes pricing information without attempting to propose or facilitate an actual transaction involving a controlled substance; or

“(iii) except as provided in subparagraph (B), any activity that is limited to—

“(I) the provision of a telecommunications service, or of an Internet access service or Internet information location tool (as those terms are defined in section 231 of title 47); or

“(II) the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication, without selection or alteration of the content of the communication, except that deletion of a particular communication or mate-
ria"l made by another person in a man-
ner consistent with section 230(c) of
title 47 does not constitute such selec-
tion or alteration of the content of the
communication.

“(B) The exceptions under subclauses (I)
and (II) of subparagraph (A)(iii) do not apply
to a person acting in concert with a person who
violates paragraph (1).

“(4) KNOWING OR INTENTIONAL VIOLATION.—
Any person who knowingly or intentionally violates
this subsection shall be sentenced in accordance with
section 403.

“CHAPTER 19—ORGANIZED CRIME

“Subchapter
“A. Racketeering
“B. Racketeer influenced and corrupt organizations
“C. Criminal street gangs

“SUBCHAPTER A—RACKETEERING

“501. Interference with commerce by threats or violence.
“502. Interstate and foreign travel or transportation in aid of racketeering en-
terprises.
“503. Interstate transportation of wagering paraphernalia.
“504. Offer, acceptance, or solicitation to influence operations of employee ben-
efit plan.
“505. Prohibition of illegal gambling businesses.
“506. Use of interstate commerce facilities in the Commission of murder-for-
hire.
“508. Prohibition of unlicensed money transmitting businesses.
§ 501. Interference with commerce by threats or violence

(a) Offense.—Whoever affects interstate or foreign commerce, by robbery or extortion or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be imprisoned not more than 20 years.

(b) Definitions.—As used in this section—

(1) The term ‘robbery’ means the unlawful taking or obtaining of personal property from the person or presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term ‘extortion’ means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(c) Exclusions.—This section does not repeal, modify, or affect section 6 or 20 of the Clayton Act, the Act of March 23, 1932 (47 Stat. 70) (commonly known
as the Norris-LaGuardia Act), the Labor Management Relations Act, 1947, or the Railway Labor Act.

§ 502. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) ELEMENTS OF OFFENSE.—Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to—

(1) distribute the proceeds of any unlawful activity;

(2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity;

and thereafter performs or attempts to engage in the conduct so intended shall be punished as provided in subsections (b) and (c).

(b) PUNISHMENT IN GENERAL.—The punishment for an offense under subsection (a)—

(1) with respect to conduct described in subparagraph (A) or (C) is imprisonment for not more than 5 years; or

(2) with respect to conduct described in subparagraph (B) is imprisonment for not more than
20 years, but if death results the imprisonment shall
be for any term of years or for life.

“(c) PUNISHMENT FOR CERTAIN OFFENSES.—It the
offense under this section involves an act described in
paragraph (1) or (3) of subsection (a) and also involves
a pre-retail medical product (as defined in section 657),
the punishment for the offense shall be the same as the
punishment provided for an offense under section 657, un-
less the penalties provided for under this section are great-
er.

“(d) DEFINITIONS.—As used in this section the term
‘unlawful activity’ means—

“(1) any business enterprise involving gam-
bling, liquor on which the Federal excise tax has not
been paid, narcotics or controlled substances, or
prostitution offenses in violation of the laws of the
State in which they are committed or of the United
States;

“(2) extortion, bribery, or arson in violation of
the laws of the State in which committed or of the
United States; or

“(3) any act which is indictable under sub-
chapter II of chapter 53 of title 31, or under section
1451 or 1452.
§ 503. Interstate transportation of wagering paraphernalia

(a) Offense.—Whoever, except a common carrier in the usual course of its business, knowingly carries or sends in interstate or foreign commerce any device to be used—

(1) bookmaking;

(2) wagering pools with respect to a sporting event; or

(3) in a numbers, policy, bolita, or similar game;

shall be imprisoned for not more than five years.

(b) Exclusion.—This section does not apply to—

(1) parimutuel betting equipment, parimutuel tickets where legally acquired, or parimutuel materials used or designed for use at racetracks or other sporting events in connection with which betting is legal under applicable State law;

(2) the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State;

(3) the carriage or transportation in interstate or foreign commerce of any newspaper or similar publication;
“(4) equipment, tickets, or materials used or designed for use within a State in a lottery conducted by that State acting under authority of State law; or

“(5) the transportation in foreign commerce to a destination in a foreign country of equipment, tickets, or materials designed to be used within that foreign country in a lottery which is authorized by the laws of that foreign country.

“(c) Effect on State Prosecutions.—Nothing in this section creates immunity from criminal prosecution under any laws of a State.

“(d) Definitions.—As used in this section—

“(1) the term ‘foreign country’ means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions); and

“(2) the term ‘lottery’ means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers, but does not include the placing or accepting of bets or wagers on sporting events or contests.
§ 504. Offer, acceptance, or solicitation to influence operations of employee benefit plan

(a) OFFENSE.—Whoever, being—

(1) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare benefit plan or employee pension benefit plan;

(2) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan;

(3) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan; or

(4) a person who, or an officer, counsel, agent, or employee of an organization which, provides benefit plan services to such plan;

receives or agrees to receive or solicits anything of value because of or with intent to be influenced with respect to, any of the actions, decisions, or other duties relating to any question or matter concerning such plan or any person who directly or indirectly gives or offers, or promises to give or offer, anything prohibited by this section shall be imprisoned not more than three years.

(b) EXCLUSION.—This section does not prohibit the payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or services rendered in the course of employment.
facilities actually furnished or for services actually performed in the regular course of his duties as such person, administrator, officer, trustee, custodian, counsel, agent, or employee of such plan, employer, employee organization, or organization providing benefit plan services to such plan.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘any employee welfare benefit plan’ or ‘employee pension benefit plan’ means any employee welfare benefit plan or employee pension benefit plan, respectively, subject to any provision of title I of the Employee Retirement Income Security Act of 1974; and

“(2) the term ‘employee organization’ and ‘administrator’ have the meanings given those terms, respectively, in sections 3(4) and (3)(16) of the Employee Retirement Income Security Act of 1974.

“§ 505. Prohibition of illegal gambling businesses

“(a) OFFENSE.—Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be imprisoned not more than five years.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘illegal gambling business’ means a gambling business which—
“(A) is a violation of the law of a State or political subdivision in which it is conducted;

“(B) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

“(C) has been or remains in substantially continuous operation for a period in excess of 30 days or has a gross revenue of $2,000 in any single day;

“(2) the term ‘gambling’ includes pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

“(c) ESTABLISHMENT OF PROBABLE CAUSE.—If five or more persons conduct, finance, manage, supervise, direct, or own all or part of a gambling business and such business operates for two or more successive days, then, for the purpose of obtaining warrants for arrests, interceptions, and other searches and seizures, probable cause that the business receives gross revenue in excess of $2,000 in any single day shall be deemed to have been established.

“(d) EXCLUSION.—This section does not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3)
of subsection (c) of section 501 of the Internal Revenue Code of 1986, as amended, if no part of the gross receipts derived from such activity inures to the benefits of any private shareholder, member, or employee of such organization except as compensation for actual expenses incurred by him in the conduct of such activity.

§ 506. Use of interstate commerce facilities in the Commission of murder-for-hire

(a) Offense.—Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility of interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value shall be imprisoned for not more than ten years; and if personal injury results, shall be imprisoned for not more than twenty years, and if death results, shall be punished by death or life imprisonment.

(b) Definition.—As used in this section and section 507, the term ‘anything of pecuniary value’ means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage.
§ 507. Violent crimes in aid of racketeering activity

(a) OFFENSE.—Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnap, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States shall be punished—

(1) for murder, by death or life imprisonment;

and for kidnapping, by imprisonment for any term of years or for life;

(2) for maiming, by imprisonment for not more than thirty years;

(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years;

(4) for threatening to commit a crime of violence, by imprisonment for not more than five years;

(5) for attempting or conspiring to commit murder or kidnapping, by imprisonment for not more than ten years; and
“(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘racketeering activity’ has the meaning set forth in section 511; and

“(2) the term ‘enterprise’ includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.

“§ 508. Prohibition of unlicensed money transmitting businesses

“(a) OFFENSE.—Whoever knowingly conducts, controls, manages, supervises, directs, or owns all or part of an unlicensed money transmitting business, shall be imprisoned not more than 5 years.

“(b) DEFINITION.—As used in this section—

“(1) the term ‘unlicensed money transmitting business’ means a money transmitting business which affects interstate or foreign commerce in any manner or degree and—
“(A) is operated without an appropriate money transmitting license in a State where such operation is punishable as a misdemeanor or a felony under State law, whether or not the defendant knew that the operation was required to be licensed or that the operation was so punishable;

“(B) fails to comply with the money transmitting business registration requirements under section 5330 of title 31, or regulations prescribed under such section; or

“(C) otherwise involves the transportation or transmission of funds that are known to the defendant to have been derived from a criminal offense or are intended to be used to promote or support unlawful activity; and

“(2) the term ‘money transmitting’ includes transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier.

“SUBCHAPTER B—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

511. Definitions.
512. Prohibited activities.
513. Criminal penalties.
514. Civil remedies.
515. Venue and process.
"§ 511. Definitions

"As used in this subchapter—

"(1) the term ‘racketeering activity’ means—

"(A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year;

"(B) any act which is indictable under any of the following provisions of this title: Section 991 (relating to bribery), section 1007 (relating to sports bribery), sections 692, 693, and 694 (relating to counterfeiting), section 647 (relating to theft from interstate shipment) if the act indictable under section 647 is felonious, section 651 (relating to embezzlement from pension and welfare funds), sections 155, 156, and 157 (relating to extortionate credit transactions), section 783 (relating to fraud and related activity in connection with identification documents), section 786 (relating to fraud and
related activity in connection with access devices), section 1381 (relating to the transmission of gambling information), section 801 (relating to mail fraud), section 803 (relating to wire fraud), section 804 (relating to financial institution fraud), section 315 (relating to the procurement of citizenship or nationalization unlawfully), section 316 (relating to the sale of naturalization or citizenship papers), 318 (relating to bringing in or harboring certain aliens), 321 (relating to aiding or assisting certain aliens to enter the United States), (if the violation of section 318 or 321 was committed for financial gain) sections 1441–1443 (relating to obscene matter), section 1132 (relating to obstruction of justice), section 1135 (relating to obstruction of criminal investigations), section 1136 (relating to the obstruction of State or local law enforcement), section 1137 (relating to tampering with a witness, victim, or an informant), section 1138 (relating to retaliating against a witness, victim, or an informant), section 311 (relating to false statement in application and use of passport), section 312 (relating to forgery or false use of passport), section 313
(relating to misuse of passport), section 314
(relating to fraud and misuse of visas, permits,
and other documents), sections 1261–1266 (rel-
lating to peonage, slavery, and trafficking in
persons), section 501 (relating to interference
with commerce, robbery, or extortion), section
502 (relating to racketeering), section 503 (re-
lating to interstate transportation of wagering
paraphernalia), section 504 (relating to unlaw-
ful welfare fund payments), section 505 (relat-
ing to the prohibition of illegal gambling busi-
nesses), section 1451 (relating to the laun-
dering of monetary instruments), section 1452
(relating to engaging in monetary transactions
in property derived from specified unlawful ac-
tivity), section 506 (relating to use of interstate
commerce facilities in the commission of mur-
der-for-hire), section 508 (relating to prohibi-
tion of unlicensed money transmitting busi-
nesses), sections 221, 222, and 223 (relating to
sexual exploitation of children), sections 671
and 672 (relating to interstate transportation of
stolen motor vehicles), sections 673 and 674
(relating to interstate transportation of stolen
property), section 675 (relating to trafficking in
counterfeit labels for phonorecords, computer
programs or computer program documentation
or packaging and copies of motion pictures or
other audiovisual works), section 676 (relating
to criminal infringement of a copyright), section
678 (relating to unauthorized fixation of and
trafficking in sound recordings and music vid-
eos of live musical performances), section 680
(relating to trafficking in counterfeit goods or
services), section 681 (relating to trafficking in
certain motor vehicles or motor vehicle parts),
sections 1411–1416 (relating to trafficking in
contraband cigarettes), sections 211–213 (relat-
ing to white slave traffic), sections 621–627
(relating to biological weapons), sections 631–
636 (relating to chemical weapons), section 601
(relating to nuclear materials);

“(C) any act which is indictable under sec-
tion 186 (dealing with restrictions on payments
and loans to labor organizations) or section
501(c) (relating to embezzlement from union
funds) of title 29, United States Code;

“(D) any offense involving fraud connected
with a case under title 11 (except a case under
section 885), fraud in the sale of securities, or
the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States;

“(E) any act which is indictable under the Currency and Foreign Transactions Reporting Act;

“(F) any act which is indictable under section 278 of the Immigration and Nationality Act, if the act indictable under such section of such Act was committed for the purpose of financial gain; or

“(G) any act that is indictable under any provision listed in section 273(g)(3)(B);

“(2) the term ‘enterprise’ includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

“(3) the term ‘pattern of racketeering activity’ requires at least two acts of racketeering activity, one of which occurred after October 15, 1970 and the last of which occurred within ten years (exclud-
ing any period of imprisonment) after the commis-

sion of a prior act of racketeering activity;

“(4) the term ‘unlawful debt’ means a debt—

“(A) incurred or contracted in gambling

activity which was in violation of the law of the

United States, a State or political subdivision

thereof, or which is unenforceable under State

or Federal law in whole or in part as to prin-
cipal or interest because of the laws relating to

usury; and

“(B) which was incurred in connection

with the business of gambling in violation of the

law of the United States, a State or political

subdivision thereof, or the business of lending

money or a thing of value at a rate usurious

under State or Federal law, where the usurious

rate is at least twice the enforceable rate;

“(5) the term ‘racketeering investigator’ means

any attorney or investigator so designated by the At-
torney General and charged with the duty of enfor-
ing or carrying into effect this chapter;

“(6) the term ‘racketeering investigation’ means

any inquiry conducted by any racketeering investi-
gator for the purpose of ascertaining whether any

person has been involved in any violation of this sub-
chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this subchapter;

“(7) the term ‘documentary material’ includes any book, paper, document, record, recording, or other material; and

“(8) the term ‘Attorney General’ includes the Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter, and any department or agency so designated may use in investigations authorized by this subchapter either the investigative provisions of this subchapter or the investigative power of such department or agency otherwise conferred by law.

“§ 512. Prohibited activities

“(a) USING OR INVESTING PROCEEDS.—It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which
such person has participated as a principal within the meaning of section 2, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

“(b) MAINTAINING INTEREST OR CONTROL.—It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.
“(c) Conducting Affairs.—It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity or collection of unlawful debt.

“§ 513. Criminal penalties

“Whoever violates section 512 shall be imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment).

“§ 514. Civil remedies

“(a) Prevention and Restraint of Violations.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of section 512 by issuing appropriate orders, including—

“(1) ordering any person to divest any interest in any enterprise; and

“(2) imposing reasonable restrictions on the future activities or investments of any person, including—

“(A) prohibiting that person from engaging in the same type of endeavor as the enter-
prise engaged in, the activities of which affect interstate or foreign commerce; or

“(B) ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

“(b) PRELIMINARY MATTERS.—The Attorney General may institute proceedings under this section. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

“(c) PRIVATE RIGHT OF ACTION.—Any person injured in his business or property by reason of a violation of section 512 may sue therefor in any appropriate United States district court and shall recover threefold the damages he sustains and the cost of the suit, including a reasonable attorney’s fee, except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 512. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final.
“(d) ESTOPPEL.—A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

“§ 515. Venue and process

“(a) VENUE.—Any civil action or proceeding under this subchapter may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

“(b) SUMMONS.—In any action under section 514 in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

“(c) SUBPOENAS.—In any civil or criminal action or proceeding instituted by the United States under this subchapter in the district court of the United States for any judicial district, subpoenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpoena shall be issued for service upon
any individual who resides in another district at a place
more than one hundred miles from the place at which such
court is held without approval given by a judge of such
court upon a showing of good cause.

“(d) OTHER PROCESS.—All other process in any ac-
tion or proceeding under this subchapter may be served
on any person in any judicial district in which such person
resides, is found, has an agent, or transacts affairs.

“§ 516. Expedition of actions

“In any civil action instituted under this subchapter
by the United States in any district court of the United
States, the Attorney General may file with the clerk of
such court a certificate stating that in the Attorney Gen-
eral’s opinion the case is of general public importance. A
copy of that certificate shall be furnished immediately by
such clerk to the chief judge or, in the absence of the chief
judge, to the presiding district judge of the district in
which such action is pending. Upon receipt of such copy,
such judge shall designate immediately a judge of that dis-
trict to hear and determine the action.

“§ 517. Evidence

“In any proceeding ancillary to or in any civil action
instituted by the United States under this subchapter the
proceedings may be open or closed to the public at the
discretion of the court after consideration of the rights of
affected persons.

§ 518. Civil investigative demand

(a) ISSUANCE.—If the Attorney General has reason
to believe that any person or enterprise may be in posses-
sion, custody, or control of any documentary materials rel-
evant to a racketeering investigation, the Attorney General
may, before the institution of a civil or criminal proceeding
thereon, issue in writing, and cause to be served upon such
person, a civil investigative demand requiring such person
to produce such material for examination.

(b) CONTENTS.—Each such demand shall—

(1) state the nature of the conduct constit-
tuting the alleged racketeering violation which is
under investigation and the provision of law applica-
ble thereto;

(2) describe the class or classes of documen-
tary material produced thereunder with such defi-
iteness and certainty as to permit such material to
be fairly identified;

(3) state that the demand is returnable forth-
with or prescribe a return date which will provide a
reasonable period of time within which the material
so demanded may be assembled and made available
for inspection and copying or reproduction; and
“(4) identify the custodian to whom such mate-
rial shall be made available.
“(c) LIMITATION.—No such demand shall—
“(1) contain any requirement which would be
held to be unreasonable if contained in a subpoena
duces tecum issued by a court of the United States
in aid of a grand jury investigation of such alleged
racketeering violation; or
“(2) require the production of any documentary
evidence which would be privileged from disclosure if
demanded by a subpoena duces tecum issued by a
court of the United States in aid of a grand jury in-
vestigation of such alleged racketeering violation.
“(d) SERVICE.—Service of any such demand or any
petition filed under this section may be made upon a per-
son by—
“(1) delivering a duly executed copy thereof to
any partner, executive officer, managing agent, or
general agent thereof, or to any agent thereof au-
thorized by appointment or by law to receive service
of process on behalf of such person, or upon any in-
dividual person;
“(2) delivering a duly executed copy thereof to
the principal office or place of business of the person
to be served; or
“(3) depositing such copy in the United States mail, by registered or certified mail duly addressed to such person at its principal office or place of business.

“(e) RETURN.—A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

“(f) DOCUMENT CUSTODIAN.—

“(1) The Attorney General shall designate a racketeering investigator to serve as racketeer document custodian, and such additional racketeering investigators as the Attorney General shall determine from time to time to be necessary to serve as deputies to such officer.

“(2) Any person upon whom any demand issued under this section has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person, or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to this section on the
return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

“(3) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this chapter. The custodian may cause the preparation of such copies of such documentary material as may be required for official use under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.
“(4) Whenever any attorney has been designated to appear on behalf of the United States before any court or grand jury in any case or proceeding involving any alleged violation of this chapter, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

“(5) Upon the completion of—

“(A) the racketeering investigation for which any documentary material was produced under this subchapter, and

“(B) any case or proceeding arising from such investigation,

the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control of any court or grand jury through the intro-
duction thereof into the record of such case or proceed-

“(6) When any documentary material has been
produced by any person under this section for use in
any racketeering investigation, and no such case or
proceeding arising therefrom has been instituted
within a reasonable time after completion of the ex-
amination and analysis of all evidence assembled in
the course of such investigation, such person shall be
entitled, upon written demand made upon the Attor-
ney General, to the return of all documentary mate-
rial other than copies thereof made pursuant to this
subsection so produced by such person.

“(7) In the event of the death, disability, or
separation from service of the custodian of any docu-
mentary material produced under any demand
issued under this section or the official relief of such
custodian from responsibility for the custody and
control of such material, the Attorney General shall
promptly—

“(A) designate another racketeering inves-
tigator to serve as custodian thereof, and

“(B) transmit notice in writing to the per-
son who produced such material as to the iden-
tity and address of the successor so designated.
Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this section upon the predecessor custodian with regard thereto, except that the successor shall not be held responsible for any default or dereliction which occurred before the successor’s designation as custodian.

“(g) ENFORCEMENT PETITION.—Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

“(h) MODIFICATION OR SETTING ASIDE.—Within 20 days after the service of any such demand upon any per-
son, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

“(i) ORDERING CUSTODIAN TO PERFORM DUTY.—At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.
“(j) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

“SUBCHAPTER C—CRIMINAL STREET GANGS


“§ 521. Criminal street gangs

“(a) DEFINITIONS.—In this section—

“(1) the term ‘conviction’ includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent or controlled substances felony; and

“(2) the term ‘criminal street gang’ means an ongoing group, club, organization, or association of 5 or more persons—

“(A) that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c);

“(B) the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and
“(C) the activities of which affect inter-
state or foreign commerce.

“(b) PENALTY.—The sentence of a person convicted
of an offense described in subsection (c) shall be increased
by not more than 10 years if the offense is committed
under the circumstances described in subsection (d).

“(c) OFFENSES.—The offenses described in this sec-
tion are—

“(1) a Federal felony involving a controlled sub-
stance for which the maximum penalty is not less
than 5 years;

“(2) a Federal felony crime of violence that has
as an element the use or attempted use of physical
force against the person of another; and

“(3) a conspiracy to commit an offense de-
scribed in paragraph (1) or (2).

“(d) CIRCUMSTANCES.—The circumstances described
in this section are that the offense described in subsection
(c) was committed by a person who—

“(1) participates in a criminal street gang with
knowledge that its members engage in or have en-
gaged in a continuing series of offenses described in
subsection (c);
“(2) intends to promote or further the felonious activities of the criminal street gang or maintain or increase his or her position in the gang; and

“(3) has been convicted within the past 5 years for—

“(A) an offense described in subsection (c);

“(B) a State offense—

“(i) involving a controlled substance for which the maximum penalty is not less than 5 years imprisonment; or

“(ii) that is a felony crime of violence that has as an element the use or attempted use of physical force against the person of another;

“(C) any Federal or State felony offense that by its nature involves a substantial risk that physical force against the person of another may be used in the course of committing the offense; or

“(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

“CHAPTER 21—ARSON, FIREARMS, EXPLOSIVES, AND WEAPONS CRIMES

Subchapter
A. Arson
B. Firearms
C. Explosives
D. Importation, manufacture, distribution, and storage of Explosive Materials
``SUBCHAPTER A—ARSON

``571. Arson within special maritime and territorial jurisdiction.

``§ 571. Arson within special maritime and territorial jurisdiction

``Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping shall be imprisoned for not more than 25 years. If the building is a dwelling or if the life of any person is placed in jeopardy, the offender shall be imprisoned for any term of years or for life.

``SUBCHAPTER B—FIREARMS

``581. Definitions.
``582. Unlawful Acts.
``583. Licensing.
``584. Penalties.
``585. Exceptions: relief from disabilities.
``586. Remedy for erroneous denial of firearm.
``587. Rules and regulations.
``588. Interstate transportation of firearms.
``589. Carrying of concealed firearms by qualified law enforcement officers.
``590. Carrying of concealed firearms by qualified retired law enforcement officers.
``591. Use of restricted ammunition.
``592. Possession of firearms and dangerous weapons in Federal facilities.
``593. Prohibition on purchase, ownership, or possession of body armor by violent felons.

``§ 581. Definitions

``For the purposes of this subchapter—
(1) The term ‘firearm’ means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or fire- arm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(2) The term ‘destructive device’ means—

(A) any explosive, incendiary, or poison gas—

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or in- cendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the de- vices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particu- larly suitable for sporting purposes) by what- ever name known which will, or which may be
readily converted to, expel a projectile by the
action of an explosive or other propellant, and
which has any barrel with a bore of more than
one-half inch in diameter; and

“(C) any combination of parts either de-
signed or intended for use in converting any de-
vice into any destructive device described in
subparagraph (A) or (B) and from which a de-
structive device may be readily assembled.

Such term does not include any device which is nei-
ther designed nor redesigned for use as a weapon;
any device, although originally designed for use as a
weapon, which is redesigned for use as a signaling,
pyrotechnic, line throwing, safety, or similar device;
surplus ordnance sold, loaned, or given by the Sec-
retary of the Army pursuant to section 4684(2),
4685, or 4686 of title 10; or any other device which
the Attorney General finds is not likely to be used
as a weapon, is an antique, or is a rifle which the
owner intends to use solely for sporting, recreational
or cultural purposes.

“(3) The term ‘shotgun’ means a weapon de-
signed or redesigned, made or remade, and intended
to be fired from the shoulder and designed or rede-
signed and made or remade to use the energy of an
explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

“(4) The term ‘short-barreled shotgun’ means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

“(5) The term ‘rifle’ means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

“(6) The term ‘short-barreled rifle’ means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

“(7) The term ‘importer’ means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term ‘licensed
importer’ means any such person licensed under this chapter.

“(8) The term ‘manufacturer’ means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term ‘licensed manufacturer’ means any such person licensed under this chapter.

“(9) The term ‘dealer’ means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term ‘licensed dealer’ means any dealer who is licensed under this chapter.

“(10) The term ‘pawnbroker’ means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

“(11) The term ‘collector’ means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term ‘licensed collector’ means any such person licensed under this chapter.
“(12) The term ‘indictment’ includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

“(13) The term ‘fugitive from justice’ means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

“(14) The term ‘antique firearm’ means—

“(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

“(B) any replica of any firearm described in subparagraph (A) if such replica—

“(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or

“(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

“(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is
designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term ‘antique firearm’ shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

“(15)(A) The term ‘ammunition’ means ammuni-
tion or cartridge cases, primers, bullets, or propell-
tent powder designed for use in any firearm.

“(B) The term ‘armor piercing ammunition’ means—

“(i) a projectile or projectile core which may be used in a handgun and which is con-
structed entirely (excluding the presence of traces of other substances) from one or a com-
bination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

“(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more
than 25 percent of the total weight of the projectile.

“(C) The term ‘armor piercing ammunition’ does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

“(16) The term ‘published ordinance’ means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this subchapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this subchapter.

“(17) The term ‘crime punishable by imprisonment for a term exceeding one year’ does not include—

“(A) any Federal or State offenses pertaining to antitrust violations, unfair trade
practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

“(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this subchapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

“(18) The term ‘engaged in the business’ means—

“(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the
sale or distribution of the firearms manufactured;

“(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

“(C) as applied to a dealer in firearms, as defined in paragraph (9)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term does not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

“(D) as applied to a dealer in firearms, as defined in paragraph (9)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or
business with the principal objective of livelihood and profit, but such term does not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

“(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

“(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

“(19) The term ‘with the principal objective of livelihood and profit’ means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection, but proof of profit is not required as to a person who en-
gages in the regular and repetitive purchase and dis-
position of firearms for criminal purposes or ter-
rorism. In this paragraph, the term ‘terrorism’
means activity, directed against United States per-
sons, which—

“(A) is committed by an individual who is
not a national or permanent resident alien of
the United States;
“(B) involves violent acts or acts dan-
gerous to human life which would be a criminal
violation if committed within the jurisdiction of
the United States; and
“(C) is intended—
“(i) to intimidate or coerce a civilian
population;
“(ii) to influence the policy of a gov-
ernment by intimidation or coercion; or
“(iii) to affect the conduct of a gov-
ernment by assassination or kidnapping.
“(20) The term ‘machinegun’ has the meaning
given such term in section 5845(b) of the National
Firearms Act.
“(21) The terms ‘firearm silencer’ and ‘firearm
muffler’ mean any device for silencing, muffling, or
diminishing the report of a portable firearm, includ-
ing any combination of parts, designed or re-designed, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

“(22) The term ‘school zone’ means—

“(A) in, or on the grounds of, a public, parochial or private school; or

“(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

“(23) The term ‘school’ means a school which provides elementary or secondary education, as determined under State law.

“(24) The term ‘motor vehicle’ has the meaning given such term in section 13102 of title 49.

“(25) The term ‘semiautomatic rifle’ means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

“(26) The term ‘handgun’ means—
“(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and

“(B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

“(27) The term ‘intimate partner’ means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

“(28)(A) The term ‘misdemeanor crime of domestic violence’ means an offense that—

“(i) is a misdemeanor under Federal, State, or Tribal law; and

“(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.
“(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this subchapter, unless—

“(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

“(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either—

“(aa) the case was tried by a jury; or

“(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

“(ii) A person shall not be considered to have been convicted of such an offense for purposes of this subchapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.
“(29) The term ‘secure gun storage or safety device’ means—

“(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

“(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

“(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

“(30) The term ‘body armor’ means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

“(31) A member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.
"§ 582. Unlawful Acts

(a) REGULATORY OFFENSES.—It shall be unlawful—

(1) for any person—

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that—

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or
replacement firearm of the same kind and type
to a person from whom it was received; and this
paragraph does not preclude an individual from
mailing a firearm owned in compliance with
Federal, State, and local law to a licensed im-
porter, licensed manufacturer, licensed dealer,
or licensed collector;

“(B) this paragraph does not preclude a li-
censed importer, licensed manufacturer, or li-
censed dealer from depositing a firearm for con-
voyance in the mails to any officer, employee,
agent, or watchman who, pursuant to section
950, is eligible to receive through the mails pis-
tols, revolvers, and other firearms capable of
being concealed on the person, for use in con-
nection with his official duty; and

“(C) nothing in this paragraph shall be
construed as applying in any manner in the
District of Columbia, the Commonwealth of
Puerto Rico, or any possession of the United
States differently than it would apply if the
District of Columbia, the Commonwealth of
Puerto Rico, or the possession were in fact a
State of the United States;
“(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph—

“(A) does not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State;

“(B) does not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3); and

“(C) does not apply to the transportation of any firearm acquired in any State before December 16, 1968;

“(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun, short-
barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

“(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferee resides; except that this paragraph does not apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

“(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed man-
ufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under this chapter;

“(7) for any person to manufacture or import armor piercing ammunition, unless—

“(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

“(B) the manufacture of such ammunition is for the purpose of exportation; or

“(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

“(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—
“(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

“(B) is for the purpose of exportation; or

“(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General; and

“(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

“(b) LICENSEEE OFFENSES.—It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver—

“(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;
“(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or possession would not be in violation of such State law or such published ordinance;

“(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee’s place of business is located, except that this paragraph (A) does not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee’s place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States),
and (B) does not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

“(4) to any person any destructive device, machinegun, short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

“(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to section 583, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection does not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection does not apply to a sale or delivery to any research organization designated by the Attorney General.

“(c) BACKGROUND CHECK FOR PERSONS NOT APPEARING IN PERSON.—In any case not otherwise prohibited by this chapter, a licensed importer, licensed manu-
facturer, or licensed dealer may sell a firearm to a person
who does not appear in person at the licensee’s business
premises (other than another licensed importer, manufac-
turer, or dealer) only if—

“(1) the transferee submits to the transferor a
sworn statement in the following form:

‘Subject to penalties provided by law, I swear that, in the
case of any firearm other than a shotgun or a rifle, I am
twenty-one years or more of age, or that, in the case of
a shotgun or a rifle, I am eighteen years or more of age;
that I am not prohibited by the provisions of subchapter
B of chapter 21 of title 18, United States Code, from re-
ceiving a firearm in interstate or foreign commerce; and
that my receipt of this firearm will not be in violation of
any statute of the State and published ordinance applica-
table to the locality in which I reside. Further, the true title,
name, and address of the principal law enforcement officer
of the locality to which the firearm will be delivered are
— — — — — — — — — — — — — — — — —
— — — — — — — — — — — — — — — — — Signature —
— — — — — — — — — — — — — — Date — — — —.’ and con-
taining blank spaces for the attachment of a true copy
of any permit or other information required pursuant to
such statute or published ordinance;
“(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee’s place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

“(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 583(g).

“(d) SALES AND DISPOSITIONS TO PROHIBITED CLASSES OF PERSONS.—It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammuni-
tion to any person knowing or having reasonable cause to believe that such person—

“(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

“(2) is a fugitive from justice;

“(3) is an unlawful user of or addicted to any controlled substance;

“(4) has been adjudicated as a mental defective or has been committed to any mental institution;

“(5) is an alien and—

“(A) is illegally or unlawfully in the United States; or

“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act);

“(6) has been discharged from the Armed Forces under dishonorable conditions;

“(7) was a citizen of the United States, and has renounced that citizenship;

“(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such
intimate partner or person, or engaging in other
close contact that would place an intimate partner in rea-
sonable fear of bodily injury to the partner or child,
except that this paragraph shall only apply to a

court order that—

“(A) was issued after a hearing of which
such person received actual notice, and at which
such person had the opportunity to participate;
and

“(B)(i) includes a finding that such person
represents a credible threat to the physical safe-
ty of such intimate partner or child; or

“(ii) by its terms explicitly prohibits the
use, attempted use, or threatened use of phys-
ical force against such intimate partner or child
that would reasonably be expected to cause bod-
ily injury; or

“(9) has been convicted in any court of a mis-
demeanor crime of domestic violence.

This subsection does not apply with respect to the sale
or disposition of a firearm or ammunition to a licensed
importer, licensed manufacturer, licensed dealer, or li-
censed collector who pursuant to subsection (b) of section
585 is not precluded from dealing in firearms or ammuni-
tion, or to a person who has been granted relief from dis-
abilities pursuant to subsection (c) of section 585.

“(e) NOTICE TO CARRIER.—It shall be unlawful for
any person knowingly to deliver or cause to be delivered
to any common or contract carrier for transportation or
shipment in interstate or foreign commerce, to persons
other than licensed importers, licensed manufacturers, li-
censed dealers, or licensed collectors, any package or other
container in which there is any firearm or ammunition
without written notice to the carrier that such firearm or
ammunition is being transported or shipped; except that
any passenger who owns or legally possesses a firearm or
ammunition being transported aboard any common or con-
tract carrier for movement with the passenger in inter-
state or foreign commerce may deliver said firearm or am-
munition into the custody of the pilot, captain, conductor
or operator of such common or contract carrier for the
duration of the trip without violating this chapter. No
common or contract carrier shall require or cause any
label, tag, or other written notice to be placed on the out-
side of any package, luggage, or other container that such
package, luggage, or other container contains a firearm.

“(f) COMMON OR CONTRACT CARRIER OFFENSES.—
“(1) It shall be unlawful for any common or
contract carrier to transport or deliver in interstate
or foreign commerce any firearm or ammunition
with knowledge or reasonable cause to believe that
the shipment transportation, or receipt thereof
would be in violation of this subchapter.

“(2) It shall be unlawful for any common or
contract carrier to deliver in interstate or foreign
commerce any firearm without obtaining written ac-
knowledgement of receipt from the recipient of the
package or other container in which there is a fire-

“(g) Prohibitions on Firearm-Related Activi-
ties by Certain Persons.—It shall be unlawful for any
person—

“(1) who has been convicted in any court of, a
crime punishable by imprisonment for a term ex-
ceeding one year;

“(2) who is a fugitive from justice;

“(3) who is an unlawful user of or addicted to
any controlled substance;

“(4) who has been adjudicated as a mental de-
fective or who has been committed to a mental insti-
tution;

“(5) who, being an alien—

“(A) is illegally or unlawfully in the United
States; or
“(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act);

“(6) who has been discharged from the Armed Forces under dishonorable conditions;

“(7) who, having been a citizen of the United States, has renounced his citizenship;

“(8) who is subject to a court order that—

“(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

“(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

“(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

“(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child.
that would reasonably be expected to cause bodily injury; or

“(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

“(h) EMPLOYEE OFFENSE.—It shall be unlawful for any individual, who to that individual’s knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

“(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

“(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

“(i) TRANSPORT OF STOLEN FIREARMS AND AMMUNITION.—It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearms or stolen ammunition, knowing or having reasonable
cause to believe that the firearm or ammunition was stolen.

“(j) Possession and Disposition of Stolen Firearms and Ammunition.—It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

“(k) Serial Number Offense.—It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer’s or manufacturer’s serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

“(l) Importation.—Except as provided in section 585(d), it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlaw-
ful for any person knowingly to receive any firearm or am-
munition which has been imported or brought into the
United States or any possession thereof in violation of this
subchapter.

“(m) FALSE ENTRY.—It shall be unlawful for any
licensed importer, licensed manufacturer, licensed dealer,
or licensed collector knowingly to make any false entry in,
to fail to make appropriate entry in, or to fail to properly
maintain, any record which he is required to keep pursu-
ant to section 583 or regulations promulgated thereunder.

“(n) INDICTED PERSONS.—It shall be unlawful for
any person who is under indictment for a crime punishable
by imprisonment for a term exceeding one year to ship
or transport in interstate or foreign commerce any firearm
or ammunition or receive any firearm or ammunition
which has been shipped or transported in interstate or for-

dign commerce.

“(o) TRANSFER OR POSSESSION OF MACHINE-
guns.—

“(1) Except as provided in paragraph (2), it
shall be unlawful for any person to transfer or pos-
sess a machinegun.

“(2) This subsection does not apply with re-
spect to—
“(A) a transfer to or by, or possession by
or under the authority of, the United States or
any department or agency thereof or a State, or
a department, agency, or political subdivision
thereof; or

“(B) any lawful transfer or lawful posses-
sion of a machinegun that was lawfully pos-
sessed before the date this subsection takes ef-
fect.

“(p) NONDETECTABLE FIREARMS.—

“(1) It shall be unlawful for any person to man-
ufacture, import, sell, ship, deliver, possess, transfer,
or receive any firearm—

“(A) that, after removal of grips, stocks,
and magazines, is not as detectable as the Se-
curity Exemplar, by walk-through metal detec-
tors calibrated and operated to detect the Secu-
ritv Exemplar; or

“(B) any major component of which, when
subjected to inspection by the types of x-ray
machines commonly used at airports, does not
generate an image that accurately depicts the
shape of the component. Barium sulfate or
other compounds may be used in the fabrication
of the component.
“(2) For purposes of this subsection—

“(A) the term ‘firearm’ does not include
the frame or receiver of any such weapon;

“(B) the term ‘major component’ means,
with respect to a firearm, the barrel, the slide
or cylinder, or the frame or receiver of the fire-
arm; and

“(C) the term ‘Security Exemplar’ means
an object, to be fabricated at the direction of
the Attorney General, that is—

“(i) constructed of, during the 12-
month period beginning on the date of the
enactment of this subsection, 3.7 ounces of
material type 17–4 PH stainless steel in a
shape resembling a handgun; and

“(ii) suitable for testing and cali-
brating metal detectors;

but, at the close of such 12-month period, and
at appropriate times thereafter the Attorney
General shall prescribe regulations to permit
the manufacture, importation, sale, shipment,
delivery, possession, transfer, or receipt of fire-
arms previously prohibited under this subpara-
graph that are as detectable as a ‘Security Ex-
emplar’ which contains 3.7 ounces of material
type 17–4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is
detectable in view of advances in state-of-the-art developments in weapons detection tech-
nology.

“(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection
does not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

“(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

“(5) This subsection does not apply to any fire-

arm which—
“(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

“(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

“(6) This subsection does not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

“(q) SCHOOL ZONES.—

“(1) The Congress finds and declares that—

“(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

“(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

“(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as
documented in numerous hearings in both the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate;

“(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

“(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

“(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

“(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

“(H) States, localities, and school systems find it almost impossible to handle gun-related
crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

“(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation’s schools by enactment of this subsection.

“(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

“(B) Subparagraph (A) does not apply to the possession of a firearm—

“(i) on private property not part of school grounds;

“(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an in-
dividual obtains such a license, the law enforce-
ment authorities of the State or political sub-
division verify that the individual is qualified
under law to receive the license;
“(iii) that is—
“(I) not loaded; and
“(II) in a locked container, or a
locked firearms rack that is on a motor ve-
hicle;
“(iv) by an individual for use in a program
approved by a school in the school zone;
“(v) by an individual in accordance with a
contract entered into between a school in the
school zone and the individual or an employer
of the individual;
“(vi) by a law enforcement officer acting in
his or her official capacity; or
“(vii) that is unloaded and is possessed by
an individual while traversing school premises
for the purpose of gaining access to public or
private lands open to hunting, if the entry on
school premises is authorized by school authori-
ties.
“(3)(A) Except as provided in subparagraph
(B), it shall be unlawful for any person, knowingly
or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the person knows is a school zone.

“(B) Subparagraph (A) does not apply to the discharge of a firearm—

“(i) on private property not part of school grounds;

“(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

“(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

“(iv) by a law enforcement officer acting in his or her official capacity.

“(r) IMPORTATION OF PARTS.—It shall be unlawful for any person to assemble from imported parts any semi-automatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 585(d)(3) as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection does not apply to—
“(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

“(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

“(s) BACKGROUND CHECK FOR HANDGUNS.—

“(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under section 583, unless—

“(A) after the most recent proposal of such transfer by the transferee—

“(i) the transferor has—

“(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);
“(II) verified the identity of the transferee by examining the identification document presented;

“(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

“(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer that receipt or possession of the handgun by the transferee would be
in violation of Federal, State, or local law;

or

“(II) the transferor has received no-
tice from the chief law enforcement officer
that the officer has no information indic-
eating that receipt or possession of the
handgun by the transferee would violate
Federal, State, or local law;

“(B) the transferee has presented to the
transferor a written statement, issued by the
chief law enforcement officer of the place of res-
idence of the transferee during the 10-day pe-
riod ending on the date of the most recent pro-
posal of such transfer by the transferee, stating
that the transferee requires access to a hand-
gun because of a threat to the life of the trans-
feree or of any member of the household of the
transferee;

“(C)(i) the transferee has presented to the
transferor a permit that—

“(I) allows the transferee to possess
or acquire a handgun; and

“(II) was issued not more than 5
years earlier by the State in which the
transfer is to take place; and
“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

“(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 583, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

“(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because—

“(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of
square miles of land area of the State does not exceed 0.0025;

“(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

“(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

“(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local record-keeping systems are available and in a national system designated by the Attorney General.

“(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only—

“(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 783(d)(3)) of the transferee containing a photograph of the transferee and a description of the identification used;
“(B) a statement that the transfeere—

“(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

“(ii) is not a fugitive from justice;

“(iii) is not an unlawful user of or addicted to any controlled substance;

“(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

“(v) is not an alien who—

“(I) is illegally or unlawfully in the United States; or

“(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act);

“(vi) has not been discharged from the Armed Forces under dishonorable conditions; and
“(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;
“(C) the date the statement is made; and
“(D) notice that the transferee intends to obtain a handgun from the transferor.
“(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to—
“(A) the chief law enforcement officer of the place of business of the transferor; and
“(B) the chief law enforcement officer of the place of residence of the transferee.
“(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.
“(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

“(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law—

“(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

“(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

“(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.
“(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

“(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages—

“(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

“(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

“(8) For purposes of this subsection, the term ‘chief law enforcement officer’ means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

“(9) The Attorney General shall take necessary actions to ensure that the provisions of this sub-
section are published and disseminated to licensed dealers, law enforcement officials, and the public.

“(t) INSTANT BACKGROUND CHECK.—

“(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless—

“(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

“(B)(i) the system provides the licensee with a unique identification number; or

“(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section; and

“(C) the transferor has verified the identity of the transferee by examining a valid iden-
tification document (as defined in section 783(d)) of the transferee containing a photograph of the transferee.

“(2) If receipt of a firearm would not violate subsection (g) or (n) or State law, the system shall—

“(A) assign a unique identification number to the transfer;

“(B) provide the licensee with the number; and

“(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

“(3) Paragraph (1) does not apply to a firearm transfer between a licensee and another person if—

“(A)(i) such other person has presented to the licensee a permit that—

“(I) allows such other person to possess or acquire a firearm; and

“(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and
“(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

“(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

“(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because—

“(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

“(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

“(iii) there is an absence of telecommunications facilities in the geo-
graphical area in which the business premises are located.

“(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the receipt of a firearm by such other person would violate subsection (g) or (n) or State law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

“(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that receipt of a firearm by such other person would violate subsection (g) or (n) of this section or State law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 583, and may
impose on the licensee a civil fine of not more than $5,000.

“(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages—

“(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

“(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

“(u) THEFT.—It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee’s business inventory that has been shipped or transported in interstate or foreign commerce.

“(v) TRANSFERS TO JUVENILES.—

“(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the
transferor knows or has reasonable cause to believe
is a juvenile—

“(A) a handgun; or

“(B) ammunition that is suitable for use
only in a handgun.

“(2) It shall be unlawful for any person who is
a juvenile to knowingly possess—

“(A) a handgun; or

“(B) ammunition that is suitable for use
only in a handgun.

“(3) This subsection does not apply to—

“(A) a temporary transfer of a handgun or
ammunition to a juvenile or to the possession or
use of a handgun or ammunition by a juvenile
if the handgun and ammunition are possessed
and used by the juvenile—

“(i) in the course of employment, in
the course of ranching or farming related
to activities at the residence of the juvenile
(or on property used for ranching or farm-
ing at which the juvenile, with the permiss-
sion of the property owner or lessee, is per-
forming activities related to the operation
of the farm or ranch), target practice,
hunting, or a course of instruction in the
safe and lawful use of a handgun;

“(ii) with the prior written consent of
the juvenile’s parent or guardian who is
not prohibited by Federal, State, or local
law from possessing a firearm, except—

“(I) during transportation by the
juvenile of an unloaded handgun in a
locked container directly from the
place of transfer to a place at which
an activity described in clause (i) is to
take place and transportation by the
juvenile of that handgun, unloaded
and in a locked container, directly
from the place at which such an activ-
ity took place to the transferor; or

“(II) with respect to ranching or
farming activities as described in
clause (i), a juvenile may possess and
use a handgun or ammunition with
the prior written approval of the juve-
nile’s parent or legal guardian and at
the direction of an adult who is not
prohibited by Federal, State or local
law from possessing a firearm; or
“(iii) the juvenile has the prior written consent in the juvenile’s possession at all times when a handgun is in the possession of the juvenile; and

“(iv) in accordance with State and local law;

“(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

“(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

“(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

“(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the

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lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

“(5) For purposes of this subsection, the term ‘juvenile’ means a person who is less than 18 years of age.

“(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant’s parent or legal guardian at all proceedings.

“(B) The court may use the contempt power to enforce subparagraph (A).

“(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

“(w) PROVISIONS RELATING TO ALIENS ADMITTED UNDER NONIMMIGRANT VISAS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘alien’ has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act; and

“(B) the term ‘nonimmigrant visa’ has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act.
“(2) EXCEPTIONS.—Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is—

“(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

“(B) an official representative of a foreign government who is—

“(i) accredited to the United States Government or the Government’s mission to an international organization having its headquarters in the United States; or

“(ii) en route to or from another country to which that alien is accredited;

“(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

“(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

“(3) WAIVER.—
“(A) CONDITIONS FOR WAIVER.—Any indi-

vidual who has been admitted to the United
States under a nonimmigrant visa may receive
a waiver from the requirements of subsection
(g)(5), if—

“(i) the individual submits to the At-
torney General a petition that meets the
requirements of subparagraph (C); and

“(ii) the Attorney General approves
the petition.

“(B) PETITION.—Each petition under sub-
paragraph (B) shall—

“(i) demonstrate that the petitioner
has resided in the United States for a con-
tinuous period of not less than 180 days
before the date on which the petition is
submitted under this paragraph; and

“(ii) include a written statement from
the embassy or consulate of the petitioner,
authorizing the petitioner to acquire a fire-
arm or ammunition and certifying that the
alien would not, absent the application of
subsection (g)(5)(B), otherwise be prohib-
ited from such acquisition under subsection
(g).
“(C) APPROVAL OF PETITION.—The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner—

“(i) would be in the interests of justice; and

“(ii) would not jeopardize the public safety.

“(x) SECURE GUN STORAGE OR SAFETY DEVICE.—

“(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 581(29)) for that handgun.

“(2) EXCEPTIONS.—Paragraph (1) does not apply to—

“(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a
department, agency, or political subdivision of a State, of a handgun; or

“(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

“(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

“(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 581(a)(13); or

“(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the

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transferee a secure gun storage or safety device for the handgun.

“(3) LIABILITY FOR USE.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

“(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

“(C) DEFINED TERM.—As used in this paragraph, the term ‘qualified civil liability action’—

“(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

“(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and
control of the handgun to have access to it; and

“(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

“(ii) does not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.

“§ 583. Licensing

“(a) IN GENERAL.—No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility for licensing as the Attorney General shall by regulation prescribe and shall include a photograph and fingerprints of the applicant. Each applicant shall pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

“(1) If the applicant is a manufacturer—
“(A) of destructive devices, ammunition for destructive devices or armor piercing ammuni-
tion, a fee of $1,000 per year;

“(B) of firearms other than destructive de-
devices, a fee of $50 per year; or

“(C) of ammunition for firearms, other
than ammunition for destructive devices or
armor piercing ammunition, a fee of $10 per
year.

“(2) If the applicant is an importer—

“(A) of destructive devices, ammunition for
destructive devices or armor piercing ammuni-
tion, a fee of $1,000 per year; or

“(B) of firearms other than destructive de-
devices or ammunition for firearms other than de-
stuctive devices, or ammunition other than
armor piercing ammunition, a fee of $50 per
year.

“(3) If the applicant is a dealer—

“(A) in destructive devices or ammunition
for destructive devices, a fee of $1,000 per year;
or

“(B) who is not a dealer in destructive de-
devices, a fee of $200 for 3 years, except that the
fee for renewal of a valid license shall be $90 for 3 years.

“(b) COLLECTORS.—Any person desiring to be licensed as a collector shall file an application for such license with the Attorney General. The application shall be in such form and contain only that information necessary to determine eligibility as the Attorney General shall by regulation prescribe. The fee for such license shall be $10 per year. Any license granted under this subsection shall only apply to transactions in curios and relics.

“(c) ISSUANCE.—Upon the filing of a proper application and payment of the prescribed fee, the Attorney General shall issue to a qualified applicant the appropriate license which, subject to this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license. Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into
such licensee’s personal collection or if such disposition or
any other acquisition is made for the purpose of willfully
evading the restrictions placed upon licensees by this chap-
ter, then such firearm shall be deemed part of such licens-
ee’s business inventory, except that any licensed manufac-
turer, importer, or dealer who has maintained a firearm
as part of a personal collection for one year and who sells
or otherwise disposes of such firearm shall record the de-
scription of the firearm in a bound volume, containing the
name and place of residence and date of birth of the trans-
fee if the transferee is an individual, or the identity and
principal and local places of business of the transferee if
the transferee is a corporation or other business entity,
but no other recordkeeping shall be required.

“(d) REQUIREMENTS FOR GRANTING.—

“(1) Any application submitted under sub-
section (a) or (b) of this section shall be approved
if—

“(A) the applicant is twenty-one years of
age or over;

“(B) the applicant (including, in the case
of a corporation, partnership, or association,
any individual possessing, directly or indirectly,
the power to direct or cause the direction of the
management and policies of the corporation,
partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under section 582(g) and (n);

“(C) the applicant has not willfully violated any of the provisions of this subchapter or regulations issued thereunder;

“(D) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with his application;

“(E) the applicant has in a State (i) premises from which he conducts business subject to license under this chapter or from which he intends to conduct such business within a reasonable period of time, or (ii) in the case of a collector, premises from which he conducts his collecting subject to license under this chapter or from which he intends to conduct such collecting within a reasonable period of time;

“(F) the applicant certifies that—

“(i) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premise is located;
“(ii)(I) within 30 days after the application is approved the business will comply with the requirements of State and local law applicable to the conduct of the business; and

“(II) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met; and

“(iii) that the applicant has sent or delivered a form to be prescribed by the Attorney General, to the chief law enforcement officer of the locality in which the premises are located, which indicates that the applicant intends to apply for a Federal firearms license; and

“(G) in the case of an application to be licensed as a dealer, the applicant certifies that secure gun storage or safety devices will be available at any place in which firearms are sold under the license to persons who are not licensees (subject to the exception that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from
a manufacturer, or any other similar reason beyond the control of the licensee, the dealer shall not be considered to be in violation of the requirement under this subparagraph to make available such a device).

“(2) The Attorney General must approve or deny an application for a license within the 60-day period beginning on the date it is received. If the Attorney General fails to act within such period, the applicant may file an action under section 1361 of title 28 to compel the Attorney General to act. If the Attorney General approves an applicant’s application, such applicant shall be issued a license upon the payment of the prescribed fee.

“(e) REVOCATION.—The Attorney General may, after notice and opportunity for hearing, revoke any license issued under this section if the holder of such license has willfully violated any provision of this subchapter or any rule or regulation prescribed by the Attorney General under this chapter or fails to have secure gun storage or safety devices available at any place in which firearms are sold under the license to persons who are not licensees (except that in any case in which a secure gun storage or safety device is temporarily unavailable because of theft, casualty loss, consumer sales, backorders from a
manufacturer, or any other similar reason beyond the con-
trol of the licensee, the dealer shall not be considered to
be in violation of the requirement to make available such
a device). The Attorney General may, after notice and op-
portunity for hearing, revoke the license of a dealer who
willfully transfers armor piercing ammunition. The Attor-
ney General’s action under this subsection may be re-
viewed only as provided in subsection (f) of this section.

“(f) ADVERSE ACTIONS.—

“(1) Any person whose application for a license
is denied and any holder of a license which is re-
voked shall receive a written notice from the Attor-
ney General stating specifically the grounds upon
which the application was denied or upon which the
license was revoked. Any notice of a revocation of a
license shall be given to the holder of such license
before the effective date of the revocation.

“(2) If the Attorney General denies an applica-
tion for, or revokes, a license, he shall, upon request
by the aggrieved party, promptly hold a hearing to
review his denial or revocation. In the case of a rev-
ocation of a license, the Attorney General shall upon
the request of the holder of the license stay the ef-
fective date of the revocation. A hearing held under
this paragraph shall be held at a location convenient
to the aggrieved party.

“(3) If after a hearing held under paragraph
(2) the Attorney General decides not to reverse his
decision to deny an application or revoke a license,
the Attorney General shall give notice of his decision
to the aggrieved party. The aggrieved party may at
any time within sixty days after the date notice was
given under this paragraph file a petition with the
United States district court for the district in which
he resides or has his principal place of business for
a de novo judicial review of such denial or revoca-
tion. In a proceeding conducted under this sub-
section, the court may consider any evidence sub-
mitted by the parties to the proceeding whether or
not such evidence was considered at the hearing held
under paragraph (2). If the court decides that the
Attorney General was not authorized to deny the ap-
lication or to revoke the license, the court shall
order the Attorney General to take such action as
may be necessary to comply with the judgment of
the court.

“(4) If criminal proceedings are instituted
against a licensee alleging any violation of this sub-
chapter or of rules or regulations prescribed under
this subchapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Attorney General shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Attorney General more than one year after the filing of the indictment or information.

“(g) RECORDKEEPING.—

“(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Attorney General may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Attorney General, when he has reasonable cause to believe a violation of this
subchapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate judge and securing from such magistrate judge a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

“(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

“(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

“(B) The Attorney General may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—
“(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

“(ii) for ensuring compliance with the record keeping requirements of this subchapter—

“(I) not more than once during any 12-month period; or

“(II) at any time with respect to records relating to a firearm involved in a criminal investigation that is traced to the licensee; or

“(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

“(C) The Attorney General may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

“(i) for ensuring compliance with the record keeping requirements of this subchapter not more than once during any twelve-month period; or

“(ii) when such inspection or examination may be required for determining the disposition
of one or more particular firearms in the course
of a bona fide criminal investigation.

“(D) At the election of a licensed collector, the
annual inspection of records and inventory permitted
under this paragraph shall be performed at the office of the Attorney General designated for such ins-
spections which is located in closest proximity to the
premises where the inventory and records of such li-
censed collector are maintained. The inspection and
examination authorized by this paragraph shall not
be construed as authorizing the Attorney General to
seize any records or other documents other than
those records or documents constituting material
evidence of a violation of law. If the Attorney Gen-
eral seizes such records or documents, copies shall
be provided the licensee within a reasonable time.
The Attorney General may make available to any
Federal, State, or local law enforcement agency any
information which he may obtain by reason of this
subchapter with respect to the identification of per-
sons prohibited from purchasing or receiving fire-
arms or ammunition who have purchased or received
firearms or ammunition, together with a description
of such firearms or ammunition, and he may provide
information to the extent such information may be
contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

“(2) Each licensed collector shall maintain in a bound volume the nature of which the Attorney General may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise disposes of a firearm. Such collector shall not be required to submit to the Attorney General reports and information with respect to such records and the contents thereof, except as expressly required by this section.

“(3)(A) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Attorney General and forwarded to the office specified thereon and to the department of State police or State law enforcement agency of the State or local law enforcement agency.
of the local jurisdiction in which the sale or other
disposition took place, not later than the close of
business on the day that the multiple sale or other
disposition occurs.

“(B) Except in the case of forms and contents
thereof regarding a purchaser who is prohibited by
subsection (g) or (n) of section 582 from receipt of
a firearm, the department of State police or State
law enforcement agency or local law enforcement
agency of the local jurisdiction shall not disclose any
such form or the contents thereof to any person or
entity, and shall destroy each such form and any
record of the contents thereof no more than 20 days
from the date such form is received. No later than
the date that is 6 months after the effective date of
this subparagraph, and at the end of each 6-month
period thereafter, the department of State police or
State law enforcement agency or local law enforce-
ment agency of the local jurisdiction shall certify to
the Attorney General of the United States that no
disclosure contrary to this subparagraph has been
made and that all forms and any record of the con-
tents thereof have been destroyed as provided in this
subparagraph.
“(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within thirty days after the business discontinuance to the Attorney General. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Attorney General may arrange for the delivery of such records to such other responsible authority.

“(5)(A) Each licensee shall, when required by letter issued by the Attorney General, and until notified to the contrary in writing by the Attorney General, submit on a form specified by the Attorney General, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Attorney General in such letter may specify.

“(B) The Attorney General may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that
an alternate method of reporting is reasonably nec-
essary and will not unduly hinder the effective ad-
ministration of this subchapter. A licensee may use
an alternate method of reporting if the licensee de-
dscribes the proposed alternate method of reporting
and the need therefor in a letter application sub-
mitted to the Attorney General, and the Attorney
General approves such alternate method of report-
ing.

“(6) Each licensee shall report the theft or loss
of a firearm from the licensee’s inventory or collec-
tion, within 48 hours after the theft or loss is discov-
ered, to the Attorney General and to the appropriate
local authorities.

“(7) Each licensee shall respond immediately
to, and in no event later than 24 hours after the re-
cipient of, a request by the Attorney General for infor-
mation contained in the records required to be kept
by this chapter as may be required for determining
the disposition of 1 or more firearms in the course
of a bona fide criminal investigation. The requested
information shall be provided orally or in writing, as
the Attorney General may require. The Attorney
General shall implement a system whereby the li-
censee can positively identify and establish that an
individual requesting information via telephone is employed by and authorized by the agency to request such information.

“(h) POSTING.—Licenses issued under subsection (c) of this section shall be kept posted and kept available for inspection on the premises covered by the license.

“(i) SERIAL NUMBERS.—Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

“(j) TEMPORARY LOCATIONS.—A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Attorney General, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and
shall be entered in the permanent records of the licensee
and retained on the location specified on the license. Noth-
ing in this subsection shall authorize any licensee to con-
duct business in or from any motorized or towed vehicle.
Notwithstanding subsection (a) of this section, a separate
fee shall not be required of a licensee with respect to busi-
ness conducted under this subsection. Any inspection or
examination of inventory or records under this chapter by
the Attorney General at such temporary location shall be
limited to inventory consisting of, or records relating to,
firearms held or disposed at such temporary location.
Nothing in this subsection shall be construed to authorize
the Attorney General to inspect or examine the inventory
or records of a licensed importer, licensed manufacturer,
or licensed dealer at any location other than the location
specified on the license. Nothing in this subsection shall
be construed to diminish in any manner any right to dis-
play, sell, or otherwise dispose of firearms or ammunition,
which is in effect before the date of the enactment of the
Firearms Owners’ Protection Act, including the right of
a licensee to conduct ‘curios or relics’ firearms transfers
and business away from their business premises with an-
other licensee without regard as to whether the location
of where the business is conducted is located in the State
specified on the license of either licensee.
“(k) Marking of Armor Piercing Projectiles and Packages.—Licensed importers and licensed manufacturers shall mark all armor piercing projectiles and packages containing such projectiles for distribution in the manner prescribed by the Attorney General by regulation. The Attorney General shall furnish information to each dealer licensed under this chapter defining which projectiles are considered armor piercing ammunition.

“(l) Notification.—The Attorney General shall notify the chief law enforcement officer in the appropriate State and local jurisdictions of the names and addresses of all persons in the State to whom a firearms license is issued.

“§ 584. Penalties

“(a) In General.—

“(1) Except as otherwise provided in this subsection, subsection (b), (e), (f), or (p) of this section, or in section 592, whoever—

“(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under this chapter;
“(B) knowingly violates subsection (a)(4),
(f), (k), or (q) of section 582;
“(C) knowingly imports or brings into the
United States or any possession thereof any
firearm or ammunition in violation of section
582(l); or
“(D) knowingly violates any other provi-
sion of this subchapter,
shall be imprisoned not more than five years.
“(2) Whoever knowingly violates subsection
(a)(6), (d), (g), (h), (i), (j), or (o) of section 582
shall be imprisoned not more than 10 years.
“(3) Any licensed dealer, licensed importer, li-
censed manufacturer, or licensed collector who know-
ingly—
“(A) makes any false statement or rep-
resentation with respect to the information re-
quired by this chapter to be kept in the records
of a person licensed under this chapter, or
“(B) violates subsection (m) of section
582,
shall be imprisoned not more than one year.
“(4) Whoever violates section 582(q) shall be
imprisoned for not more than 5 years. Notwith-
standing any other provision of law, the term of im-
prisonment imposed under this paragraph shall not
run concurrently with any other term of imprison-
ment imposed under any other provision of law. Ex-
cept for the authorization of a term of imprisonment
of not more than 5 years made in this paragraph,
for the purpose of any other law a violation of sec-
tion 582(q) shall be deemed to be a misdemeanor.

“(5) Whoever knowingly violates subsection (s)
or (t) of section 582 shall be imprisoned for not
more than 1 year.

“(6)(A)(i) A juvenile who violates section
582(x) shall be imprisoned not more than 1 year, ex-
cept that a juvenile described in clause (ii) shall be
sentenced to probation on appropriate conditions
and shall not be incarcerated unless the juvenile fails
to comply with a condition of probation.

“(ii) A juvenile is described in this clause if—

“(I) the offense of which the juvenile is
charged is possession of a handgun or ammuni-
tion in violation of section 582(x)(2); and

“(II) the juvenile has not been convicted in
any court of an offense (including an offense
under section 582(x) or a similar State law, but
not including any other offense consisting of
conduct that if engaged in by an adult would
not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

“(B) A person other than a juvenile who knowingly violates section 582(x)—

“(i) shall be imprisoned not more than 1 year; and

“(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be imprisoned not more than 10 years.

“(7) Whoever knowingly violates section 594 shall be imprisoned not more than 3 years.

“(b) TRANSPORT WITH INTENT.—Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be imprisoned not more than ten years.
“(c) MINIMUM MANDATORY PENALTIES.—

“(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

“(i) be sentenced to a term of imprisonment of not less than 5 years;

“(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

“(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

“(B) If the firearm possessed by a person convicted of a violation of this subsection—
“(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

“(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

“(C) In the case of a second or subsequent conviction under this subsection, the person shall—

“(i) be sentenced to a term of imprisonment of not less than 25 years; and

“(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

“(D) Notwithstanding any other provision of law—

“(i) a court shall not place on probation any person convicted of a violation of this subsection; and

“(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment im-
posed on the person, including any term of imprisonement imposed for the crime of violence or
drug trafficking crime during which the firearm
was used, carried, or possessed.

“(2) For purposes of this subsection, the term
‘drug trafficking crime’ means any felony punishable
under chapter 17 of this title or chapter 705 of title
46.

“(3) For purposes of this subsection the term
‘crime of violence’ means an offense that is a felony
and—

“(A) has as an element the use, attempted
use, or threatened use of physical force against
the person or property of another, or

“(B) that by its nature, involves a substan-
tial risk that physical force against the person
or property of another may be used in the
course of committing the offense.

“(4) For purposes of this subsection, the term
‘brandish’ means, with respect to a firearm, to dis-
play all or part of the firearm, or otherwise make
the presence of the firearm known to another per-
son, in order to intimidate that person, regardless of
whether the firearm is directly visible to that person.
“(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

“(A) be sentenced to a term of imprisonment of not less than 15 years; and

“(B) if death results from the use of such ammunition be punished as provided in section 101.

“(d) FORFEITURE.—(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 582, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in
violation of section 582(l), or knowing violation of section 584, or willful violation of any other provision of this subchapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under this subchapter, but upon acquittal of the owner or possessor, or dismissal of the charges against that defendant other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.
“(A) In any action or proceeding for the return of firearms or ammunition seized under this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney’s fee, and the United States shall be liable therefor.

“(B) In any other action or proceeding under this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney’s fee, and the United States shall be liable therefor.

“(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of this subchapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

“(D) The United States shall be liable for attorneys’ fees under this paragraph only to the extent provided in advance by appropriation Acts.

“(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—
'“(A) any crime of violence, as that term is defined in section 584(c)(3);

“(B) any offense punishable under chapter 17;

“(C) any offense described in section 582(a)(1), 582(a)(3), 582(a)(5), or 582(b)(3), where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 582(a)(1), 582(a)(3), 582(a)(5), or 582(b)(3);

“(D) any offense described in section 582(d) where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

“(E) any offense described in section 582(i), 582(j), 582(l), 582(n), or 584(b); and

“(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition.

“(e) Minimum Mandatory for Certain Offenses.—(1) In the case of a person who violates section 582(g) and has three previous convictions by any court referred to in section 582(g)(1) for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be imprisoned not less than fifteen years, and, notwithstanding any other
provision of law, the court shall not suspend the sentence
of, or grant a probationary sentence to, such person with
respect to the conviction under section 582(g).

“(2) As used in this subsection—

“(A) the term ‘serious drug offense’ means—

“(i) an offense under chapter 17 or the
Maritime Drug Law Enforcement Act for which
a maximum term of imprisonment of ten years
or more is prescribed by law; or

“(ii) an offense under State law, involving
manufacturing, distributing, or possessing with
intent to manufacture or distribute, a controlled
substance, for which a maximum term of im-
prisonment of ten years or more is prescribed
by law;

“(B) the term ‘violent felony’ means any crime
punishable by imprisonment for a term exceeding
one year, or any act of juvenile delinquency involving
the use or carrying of a firearm, knife, or destructive
device that would be punishable by imprisonment for
such term if committed by an adult, that—

“(i) has as an element the use, attempted
use, or threatened use of physical force against
the person of another; or
“(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

“(C) the term ‘conviction’ includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

“(f) 582(p) VIOLATIONS.—In the case of a person who knowingly violates section 582(p), such person shall be or imprisoned not more than 5 years.

“(g) TRAVEL WITH INTENT.—Whoever, with the intent to engage in conduct which—

“(1) constitutes an offense listed in section 511(1),

“(2) is punishable under chapter 17 or the Maritime Drug Law Enforcement Act,

“(3) violates any State law relating to any controlled substance, or

“(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years.
“(h) Transfer With Knowledge.—Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years.

“(i) 582(u) Violations.—(1) A person who knowingly violates section 582(u) shall be imprisoned not more than 10 years.

“(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

“(j) Causing Death.—A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

“(1) if the killing is a murder (as defined in section 101), be punished by death or by imprisonment for any term of years or for life; and
“(2) if the killing is manslaughter (as defined in section 101), be punished as provided in section 104.

“(k) Drug-Related Offenses.—A person who, with intent to engage in or to promote conduct that—

“(1) is punishable under chapter 17 or the Maritime Drug Law Enforcement Act;

“(2) violates any law of a State relating to any controlled substance; or

“(3) constitutes a crime of violence (as defined in subsection (c)(3)),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years.

“(l) Theft of Firearms Related to Commerce.—A person who steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not more than 10 years.

“(m) Theft of Firearms From Licensees.—A person who steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be imprisoned not more than 10 years.

“(n) Travel With Intent.—A person who, with the intent to engage in conduct that constitutes a violation
of section 582(a)(1)(A), travels from any State or foreign
country into any other State and acquires, or attempts
to acquire, a firearm in such other State in furtherance
of such purpose shall be imprisoned for not more than 10
years.

“(o) CONSPIRACY.—A person who conspires to com-
mit an offense under subsection (c) shall be imprisoned
for not more than 20 years; and if the firearm is a ma-
chinegun or destructive device, or is equipped with a fire-
arm silencer or muffler, shall be imprisoned for any term
of years or life.

“(p) PENALTIES RELATING TO SECURE GUN STOR-
AGE OR SAFETY DEVICE.—

“(1) IN GENERAL.—

“(A) SUSPENSION OR REVOCATION OF LI-
CENSE; CIVIL PENALTIES.—With respect to
each violation of section 582(x)(1) by a licensed
manufacturer, licensed importer, or licensed
dealer, the Secretary may, after notice and op-
portunity for hearing—

“(i) suspend for not more than 6
months, or revoke, the license issued to the
licensee under this chapter that was used
to conduct the firearms transfer; or
“(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

“(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 583(f).

“(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) does not preclude any administrative remedy that is otherwise available to the Secretary.

“§ 585. Exceptions; relief from disabilities

“(a)(1) TO UNITED STATES AGENCIES.—This chapter, except sections 582(d)(9) and 582(g)(9) and provisions relating to firearms subject to the prohibitions of section 582(p), does not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

“(2) This chapter, except for provisions relating to firearms subject to the prohibitions of section 582(p), does not apply with respect to (A) the shipment or receipt of firearms or ammunition when sold or issued by the Sec-
retary of the Army pursuant to section 4308 of title 10 before the repeal of such section by section 1624(a) of the Corporation for the Promotion of Rifle Practice and Firearms Safety Act, and (B) the transportation of any such firearm or ammunition carried out to enable a person, who lawfully received such firearm or ammunition from the Secretary of the Army, to engage in military training or in competitions.

“(3) Unless otherwise prohibited by this chapter, except for provisions relating to firearms subject to the prohibitions of section 582(p), or any other Federal law, a licensed importer, licensed manufacturer, or licensed dealer may ship to a member of the United States Armed Forces on active duty outside the United States or to clubs, recognized by the Department of Defense, whose entire membership is composed of such members, and such members or clubs may receive a firearm or ammunition determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes and intended for the personal use of such member or club.

“(4) When established to the satisfaction of the Attorney General to be consistent with this chapter, except for provisions relating to firearms subject to the prohibitions of section 582(p), and other applicable Federal and State laws and published ordinances, the Attorney General
may authorize the transportation, shipment, receipt, or importation into the United States to the place of residence of any member of the United States Armed Forces who is on active duty outside the United States (or who has been on active duty outside the United States within the 60-day period immediately preceding the transportation, shipment, receipt, or importation), of any firearm or ammunition which is (A) determined by the Attorney General to be generally recognized as particularly suitable for sporting purposes, or determined by the Department of Defense to be a type of firearm normally classified as a war souvenir, and (B) intended for the personal use of such member.

“(5) For the purpose of paragraph (3), the term ‘United States’ means each of the several States and the District of Columbia.

“(b) CONTINUATION OF OPERATION.—A licensed importer, licensed manufacturer, licensed dealer, or licensed collector who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provision of this subchapter, continue operation pursuant to his existing license (if prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such
indictment and until any conviction pursuant to the indict-
ment becomes final.

“(c) RELIEF FROM DISABILITY.—A person who is
prohibited from possessing, shipping, transporting, or re-
ceiving firearms or ammunition may make application to
the Attorney General for relief from the disabilities im-
posed by Federal laws with respect to the acquisition, re-
ceipt, transfer, shipment, transportation, or possession of
firearms, and the Attorney General may grant such relief
if it is established to his satisfaction that the cir-
cumstances regarding the disability, and the applicant’s
record and reputation, are such that the applicant will not
be likely to act in a manner dangerous to public safety
and that the granting of the relief would not be contrary
to the public interest. Any person whose application for
relief from disabilities is denied by the Attorney General
may file a petition with the United States district court
for the district in which he resides for a judicial review
of such denial. The court may in its discretion admit addi-
tional evidence where failure to do so would result in a
miscarriage of justice. A licensed importer, licensed manu-
ufacturer, licensed dealer, or licensed collector conducting
operations under this chapter, who makes application for
relief from the disabilities incurred under this chapter,
shall not be barred by such disability from further oper-
ations under his license pending final action on an applica-
tion for relief filed pursuant to this section. Whenever the
Attorney General grants relief to any person pursuant to
this section he shall promptly publish in the Federal Reg-
ister notice of such action, together with the reasons there-
for.

“(d) AUTHORIZATION OF IMPORT.—The Attorney
General shall authorize a firearm or ammunition to be im-
ported or brought into the United States or any possession
thereof if the firearm or ammunition—

“(1) is being imported or brought in for sci-
cientific or research purposes, or is for use in connec-
tion with competition or training pursuant to chap-
ter 401 of title 10;

“(2) is an unserviceable firearm, other than a
machinegun as defined in section 5845(b) of the In-
ternal Revenue Code of 1986 (not readily restorable
to firing condition), imported or brought in as a
curio or museum piece;

“(3) is of a type that does not fall within the
definition of a firearm as defined in section 5845(a)
of the Internal Revenue Code of 1986 and is gen-
erally recognized as particularly suitable for or read-
ily adaptable to sporting purposes, excluding surplus
military firearms, except in any case where the At-
The Attorney General has not authorized the importation of
the firearm pursuant to this paragraph, it shall be
unlawful to import any frame, receiver, or barrel of
such firearm which would be prohibited if assembled;
or
“(4) was previously taken out of the United
States or a possession by the person who is bringing
in the firearm or ammunition.

The Attorney General shall permit the conditional impor-
tation or bringing in of a firearm or ammunition for exam-
ination and testing in connection with the making of a
determination as to whether the importation or bringing
in of such firearm or ammunition will be allowed under
this subsection.

“(e) MANDATORY AUTHORIZATION.—Notwith-
standing any other provision of this title, the Attorney
General shall authorize the importation of, by any licensed
importer, the following:

“(1) all rifles and shotguns listed as curios or
relics by the Attorney General pursuant to section
581(11), and

“(2) all handguns, listed as curios or relics by
the Attorney General pursuant to section 581(11),
provided that such handguns are generally recog-
nized as particularly suitable for or readily adaptable
to sporting purposes.

“(f) LIMITATION ON AUTHORIZATION.—The Attorney
General shall not authorize, under subsection (d), the
importation of any firearm the importation of which is
prohibited by section 582(p).

“§ 586. Remedy for erroneous denial of firearm

“Any person denied a firearm pursuant to subsection
(s) or (t) of section 582—

“(1) due to the provision of erroneous informa-
tion relating to the person by any State or political
subdivision thereof, or by the national instant crimi-
nal background check system established under sec-
tion 103 of the Brady Handgun Violence Prevention
Act; or

“(2) who was not prohibited from receipt of a
firearm pursuant to subsection (g) or (n) of section
582,

may bring an action against the State or political subdivi-
sion responsible for providing the erroneous information,
or responsible for denying the transfer, or against the
United States, as the case may be, for an order directing
that the erroneous information be corrected or that the
transfer be approved, as the case may be. In any action
under this section, the court, in its discretion, may allow
the prevailing party a reasonable attorney’s fee as part of the costs.

§ 587. Rules and regulations

(a) IN GENERAL.—The Attorney General may prescribe only such rules and regulations as are necessary to carry out this chapter, including—

“(1) regulations providing that a person licensed under this chapter, when dealing with another person so licensed, shall provide such other licensed person a certified copy of this license;

“(2) regulations providing for the issuance, at a reasonable cost, to a person licensed under this chapter, of certified copies of his license for use as provided under regulations issued under paragraph (1) of this subsection; and

“(3) regulations providing for effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(8) or (g)(8) of section 582.

No such rule or regulation prescribed after the date of the enactment of the Firearms Owners’ Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any
political subdivision thereof, nor that any system of reg-
istration of firearms, firearms owners, or firearms trans-
actions or dispositions be established. Nothing in this sec-
tion expands or restricts the Attorney General’s authority
to inquire into the disposition of any firearm in the course
of a criminal investigation.

“(b) NOTICE.—The Attorney General shall give not
less than ninety days public notice, and shall afford inter-
ested parties opportunity for hearing, before prescribing
such rules and regulations.

“(c) BLACK POWDER.—The Attorney General shall
not prescribe rules or regulations that require purchasers
of black powder under the exemption provided in section
615 to complete affidavits or forms attesting to that ex-
emption.

“§ 588. Interstate transportation of firearms

“Notwithstanding any other provision of any law or
any rule or regulation of a State or any political subdivi-
sion thereof, any person who is not otherwise prohibited
by this chapter from transporting, shipping, or receiving
a firearm shall be entitled to transport a firearm for any
lawful purpose from any place where he may lawfully pos-
sess and carry such firearm to any other place where he
may lawfully possess and carry such firearm if, during
such transportation the firearm is unloaded, and neither
the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle, but in the case of a vehicle without a compartment separate from the driver’s compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

“§589. Carrying of concealed firearms by qualified law enforcement officers

“(a) In General.—Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer and who is carrying the identification required by subsection (c) may carry a concealed firearm that has been shipped or transported in interstate or foreign commerce.

“(b) Definition of ‘Qualified Law Enforcement Officer’.—As used in this section, the term ‘qualified law enforcement officer’ means an employee of a governmental agency who—

“(1) is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title
10, United States Code (article 7(b) of the Uniform

Code of Military Justice);

“(2) is authorized by the agency to carry a fire-

arm;

“(3) is not the subject of any disciplinary action
by the agency which could result in suspension or
loss of police powers;

“(4) meets standards, if any, established by the
agency which require the employee to regularly qual-
ify in the use of a firearm;

“(5) is not under the influence of alcohol or an-
other intoxicating or hallucinatory drug or sub-
stance; and

“(6) is not prohibited by Federal law from re-
ceiving a firearm.

“(c) REQUIRED IDENTIFICATION.—The identification
required by this subsection is the photographic identifica-
tion issued by the governmental agency for which the indi-
vidual is employed that identifies the employee as a police
officer or law enforcement officer of the agency.

“(d) DEFINITION OF ‘FIREARM’.—As used in this
section, the term ‘firearm’—

“(1) except as provided in this subsection, has
the same meaning as in section 581;
“(2) includes ammunition not expressly prohibited by Federal law or subject to the National Firearms Act; and

“(3) does not include—

“(A) any machinegun;

“(B) any firearm silencer; and

“(C) any destructive device.

“(e) Certain Governmental or Quasi-Governmental Police Agencies.—For the purposes of this section, a law enforcement officer of the Amtrak Police Department, a law enforcement officer of the Federal Reserve, or a law enforcement or police officer of the executive branch of the Federal Government qualifies as an employee of a governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest or apprehension under section 807(b) of title 10, United States Code (article 7(b) of the Uniform Code of Military Justice).

§590. Carrying of concealed firearms by qualified retired law enforcement officers

“(a) In General.—Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified retired law en-
enforcement officer and who is carrying the identification re-
quired by subsection (e) may carry a concealed firearm
that has been shipped or transported in interstate or for-

tfeign commerce.

“(b) Definition of ‘Qualified Retired Law En-
forcement Officer’.—As used in this section, the term
‘qualified retired law enforcement officer’ means an indi-
vidual who—

“(1) separated from service in good standing
from service with a public agency as a law enforce-
ment officer;

“(2) before such separation, was authorized by
law to engage in or supervise the prevention, detec-
tion, investigation, or prosecution of, or the incarcer-
ation of any person for, any violation of law, and
had statutory powers of arrest or apprehension
under section 807(b) of title 10, United States Code
(article 7(b) of the Uniform Code of Military Jus-
tice);

“(3)(A) before such separation, served as a law
enforcement officer for an aggregate of 10 years or
more; or

“(B) separated from service with such agency,
after completing any applicable probationary period
of such service, due to a service-connected disability, as determined by such agency;

“(4) during the most recent 12-month period, has met, at the expense of the individual, the standards for qualification in firearms training for active law enforcement officers, as determined by the former agency of the individual, the State in which the individual resides or, if the State has not established such standards, either a law enforcement agency within the State in which the individual resides or the standards used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State;

“(5)(A) has not been officially found by a qualified medical professional employed by the agency to be unqualified for reasons relating to mental health and as a result of this finding will not be issued the photographic identification as described in subsection (d)(1); or

“(B) has not entered into an agreement with the agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified under this section for reasons relating to mental health and for those reasons
will not receive or accept the photographic identification as described in subsection (d)(1);

“(6) is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and

“(7) is not prohibited by Federal law from receiving a firearm.

“(c) IDENTIFICATION.—The identification required by this subsection is—

“(1) a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies the person as having been employed as a police officer or law enforcement officer and indicates that the individual has, not less recently than one year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the agency to meet the active duty standards for qualification in firearms training as established by the agency to carry a firearm of the same type as the concealed firearm; or

“(2)(A) a photographic identification issued by the agency from which the individual separated from service as a law enforcement officer that identifies
the person as having been employed as a police officer or law enforcement officer; and

“(B) a certification issued by the State in which the individual resides or by a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the State or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within that State to have met—

“(i) the active duty standards for qualification in firearms training, as established by the State, to carry a firearm of the same type as the concealed firearm; or

“(ii) if the State has not established such standards, standards set by any law enforcement agency within that State to carry a firearm of the same type as the concealed firearm.

“(d) ADDITIONAL DEFINITIONS.—As used in this section—

“(1) the term ‘firearm’—

“(A) except as provided in this paragraph, has the same meaning as in section 581;
“(B) includes ammunition not expressly prohibited by Federal law or subject to the National Firearms Act; and

“(C) does not include—

“(i) any machinegun;

“(ii) any firearm silencer; and

“(iii) any destructive device; and

“(2) the term ‘service with a public agency as a law enforcement officer’ includes service as a law enforcement officer of the Amtrak Police Department, service as a law enforcement officer of the Federal Reserve, or service as a law enforcement or police officer of the executive branch of the Federal Government.

§ 591. Use of restricted ammunition

“(a) Offense.—(1) Whoever, during and in relation to the commission of a crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm and is in possession of armor piercing ammunition capable of being fired in that firearm, shall, in addition to the punishment provided for the commission of such crime of violence or
drug trafficking crime be sentenced to a term of imprisonment for not less than five years.

“(2) Definition.—For purposes of this subsection, the term ‘drug trafficking crime’ means any felony punishable under chapter 17 of this title or chapter 705 of title 46.

“(b) Limitation on Certain Actions by Court.—Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this section, nor place the person on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment, including that imposed for the crime in which the armor piercing ammunition was used or possessed.

§ 592. Possession of firearms and dangerous weapons in Federal facilities

“(a) In General.—Except as provided in subsection (d), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility (other than a Federal court facility), or attempts to do so, shall be imprisoned not more than 1 year.

“(b) Aggravated Offense.—Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal
facility, or attempts to do so, shall be imprisoned not more than 5 years.

“(c) WHERE KILLING RESULTS.—A person who kills any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon shall be punished as provided in subchapter A of chapter 10.

“(d) Subsection (a) does not apply to—

“(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

“(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

“(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

“(e) COURT FACILITY.—(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or at-
tempts to do so, shall be imprisoned not more than 2 years.

“(2) Paragraph (1) does not apply to conduct which is described in paragraph (1) or (2) of subsection (d).

“(f) DISCLAIMER.—Nothing in this section limits the power of a court of the United States to punish for contemt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

“(g) DEFINITIONS.—As used in this section:

“(1) The term ‘Federal facility’ means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

“(2) The term ‘dangerous weapon’ means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

“(3) The term ‘Federal court facility’ means the courtroom, judges’ chambers, witness rooms, jury deliberation rooms, attorney conference rooms,
prisoner holding cells, offices of the court clerks, the
United States attorney, and the United States mar-
shal, probation and parole offices, and adjoining cor-
ridors of any court of the United States.

“(h) POSTING.—Notice of the provisions of sub-
sections (a) and (b) shall be posted conspicuously at each
public entrance to each Federal facility, and notice of sub-
section (e) shall be posted conspicuously at each public
entrance to each Federal court facility, and no person
shall be convicted of an offense under subsection (a) or
(e) with respect to a Federal facility if such notice is not
so posted at such facility, unless such person had actual
notice of subsection (a) or (e), as the case may be.

“§ 593. Prohibition on purchase, ownership, or pos-
session of body armor by violent felons

“(a) IN GENERAL.—Except as provided in subsection
(b), it shall be unlawful for a person to purchase, own,
or possess body armor, if that person has been convicted
of a felony that is—

“(1) a crime of violence; or

“(2) an offense under State law that would con-
stitute a crime of violence under paragraph (1) if it
occurred within the special maritime and territorial
jurisdiction of the United States.

“(b) AFFIRMATIVE DEFENSE.—
“(1) IN GENERAL.—It shall be an affirmative defense under this section that—

“(A) the defendant obtained prior written certification from his or her employer that the defendant’s purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

“(B) the use and possession by the defendant were limited to the course of such performance.

“(2) EMPLOYER.—In this subsection, the term ‘employer’ means any other individual employed by the defendant’s business that supervises defendant’s activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.

“SUBCHAPTER C—EXPLOSIVES

“601. Prohibited transactions involving nuclear materials.

“§ 601. Prohibited transactions involving nuclear materials

“(a) OFFENSE.—Whoever, if one of the circumstances described in subsection (c) of this section occurs—

“(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of,
or disperses any nuclear material or nuclear byproduct material and—

“(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property or to the environment; or

“(B) circumstances exist, or have been represented to the defendant to exist, that are likely to cause the death or serious bodily injury to any person, or substantial damage to property or to the environment;

“(2) with intent to deprive another of nuclear material or nuclear byproduct material, knowingly—

“(A) takes and carries away nuclear material or nuclear byproduct material of another without authority;

“(B) makes an unauthorized use, disposition, or transfer, of nuclear material or nuclear byproduct material belonging to another; or

“(C) uses fraud and thereby obtains nuclear material or nuclear byproduct material belonging to another;

“(3) knowingly—

“(A) uses force; or
“(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury; and thereby takes nuclear material or nuclear byproduct material belonging to another from the person or presence of any other;

“(4) intentionally intimidates any person and thereby obtains nuclear material or nuclear byproduct material belonging to another;

“(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

“(6) knowingly threatens to use nuclear material or nuclear byproduct material to cause death or serious bodily injury to any person or substantial damage to property or to the environment under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

“(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

“(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the par-
ties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

“(b) PUNISHMENT.—The punishment for an offense under—

“(1) paragraphs (1) through (7) of subsection (a) of this section is—

“(A) a fine under this title; and

“(B) imprisonment—

“(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

“(ii) for not more than 20 years in any other case; and

“(2) paragraph (8) of subsection (a) of this section is—
“(A) a fine under this title; and

“(B) imprisonment—

“(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

“(ii) for not more than 10 years in any other case.

“(e) CIRCUMSTANCES.—The circumstances referred to in subsection (a) of this section are that—

“(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

“(2) an offender or a victim is—

“(A) a national of the United States; or

“(B) a United States corporation or other legal entity;

“(3) after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States;

“(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nu-
clear material or nuclear byproduct material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates beginning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States; or

“(5) either—

“(A) the governmental entity under subsection (a)(5) is the United States; or

“(B) the threat under subsection (a)(6) is directed at the United States.

“(d) ASSISTANCE IN ACCORDANCE WITH CHAPTER 18 OF TITLE 10.—The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel.

“(e) OTHER ASSISTANCE.—

“(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Not-
withstanding section 292, the Secretary of Defense may, in accordance with other applicable law, pro-
vide such assistance to the Attorney General if—

“(A) an emergency situation exists (as
jointly determined by the Attorney General and
the Secretary of Defense in their discretion); and

“(B) the provision of such assistance will
not adversely affect the military preparedness
of the United States (as determined by the Sec-
retary of Defense in such Secretary’s discre-

“(2) As used in this subsection, the term ‘emer-
gency situation’ means a circumstance—

“(A) that poses a serious threat to the in-
terests of the United States; and

“(B) in which—

“(i) enforcement of the law would be
seriously impaired if the assistance were
not provided; and

“(ii) civilian law enforcement per-
sonnel are not capable of enforcing the
law.

“(3) Assistance under this section may in-
clude—
“(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

“(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

“(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

“(5) The Attorney General may delegate the Attorney General’s function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘nuclear material’ means material containing any—

“(A) plutonium;

“(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

“(C) enriched uranium, defined as uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio
of the sum of those isotopes to the isotope 238
is greater than the ratio of the isotope 235 to
the isotope 238 occurring in nature; or

“(D) uranium 233;
“(2) the term ‘nuclear byproduct material’
means any material containing any radioactive iso-
tope created through an irradiation process in the
operation of a nuclear reactor or accelerator;
“(3) the term ‘international organization’
means a public international organization designated
as such pursuant to section 1 of the International
Organizations Immunities Act or a public organiza-
tion created pursuant to treaty or other agreement
under international law as an instrument through or
by which two or more foreign governments engage in
some aspect of their conduct of international affairs;
and
“(4) the term ‘United States corporation or
other legal entity’ means any corporation or other
entity organized under the laws of the United States
or any State of the United States.

“SUBCHAPTER D—IMPORTATION, MANUFAC-
TURE, DISTRIBUTION, AND STORAGE OF
EXPLOSIVE MATERIALS

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“§ 611. Definitions

In this subchapter the following definitions apply:

“(1) The term ‘explosive materials’ means explosives, blasting agents, and detonators.

“(2) Except for the purposes of subsections (d), (e), (f), (g), (h), (i), and (j) of section 614, the term ‘explosives’ means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters. The Attorney General shall publish and revise at least annually in the Federal Register a list of these and any additional explosives which he determines to be within the coverage of this subchapter. For the purposes of subsections (d), (e), (f), (g), (h), and (i) of section 614, the term ‘explosive’ is defined in subsection (j) of such section 614.

“(3) The term ‘blasting agent’ means any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an ex-
plosive, if the finished product, as mixed for use or
shipment, cannot be detonated by means of a num-
bered 8 test blasting cap when unconfined.

“(4) The term ‘detonator’ means any device
containing a detonating charge that is used for initi-
at ing detonation in an explosive; the term includes
electric blasting caps of instantaneous and delay
types, blasting caps for use with safety fuses and
detonating-cord delay connectors.

“(5) The term ‘importer’ means any person en-
gaged in the business of importing or bringing explo-
sive materials into the United States for purposes of
sale or distribution.

“(6) The term ‘manufacturer’ means any per-
son engaged in the business of manufacturing explo-
sive materials for purposes of sale or distribution or
for that person’s own use.

“(7) The term ‘dealer’ means any person en-
gaged in the business of distributing explosive mate-
rials at wholesale or retail.

“(8) The term ‘permittee’ means any user of
explosives for a lawful purpose, who has obtained ei-
ther a user permit or a limited permit under this
chapter.

“(10) The term ‘crime punishable by imprisonment for a term exceeding one year’ does not mean (A) any Federal or State offenses pertaining to anti-trust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Attorney General may by regulation designate, or (B) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

“(11) The term ‘licensee’ means any importer, manufacturer, or dealer licensed under this chapter.

“(12) The term ‘distribute’ means sell, issue, give, transfer, or otherwise dispose of.


“(14) The term ‘detection agent’ means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufac-
uring process in such a manner as to achieve homo-
geneous distribution in the finished explosive, includ-
ing—

“(A) Ethylene glycol dinitrate (EGDN),
C$_2$H$_4$(NO$_3$)$_2$, molecular weight 152, when the
minimum concentration in the finished explosive
is 0.2 percent by mass;

“(B) 2,3–Dimethyl-2,3-dinitrobutane
(DMNB);

“(C) Para-Mononitrotoluene (p-MNT),
C$_7$H$_7$NO$_2$, molecular weight 137, when the min-
imum concentration in the finished explosive is
0.5 percent by mass;

“(D) Ortho-Mononitrotoluene (o-MNT),
C$_7$H$_7$NO$_2$, molecular weight 137, when the minimum
concentration in the finished explosive is 0.5 percent
by mass; and

“(E) any other substance in the concentra-
tion specified by the Attorney General, after
consultation with the Secretary of State and the
Secretary of Defense, that has been added to
the table in part 2 of the Technical Annex to
the Convention on the Marking of Plastic Ex-
plosives.
“(15) The term ‘plastic explosive’ means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form has a vapor pressure less than 10^{-4} Pa at a temperature of 25°C, is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.

“(16) The term ‘alien’ means any person who is not a citizen or national of the United States.

“(17) The term ‘responsible person’ means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.

“(18) The term ‘Indian tribe’ has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994.

§ 612. Unlawful Acts

“(a) REGULATORY REQUIREMENTS.—It shall be unlawful for any person—

“(1) to engage in the business of importing, manufacturing, or dealing in explosive materials without a license issued under this chapter;

“(2) knowingly to withhold information or to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or mis-
represented identification, intended or likely to de-
ceive for the purpose of obtaining explosive mate-
rials, or a license, permit, exemption, or relief from
disability under this chapter;

“(3) other than a licensee or permittee know-
ingly—

“(A) to transport, ship, cause to be trans-
ported, or receive any explosive materials; or

“(B) to distribute explosive materials to
any person other than a licensee or permittee;
or

“(4) who is a holder of a limited permit—

“(A) to transport, ship, cause to be trans-
ported, or receive in interstate or foreign com-
merce any explosive materials; or

“(B) to receive explosive materials from a
licensee or permittee, whose premises are lo-
cated outside the State of residence of the lim-
ited permit holder, or on more than 6 separate
occasions, during the period of the permit, to
receive explosive materials from 1 or more li-
censees or permittees whose premises are lo-
cated within the State of residence of the lim-
ited permit holder.
“(b) Distribution to Unregulated Persons.—It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

“(1) a licensee;

“(2) a holder of a user permit; or

“(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.

“(c) Distribution in Violation of State Requirements.—It shall be unlawful for any licensee to distribute explosive materials to any person who the licensee has reason to believe intends to transport such explosive materials into a State where the purchase, possession, or use of explosive materials is prohibited or which does not permit its residents to transport or ship explosive materials into it or to receive explosive materials in it.

“(d) Distribution to Prohibited Classes of Persons.—It shall be unlawful for any person knowingly to distribute explosive materials to any individual who—

“(1) is under twenty-one years of age;

“(2) has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
“(3) is under indictment for a crime punishable by imprisonment for a term exceeding one year;
“(4) is a fugitive from justice;
“(5) is an unlawful user of or addicted to any controlled substance;
“(6) has been adjudicated a mental defective or who has been committed to a mental institution;
“(7) is an alien, other than an alien who—
“(A) is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act);
“(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act, or is in asylum status under section 208 of that Act, and—
“(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or
“(ii) is a person having the power to
direct or cause the direction of the man-
agement and policies of a corporation,
partnership, or association licensed pursu-
ant to section 613(a), and the shipping,
transporting, possession, or receipt of ex-
plosive materials is in furtherance of such
power;
“(C) is a member of a North Atlantic
Treaty Organization (NATO) or other friendly
foreign military force, as determined by the At-
torney General in consultation with the Sec-
retary of Defense, who is present in the United
States under military orders for training or
other military purpose authorized by the United
States and the shipping, transporting, possess-
ion, or receipt of explosive materials is in fur-
therance of the authorized military purpose; or
“(D) is lawfully present in the United
States in cooperation with the Director of Cen-
tral Intelligence, and the shipment, transpor-
tation, receipt, or possession of the explosive
materials is in furtherance of such cooperation;
“(8) has been discharged from the armed forces
under dishonorable conditions; or
“(9) having been a citizen of the United States, has renounced the citizenship of that person.

“(e) Distribution to Persons Prohibited by State Law From Possession.—It shall be unlawful for any licensee knowingly to distribute any explosive materials to any person in any State where the purchase, possession, or use by such person of such explosive materials would be in violation of any State law or any published ordinance applicable at the place of distribution.

“(f) Records.—It shall be unlawful for any licensee or permittee willfully to manufacture, import, purchase, distribute, or receive explosive materials without making such records as the Attorney General may by regulation require. Such records shall include a statement of intended use, the name, date, place of birth, social security number or taxpayer identification number, and place of residence of any natural person to whom explosive materials are distributed. If explosive materials are distributed to a corporation or other business entity, such records shall include the identity and principal and local places of business and the name, date, place of birth, and place of residence of the natural person acting as agent of the corporation or other business entity in arranging the distribution.

“(g) False Entry on Records.—It shall be unlawful for any licensee or permittee knowingly to make any
false entry in any record which he is required to keep pur-
suant to this section or regulations prescribed under sec-
tion 617.

“(h) Shipment and Other Matters Pertaining
To Stolen Explosive Materials.—It shall be unlawful
for any person to receive, possess, transport, ship, conceal,
store, barter, sell, dispose of, or pledge or accept as secu-
ry for a loan, any stolen explosive materials which are
moving as, which are part of, which constitute, or which
have been shipped or transported in, interstate or foreign
commerce, either before or after such materials were sto-
len, knowing or having reasonable cause to believe that
the explosive materials were stolen.

“(i) Possession and Other Conduct by Prohib-
ited Persons.—It shall be unlawful for any person—

“(1) who is under indictment for, or who has
been convicted in any court of, a crime punishable
by imprisonment for a term exceeding one year;

“(2) who is a fugitive from justice;

“(3) who is an unlawful user of or addicted to
any controlled substance;

“(4) who has been adjudicated as a mental de-
fective or who has been committed to a mental insti-
tution;

“(5) who is an alien, other than an alien who—
“(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act);

“(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act, or is in asylum status under section 208 of the Immigration and Nationality Act, and—

“(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Attorney General in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business; or

“(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of ex-
plosive materials is in furtherance of such
power;

“(C) is a member of a North Atlantic
Treaty Organization (NATO) or other friendly
foreign military force, as determined by the At-
torney General in consultation with the Sec-
retary of Defense, who is present in the United
States under military orders for training or
other military purpose authorized by the United
States and the shipping, transporting, posses-
sion, or receipt of explosive materials is in fur-
therance of the authorized military purpose; or

“(D) is lawfully present in the United
States in cooperation with the Director of Cen-
tral Intelligence, and the shipment, transpor-
tation, receipt, or possession of the explosive
materials is in furtherance of such cooperation;

“(6) who has been discharged from the armed
forces under dishonorable conditions; or

“(7) who, having been a citizen of the United
States, has renounced the citizenship of that person;

to ship or transport any explosive in or affect-
state or foreign commerce or to receive or possess any ex-
plosive which has been shipped or transported in or af-
flecting interstate or foreign commerce.
“(j) Storage Requirements.—It shall be unlawful for any person to store any explosive material in a manner not in conformity with regulations promulgated by the Attorney General. In promulgating such regulations, the Attorney General shall take into consideration the class, type, and quantity of explosive materials to be stored, as well as the standards of safety and security recognized in the explosives industry.

“(k) Failure To Report Theft or Loss.—It shall be unlawful for any person who has knowledge of the theft or loss of any explosive materials from his stock, to fail to report such theft or loss within twenty-four hours of discovery thereof, to the Attorney General and to appropriate local authorities.

“(l) Detection Agents Required for Manufacture of Plastic Explosives.—It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

“(m) Importation of Plastic Explosives Without Detection Agents.—

“(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.
“(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

“(n) Possession and Other Conduct With Regard to Plastic Explosives Without Detection Agents.—

“(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

“(2) This subsection does not apply to—

“(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported or brought into, or manufactured in the United States prior to the date of enactment of this subsection by any person
during the period beginning on that date and
ending 3 years after that date of enactment; or

“(B) the shipment, transportation, transfer, receipt, or possession of any plastic explo-
sive that was imported or brought into, or man-
ufactured in the United States prior to the date
of enactment of this subsection by or on behalf
of any agency of the United States performing
a military or police function (including any mili-
tary reserve component) or by or on behalf of
the National Guard of any State, not later than
15 years after the date of entry into force of
the Convention on the Marking of Plastic Ex-
plosives, with respect to the United States.

EXPLOSIVES, D E S T R U C T I V E D E V I C E S , A N D W E A P O N S O F
M A S S D E S T R U C T I O N . —

“(1) D E F I N I T I O N S . — I n t h i s s u b s e c t i o n —

“(A) the term ‘destructive device’ has the
same meaning as in section 581;

“(B) the term ‘explosive’ has the same
meaning as in section 614; and

“(C) the term ‘weapon of mass destruc-
tion’ has the same meaning as in section 271.
“(2) PROHIBITION.—It shall be unlawful for any person—

“(A) to teach or demonstrate the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute by any means information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, with the intent that the teaching, demonstration, or information be used for, or in furtherance of, an activity that constitutes a Federal crime of violence; or

“(B) to teach or demonstrate to any person the making or use of an explosive, a destructive device, or a weapon of mass destruction, or to distribute to any person, by any means, information pertaining to, in whole or in part, the manufacture or use of an explosive, destructive device, or weapon of mass destruction, knowing that such person intends to use the teaching, demonstration, or information for, or in furtherance of, an activity that constitutes a Federal crime of violence.
§ 613. Licenses and user permits

(a) REQUIREMENTS FOR APPLICATION.—An application for a user permit or limited permit or a license to import, manufacture, or deal in explosive materials shall be in such form and contain such information as the Attorney General shall by regulation prescribe, including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person. Each applicant for a license or permit shall pay a fee to be charged as set by the Attorney General, said fee not to exceed $50 for a limited permit and $200 for any other license or permit. Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.

(b) APPROVAL OF APPLICATION.—Upon the filing of a proper application and payment of the prescribed fee, and subject to this chapter and other applicable laws, the Attorney General shall issue to such applicant the appropriate license or permit if—
“(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 612(i);

“(2) the applicant has not willfully violated this subchapter or regulations issued under this subchapter;

“(3) the applicant has in a State premises from which he conducts or intends to conduct business;

“(4)(A) the Attorney General verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Attorney General determines appropriate, that the applicant has a place of storage for explosive materials which meets such standards of public safety and security against theft as the Attorney General by regulations shall prescribe; and

“(B) subparagraph (A) does not apply to an applicant for the renewal of a limited permit if the Attorney General has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant;

“(5) the applicant has demonstrated and certified in writing that he is familiar with all published
State laws and local ordinances relating to explosive materials for the location in which he intends to do business;

“(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 612(i); and

“(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.

“(c) TIME LIMIT FOR ACTION.—The Attorney General shall approve or deny an application within a period of 90 days for licenses and permits, beginning on the date such application is received by the Attorney General.

“(d) REVOCATION.—The Attorney General may revoke any license or permit issued under this section if in the opinion of the Attorney General the holder thereof has violated this subchapter or any rule or regulation prescribed under this subchapter, or has become ineligible to acquire explosive materials under section 612(d). The Attorney General’s action under this subsection may be reviewed only as provided in subsection (e)(2) of this section.

“(e) PROCEDURAL REQUIREMENTS.—
“(1) Any person whose application is denied or whose license or permit is revoked shall receive a written notice from the Attorney General stating the specific grounds upon which such denial or revocation is based. Any notice of a revocation of a license or permit shall be given to the holder of such license or permit prior to or concurrently with the effective date of the revocation.

“(2) If the Attorney General denies an application for, or revokes a license, or permit, he shall, upon request by the aggrieved party, promptly hold a hearing to review his denial or revocation. In the case of a revocation, the Attorney General may upon a request of the holder stay the effective date of the revocation. A hearing under this section shall be at a location convenient to the aggrieved party. The Attorney General shall give written notice of his decision to the aggrieved party within a reasonable time after the hearing. The aggrieved party may, within sixty days after receipt of the Secretary’s written decision, file a petition with the United States court of appeals for the district in which he resides or has his principal place of business for a judicial review of such denial or revocation, pursuant to sections 701 through 706 of title 5.
“(f) INSPECTIONS.—Licensees and holders of user permits shall make available for inspection at all reasonable times their records kept pursuant to this chapter or the regulations issued hereunder, and licensees and permittees shall submit to the Attorney General such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Attorney General may enter during business hours the premises (including places of storage) of any licensee or holder of a user permit, for the purpose of inspecting or examining (1) any records or documents required to be kept by such licensee or permittee, under this chapter or regulations issued under this chapter, and (2) any explosive materials kept or stored by such licensee or permittee at such premises. Upon the request of any State or any political subdivision thereof, the Attorney General may make available to such State or any political subdivision thereof, any information which he may obtain by reason of this subchapter with respect to the identification of persons within such State or political subdivision thereof, who have purchased or received explosive materials, together with a description of such explosive materials. The Attorney General may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the
time of renewal of such permit, a holder of a limited per-
mit, only as provided in subsection (b)(4).

“(g) Posting.—Licenses and user permits issued
under subsection (b) of this section shall be kept posted
and kept available for inspection on the premises covered
by the license and permit.

“(h) Employer May Request Determination
From Attorney General.—

“(1) If the Attorney General receives, from an
employer, the name and other identifying informa-
tion of a responsible person or an employee who will
be authorized by the employer to possess explosive
materials in the course of employment with the em-
ployer, the Attorney General shall determine whether
the responsible person or employee is one of the per-
sons described in any paragraph of section 612(i). In making the determination, the Attorney General
may take into account a letter or document issued
under paragraph (2).

“(2)(A) If the Attorney General determines
that the responsible person or the employee is not
one of the persons described in any paragraph of
section 612(i), the Attorney General shall notify the
employer in writing or electronically of the deter-
mination and issue, to the responsible person or em-
ployee, a letter of clearance, which confirms the determination.

“(B) If the Attorney General determines that the responsible person or employee is one of the persons described in any paragraph of section 612(i), the Attorney General shall notify the employer in writing or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

“(i) confirms the determination;

“(ii) explains the grounds for the determination;

“(iii) provides information on how the disability may be relieved; and

“(iv) explains how the determination may be appealed.

“(i) Furnishing of Samples.—

“(1) Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Attorney General, furnish—

“(A) samples of such explosive materials or ammonium nitrate;
“(B) information on chemical composition of those products; and

“(C) any other information that the Attorney General determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

“(2) The Attorney General shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.

§ 614. Penalties

“(a) Felonies.—Any person—

“(1) who violates any of subsections (a) through (i) or (l) through (o) of section 612 shall be imprisoned for not more than 10 years; and

“(2) violates subsection (p)(2) of section 612, shall be imprisoned not more than 20 years.

“(b) Misdemeanor.—Whoever violates any other provision of section 612 shall be imprisoned not more than one year.

“(c) Forfeiture.—

“(1) Any explosive materials involved or used or intended to be used in any violation of this subchapter or any other rule or regulation promulgated under this subchapter or any violation of any crimi-
nal law of the United States shall be subject to sei-
zure and forfeiture, and all provisions of the Internal
Revenue Code of 1986 relating to the seizure, for-
feiture, and disposition of firearms, as defined in
section 5845(a) of that Code, shall, so far as applic-
cable, extend to seizures and forfeitures under this
chapter.

“(2) Notwithstanding paragraph (1), in the
case of the seizure of any explosive materials for any
offense for which the materials would be subject to
forfeiture in which it would be impracticable or un-
safe to remove the materials to a place of storage or
would be unsafe to store them, the seizing officer
may destroy the explosive materials forthwith. Any
destruction under this paragraph shall be in the
presence of at least 1 credible witness. The seizing
officer shall make a report of the seizure and take
samples as the Attorney General may by regulation
prescribe.

“(3) Within 60 days after any destruction made
pursuant to paragraph (2), the owner of (including
any person having an interest in) the property so de-
stroyed may make application to the Attorney Gen-
eral for reimbursement of the value of the property.
If the claimant establishes to the satisfaction of the Attorney General that—

“(A) the property has not been used or involved in a violation of law; or

“(B) any unlawful involvement or use of the property was without the claimant’s knowledge, consent, or willful blindness,

the Attorney General shall make an allowance to the claimant not exceeding the value of the property destroyed.

“(d) TRANSPORT WITH INTENT.—Whoever transports or receives, or attempts to transport or receive, in interstate or foreign commerce any explosive with the knowledge or intent that it will be used to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property, shall be imprisoned for not more than ten years; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not more than twenty years; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be subject
to imprisonment for any term of years, or to the death penalty or to life imprisonment.

“(e) Threats.—Whoever, through the use of the mail, telephone, telegraph, or other instrument of interstate or foreign commerce, or in or affecting interstate or foreign commerce, willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made, to kill, injure, or intimidate any individual or unlawfully to damage or destroy any building, vehicle, or other real or personal property by means of fire or an explosive shall be imprisoned for not more than 10 years.

“(f) Malicious Damage to Government Property.—

“(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance, shall be imprisoned for not less than 5 years and not more than 20 years.
“(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct, directly or proximately causes personal injury or creates a substantial risk of injury to any person, including any public safety officer performing duties, shall be imprisoned for not less than 7 years and not more than 40 years.

“(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be subject to the death penalty, or imprisoned for not less than 20 years or for life.

“(g) POSSESSION AT AIRPORT.—

“(1) Except as provided in paragraph (2), whoever possesses an explosive in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or in any building in whole or in part owned, possessed, or used by, or leased to, the United States or any department or agency thereof, except with the written consent of the agency, department, or other person responsible for the management of such building or airport, shall be imprisoned for not more than five years.

“(2) This subsection does not apply to—
“(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

“(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Pipeline and Hazardous Materials Safety Administration for the handling of hazardous materials pursuant to chapter 51 of title 49.

“(h) USE IN CONNECTION WITH OTHER CRIMES.—Whoever—

“(1) uses fire or an explosive to commit any felony which may be prosecuted in a court of the United States, or

“(2) carries an explosive during the commission of any felony which may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for
10 years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for 20 years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.

“(i) Malicious Damange to Commerce-Related Property.—Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other real or personal property used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce shall be imprisoned for not less than 5 years and not more than 20 years; and if personal injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall be imprisoned for not less than 7 years and not more than 40 years; and if death results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this subsection, shall also be subject to imprisonment
for any term of years, or to the death penalty or to life
imprisonment.

“(j) DEFINITION.—For the purposes of subsections
(d), (e), (f), (g), (h), and (i) of this section and section
612(p)(2), the term ‘explosive’ means gunpowders, pow-
ders used for blasting, all forms of high explosives, blast-
ing materials, fuzes (other than electric circuit breakers),
detonators, and other detonating agents, smokeless pow-
ders, other explosive or incendiary devices within the
meaning of paragraph (4) of section 296, and any chem-
ical compounds, mechanical mixture, or device that con-
tains any oxidizing and combustible units, or other ingre-
dients, in such proportions, quantities, or packing that ig-
nition by fire, by friction, by concussion, by percussion,
or by detonation of the compound, mixture, or device or
any part thereof may cause an explosion.

“(k) THEFT RELATED TO COMMERCE.—A person
who steals any explosives materials which are moving as,
or are a part of, or which have moved in, interstate or
foreign commerce shall be imprisoned for not more than
10 years.

“(l) THEFT FROM LICENSEE OR PERMITTEE.—A
person who steals any explosive material from a licensed
importer, licensed manufacturer, or licensed dealer, or
from any permittee shall be imprisoned not more than 10 years.

“(m) CONSPIRACY.—A person who conspires to commit an offense under subsection (h) shall be imprisoned for any term of years not exceeding 20.

“(n) TRANSFER WITH KNOWLEDGE.—Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 584(c)(3)) or drug trafficking crime (as defined in section 584(c)(2)) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of an explosive material.

“(o) THEFT REPORTING REQUIREMENT.—

“(1) A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Attorney General not later than 24 hours after the discovery of the theft.

“(2) A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be imprisoned not more than 5 years.
§ 615. Exceptions; relief from disabilities

(a) EXCEPTIONS.—Except in the case of subsection (l), (m), (n), or (o) of section 612 and subsections (d), (e), (f), (g), (h), and (i) of section 614, this chapter does not apply to—

“(1) any aspect of the transportation of explosive materials via railroad, water, highway, or air which are regulated by the United States Department of Transportation and agencies thereof, and which pertain to safety;

“(2) the use of explosive materials in medicines and medicinal agents in the forms prescribed by the official United States Pharmacopeia, or the National Formulary;

“(3) the transportation, shipment, receipt, or importation of explosive materials for delivery to any agency of the United States or to any State or political subdivision thereof;

“(4) small arms ammunition and components thereof;

“(5) commercially manufactured black powder in quantities not to exceed fifty pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers, intended to be used solely for sporting, recreational, or cultural purposes in antique firearms as defined in section...
581(14), or in antique devices as exempted from the
term ‘destructive device’ in section 581(2);

“(6) the manufacture under the regulation of
the military department of the United States of ex-

plosive materials for, or their distribution to or stor-
age or possession by the military or naval services or
other agencies of the United States; or to arsenals,
navy yards, depots, or other establishments owned
by, or operated by or on behalf of, the United
States; and

“(7) the transportation, shipment, receipt, or
importation of display fireworks materials for deliv-
ery to a federally recognized Indian tribe or tribal
agency.

“(b) RELIEF FROM DISABILITIES.—

“(1) A person who is prohibited from shipping,
transporting, receiving, or possessing any explosive
under section 612(i) may apply to the Attorney Gen-
eral for relief from such prohibition.

“(2) The Attorney General may grant the relief
requested under paragraph (1) if the Attorney Gen-

eral determines that the circumstances regarding the
applicability of section 612(i), and the applicant’s
record and reputation, are such that the applicant
will not be likely to act in a manner dangerous to
public safety and that the granting of such relief is
not contrary to the public interest.

“(3) A licensee or permittee who applies for re-
lief, under this subsection, from the disabilities in-
curred under this chapter as a result of an indict-
ment for or conviction of a crime punishable by im-
prisonment for a term exceeding 1 year shall not be
barred by such disability from further operations
under the license or permit pending final action on
an application for relief filed pursuant to this sec-
tion.

“(c) AFFIRMATIVE DEFENSE.—

“(1) It is an affirmative defense against any
proceeding involving subsections (l) through (o) of
section 612 if the proponent proves by a preponder-
ance of the evidence that the plastic explosive—

“(A) consisted of a small amount of plastic
explosive intended for and utilized solely in law-
ful—

“(i) research, development, or testing
of new or modified explosive materials;

“(ii) training in explosives detection
or development or testing of explosives de-
tection equipment; or

“(iii) forensic science purposes; or
“(B) was plastic explosive that, within 3 years after the date of enactment of the Antiterrorism and Effective Death Penalty Act of 1996, was incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

“(2) In this subsection, the term ‘military device’ includes, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.

§616. Additional powers of the Attorney General

“(a) INSPECTIONS.—The Attorney General is authorized to inspect the site of any accident, or fire, in which there is reason to believe that explosive materials were involved, in order that if any such incident has been brought about by accidental means, precautions may be taken to
prevent similar accidents from occurring. In order to carry out the purpose of this subsection, the Attorney General is authorized to enter into or upon any property where explosive materials have been used, are suspected of having been used, or have been found in an otherwise unauthorized location. Nothing in this subchapter shall be construed as modifying or otherwise affecting in any way the investigative authority of any other Federal agency. In addition to any other investigatory authority they have with respect to violations of this subchapter, the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall have authority to conduct investigations with respect to violations of subsection (d), (e), (f), (g), (h), or (i) of section 614.

 ``(b) NATIONAL REPOSITORY.—The Attorney General is authorized to establish a national repository of information on incidents involving arson and the suspected criminal misuse of explosives. All Federal agencies having information concerning such incidents shall report the information to the Attorney General pursuant to such regulations as deemed necessary to carry out this subsection. The repository shall also contain information on incidents voluntarily reported to the Attorney General by State and local authorities.
“§ 617. Rules and regulations

“The administration of this subchapter shall be vested in the Attorney General. The Attorney General may prescribe such rules and regulations as he deems reasonably necessary to carry out this subchapter. The Attorney General shall give reasonable public notice, and afford to interested parties opportunity for hearing, before prescribing such rules and regulations.

“SUBCHAPTER E—BIOLOGICAL WEAPONS

“621. Prohibitions with respect to biological weapons.

“622. Requests for military assistance to enforce prohibition in certain emergencies.


“624. Variola virus.

“625. Seizure, forfeiture, and destruction.

“626. Injunctions.

“627. Definitions.

“§ 621. Prohibitions with respect to biological weapons

“(a) In General.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so shall be imprisoned for life or any term of years. There is extraterritorial jurisdiction over an offense under this section committed by or against a national of the United States.

“(b) Additional Offense.—Whoever knowingly possesses any biological agent, toxin, or delivery system
of a type or in a quantity that, under the circumstances,
is not reasonably justified by a prophylactic, protective,
bona fide research, or other peaceful purpose, shall be im-
prisoned not more than 10 years. In this subsection, the
terms ‘biological agent’ and ‘toxin’ do not encompass any
biological agent or toxin that is in its naturally occurring
environment, if the biological agent or toxin has not been
cultivated, collected, or otherwise extracted from its nat-
ural source.

“(c) DEFINITION.—For purposes of this section, the
term ‘for use as a weapon’ includes the development, pro-
duction, transfer, acquisition, retention, or possession of
any biological agent, toxin, or delivery system for other
than prophylactic, protective, bona fide research, or other
peaceful purposes.

“§622. Requests for military assistance to enforce
prohibition in certain emergencies

“The Attorney General may request the Secretary of
Defense to provide assistance under section 382 of title
10 in support of Department of Justice activities relating
to the enforcement of section 621 in an emergency situa-
tion involving a biological weapon of mass destruction. The
authority to make such a request may be exercised by an-
other official of the Department of Justice in accordance
with section 382(f)(2) of title 10.
§ 623. Possession by restricted persons

(a) In general.—(1) No restricted person shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.

(2) Whoever knowingly violates this section shall be imprisoned not more than 10 years, but the prohibition contained in this section does not apply with respect to any duly authorized United States governmental activity.

(b) Transfer to unregistered person.—

(1) Select agents.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be imprisoned for not more than 5 years.

(2) Certain other biological agents and toxins.—Whoever transfers a biological agent or
toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be imprisoned for not more than 5 years.

“(c) UNREGISTERED FOR POSSESSION.—

“(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be or imprisoned for not more than 5 years.

“(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be imprisoned for not more than 5 years.

“(d) DEFINITIONS.—As used in this section:
“(1) The term ‘select agent’ means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include any such biological agent or toxin that is in its naturally-occurring environment, if the biological agent or toxin has not been cultivated, collected, or otherwise extracted from its natural source.

“(2) The term ‘restricted person’ means an individual who—

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

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

“(C) is a fugitive from justice;

“(D) is an unlawful user of any controlled substance;

“(E) is an alien illegally or unlawfully in the United States;

“(F) has been adjudicated as a mental defective or has been committed to any mental institution;
“(G)(i) is an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country as to which the Secretary of State, pursuant to section 6(j) of the Export Administration Act of 1979, section 620A of chapter 1 of part M of the Foreign Assistance Act of 1961, or section 40(d) of chapter 3 of the Arms Export Control Act, has made a determination (that remains in effect) that such country has repeatedly provided support for acts of international terrorism, or (ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;

“(H) has been discharged from the Armed Services of the United States under dishonorable conditions; or

“(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act.
“(3) The term ‘alien’ has the same meaning as in section 101(a)(3) of the Immigration and Nacionality Act.

“(4) The term ‘lawfully admitted for permanent residence’ has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act.

“§ 624. Variola virus

“(a) UNLAWFUL CONDUCT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

“(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

“(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

“(1) the offense occurs in or affects interstate or foreign commerce;

“(2) the offense occurs outside of the United States and is committed by a national of the United States;
“(3) the offense is committed against a national of the United States while the national is outside the United States;

“(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

“(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

“(c) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Whoever violates subsection (a) shall be sentenced to a term of imprisonment not less than 25 years or to imprisonment for life.

“(2) OTHER CIRCUMSTANCES.—Whoever, in the course of a violation of subsection (a), uses or possesses and threatens to use, any item or items described in subsection (a), shall be imprisoned for not less than 30 years or imprisoned for life.

“(3) SPECIAL CIRCUMSTANCES.—If the death of another results from a person’s violation of sub-
section (a), the person shall be punished by imprison-
ment for life.

“(d) DEFINITION.—As used in this section, the term
‘variola virus’ means a virus that can cause human small-
pox or any derivative of the variola major virus that con-
tains more than 85 percent of the gene sequence of the
variola major virus or the variola minor virus.

“§ 625. Seizure, forfeiture, and destruction

“(a) IN GENERAL.—(1) Except as provided in para-
graph (2), the Attorney General may request the issuance,
in the same manner as provided for a search warrant, of
a warrant authorizing the seizure of any biological agent,

“(A) pertains to conduct prohibited under sec-
tion 621; or

“(B) is of a type or in a quantity that under
the circumstances has no apparent justification for
prophylactic, protective, or other peaceful purposes.

“(2) In exigent circumstances, seizure and destruc-
tion of any biological agent, toxin, or delivery system de-
scribed in subparagraphs (A) and (B) of paragraph (1)
may be made upon probable cause without the necessity
for a warrant.

“(b) PROCEDURE.—Property seized pursuant to sub-
section (a) shall be forfeited to the United States after
notice to potential claimants and an opportunity for a hearing. At such hearing, the Government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

“(c) Affirmative Defense.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

“(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

“(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

§ 626. Injunctions

“(a) In General.—The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 621;
“(2) the preparation, solicitation, attempt, threat, or conspiracy to engage in conduct prohibited under section 621; or

“(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

“(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) that—

“(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

“(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

“§ 627. Definitions

“As used in this chapter—

“(1) the term ‘biological agent’ means any microorganism (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or
any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of causing—

“(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

“(B) deterioration of food, water, equipment, supplies, or material of any kind; or

“(C) deleterious alteration of the environment;

“(2) the term ‘toxin’ means the toxic material or product of plants, animals, microorganisms (including bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—

“(A) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

“(B) any poisonous isomer or biological product, homolog, or derivative of such a substance;

“(3) the term ‘delivery system’ means—

“(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver
or disseminate a biological agent, toxin, or vector; or

"(B) any vector; and

"(4) the term ‘vector’ means a living organism, or molecule, including a recombinant or synthesized molecule, capable of carrying a biological agent or toxin to a host.

"SUBCHAPTER F—CHEMICAL WEAPONS

"§ 631. Prohibited activities

"(a) UNLAWFUL CONDUCT.—Except as provided in subsection (b), it shall be unlawful for any person knowingly—

"(1) to develop, produce, otherwise acquire, transfer directly or indirectly, receive, stockpile, retain, own, possess, or use, or threaten to use, any chemical weapon; or

"(2) to assist or induce, in any way, any person to violate paragraph (1).

"(b) EXEMPTED AGENCIES AND PERSONS.—

"(1) IN GENERAL.—Subsection (a) does not apply to the retention, ownership, possession, transfer, or receipt of a chemical weapon by a depart-
ment, agency, or other entity of the United States, or by a person described in paragraph (2), pending destruction of the weapon.

“(2) EXEMPTED PERSONS.—A person referred to in paragraph (1) is—

“(A) any person, including a member of the Armed Forces of the United States, who is authorized by law or by an appropriate officer of the United States to retain, own, possess, transfer, or receive the chemical weapon; or

“(B) in an emergency situation, any otherwise nonculpable person if the person is attempting to destroy or seize the weapon.

“(c) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

“(1) takes place in the United States;

“(2) takes place outside of the United States and is committed by a national of the United States;

“(3) is committed against a national of the United States while the national is outside the United States; or

“(4) is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States,
whether the property is within or outside the United States.

“§ 632. Penalties

“(a) Criminal Penalties.—

“(1) In general.—Whoever violates section 631 shall be imprisoned for any term of years.

“(2) Death penalty.—Whoever violates section 631 and by whose action the death of another person is the result shall be punished by death or imprisoned for life.

“(b) Civil Penalties.—

“(1) In general.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates section 631 and, upon proof of such violation by a preponderance of the evidence, such person shall be subject to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

“(2) Relation to other proceedings.—The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.
“(c) Reimbursement of Costs.—The court shall order any person convicted of an offense under subsection (a) to reimburse the United States for any expenses incurred by the United States incident to the seizure, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

§ 633. Individual self-defense devices

“This subchapter does not prohibit any individual self-defense device, including one using a pepper spray or chemical mace.

§ 634. Injunctions

“The United States may obtain in a civil action an injunction against—

“(1) the conduct prohibited under section 631 or 633; or

“(2) the preparation or solicitation to engage in conduct prohibited under section 631 or 634.
“§ 635. Requests for military assistance to enforce prohibition in certain emergencies

“The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 631 in an emergency situation involving a chemical weapon. The authority to make such a request may be exercised by another official of the Department of Justice in accordance with section 382(f)(2) of title 10.

“§ 636. Definitions

“In this chapter the following apply:

“(1) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

“(A) A toxic chemical and its precursors, except where intended for a purpose not prohibited under this chapter as long as the type and quantity is consistent with such a purpose.

“(B) A munition or device, specifically designed to cause death or other harm through toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device.

“(C) Any equipment specifically designed for use directly in connection with the employ-
ment of munitions or devices specified in sub-
paragraph (B).

“(2) Chemical weapons convention; con-
vention.—The terms ‘Chemical Weapons Conven-
tion’ and ‘Convention’ mean the Convention on the
Prohibition of the Development, Production, Stock-
piling and Use of Chemical Weapons and on Their
Destruction, opened for signature on January 13,
1993.

“(3) Key component of a binary or multi-
component chemical system.—The term ‘key
component of a binary or multicomponent chemical
system’ means the precursor which plays the most
important role in determining the toxic properties of
the final product and reacts rapidly with other
chemicals in the binary or multicomponent system.

“(4) Precursor.—

“(A) In general.—The term ‘precursor’
means any chemical reactant which takes part
at any stage in the production by whatever
method of a toxic chemical. The term includes
any key component of a binary or multicompo-
nent chemical system.

“(B) List of precursors.—Precursors
which have been identified for the application of
verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“(5) PURPOSES NOT PROHIBITED BY THIS CHAPTER.—The term ‘purposes not prohibited by this chapter’ means the following:

“(A) PEACEFUL PURPOSES.—Any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other activity.

“(B) PROTECTIVE PURPOSES.—Any purpose directly related to protection against toxic chemicals and to protection against chemical weapons.

“(C) UNRELATED MILITARY PURPOSES.—Any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm.

“(D) LAW ENFORCEMENT PURPOSES.—Any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.
“(6) TOXIC CHEMICAL.—

“(A) IN GENERAL.—The term ‘toxic chemical’ means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. The term includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

“(B) LIST OF TOXIC CHEMICALS.—Toxic chemicals which have been identified for the application of verification measures under Article VI of the Convention are listed in schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.

“CHAPTER 23—THEFT AND RELATED CRIMES

“SUBCHAPTER A—EMBEZZLEMENT AND THEFT

1. Public money, property or records.
2. Accounting generally for public money.
3. Officer or employee of United States converting property of another.
4. Theft, embezzlement, or misapplication by bank officer or employee.
5. Lending, credit, and insurance institutions.
6. Property mortgaged or pledged to farm credit agencies.
"647. Interstate or foreign shipments by carrier.
"648. Carrier’s funds derived from commerce.
"649. Within special maritime and territorial jurisdiction.
"650. Receiving stolen property within special maritime and territorial jurisdiction.
"651. Theft or embezzlement from employee benefit plan.
"652. Theft or embezzlement from employment and training funds; improper inducement.
"653. Theft or bribery concerning programs receiving Federal funds.
"654. Theft of major artwork.
"655. Theft or embezzlement in connection with health care.
"656. Embezzlement of labor organization assets.
"657. Theft of medical products.

§ 641. Public money, property or records

(a) OFFENSE.—Whoever—

(1) embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

(2) receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted; shall be imprisoned not more than ten years; but if the value of such property in the aggregate, combining amounts from all the counts for which the defendant is convicted in a single case, does not exceed the sum of $1,000, he shall be imprisoned not more than one year.
“(b) DEFINITION.—As used in this section, the term ‘value’ means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

§ 642. Accounting generally for public money

“Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement, and shall be or imprisoned not more than ten years; but if the amount embezzled does not exceed $1,000, he shall be imprisoned not more than one year.

§ 643. Officer or employee of United States converting property of another

“Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be imprisoned not more than ten years; but if the sum embezzled is $1,000 or less, he shall be imprisoned not more than one year.
§ 644. Theft, embezzlement, or misapplication by bank officer or employee

(a) OFFENSE.—Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25A of the Federal Reserve Act, or a receiver of a national bank, insured bank, branch, agency, or organization or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or knowingly misapplies any of the moneys, funds or credits of such bank, branch, agency, or organization or holding company or any moneys, funds, assets or securities intrusted to the custody or care of such bank, branch, agency, or organization, or holding company or to the custody or care of any such agent, officer, director, employee or receiver, shall be imprisoned not more than 30 years; but if the amount embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be imprisoned not more than one year.

(b) DEFINITIONS.—As used in this section—

(1) the term ‘member bank’ means any national bank, state bank, or bank and trust company
which has become a member of one of the Federal Reserve banks;

“(2) the term ‘insured bank’ means any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation;

“(3) the term ‘branch or agency of a foreign bank’ means a branch or agency described in paragraph (E) of the definition of financial institution in section 1; and

“(4) the term ‘depository institution holding company’ has the meaning given such term in section 3 of the Federal Deposit Insurance Act.

“§ 645. Lending, credit, and insurance institutions

“Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, any Federal home loan bank, the Federal Housing Finance Agency, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Cor-
poration, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution, other than an insured bank (as defined in section 644), the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, or any community development financial institution receiving financial assistance under the Riegle Community Development and Regulatory Improvement Act of 1994, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or knowingly misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be imprisoned not more than 30 years; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed $1,000, he shall be imprisoned not more than one year.

§ 646. Property mortgaged or pledged to farm credit agencies

“Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to,
or held by, the Farm Credit Administration, any Federal intermediate credit bank, or the Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any regional agricultural credit corporation, or any bank for cooperatives, shall be imprisoned not more than five years; but if the value of such property does not exceed $1,000, he shall be imprisoned not more than one year.

§647. Interstate or foreign shipments by carrier

“Whoever—

“(1) embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any pipeline system, railroad car, wagon, motortruck, trailer, or other vehicle, or from any tank or storage facility, station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air cargo container, air terminal, airport, aircraft terminal or air navigation facility, or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility, with intent to convert to his own use any goods or chattels moving as or which are a
part of or which constitute an interstate or foreign
shipment of freight, express, or other property;

“(2) buys or receives or has in his possession
any such goods or chattels, knowing the same to
have been embezzled or stolen;

“(3) embezzles, steals, or unlawfully takes, car-
ries away, or by fraud or deception obtains with in-
tent to convert to his own use any baggage which
shall have come into the possession of any common
carrier for transportation in interstate or foreign
commerce or breaks into, steals, takes, carries away,
or conceals any of the contents of such baggage, or
buys, receives, or has in his possession any such
baggage or any article therefrom of whatever nature,
knowing the same to have been embezzled or stolen;
or

“(4) embezzles, steals, or unlawfully takes by
any fraudulent device, scheme, or game, from any
railroad car, bus, vehicle, steamboat, vessel, or air-
craft operated by any common carrier moving in
interstate or foreign commerce or from any pas-
senger thereon any money, baggage, goods, or chatt-
tels, or whoever buys, receives, or has in his posses-
sion any such money, baggage, goods, or chattels,
knowing the same to have been embezzled or stolen;
shall be imprisoned not more than ten years, but if the amount or value of such money, baggage, goods, or chattels does not exceed $1,000, shall be imprisoned not more than one year. If the offense involves a pre-retail medical product (as defined in section 657), it shall be punished under section 657 unless the penalties provided for under this section are greater.

“§ 648. Carrier’s funds derived from commerce

“(a) Offense.—Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motortruck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or knowingly misapplies, or knowingly permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or knowingly converts the same to his own use or to the use of another, shall be imprisoned not more than ten years.

“(b) Venue.—The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defend-
ant may have taken or had possession of such moneys, funds, credits, securities, property or assets.

“§ 649. Within special maritime and territorial jurisdiction

“Whoever, within the special maritime and territorial jurisdiction of the United States, takes and carries away, with intent to steal or purloin, any personal property of another shall, if the property taken is of a value exceeding $1,000, or is taken from the person of another, be imprisoned not more than five years, and in all other cases, imprisoned not more than one year.

“§ 650. Receiving stolen property within special maritime and territorial jurisdiction

“Whoever, within the special maritime and territorial jurisdiction of the United States, buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be imprisoned not more than three years, but if the amount or value of thing so taken, stolen or embezzled does not exceed $1,000, the offender shall be imprisoned not more than one year.
“§ 651. Theft or embezzlement from employee benefit plan

“(a) Offense.—Whoever embezzles, steals, or unlawfully and knowingly abstracts or converts any property of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be imprisoned not more than five years.

“(b) Definition.—As used in this section, the term ‘any employee welfare benefit plan or employee pension benefit plan’ means any employee benefit plan subject to any provision of title I of the Employee Retirement Income Security Act of 1974.

“§ 652. Theft or embezzlement from employment and training funds; improper inducement

“(a) Theft or Embezzlement From Employment and Training Funds.—Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 knowingly enrolls an ineligible participant, embezzles, misapplies, steals, or obtains by fraud any property that is the subject of a financial assistance agreement or contract pursuant to such Act shall be imprisoned for not more than 2 years, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed

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$1,000, the offender shall be imprisoned not more than 1 year.

“(b) Improper Inducement.—Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998 induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be imprisoned not more than 1 year.

“§ 653. Theft or bribery concerning programs receiving Federal funds

“(a) Offense.—Whoever, as made applicable by subsection (b)—

“(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

“(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts or intentionally misapplies, property that—

“(i) is valued at $5,000 or more, and

“(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or
“(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

“(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;

shall be imprisoned not more than 10 years.

“(b) APPLICABILITY.—Subsection (a) applies if the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance.

“(c) EXCLUSION.—This section does not apply to bona fide salary, wages, fees, or other compensation paid,
or expenses paid or reimbursed, in the usual course of business.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘agent’ means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative;

“(2) the term ‘government agency’ means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program;

“(3) the term ‘local’ means of or pertaining to a political subdivision within a State; and

“(4) the term ‘in any one-year period’ means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include
time both before and after the commission of the of-
fense.

“§ 654. Theft of major artwork

“(a) Offenses.—A person who—

“(1) steals or obtains by fraud from the care,
custody, or control of a museum any object of cul-
tural heritage; or

“(2) knowing that an object of cultural heritage
has been stolen or obtained by fraud, if in fact the
object was stolen or obtained from the care, custody,
or control of a museum (whether or not that fact is
known to the person), receives, conceals, exhibits, or
disposes of the object,

shall be imprisoned not more than 10 years.

“(b) Definitions.—In this section—

“(1) the term ‘museum’ means an organized
and permanent institution, the activities of which af-
fect interstate or foreign commerce, that—

“(A) is situated in the United States;

“(B) is established for an essentially edu-
cational or aesthetic purpose;

“(C) has a professional staff; and

“(D) owns, utilizes, and cares for tangible
objects that are exhibited to the public on a
regular schedule; and
‘(2) the term ‘object of cultural heritage’
means an object that is—

‘(A) over 100 years old and worth in ex-
cess of $5,000; or

‘(B) worth at least $100,000.

§ 655. Theft or embezzlement in connection with
health care

‘Whoever knowingly embezzles, steals, or otherwise
without authority converts or intentionally misapplies any
of the moneys, funds, securities, premiums, credits, prop-
erty, or other assets of a health care benefit program, shall
be imprisoned not more than 10 years, but if the value
of such property does not exceed the sum of $100 the of-
fender shall be imprisoned not more than one year.

§ 656. Embezzlement of labor organization assets

‘(a) OFFENSE.—Whoever, being an officer or em-
ployee of a labor organization, embezzles, steals, or unlaw-
fully and knowingly abstracts or converts any of the prop-
erty of the organization shall be imprisoned for not more
than five years.

‘(b) DEFINITION.—As used in this section the term
‘labor organization’ has the meaning given that term in
the National Labor Relations Act.
§ 657. Theft of medical products

(a) PROHIBITED CONDUCT.—Whoever, in, or using any means or facility of, interstate or foreign commerce—

(1) embezzles, steals, or by fraud or deception obtains, or knowingly and unlawfully takes, carries away, or conceals a pre-retail medical product;

(2) knowingly and falsely makes, alters, forges, or counterfeits the labeling or documentation (including documentation relating to origination or shipping) of a pre-retail medical product;

(3) possesses, transports, or traffics in a pre-retail medical product that was involved in a violation of paragraph (1) or (2);

(4) with intent to defraud, buys, or otherwise obtains, a pre-retail medical product that has expired or been stolen; or

(5) with intent to defraud, sells, or distributes, a pre-retail medical product that is expired or stolen; shall be punished as provided in subsection (c) and be subject to the other sanctions provided in this section.

(b) AGGRAVATED OFFENSES.—An offense under this section is an aggravated offense if—

(1) the defendant is employed by, or is an agent of, an organization in the supply chain for the pre-retail medical product; or

(2) the violation—
“(A) involves the use of violence, force, or a threat of violence or force;

“(B) involves the use of a deadly weapon;

“(C) results in serious bodily injury or death, including serious bodily injury or death resulting from the use of the medical product involved; or

“(D) is subsequent to a prior conviction for an offense under this section.

“(c) CRIMINAL PENALTIES.—Whoever violates subsection (a)—

“(1) if the offense is an aggravated offense under subsection (b)(2)(C), shall be fined under this title or imprisoned not more than 30 years, or both;

“(2) if the value of the medical products involved in the offense is $5,000 or greater, shall be fined under this title, imprisoned for not more than 15 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 20 years; and

“(3) in any other case, shall be fined under this title, imprisoned for not more than 3 years, or both, but if the offense is an aggravated offense other than one under subsection (b)(2)(C), the maximum term of imprisonment is 5 years.
“(d) CIVIL PENALTIES.—Whoever violates subsection (a) is subject to a civil penalty in an amount not more than the greater of—

“(1) three times the economic loss attributable to the violation; or

“(2) $1,000,000.

“(e) DEFINITIONS.—In this section—

“(1) the term ‘pre-retail medical product’ means a medical product that has not yet been made available for retail purchase by a consumer;

“(2) the term ‘medical product’ means a drug, biological product, device, medical food, or infant formula;

“(3) the terms ‘device’, ‘drug’, ‘infant formula’, and ‘labeling’ have, respectively, the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act;

“(4) the term ‘biological product’ has the meaning given the term in section 351 of the Public Health Service Act;

“(5) the term ‘medical food’ has the meaning given the term in section 5(b) of the Orphan Drug Act; and

“(6) the term ‘supply chain’ includes manufacturer, wholesaler, repacker, own-labeled distributor,
private-label distributor, jobber, broker, drug trader,
transportation company, hospital, pharmacy, or se-
curity company.

“SUBCHAPTER B—STOLEN PROPERTY

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§ 670. Definitions for subchapter

“The following definitions apply in this subchapter:

“(1) The term ‘aircraft’ means any contrivance
now known or hereafter invented, used, or designed
for navigation of or for flight in the air.

“(2) The term ‘money’ means the legal tender
of the United States or of any foreign country, or
any counterfeit thereof.

“(3) The term ‘motor vehicle’ means an auto-
mobile, automobile truck, automobile wagon, motor-
cycle, or any other self-propelled vehicle designed for
running on land but not on rails.
“(4) The term ‘securities’ means any note, stock certificate, bond, debenture, check, draft, warrant, traveler’s check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; valid or blank motor vehicle title; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a ‘security’, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing.

“(5) The term ‘tax stamp’ means any tax stamp, tax token, tax meter imprint, or any other form of evidence of an obligation running to a State, or evidence of the discharge thereof.
“(6) The term ‘value’ means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof.

“(7) The term ‘vessel’ means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.

§ 671. Transportation of stolen vehicles

“Whoever transports in interstate or foreign commerce a motor vehicle, vessel, or aircraft, knowing the same to have been stolen, shall be imprisoned not more than 10 years.

§ 672. Sale or receipt of stolen vehicles

“Whoever receives, possesses, conceals, stores, barters, sells, or disposes of any motor vehicle, vessel, or aircraft, which has crossed a State or United States boundary after being stolen, knowing the same to have been stolen, shall be imprisoned not more than 10 years.

§ 673. Transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting

“Whoever—
“(1) transports, transmits, or transfers in inter-state or foreign commerce any goods, wares, merchandise, securities or money, of the value of $5,000 or more, knowing the same to have been stolen, converted or taken by fraud;

“(2) having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transports or causes to be transported, or induces any person or persons to travel in, or to be transported in inter-state or foreign commerce in the execution or concealment of a scheme or artifice to defraud that person or those persons of money or property having a value of $5,000 or more;

“(3) with unlawful intent, transports in inter-state or foreign commerce any falsely made, forged, altered, or counterfeited securities or tax stamps, knowing the same to have been falsely made, forged, altered, or counterfeited;

“(4) with unlawful intent, transports in inter-state or foreign commerce any traveler’s check bearing a forged countersignature;

“(5) with unlawful intent, transports in inter-state or foreign commerce, any tool, implement, or
thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security or tax stamps, or any part thereof; or

“(6) transports, transmits, or transfers in interstate or foreign commerce any veterans’ memorial object, knowing the same to have been stolen, converted or taken by fraud;

shall be imprisoned not more than ten years. If the offense involves a pre-retail medical product (as defined in section 657), it shall be punished under section 657 unless the penalties provided for the offense under this section are greater. If the offense involves the transportation, transmission, or transfer in interstate or foreign commerce of veterans’ memorial objects with a value, in the aggregate, of less than $1,000, the defendant shall be fined under this title or imprisoned not more than one year, or both. For purposes of this section the term ‘veterans’ memorial object’ means a grave marker, headstone, monument, or other object, intended to permanently honor a veteran or mark a veteran’s grave, or any monument that signifies an event of national military historical significance.

“§674. Sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps

“Whoever—
“(1) receives, possesses, conceals, stores, bar-
ters, sells, or disposes of any goods, wares, or mer-
chandise, securities, or money of the value of $5,000
or more, or pledges or accepts as security for a loan
any goods, wares, or merchandise, or securities, of
the value of $500 or more, which have crossed a
State or United States boundary after being stolen,
unlawfully converted, or taken, knowing the same to
have been stolen, unlawfully converted, or taken;

“(2) receives, possesses, conceals, stores, bar-
ters, sells, or disposes of any falsely made, forged,
altered, or counterfeited securities or tax stamps, or
pledges or accepts as security for a loan any falsely
made, forged, altered, or counterfeited securities or
tax stamps, moving as, or which are a part of, or
which constitute interstate or foreign commerce,
knowing the same to have been so falsely made,
forged, altered, or counterfeited;

“(3) receives in interstate or foreign commerce,
or conceals, stores, barters, sells, or disposes of, any
tool, implement, or thing used or intended to be
used in falsely making, forging, altering, or counter-
feiting any security or tax stamp, or any part there-
of, moving as, or which is a part of, or which con-
stitutes interstate or foreign commerce, knowing
that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security or tax stamp, or any part thereof; or

“(4) receives, possesses, conceals, stores, bar- ters, sells, or disposes of any veterans’ memorial ob- ject which has crossed a State or United States boundary after being stolen, unlawfully converted, or taken, knowing the same to have been stolen, unlaw- fully converted, or taken;

shall be imprisoned not more than ten years. If the offense involves a pre-retail medical product (as defined in section 657), it shall be punished under section 657 unless the penalties provided for the offense under this section are greater. If the offense involves the receipt, possession, con- cealment, storage, barter, sale, or disposal of veterans' me- morial objects with a value, in the aggregate, of less than $1,000, the defendant shall be fined under this title or imprisoned not more than one year, or both. For purposes of this section the term ‘veterans’ memorial object’ means a grave marker, headstone, monument, or other object, in- tended to permanently honor a veteran or mark a vet- eran’s grave, or any monument that signifies an event of national military historical significance.
§ 675. Trafficking in counterfeit labels, illicit labels, or counterfeit documentation or packaging

(a) OFFENSE.—Whoever, as made applicable by subsection (c), knowingly traffics in—

(1) a counterfeit label or illicit label affixed to, enclosing, or accompanying, or designed to be affixed to, enclose, or accompany—

(A) a phonorecord;

(B) a copy of a computer program;

(C) a copy of a motion picture or other audiovisual work;

(D) a copy of a literary work;

(E) a copy of a pictorial, graphic, or sculptural work;

(F) a work of visual art; or

(G) documentation or packaging; or

(2) counterfeit documentation or packaging,

shall be imprisoned for not more than 5 years.

(b) DEFINITIONS.—As used in this section—

(1) the term ‘counterfeit label’ means an identifying label or container that appears to be genuine, but is not;

(2) the term ‘traffic’ has the meaning given that term in section 680;
“(3) the terms ‘copy’, ‘phonorecord’, ‘motion picture’, ‘computer program’, ‘audiovisual work’, ‘literary work’, ‘pictorial, graphic, or sculptural work’, ‘sound recording’, ‘work of visual art’, and ‘copyright owner’ have, respectively, the meanings given those terms in section 101 (relating to definitions) of title 17;

“(4) the term ‘illicit label’ means a genuine certificate, licensing document, registration card, or similar labeling component—

“(A) that is used by the copyright owner to verify that a phonorecord, a copy of a computer program, a copy of a motion picture or other audiovisual work, a copy of a literary work, a copy of a pictorial, graphic, or sculptural work, a work of visual art, or documentation or packaging is not counterfeit or infringing of any copyright; and

“(B) that is, without the authorization of the copyright owner—

“(i) distributed or intended for distribution not in connection with the copy, phonorecord, or work of visual art to which such labeling component was intended to
be affixed by the respective copyright owner; or

“(ii) in connection with a genuine certificate or licensing document, knowingly falsified in order to designate a higher number of licensed users or copies than authorized by the copyright owner, unless that certificate or document is used by the copyright owner solely for the purpose of monitoring or tracking the copyright owner’s distribution channel and not for the purpose of verifying that a copy or phonorecord is noninfringing;

“(5) the term ‘documentation or packaging’ means documentation or packaging, in physical form, for a phonorecord, copy of a computer program, copy of a motion picture or other audiovisual work, copy of a literary work, copy of a pictorial, graphic, or sculptural work, or work of visual art; and

“(6) the term ‘counterfeit documentation or packaging’ means documentation or packaging that appears to be genuine, but is not.

“(c) APPLICATION.—Subsection (a) applies if—
“(1) the offense is committed within the special maritime and territorial jurisdiction of the United States or within the special aircraft jurisdiction of the United States (as defined in section 46501 of title 49);

“(2) the mail or a facility of interstate or foreign commerce is used or intended to be used in the commission of the offense;

“(3) the counterfeit label or illicit label is affixed to, encloses, or accompanies, or is designed to be affixed to, enclose, or accompany—

“(A) a phonorecord of a copyrighted sound recording or copyrighted musical work;

“(B) a copy of a copyrighted computer program;

“(C) a copy of a copyrighted motion picture or other audiovisual work;

“(D) a copy of a literary work;

“(E) a copy of a pictorial, graphic, or sculptural work;

“(F) a work of visual art; or

“(G) copyrighted documentation or packaging; or

“(4) the counterfeited documentation or packaging is copyrighted.
“(d) CIVIL REMEDIES.—

“(1) IN GENERAL.—Any copyright owner who is injured, or is threatened with injury, by a violation of subsection (a) may bring a civil action in an appropriate United States district court.

“(2) DISCRETION OF COURT.—In any action brought under paragraph (1), the court—

“(A) may grant 1 or more temporary or permanent injunctions on such terms as the court determines to be reasonable to prevent or restrain a violation of subsection (a);

“(B) at any time while the action is pending, may order the impounding, on such terms as the court determines to be reasonable, of any article that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in a violation of subsection (a); and

“(C) may award to the injured party—

“(i) reasonable attorney fees and costs; and

“(ii)(I) actual damages and any additional profits of the violator, as provided in paragraph (3); or
“(II) statutory damages, as provided
in paragraph (4).

“(3) Actual damages and profits.—

“(A) In general.—The injured party is
entitled to recover—

“(i) the actual damages suffered by
the injured party as a result of a violation
of subsection (a), as provided in subpara-
graph (B) of this paragraph; and

“(ii) any profits of the violator that
are attributable to a violation of subsection
(a) and are not taken into account in com-
puting the actual damages.

“(B) Calculation of damages.—The
court shall calculate actual damages by multi-
plying—

“(i) the value of the phonorecords,
copies, or works of visual art which are, or
are intended to be, affixed with, enclosed
in, or accompanied by any counterfeit la-
bel, illicit labels, or counterfeit docu-
mentation or packaging, by

“(ii) the number of phonorecords, cop-
ies, or works of visual art which are, or are
intended to be, affixed with, enclosed in, or
accompanied by any counterfeit labels, illicit labels, or counterfeit documentation or packaging.

“(C) DEFINITION.—For purposes of this paragraph, the ‘value’ of a phonorecord, copy, or work of visual art is—

“(i) in the case of a copyrighted sound recording or copyrighted musical work, the retail value of an authorized phonorecord of that sound recording or musical work;

“(ii) in the case of a copyrighted computer program, the retail value of an authorized copy of that computer program;

“(iii) in the case of a copyrighted motion picture or other audiovisual work, the retail value of an authorized copy of that motion picture or audiovisual work;

“(iv) in the case of a copyrighted literary work, the retail value of an authorized copy of that literary work;

“(v) in the case of a pictorial, graphic, or sculptural work, the retail value of an authorized copy of that work; and
“(vi) in the case of a work of visual art, the retail value of that work.

“(4) Statutory damages.—The injured party may elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages for each violation of subsection (a) in a sum of not less than $2,500 or more than $25,000, as the court considers appropriate.

“(5) Subsequent violation.—The court may increase an award of damages under this subsection by 3 times the amount that would otherwise be awarded, as the court considers appropriate, if the court finds that a person has subsequently violated subsection (a) within 3 years after a final judgment was entered against that person for a violation of that subsection.

“(6) Limitation on actions.—A civil action may not be commenced under this subsection unless it is commenced within 3 years after the date on which the claimant discovers the violation of subsection (a).
§ 676. Criminal infringement of a copyright

(a) Section 677 Offenses in General.—Whoever violates section 677 shall be punished as provided in subsections (b), (c), and (d).

(b) Subsection (a)(1)(A) Offenses.—Whoever commits an offense under section 677(a)(1)(A)—

(1) shall be imprisoned not more than 5 years, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, which have a total retail value of more than $2,500;

(2) shall be imprisoned not more than 10 years if the offense is a felony and is a second or subsequent offense under subsection (a); and

(3) shall be imprisoned not more than 1 year in any other case.

(c) Subsection (a)(1)(B) Offenses.—Whoever commits an offense under section 677(a)(1)(B)—

(1) shall be imprisoned not more than 3 years, if the offense consists of the reproduction or distribution of 10 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of $2,500 or more;
“(2) shall be imprisoned not more than 6 years, or if the offense is a felony and is a second or subsequent offense under subsection (a); and

“(3) shall be imprisoned not more than 1 year, or if the offense consists of the reproduction or distribution of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000.

“(d) SUBSECTION (a)(1)(C) OFFENSES.—Whoever commits an offense under section 677(a)(1)(C)—

“(1) shall be imprisoned not more than 3 years;

“(2) shall be imprisoned not more than 5 years if the offense was committed for purposes of commercial advantage or private financial gain;

“(3) shall be imprisoned not more than 6 years if the offense is a second or subsequent offense; and

“(4) shall be imprisoned not more than 10 years if the offense is a second or subsequent offense under paragraph (2).

“(e) VICTIM IMPACT.—

“(1) IN GENERAL.—During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement
that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

“(2) Persons permitted to submit.—Persons permitted to submit victim impact statements shall include—

“(A) producers and sellers of legitimate works affected by conduct involved in the offense;

“(B) holders of intellectual property rights in such works; and

“(C) the legal representatives of such producers, sellers, and holders.

“(f) Definitions.—As used in this section—

“(1) the terms ‘phonorecord’ and ‘copies’ have, respectively, the meanings set forth in section 101 (relating to definitions) of title 17;

“(2) the terms ‘reproduction’ and ‘distribution’ refer to the exclusive rights of a copyright owner under clauses (1) and (3) respectively of section 106 (relating to exclusive rights in copyrighted works), as limited by sections 107 through 122, of title 17;

“(3) the term ‘financial gain’ has the meaning given the term in section 101 of title 17; and
“(4) the term ‘work being prepared for commercial distribution’ has the meaning given the term in section 677.

§ 677. Copyright infringement

“(a) CRIMINAL INFRINGEMENT.—

“(1) IN GENERAL.—Whoever knowingly infringes a copyright shall be punished as provided under section 676, if the infringement was committed—

“(A) for purposes of commercial advantage or private financial gain;

“(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than $1,000; or

“(C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution.

“(2) EVIDENCE.—For purposes of this subsection, evidence of reproduction or distribution of a
copyrighted work, by itself, shall not be sufficient to
establish knowing infringement of a copyright.

“(3) DEFINITION.—In this subsection, the term
‘work being prepared for commercial distribution’
means—

“(A) a computer program, a musical work,
a motion picture or other audiovisual work, or
a sound recording, if, at the time of unauthor-
ized distribution—

“(i) the copyright owner has a reason-
able expectation of commercial distribu-
tion; and

“(ii) the copies or phonorecords of the
work have not been commercially distrib-
uted; or

“(B) a motion picture, if, at the time of
unauthorized distribution, the motion picture—

“(i) has been made available for view-
ing in a motion picture exhibition facility;
and

“(ii) has not been made available in
copies for sale to the general public in the
United States in a format intended to per-
mit viewing outside a motion picture exhi-
bition facility.
“(b) Fraudulent Copyright Notice.—Whoever, with fraudulent intent, places on any article a notice of copyright or words of the same purport that such person knows to be false, or who, with fraudulent intent, publicly distributes or imports for public distribution any article bearing such notice or words that such person knows to be false, shall be fined not more than $2,500.

“(c) Fraudulent Removal of Copyright Notice.—Whoever, with fraudulent intent, removes or alters any notice of copyright appearing on a copy of a copyrighted work shall be fined not more than $2,500.

“(d) False Representation.—Whoever knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409 of title 17, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

“(e) Rights of Attribution and Integrity.—Nothing in this section applies to infringement of the rights conferred by section 106A(a) of title 17.
§ 678. Unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances

(a) Offense.—Whoever, without the consent of the performer or performers involved, knowingly and for purposes of commercial advantage or private financial gain—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation;

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance; or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States;

shall be imprisoned for not more than 5 years, or if the offense is a second or subsequent offense, shall be imprisoned for not more than 10 years.

(b) SEIZURE AND FORFEITURE.—If copies or phonorecords of sounds or sounds and images of a live musical performance are fixed outside of the United States without the consent of the performer or performers involved, such copies or phonorecords are subject to seizure
and forfeiture in the United States in the same manner as property imported in violation of the customs laws. The Secretary of Homeland Security shall issue regulations by which any performer may, upon payment of a specified fee, be entitled to notification by United States Customs and Border Protection of the importation of copies or phonorecords that appear to consist of unauthorized fixations of the sounds or sounds and images of a live musical performance.

“(c) VICTIM IMPACT STATEMENT.—(1) During preparation of the presentence report pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, victims of the offense shall be permitted to submit, and the probation officer shall receive, a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

“(2) Persons permitted to submit victim impact statements shall include—

“(A) producers and sellers of legitimate works affected by conduct involved in the offense;

“(B) holders of intellectual property rights in such works; and
“(C) the legal representatives of such producers, sellers, and holders.

“(d) DEFINITIONS.—As used in this section—

“(1) the terms ‘copy’, ‘fixed’, ‘musical work’, ‘phonorecord’, ‘reproduce’, ‘sound recordings’, and ‘transmit’ mean those terms within the meaning of title 17; and

“(2) the term ‘traffic’ has the meaning given that term in section 680.

“(e) APPLICABILITY.—This section applies to any conduct that occurs on or after the date of the enactment of the Uruguay Round Agreements Act.

§ 679. Unauthorized recording of motion pictures in a motion picture exhibition facility

“(a) OFFENSE.—Whoever, without the authorization of the copyright owner, knowingly uses or attempts to use an audiovisual recording device to transmit or make a copy of a motion picture or other audiovisual work protected under title 17, or any part thereof, from a performance of such work in a motion picture exhibition facility, shall—

“(1) be imprisoned for not more than 3 years; or

“(2) if the offense is a second or subsequent offense, be imprisoned for no more than 6 years.
The possession by a person of an audiovisual recording device in a motion picture exhibition facility may be considered as evidence in any proceeding to determine whether that person committed an offense under this subsection, but shall not, by itself, be sufficient to support a conviction of that person for such offense.

“(b) Authorized Activities.—This section does not prevent any lawfully authorized investigative, protective, or intelligence activity by an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or by a person acting under a contract with the United States, a State, or a political subdivision of a State.

“(c) Immunity for Theaters.—With reasonable cause, the owner or lessee of a motion picture exhibition facility where a motion picture or other audiovisual work is being exhibited, the authorized agent or employee of such owner or lessee, the licensor of the motion picture or other audiovisual work being exhibited, or the agent or employee of such licensor—

“(1) may detain, in a reasonable manner and for a reasonable time, any person suspected of a violation of this section with respect to that motion picture or audiovisual work for the purpose of questioning or summoning a law enforcement officer; and
“(2) shall not be held liable in any civil or criminal action arising out of a detention under paragraph (1).

“(d) VICTIM IMPACT STATEMENT.—

“(1) IN GENERAL.—During the preparation of the presentence report under rule 32(c) of the Federal Rules of Criminal Procedure, victims of an offense under this section shall be permitted to submit to the probation officer a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim, including the estimated economic impact of the offense on that victim.

“(2) CONTENTS.—A victim impact statement submitted under this subsection shall include—

“(A) producers and sellers of legitimate works affected by conduct involved in the offense;

“(B) holders of intellectual property rights in the works described in subparagraph (A); and

“(C) the legal representatives of such producers, sellers, and holders.

“(e) DEFINITIONS.—In this section, the following definitions apply:
“(1) TITLE 17 DEFINITIONS.—The terms ‘audiovisual work’, ‘copy’, ‘copyright owner’, ‘motion picture’, ‘motion picture exhibition facility’, and ‘transmit’ have, respectively, the meanings given those terms in section 101 of title 17.

“(2) AUDIOVISUAL RECORDING DEVICE.—The term ‘audiovisual recording device’ means a digital or analog photographic or video camera, or any other technology or device capable of enabling the recording or transmission of a copyrighted motion picture or other audiovisual work, or any part thereof, regardless of whether audiovisual recording is the sole or primary purpose of the device.

§ 680. Trafficking in counterfeit goods or services

“(a) OFFENSES.—Whoever intentionally—

“(1) traffics in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services,

“(2) traffics in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,
“(3) traffics in goods or services knowing that such good or service is a counterfeit military good or service the use, malfunction, or failure of which is likely to cause serious bodily injury or death, the disclosure of classified information, impairment of combat operations, or other significant harm to a combat operation, a member of the Armed Forces, or to national security, or

“(4) traffics in a counterfeit drug,

shall be punished as provided in subsection (b).

“(b) Penalties.—

“(1) In general.—Whoever commits an offense under subsection (a)—

“(A) if an individual, shall be fined not more than $2,000,000 or imprisoned not more than 10 years, or both, and, if a person other than an individual, shall be fined not more than $5,000,000; and

“(B) for a second or subsequent offense under subsection (a), if an individual, shall be fined not more than $5,000,000 or imprisoned not more than 20 years, or both, and if other than an individual, shall be fined not more than $15,000,000.

“(2) Serious bodily injury or death.—
“(A) Serious bodily injury.—Whoever knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a), if an individual, shall be fined not more than $5,000,000 or imprisoned for not more than 20 years, or both, and if other than an individual, shall be fined not more than $15,000,000.

“(B) Death.—Whoever knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a), if an individual, shall be fined not more than $5,000,000 or imprisoned for any term of years or for life, or both, and if other than an individual, shall be fined not more than $15,000,000.

“(3) Counterfeit military goods or services and counterfeit drugs.—Whoever commits an offense under subsection (a) involving a counterfeit military good or service or counterfeit drug—

“(A) if an individual, shall be fined not more than $5,000,000, imprisoned not more than 20 years, or both, and if other than an individual, be fined not more than $15,000,000; and
“(B) for a second or subsequent offense, if
an individual, shall be fined not more than
$15,000,000, imprisoned not more than 30
years, or both, and if other than an individual,
shall be fined not more than $30,000,000.

“(c) Forfeiture and Destruction of Property;
Restitution.—Forfeiture, destruction, and restitution
relating to this section shall be subject to section 2323,
to the extent provided in that section, in addition to any
other similar remedies provided by law.

“(d) Application of Lanham Act Defenses; Aff-
firmative Defenses; and Limitation on Rem-
edies.—All defenses, affirmative defenses, and limitations
on remedies that would be applicable in an action under
the Lanham Act shall be applicable in a prosecution under
this section. In a prosecution under this section, the de-
fendant shall have the burden of proof, by a preponder-
ance of the evidence, of any such affirmative defense.

“(e) Presentence Report.—(1) During prepara-
tion of the presentence report pursuant to Rule 32(c) of
the Federal Rules of Criminal Procedure, victims of the
offense shall be permitted to submit, and the probation
officer shall receive, a victim impact statement that identi-
fies the victim of the offense and the extent and scope
of the injury and loss suffered by the victim, including
• the estimated economic impact of the offense on that victim.

“(2) Persons permitted to submit victim impact statements shall include—

“(A) producers and sellers of legitimate goods or services affected by conduct involved in the offense;

“(B) holders of intellectual property rights in such goods or services; and

“(C) the legal representatives of such producers, sellers, and holders.

“(f) DEFINITIONS.—In this section—

“(1) the term ‘counterfeit drug’ means a drug, as defined by section 201 of the Federal Food, Drug, and Cosmetic Act, that uses a counterfeit mark on or in connection with the drug;

“(2) the term ‘counterfeit mark’ means—

“(A) a spurious mark—

“(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;
“(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

“(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

“(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or

“(B) a spurious designation that is identical with, or substantially indistinguishable
from, a designation as to which the remedies of
the Lanham Act are made available by reason
of section 220506 of title 36;
but such term does not include any mark or designa-
tion used in connection with goods or services, or a
mark or designation applied to labels, patches, stick-
ers, wrappers, badges, emblems, medallions, charms,
boxes, containers, cans, cases, hangtags, documenta-
tion, or packaging of any type or nature used in con-
nection with such goods or services, of which the
manufacturer or producer was, at the time of the
manufacture or production in question, authorized to
use the mark or designation for the type of goods or
services so manufactured or produced, by the holder
of the right to use such mark or designation;
“(3) the term ‘financial gain’ includes the re-
cipient, or expected receipt, of anything of value;
“(4) the term ‘Lanham Act’ means the Act en-
titled ‘An Act to provide for the registration and
protection of trademarks used in commerce, to carry
out the provisions of certain international conven-
tions, and for other purposes’, approved July 5,
1946 (15 U.S.C. 1051 et seq.);
“(5) the term ‘counterfeit military good or serv-
ice’ means a good or service that uses a counterfeit
mark on or in connection with such good or service and that—

“(A) is falsely identified or labeled as meeting military specifications, or

“(B) is intended for use in a military or national security application; and

“(6) the term ‘traffic’ means to transport, transfer, or otherwise dispose of, to another, for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of.

“(g) LIMITATION ON CAUSE OF ACTION.—Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.

“(h) REPORT TO CONGRESS.—(1) Beginning with the first year after the date of enactment of this subsection, the Attorney General shall include in the report of the Attorney General to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, an accounting, on a district by district basis, of the following with respect to all actions taken by the Department of Justice that involve trafficking in counterfeit la-
bels for phonorecords, copies of computer programs or computer program documentation or packaging, copies of motion pictures or other audiovisual works (as defined in section 2318 of this title), criminal infringement of copyrights (as defined in section 2319 of this title), unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances (as defined in section 2319A of this title), or trafficking in goods or services bearing counterfeit marks (as defined in section 2320 of this title):

“(A) The number of open investigations.

“(B) The number of cases referred by the United States Customs Service.

“(C) The number of cases referred by other agencies or sources.

“(D) The number and outcome, including settlements, sentences, recoveries, and penalties, of all prosecutions brought under sections 2318, 2319, 2319A, and 2320 of title 18.

“(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

“(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musi-
cal compositions); computer programs; video games; and, others.

“(ii) The number of online infringement cases.

“(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under $500; fines from $500 to $1,000; fines from $1,000 to $5,000; fines from $5,000 to $10,000; and fines over $10,000.

“(iv) The total amount of restitution ordered in all copyright infringement cases.

“(B) In this paragraph, the term ‘online infringement cases’ as used in paragraph (2) means those cases where the infringer—

“(i) advertised or publicized the infringing work on the Internet; or

“(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

“(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.

“(i) TRANSSHIPMENT AND EXPORTATION.—No goods or services, the trafficking in of which is prohibited by this section, shall be transshipped through or exported
from the United States. Any such transshipment or exportation shall be deemed a violation of section 42 of an Act to provide for the registration of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes, approved July 5, 1946 (commonly referred to as the ‘Trademark Act of 1946’ or the ‘Lanham Act’).

“§ 681. Trafficking in certain motor vehicles or motor vehicle parts

“(a) Offense.—Whoever buys, receives, possesses, or obtains control of, with intent to sell or otherwise dispose of, a motor vehicle or motor vehicle part, knowing that an identification number for such motor vehicle or part has been removed, obliterated, tampered with, or altered, shall be imprisoned not more than ten years.

“(b) Nonapplicability.—Subsection (a) does not apply if the removal, obliteration, tampering, or alteration—

“(1) is caused by collision or fire; or

“(2) is not a violation of section 717.

“(c) Definitions.—As used in this section, the terms ‘identification number’ and ‘motor vehicle’ have the meaning given those terms in section 717.

“§ 682. Chop shops

“(a) In General.—
“(1) **UNLAWFUL ACTION.**—Whoever knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by imprisonment for not more than 15 years. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

“(2) **INJUNCTIONS.**—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.

“(b) **DEFINITION.**—For purposes of this section, the term ‘chop shop’ means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to dis-
tribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.

“SUBCHAPTER C—COUNTERFEITING AND FORGERY

§ 691. Counterfeit Acts committed outside the United States.

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§ 714. Seals of courts; signatures of judges or Court officers.

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§ 716. Forging endorsements on Treasury checks or bonds or securities of the United States.

§ 717. Altering or removing motor vehicle identification numbers.

§ 718. Securities of the States and private entities.

§ 719. Fictitious obligations.

§ 691. Counterfeit Acts committed outside the United States

Whoever, outside the United States, engages in the act of—
“(1) making, dealing, or possessing any counterfeit obligation or other security of the United States; or

“(2) making, dealing, or possessing any plate, stone, analog, digital, or electronic image, or other thing, or any part thereof, used to counterfeit such obligation or security,

if such act would constitute a violation of section 692, 694, or 695 if committed within the United States, shall be punished as is provided for the like offense within the United States.

§ 692. Obligations or securities of United States

“Whoever, with intent to defraud, falsely makes, forges, counterfeits, or alters any obligation or other security of the United States, shall be imprisoned not more than 20 years.

§ 693. Uttering counterfeit obligations or securities

“Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be imprisoned not more than 20 years.
§ 694. Dealing in counterfeit obligations or securities

“Whoever buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, with the intent that the same be passed, published, or used as true and genuine, shall be imprisoned not more than 20 years.

§ 695. Plates, stones, or analog, digital, or electronic images for counterfeiting obligations or securities

“(a) Offense.—Whoever—

“(1) having control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, uses such plate, stone, or other thing, or any part thereof, or knowingly suffers the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, except as may be printed for the use of the United States by order of the proper officer thereof;

“(2) makes or executes any plate, stone, or other thing in the likeness of any plate designated for the printing of such obligation or other security;
“(3) with intent to defraud, makes, executes, acquires, scans, captures, records, receives, transmits, reproduces, sells, or has in such person’s control, custody, or possession, an analog, digital, or electronic image of any obligation or other security of the United States;

“(4) sells any such plate, stone, or other thing, or brings into the United States any such plate, stone, or other thing, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, than that such plate, stone, or other thing be used for the printing of the obligations or other securities of the United States;

“(5) has in his control, custody, or possession any plate, stone, or other thing in any manner made after or in the similitude of any plate, stone, or other thing, from which any such obligation or other security has been printed, with intent to use such plate, stone, or other thing, or to suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof;

“(6) has in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other secur-
rity made or executed, in whole or in part, after the
similitude of any obligation or other security issued
under the authority of the United States, with intent
to sell or otherwise use the same; or

“(7) prints, photographs, or in any other man-
ner makes or executes any engraving, photograph,
print, or impression in the likeness of any such obli-
gation or other security, or any part thereof, or sells
any such engraving, photograph, print, or impres-
sion, except to the United States, or brings into the
United States, any such engraving, photograph,
print, or impression, except by direction of some
proper officer of the United States;
shall be imprisoned not more than 25 years.

“(b) DEFINITION.—For purposes of this section, the
term ‘analog, digital, or electronic image’ includes any
analog, digital, or electronic method used for the making,
execution, acquisition, scanning, capturing, recording, re-
trieval, transmission, or reproduction of any obligation or
security, unless such use is authorized by the Secretary
of the Treasury. The Secretary shall establish a system
(pursuant to section 713) to ensure that the legitimate
use of such electronic methods and retention of such re-
productions by businesses, hobbyists, press and others
shall not be unduly restricted.
§ 696. Deterrents to counterfeiting of obligations and securities

(a) Offense.—Whoever—

(1) has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury; or

(2) has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury;

shall be imprisoned for not more than 25 years.

(b) Definitions.—As used in this section—

(1) the term ‘distinctive paper’ includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and
“(2) the term ‘distinctive counterfeit deterrent’ includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

“(A) in which the United States has an exclusive property interest; or

“(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.

“§ 697. Taking impressions of tools used for obligations or securities

“Whoever, without authority from the United States, takes, procures, or makes an impression, stamp, analog, digital, or electronic image, or imprint of, from or by the use of any tool, implement, instrument, or thing used or fitted or intended to be used in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used or fitted or intended to be used in printing, stamping, or impressing any obligation or other security of the United States, shall be imprisoned not more than 25 years.

“§ 698. Possessing or selling impressions of tools used for obligations or securities

“Whoever—
“(1) with intent to defraud, possesses, keeps, safeguards, or controls, without authority from the United States, any imprint, stamp, analog, digital, or electronic image, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument or thing, used, fitted or intended to be used, for any of the purposes mentioned in section 697; or

“(2) with intent to defraud, sells, gives, or delivers any such imprint, stamp, analog, digital, or electronic image, or impression to any other person;

shall be imprisoned not more than 25 years.

§ 699. Foreign obligations or securities

“Whoever, within the United States, with intent to defraud, falsely makes, alters, forges, or counterfeits any bond, certificate, obligation, or other security of any foreign government, purporting to be or in imitation of any such security issued under the authority of such foreign government, or any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money, shall be imprisoned not more than 20 years.
§ 700. Uttering counterfeit foreign obligations or securities

“Whoever, within the United States, knowingly and with intent to defraud, utters, passes, or puts off, in payment or negotiation, any false, forged, or counterfeited bond, certificate, obligation, security, treasury note, bill, or promise to pay, mentioned in section 699, whether or not the same was made, altered, forged, or counterfeited within the United States, shall be imprisoned not more than 20 years.

§ 701. Possessing counterfeit foreign obligations or securities

“Whoever, within the United States, knowingly and with intent to defraud, possesses or delivers any false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or corporation of any foreign country, shall be imprisoned not more than 20 years.

§ 702. Plates, stones, or analog, digital, or electronic images for counterfeiting foreign obligations or securities

“Whoever—

“(1) within the United States except by lawful authority, controls, holds, or possesses any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any coun-
terfeit note, bond, obligation, or other security, in
whole or in part, of any foreign government, bank,
or corporation, or uses such plate, stone, or other
thing, or knowingly permits or suffers the same to
be used in counterfeiting such foreign obligations, or
any part thereof;

“(2) except by lawful authority, makes or en-
graves any plate, stone, or other thing in the like-
ness or similitude of any plate, stone, or other thing
designated for the printing of the genuine issues of
the obligations of any foreign government, bank, or
corporation;

“(3) with intent to defraud, makes, executes,
acquires, scans, captures, records, receives, trans-
mits, reproduces, sells, or has in such person's con-
trol, custody, or possession, an analog, digital, or
electronic image of any bond, certificate, obligation,
or other security of any foreign government, or of
any treasury note, bill, or promise to pay, lawfully
issued by such foreign government and intended to
circulate as money;

“(4) except by lawful authority, prints, photo-
graphs, or makes, executes, or sells any engraving,
photograph, print, or impression in the likeness of
any genuine note, bond, obligation, or other security,
or any part thereof, of any foreign government, bank, or corporation; or

“(5) brings into the United States any counterfeit plate, stone, or other thing, engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corporation;

shall be imprisoned not more than 25 years.

“§ 703. Uttering counterfeit foreign bank notes

“Whoever, within the United States, utters, passes, puts off, or tends in payment, with intent to defraud, any such false, forged, altered, or counterfeited bank note or bill issued by a bank or corporation of any foreign country, and intended by the law or usage of such foreign country to circulate as money, knowing the same to be so false, forged, altered, and counterfeited, whether or not the same was made, forged, altered, or counterfeited within the United States, shall be imprisoned not more than 20 years.

“§ 704. Connecting parts of different notes

“Whoever so places or connects together different parts of two or more notes, bills, or other genuine instruments issued under the authority of the United States, or by any foreign government, or corporation, as to produce one instrument, with intent to defraud, shall be
guilty of forgery in the same manner as if the parts so
put together were falsely made or forged, and shall be im-
prisoned not more than 10 years.

“§ 705. Tokens or paper used as money

“Whoever—

“(1) being 18 years of age or over, not lawfully
authorized, makes, issues, or passes any coin, card,
token, or device in metal, or its compounds, intended
to be used as money, or whoever, being 18 years of
age or over, with intent to defraud, makes, utters,
inserts, or uses any card, token, slug, disk, device,
paper, or other thing similar in size and shape to
any of the lawful coins or other currency of the
United States or any coin or other currency not
legal tender in the United States, to procure any-
thing of value, or the use or enjoyment of any prop-
erty or service from any automatic merchandise
vending machine, postage-stamp machine, turnstile,
fare box, coinbox telephone, parking meter or other
lawful receptacle, depository, or contrivance designed
to receive or to be operated by lawful coins or other
currency of the United States; or

“(2) manufactures, sells, offers, or advertises
for sale, or exposes or keeps with intent to furnish
or sell any token, slug, disk, device, paper, or other
thing similar in size and shape to any of the lawful
coins or other currency of the United States, or any
token, disk, paper, or other device issued or author-
ized in connection with rationing or food and fiber
distribution by any agency of the United States,
with knowledge or reason to believe that such to-
kens, slugs, disks, devices, papers, or other things
are intended to be used unlawfully or fraudulently to
procure anything of value, or the use or enjoyment
of any property or service from any automatic mer-
chandise vending machine, postage-stamp machine,
turnstile, fare box, coinbox telephone, parking meter,
or other lawful receptacle, depository, or contrivance
designed to receive or to be operated by lawful coins
or other currency of the United States;
shall be imprisoned not more than one year.

§ 706. Forfeiture of counterfeit paraphernalia

“(a) Forfeiture.—All counterfeits of any coins or
obligations or other securities of the United States or of
any foreign government, or any articles, devices, and other
things made, possessed, or used in violation of this sub-
chapter or section 851 or 852, or any material or appa-
ratus used or fitted or intended to be used, in the making
of such counterfeits, articles, devices or things, found in
the possession of any person without authority from the
Secretary of the Treasury or other proper officer, shall be forfeited to the United States.

“(b) Offense.—Whoever, having the custody or control of any such counterfeits, material, apparatus, articles, devices, or other things, fails or refuses to surrender possession thereof upon request by any authorized agent of the Treasury Department, or other proper officer, shall be imprisoned not more than one year.

“(c) Petition to Secretary of the Treasury.—Whenever, except as hereinafter in this section provided, any person interested in any article, device, or other thing, or material or apparatus seized under this section files with the Secretary of the Treasury, before the disposition thereof, a petition for the remission or mitigation of such forfeiture, the Secretary of the Treasury, if he finds that such forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or the mitigation of such forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just.

“(d) Petition to Attorney General.—If the seizure involves offenses other than offenses against the coinage, currency, obligations or securities of the United
States or any foreign government, the petition for the remission or mitigation of forfeiture shall be referred to the Attorney General, who may remit or mitigate the forfeiture upon such terms as he deems reasonable and just.

“§ 707. Bonds and obligations of certain lending agencies

“Whoever—

“(1) falsely makes, forges, counterfeits or alters any note, bond, debenture, coupon, obligation, instrument, or writing in imitation or purporting to be in imitation of, a note, bond, debenture, coupon, obligation, instrument or writing, issued by the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, National Credit Union Administration, Home Owners’ Loan Corporation, Farm Credit Administration, Department of Housing and Urban Development, or any land bank, intermediate credit bank, insured credit union, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States;
or

“(2) passes, utters, or publishes, or attempts to pass, utter or publish any note, bond, debenture, coupon, obligation, instrument or document knowing
the same to have been falsely made, forged, counterfeited or altered, contrary to this section; shall be imprisoned not more than 10 years.

§ 708. Contracts, deeds, and powers of attorney

“Whoever—

“(1) falsely makes, alters, forges, or counterfeits any deed, power of attorney, order, certificate, receipt, contract, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States or any officers or agents thereof, any sum of money;

“(2) utters or publishes as true any such false, forged, altered, or counterfeited writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or

“(3) transmits to, or presents at any office or officer of the United States, any such writing in support of, or in relation to, any account or claim, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited;

shall be imprisoned not more than ten years.

§ 709. Military or naval discharge certificates

“Whoever forges, counterfeits, or falsely alters any certificate of discharge from the military or naval service
of the United States, or uses, unlawfully possesses or ex-
hibits any such certificate, knowing the same to be forged,  
counterfeited, or falsely altered, shall be imprisoned not  
more than one year.

§ 710. Military, naval, or official passes

“Whoever falsely makes, forges, counterfeits, alters,  
or tampers with any naval, military, or official pass or per-
mit, issued by or under the authority of the United States,  
or with intent to defraud uses or possesses any such pass  
or permit, or personates or falsely represents himself to  
be or not to be a person to whom such pass or permit  
has been duly issued, or knowingly allows any other person  
to have or use any such pass or permit, issued for his  
use alone, shall be imprisoned not more than five years.

§ 711. Money orders

“Whoever—

“(1) with intent to defraud, falsely makes,  
forges, counterfeits, engraves, or prints any order in  
imitation of or purporting to be a blank money order  
or a money order issued by or under the direction  
of the Post Office Department or Postal Service;

“(2) forges or counterfeits the signature or ini-
tials of any person authorized to issue money orders  
upon or to any money order, postal note, or blank  
therefor provided or issued by or under the direction
of the Post Office Department or Postal Service, or
post office department or corporation of any foreign
country, and payable in the United States, or any
material signature or indorsement thereon, or any
material signature to any receipt or certificate of
identification thereof;

“(3) falsely alters, in any material respect, any
such money order or postal note;

“(4) with intent to defraud, passes, utters or
publishes or attempts to pass, utter or publish any
such forged or altered money order or postal note,
knowing any material initials, signature, stamp im-
pression or indorsement thereon to be false, forged,
or counterfeited, or any material alteration therein
to have been falsely made;

“(5) issues any money order or postal note
without having previously received or paid the full
amount of money payable therefor, with the purpose
of fraudulently obtaining or receiving, or fraudu-
ently enabling any other person, either directly or
indirectly, to obtain or receive from the United
States or Postal Service, or any officer, employee, or
agent thereof, any sum of money whatever;

“(6) embezzles, steals, or knowingly converts to
his own use or to the use of another, or without au-
authority converts or disposes of any blank money order form provided by or under the authority of the Post Office Department or Postal Service;

“(7) receives or possesses any such money order form with the intent to convert it to his own use or gain or use or gain of another knowing it to have been embezzled, stolen or converted;

“(8) with intent to defraud the United States, the Postal Service, or any person, transmits, presents, or causes to be transmitted or presented, any money order or postal note knowing the same—

“(A) to contain any forged or counterfeited signature, initials, or any stamped impression,

“(B) to contain any material alteration therein unlawfully made,

“(C) to have been unlawfully issued without previous payment of the amount required to be paid upon such issue, or

“(D) to have been stamped without lawful authority; or

“(9) steals, or with intent to defraud or without being lawfully authorized by the Post Office Department or Postal Service, receives, possesses, disposes of or attempts to dispose of any postal money order machine or any stamp, tool, or instrument specifi-
cally designed to be used in preparing or filling out
the blanks on postal money order forms;
shall be imprisoned not more than five years.
§ 712. Postage stamps, postage meter stamps, and
postal cards

“Whoever—
“(1) forges or counterfeits any postage stamp,
postage meter stamp, or any stamp printed upon
any stamped envelope, or postal card, or any die,
plate, or engraving thereof;
“(2) makes or prints, or knowingly uses or
sells, or possesses with intent to use or sell, any such
forged or counterfeited postage stamp, postage
meter stamp, stamped envelope, postal card, die,
plate, or engraving;
“(3) makes, or knowingly uses or sells, or pos-
sesses with intent to use or sell, any paper bearing
the watermark of any stamped envelope, or postal
card, or any fraudulent imitation thereof;
“(4) makes or prints, or authorizes to be made
or printed, any postage stamp, postage meter stamp,
stamped envelope, or postal card, of the kind author-
ized and provided by the Post Office Department or
by the Postal Service, without the special authority
and direction of the Department or Postal Service; or

“(5) after such postage stamp, postage meter stamp, stamped envelope, or postal card has been printed, with intent to defraud, delivers the same to any person not authorized by an instrument in writing, duly executed under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive it;

shall be imprisoned not more than five years.

§ 713. Printing and filming of United States and foreign obligations and securities

“Notwithstanding any other provision of this subchapter, the following are permitted:

“(1) The printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, of illustrations of—

“(A) postage stamps of the United States,
“(B) revenue stamps of the United States,
“(C) any other obligation or other security of the United States, and
“(D) postage stamps, revenue stamps, notes, bonds, and any other obligation or other security of any foreign government, bank, or corporation.
“(2) Illustrations permitted by the foregoing provisions of this section shall be made in accordance with the following conditions—

“(A) all illustrations shall be in black and white, except that illustrations of postage stamps issued by the United States or by any foreign government and stamps issued under the Migratory Bird Hunting Stamp Act of 1934 may be in color;

“(B) all illustrations (including illustrations of uncanceled postage stamps in color and illustrations of stamps issued under the Migratory Bird Hunting Stamp Act of 1934 in color) shall be of a size less than three-fourths or more than one and one-half, in linear dimension, of each part of any matter so illustrated which is covered by subparagraph (A), (B), (C), or (D) of this paragraph, except that black and white illustrations of postage and revenue stamps issued by the United States or by any foreign government and colored illustrations of canceled postage stamps issued by the United States may be in the exact linear dimension in which the stamps were issued; and
“(C) the negatives and plates used in making the illustrations shall be destroyed after their final use in accordance with this section. The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.

“(3) This section does not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted.

“(4) The making or importation of motion-picture films, microfilms, or slides, for projection upon a screen or for use in telecasting, of postage and revenue stamps and other obligations and securities of the United States, and postage and revenue stamps, notes, bonds, and other obligations or secur-
rities of any foreign government, bank, or corporation. No prints or other reproductions shall be made from such films or slides, except for the purposes of paragraph (1), without the permission of the Secretary of the Treasury. For the purposes of this section the term ‘postage stamp’ includes postage meter stamps.

“§714. Seals of courts; signatures of judges or Court officers

“Whoever forges the signature of any judge, register, or other officer of any court of the United States, or of any Territory thereof, or forges or counterfeits the seal of any such court, or knowingly concurs in using any such forged or counterfeit signature or seal, for the purpose of authenticating any proceeding or document, or tenders in evidence any such proceeding or document with a false or counterfeit signature of any such judge, register, or other officer, or a false or counterfeit seal of the court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, shall be imprisoned not more than five years.

“§715. Seals of departments or agencies

“(a) Offense.—Whoever—

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“(1) falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States, or any facsimile thereof;

“(2) knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal or facsimile thereof to or upon any certificate, instrument, commission, document, or paper of any description; or

“(3) with fraudulent intent, possesses, sells, offers for sale, furnishes, offers to furnish, gives away, offers to give away, transports, offers to transport, imports, or offers to import any such seal or facsimile thereof, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered,

shall be imprisoned not more than 5 years.

“(b) INCREASED PENALTY.—Notwithstanding subsection (a) or any other provision of law, if a forged, counterfeited, mutilated, or altered seal of a department or agency of the United States, or any facsimile thereof, is—

“(1) so forged, counterfeited, mutilated, or altered;

“(2) used, affixed, or impressed to or upon any certificate, instrument, commission, document, or paper of any description; or
“(3) with fraudulent intent, possessed, sold, offered for sale, furnished, offered to furnish, given away, offered to give away, transported, offered to transport, imported, or offered to import, with the intent or effect of facilitating an alien’s application for, or receipt of, a Federal benefit to which the alien is not entitled, the penalties which may be imposed for each offense under subsection (a) shall be two times the maximum fine, and 3 times the maximum term of imprisonment, or both, that would otherwise be imposed for an offense under subsection (a).

“(c) DEFINITIONS.—For purposes of this section—

“(1) the term ‘Federal benefit’ means—

“(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by any agency of the United States or by appropriated funds of the United States; and

“(B) any retirement, welfare, Social Security, health (including treatment of an emergency medical condition in accordance with section 1903(v) of the Social Security Act), disability, veterans, public housing, education, supplemental nutrition assistance program, or unemployment benefit, or any similar benefit for which payments or assistance are provided by
an agency of the United States or by appropriated funds of the United States; and

“(2) each instance of forgery, counterfeiting, mutilation, or alteration shall constitute a separate offense under this section.

§ 716. Forging endorsements on Treasury checks or bonds or securities of the United States

“(a) IN GENERAL.—Whoever, with intent to defraud—

“(1) falsely makes or forges any endorsement or signature on a Treasury check or bond or security of the United States; or

“(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any Treasury check or bond or security of the United States bearing a falsely made or forged endorsement or signature;

shall be imprisoned not more than ten years.

“(b) SALE EXCHANGE AND SIMILAR CONDUCT.—Whoever, with knowledge that such Treasury check or bond or security of the United States is stolen or bears a falsely made or forged endorsement or signature buys, sells, exchanges, receives, delivers, retains, or conceals any such Treasury check or bond or security of the United States shall be imprisoned not more than ten years.
“(c) REDUCED PENALTY.—If the face value of the Treasury check or bond or security of the United States or the aggregate face value, if more than one Treasury check or bond or security of the United States, does not exceed $1,000, in any of the above-mentioned offenses, the penalty shall be imprisonment for not more than one year.

“§ 717. Altering or removing motor vehicle identification numbers

“(a) OFFENSE.—Whoever—

“(1) knowingly removes, obliterates, tampers with, or alters an identification number for a motor vehicle or motor vehicle part; or

“(2) with intent to further the theft of a motor vehicle, knowingly removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act,

shall be imprisoned not more than 5 years.

“(b) EXCLUSION.—

“(1) GENERALLY.—Subsection (a) does not apply to a removal, obliteration, tampering, or alteration by a person specified in paragraph (2) (unless such person knows that the vehicle or part involved is stolen).
“(2) Persons referred to in paragraph (1).—The persons referred to in paragraph (1) of this subsection are—

“(A) a motor vehicle scrap processor or a motor vehicle demolisher who complies with applicable State law with respect to such vehicle or part;

“(B) a person who repairs such vehicle or part, if the removal, obliteration, tampering, or alteration is reasonably necessary for the repair;

“(C) a person who restores or replaces an identification number for such vehicle or part in accordance with applicable State law; and

“(D) a person who removes, obliterates, tampers with, or alters a decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act, if that person is the owner of the motor vehicle, or is authorized to remove, obliterate, tamper with or alter the decal or device by—

“(i) the owner or his authorized agent;

“(ii) applicable State or local law; or
“(iii) regulations promulgated by the Attorney General to implement the Motor Vehicle Theft Prevention Act.

“(c) Definitions for Section.—As used in this section—

“(1) the term ‘identification number’ means a number or symbol that is inscribed or affixed for purposes of identification under chapter 301 and part C of subtitle VI of title 49;

“(2) the term ‘motor vehicle’ has the meaning given that term in section 32101 of title 49;

“(3) the term ‘motor vehicle demolisher’ means a person, including any motor vehicle dismantler or motor vehicle recycler, who is engaged in the business of reducing motor vehicles or motor vehicle parts to metallic scrap that is unsuitable for use as either a motor vehicle or a motor vehicle part;

“(4) the term ‘motor vehicle scrap processor’ means a person—

“(A) who is engaged in the business of purchasing motor vehicles or motor vehicle parts for reduction to metallic scrap for recycling;
“(B) who, from a fixed location, uses machinery to process metallic scrap into prepared grades; and

“(C) whose principal product is metallic scrap for recycling;

but such term does not include any activity of any such person relating to the recycling of a motor vehicle or a motor vehicle part as a used motor vehicle or a used motor vehicle part; and

“(5) the term ‘tampers with’ includes covering a program decal or device affixed to a motor vehicle pursuant to the Motor Vehicle Theft Prevention Act for the purpose of obstructing its visibility.

“§ 718. Securities of the States and private entities

“(a) COUNTERFEIT SECURITIES.—Whoever makes, utters or possesses a counterfeited security of a State or a political subdivision thereof or of an organization, or whoever makes, utters or possesses a forged security of a State or political subdivision thereof or of an organization that operates in or affecting commerce, with intent to deceive another person shall be imprisoned for not more than ten years.

“(b) IMPLEMENTS.—Whoever makes, receives, possesses, sells or otherwise transfers an implement designed for or particularly suited for making a counterfeit or
forged security with the intent that it be so used shall
be punished by imprisonment for not more than ten years.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘counterfeited’ means a document
that purports to be genuine but is not, because it
has been falsely made or manufactured in its en-
tirety;

“(2) the term ‘forged’ means a document that
purports to be genuine but is not because it has
been falsely altered, completed, signed, or endorsed,
or contains a false addition thereto or insertion
therein, or is a combination of parts of two or more
genuine documents; and

“(3) the term ‘security’ means—

“(A) a note, stock certificate, treasury
stock certificate, bond, treasury bond, deben-
ture, certificate of deposit, interest coupon, bill,
check, draft, warrant, debit instrument as de-

Transfer Act, money order, traveler’s check, let-
ter of credit, warehouse receipt, negotiable bill
of lading, evidence of indebtedness, certificate
of interest in or participation in any profit-shar-
ing agreement, collateral-trust certificate, pre-
reorganization certificate of subscription, trans-
ferable share, investment contract, voting trust certificate, or certificate of interest in tangible or intangible property;

“(B) an instrument evidencing ownership of goods, wares, or merchandise;

“(C) any other written instrument commonly known as a security;

“(D) a certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing; or

“(E) a blank form of any of the foregoing.

“§ 719. Fictitious obligations

“(a) OFFENSE.—Whoever, with the intent to defraud—

“(1) draws, prints, processes, produces, publishes, or otherwise makes, or attempts or causes the same, within the United States;

“(2) passes, utters, presents, offers, brokers, issues, sells, or attempts or causes the same, or with like intent possesses, within the United States; or

“(3) utilizes interstate or foreign commerce, including the use of the mails or wire, radio, or other electronic communication, to transmit, transport,
ship, move, transfer, or attempts or causes the same,
to, from, or through the United States,
any false or fictitious instrument, document, or other item
appearing, representing, purporting, or contriving through
scheme or artifice, to be an actual security or other finan-
cial instrument issued under the authority of the United
States, a foreign government, a State or other political
subdivision of the United States, or an organization, shall
be imprisoned for not more than 25 years.

"(b) DEFINITIONS.—For purposes of this section,
any term used in this section that is defined in section
717(c) has the same meaning given such term in section
717(c).

"(c) AUTHORITY OF THE UNITED STATES SECRET
SERVICE.—The United States Secret Service, in addition
to any other agency having such authority, shall have au-
uthority to investigate offenses under this section.

"CHAPTER 25—FRAUD AND FALSE
STATEMENT CRIMES

"SUBCHAPTER A—FRAUD AND FALSE
STATEMENTS

"771. Definitions.
"772. Statements or entries generally.
"773. Bank entries, reports and transactions.
"774. Federal credit institution entries, reports, and transactions.
"775. Federal Deposit Insurance Corporation transactions.
§ 771. Definitions

"As used in this subchapter—

"(1) the term ‘member bank’ means any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks;

"(2) the term ‘insured bank’ includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation;
“(3) the term ‘branch or agency of a foreign bank’ means a branch or agency described in paragraph (E) of the definition of financial institution in section 1; and

“(4) the term ‘depository institution holding company’ has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.

“§ 772. Statements or entries generally

“(a) OFFENSE.—Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly—

“(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

“(2) makes any materially false, fictitious, or fraudulent statement or representation; or

“(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 283), imprisoned not more than 8 years.

If the matter relates to an offense under chapter 13 or section 1265, then the term of imprisonment imposed under this section shall be not more than 8 years.
“(b) Exclusion.—Subsection (a) does not apply to a party to a judicial proceeding, or that party’s counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

“(c) Application to Matters Within the Jurisdiction of the Legislative Branch.—With respect to any matter within the jurisdiction of the legislative branch, subsection (a) applies only to—

“(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

“(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

“§ 773. Bank entries, reports and transactions

“Whoever—

“(1) being an officer, director, agent or employee of any Federal Reserve bank, member bank,
depository institution holding company, national
bank, insured bank, branch or agency of a foreign
bank, or organization operating under section 25 or
section 25A of the Federal Reserve Act, without au-
thority from the directors of such bank, branch,
agency, or organization or company, issues or puts
in circulation any notes of such bank, branch, agen-
cy, or organization or company;

“(2) without such authority, makes, draws,
issues, puts forth, or assigns any certificate of de-
posit, draft, order, bill of exchange, acceptance, note,
debenture, bond, or other obligation, or mortgage,
judgment or decree;

“(3) makes any false entry in any book, report,
or statement of such bank, company, branch, agen-
cy, or organization with intent to injure or defraud
such bank, company, branch, agency, or organiza-
tion, or any other company, body politic or cor-
porate, or any individual person, or to deceive any
officer of such bank, company, branch, agency, or
organization, or the Comptroller of the Currency, or
the Federal Deposit Insurance Corporation, or any
agent or examiner appointed to examine the affairs
of such bank, company, branch, agency, or organiza-
tion, or the Board of Governors of the Federal Reserve System; or

“(4) with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution;

shall be imprisoned not more than 30 years.

“§ 774. Federal credit institution entries, reports, and transactions

‘Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, any Federal home loan bank, the Federal Housing Finance Agency, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under
the laws of the United States or any institution, other than an insured bank, the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be imprisoned not more than 30 years.
§ 775. Federal Deposit Insurance Corporation transactions

“Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be imprisoned not more than 30 years.

§ 776. Department of Housing and Urban Development and Federal Housing Administration transactions

“Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such Department, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Department, makes, passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or knowingly overvalues any secu-
rity, asset, or income, shall be imprisoned not more than
two years.

§ 777. Department of Housing and Urban Develop-
ment transactions

"Whoever—

“(1) with intent to defraud, makes any false
entry in any book of the Department of Housing
and Urban Development or makes any false report
or statement to or for such Department;

“(2) receives any compensation, rebate, or re-
ward, with intent to defraud such Department or
with intent unlawfully to defeat its purposes; or

“(3) induces or influences such Department to
purchase or acquire any property or to enter into
any contract and knowingly fails to disclose any in-
terest which that person has in such property or in
the property to which such contract relates, or any
special benefit which he expects to receive as a result
of such contract;

shall be imprisoned not more than one year.

§ 778. Farm loan bonds and credit bank debentures

"Whoever deceives, defrauds, or imposes upon, or at-
ttempts to deceive, defraud, or impose upon any person,
partnership, corporation, or association by making any
false pretense or representation concerning the character,
issue, security, contents, conditions, or terms of any farm
loan bond, or coupon, issued by any Federal land bank
or banks; or of any debenture, coupon, or other obligation,
issued by any Federal intermediate credit bank or banks;
or by falsely pretending or representing that any farm loan
bond, or coupon, is anything other than, or different from,
what it purports to be on the face of said bond or coupon,
shall be imprisoned not more than one year.

“§ 779. Loan and credit applications generally; renew-
als and discounts; crop insurance

“Whoever knowingly makes any false statement or
report, or knowingly overvalues any land, property or secu-
ity, for the purpose of influencing in any way the action
of the Federal Housing Administration the Farm Credit
Administration, Federal Crop Insurance Corporation or a
company the Corporation reinsures, the Secretary of Agri-
culture acting through the Farmers Home Administration
or successor agency, the Rural Development Administra-
tion or successor agency, any Farm Credit Bank, produc-
tion credit association, agricultural credit association,
bank for cooperatives, or any division, officer, or employee
thereof, or of any regional agricultural credit corporation
established pursuant to law, or a Federal land bank, a
Federal land bank association, a Federal Reserve bank,
a small business investment company, as defined in section
103 of the Small Business Investment Act of 1958, or the
Small Business Administration in connection with any
provision of that Act, a Federal credit union, an insured
State-chartered credit union, any institution the accounts
of which are insured by the Federal Deposit Insurance
Corporation, any Federal home loan bank, the Federal
Housing Finance Agency, the Federal Deposit Insurance
Corporation, the Farm Credit System Insurance Corpora-
tion, or the National Credit Union Administration Board,
a branch or agency of a foreign bank (as such terms are
defined in paragraphs (1) and (3) of section 1(b) of the
International Banking Act of 1978), an organization oper-
ating under section 25 or section 25A of the Federal Re-
serve Act, or a mortgage lending business, or any person
or entity that makes in whole or in part a federally related
mortgage loan as defined in section 3 of the Real Estate
Settlement Procedures Act of 1974, upon any application,
advance, discount, purchase, purchase agreement, repur-
chase agreement, commitment, loan, or insurance agree-
ment or application for insurance or a guarantee, or any
change or extension of any of the same, by renewal,
deferment of action or otherwise, or the acceptance, re-
lease, or substitution of security therefor, shall be impris-
oned not more than 30 years.
§ 780. Naturalization, citizenship, or alien registry

(a) Offense.—Whoever—

(1) knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens;

(2) knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted;

(3) uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained;

(4) knowingly makes any false certificate, acknowledgment or statement concerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or
writing required or authorized by the laws relating
to immigration, naturalization, citizenship, or reg-
istry of aliens;

“(5) knowingly makes any false statement or
claim that he is, or at any time has been, a citizen
or national of the United States, with the intent to
obtain on behalf of himself, or any other person, any
Federal or State benefit or service, or to engage un-
lawfully in employment in the United States; or

“(6) knowingly makes any false statement or
claim that he is a citizen of the United States in
order to register to vote or to vote in any Federal,
State, or local election (including an initiative, recall,
or referendum);

shall be imprisoned not more than five years.

“(b) EXCLUSION.—Subsection (a)(6) does not apply
to an alien if each natural parent of the alien (or, in the
case of an adopted alien, each adoptive parent of the alien)
is or was a citizen (whether by birth or naturalization),
the alien permanently resided in the United States prior
to attaining the age of 16, and the alien reasonably be-
lieved at the time of making the false statement or claim
that he or she was a citizen of the United States.

§ 781. Highway projects

“Whoever—
“(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation;

“(2) knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

“(3) knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented; shall be imprisoned not more than five years.
“§ 782. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974

“Whoever, in any document required by title I of the Employee Retirement Income Security Act of 1974 to be published, or kept as part of the records of any employee welfare benefit plan or employee pension benefit plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by such title or is necessary to verify, explain, clarify or check for accuracy and completeness any report required by such title to be published or any information required by such title to be certified, shall be imprisoned not more than five years.

“§ 783. Fraud and related activity in connection with identification documents, authentication features, and information

“(a) Offense.—Whoever, as made applicable by subsection (c)—

“(1) knowingly and without lawful authority produces an identification document, authentication feature, or a false identification document;
“(2) knowingly transfers an identification document, authentication feature, or a false identification document knowing that such document or feature was stolen or produced without lawful authority;

“(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor), authentication features, or false identification documents;

“(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor), authentication feature, or a false identification document, with the intent such document or feature be used to defraud the United States;

“(5) knowingly produces, transfers, or possesses a document-making implement or authentication feature with the intent such document-making implement or authentication feature will be used in the production of a false identification document or another document-making implement or authentication feature which will be so used;

“(6) knowingly possesses an identification document or authentication feature that is or appears to be an identification document or authentication fea-
ture of the United States or a sponsoring entity of
an event designated as a special event of national
significance which is stolen or produced without law-
ful authority knowing that such document or feature
was stolen or produced without such authority;

“(7) knowingly transfers, possesses, or uses,
without lawful authority, a means of identification of
another person with the intent to commit, or to aid
or abet, or in connection with, any unlawful activity
that constitutes a violation of Federal law, or that
constitutes a felony under any applicable State or
local law; or

“(8) knowingly traffics in false or actual au-
thentication features for use in false identification
documents, document-making implements, or means
of identification;

shall be punished as provided in subsection (b).

“(b) PUNISHMENT.—The punishment for an offense
under subsection (a) of this section is—

“(1) except as provided in paragraphs (3) and
(4), a fine under this title or imprisonment for not
more than 15 years, or both, if the offense is—

“(A) the production or transfer of an iden-
tification document, authentication feature, or
false identification document that is or appears to be—

“(i) an identification document or authentication feature issued by or under the authority of the United States; or

“(ii) a birth certificate, or a driver’s license or personal identification card;

“(B) the production or transfer of more than five identification documents, authentication features, or false identification documents;

“(C) an offense under paragraph (5) of such subsection; or

“(D) an offense under paragraph (7) of such subsection that involves the transfer, possession, or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;

“(2) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 5 years, or both, if the offense is—

“(A) any other production, transfer, or use of a means of identification, an identification
document, authentication feature, or a false identification document; or

“(B) an offense under paragraph (3) or (7) of such subsection;

“(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

“(A) to facilitate a drug trafficking crime (as defined in section 592(a)(2));

“(B) in connection with a crime of violence (as defined in section 584(c)(3)); or

“(C) after a prior conviction under this section becomes final;

“(4) a fine under this title or imprisonment for not more than 30 years, or both, if the offense is committed to facilitate an act of domestic terrorism (as defined under section 283) or an act of international terrorism (as defined in section 283(1)); and

“(5) a fine under this title or imprisonment for not more than one year, or both, in any other case.

“(c) APPLICABILITY.—Subsection (a) applies if—

“(1) the identification document, authentication feature, or false identification document is or appears to be issued by or under the authority of the
United States or a sponsoring entity of an event designated as a special event of national significance or the document-making implement is designed or suited for making such an identification document, authentication feature, or false identification document;

“(2) the offense is an offense under subsection (a)(4) of this section; or

“(3) either—

“(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce, including the transfer of a document by electronic means; or

“(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

“(d) DEFINITIONS.—In this section and section 784—

“(1) the term ‘authentication feature’ means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination
with another feature is used by the issuing authority
on an identification document, document-making im-
plement, or means of identification to determine if
the document is counterfeit, altered, or otherwise
falsified;

“(2) the term ‘document-making implement’
means any implement, impression, template, com-
puter file, computer disc, electronic device, or com-
puter hardware or software, that is specifically con-
figured or primarily used for making an identifica-
tion document, a false identification document, or
another document-making implement;

“(3) the term ‘identification document’ means a
document made or issued by or under the authority
of the United States Government, a State, political
subdivision of a State, or a sponsoring entity of an
event designated as a special event of national sig-
nificance, a foreign government, political subdivision
of a foreign government, an international govern-
mental or an international quasi-governmental orga-
nization which, when completed with information
concerning a particular individual, is of a type in-
tended or commonly accepted for the purpose of
identification of individuals;
“(4) the term ‘false identification document’
means a document of a type intended or commonly
accepted for the purposes of identification of individ-
uals that—

“(A) is not issued by or under the author-
ity of a governmental entity or was issued
under the authority of a governmental entity
but was subsequently altered for purposes of
deciet; and

“(B) appears to be issued by or under the
authority of the United States Government, a
State, a political subdivision of a State, or a
sponsoring entity of an event designated as a
special event of national significance, a foreign
government, a political subdivision of a foreign
government, or an international governmental
or quasi-governmental organization;

“(5) the term ‘false authentication feature’
means an authentication feature that—

“(A) is genuine in origin, but, without the
authorization of the issuing authority, has been
tampered with or altered for purposes of deceit;

“(B) is genuine, but has been distributed,
or is intended for distribution, without the au-
"
connection with a lawfully made identification
document, document-making implement, or
means of identification to which such authen-
tication feature is intended to be affixed or em-
bedded by the respective issuing authority; or

“(C) appears to be genuine, but is not;

“(6) the term ‘issuing authority’—

“(A) means any governmental entity or
agency that is authorized to issue identification
documents, means of identification, or authen-
tication features; and

“(B) includes the United States Govern-
ment, a State, a political subdivision of a State,
or a sponsoring entity of an event designated as
a special event of national significance, a for-
gn government, a political subdivision of a for-
egn government, or an international govern-
ment or quasi-governmental organization;

“(7) the term ‘means of identification’ means
any name or number that may be used, alone or in
conjunction with any other information, to identify
a specific individual, including any—

“(A) name, social security number, date of
birth, official State or government issued driv-
er’s license or identification number, alien reg-
istration number, government passport number, employer or taxpayer identification number;

“(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

“(C) unique electronic identification number, address, or routing code; or

“(D) telecommunication identifying information or access device (as such terms are defined in section 786);

“(8) the term ‘personal identification card’ means an identification document issued by a State or local government solely for the purpose of identification;

“(9) the term ‘produce’ includes alter, authenticate, or assemble;

“(10) the term ‘transfer’ includes selecting an identification document, false identification document, or document-making implement and placing or directing the placement of such identification document, false identification document, or document-making implement on an online location where it is available to others;

“(11) the term ‘traffic’ means—
“(A) to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value; or

“(B) to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.

“(e) EXCLUSION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224.

“(f) RULE OF CONSTRUCTION.—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification.

§ 784. Aggravated identity theft

“(a) OFFENSES.—

“(1) IN GENERAL.—Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment
provided for such felony, be sentenced to a term of imprisonment of 2 years.

“(2) TERRORISM OFFENSE.—Whoever, during and in relation to any felony violation enumerated in section 273(g)(3)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person or a false identification document shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

“(b) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law—

“(1) a court shall not place on probation any person convicted of a violation of this section;

“(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

“(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used,
a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

“(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

“(c) DEFINITION.—For purposes of this section, the term ‘felony violation enumerated in subsection (c)’ means any offense that is a felony violation of—

“(1) section 641 (relating to theft of public money, property, or records), section 644 (relating to theft, embezzlement, or misapplication by bank officer or employee), or section 651 (relating to theft from employee benefit plans);

“(2) section 1091 (relating to false personation of citizenship);
“(3) section 582(a)(6) (relating to false statements in connection with the acquisition of a firearm);

“(4) any provision contained in this subchapter (relating to fraud and false statements), other than this section or section 783(a)(7);

“(5) any provision contained in subchapter B of chapter 25 (relating to mail, bank, and wire fraud);

“(6) any provision contained in subchapter F of chapter 15 (relating to nationality and citizenship);

“(7) section 523 of the Gramm-Leach-Bliley Act (relating to obtaining customer information by false pretenses);

“(8) section 243 or 266 of the Immigration and Nationality Act (relating to knowingly failing to leave the United States after deportation and creating a counterfeit alien registration card);

“(9) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (relating to various immigration offenses); or

“(10) section 208, 811, 1107(b), 1128B(a), or 1632 of the Social Security Act (relating to false statements relating to programs under the Act).

§ 785. Fraudulent use of credit card

“(a) Offense.—Whoever—
“(1) knowingly in a transaction affecting inter-
state or foreign commerce, uses any counterfeit, fic-
titious, altered, forged, lost, stolen, or fraudulently
obtained credit card to obtain money, goods, serv-
ices, or anything else of value which within any one-
year period has a value aggregating $1,000 or more;

“(2) with unlawful intent, transports in inter-
state or foreign commerce a counterfeit, fictitious,
altered, forged, lost, stolen, or fraudulently obtained
credit card knowing the same to be counterfeit, ficti-
tious, altered, forged, lost, stolen, or fraudulently ob-
tained;

“(3) with unlawful intent, uses any instrumen-
tality of interstate or foreign commerce to sell or
transport a counterfeit, fictitious, altered, forged,
lost, stolen, or fraudulently obtained credit card
knowing the same to be counterfeit, fictitious, al-
tered, forged, lost, stolen, or fraudulently obtained;

“(4) knowingly receives, conceals, uses, or
transports money, goods, services, or anything else
of value (except tickets for interstate or foreign
transportation) which—

“(A) within any one-year period has a
value aggregating $1,000 or more;
“(B) has moved in, is part of, or constitutes interstate or foreign commerce; and

“(C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card;

“(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which—

“(A) within any one-year period have a value aggregating $500 or more, and

“(B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit cards; or

“(6) in a transaction affecting interstate or foreign commerce furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained credit card knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained;

shall be imprisoned not more than ten years.
“(b) DEFINITIONS.—A term used in this section that has a definition for the purposes of the Consumer Credit Protection Act has that same definition for the purposes of this section.

“§ 786. Fraud and related activity in connection with access devices

“(a) OFFENSE.—Whoever—

“(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

“(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating $1,000 or more during that period;

“(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices;

“(4) knowingly and with intent to defraud produces, traffics in, has control or custody of, or possesses device-making equipment;

“(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year
period the aggregate value of which is equal to or
greater than $1,000;

“(6) without the authorization of the issuer of
the access device, knowingly and with intent to de-

fraud solicits a person for the purpose of—

“(A) offering an access device; or

“(B) selling information regarding or an

application to obtain an access device;

“(7) knowingly and with intent to defraud uses,
produces, traffics in, has control or custody of, or
possesses a telecommunications instrument that has
been modified or altered to obtain unauthorized use
of telecommunications services;

“(8) knowingly and with intent to defraud uses,
produces, traffics in, has control or custody of, or
possesses a scanning receiver;

“(9) knowingly uses, produces, traffics in, has
control or custody of, or possesses hardware or soft-
ware, knowing it has been configured to insert or
modify telecommunication identifying information
associated with or contained in a telecommunications
instrument so that such instrument may be used to
obtain telecommunications service without authoriza-

or
“(10) without the authorization of the credit

card system member or its agent, knowingly and

with intent to defraud causes or arranges for an-

other person to present to the member or its agent,

for payment, 1 or more evidences or records of

transactions made by an access device;

shall, if the offense affects interstate or foreign commerce,

be punished as provided in subsection (b) of this section.

“(b) PENALTIES.—The punishment for an offense

under subsection (a) is—

“(1) in the case of an offense that does not

occur after a conviction for another offense under

this section—

“(A) if the offense is under paragraph (1),

(2), (3), (6), (7), or (10) of subsection (a), a

fine under this title or imprisonment for not

more than 10 years, or both; and

“(B) if the offense is under paragraph (4),

(5), (8), or (9) of subsection (a), a fine under

this title or imprisonment for not more than 15

years, or both; and

“(2) in the case of an offense that occurs after

a conviction for another offense under this section,

a fine under this title or imprisonment for not more

than 20 years, or both.
“(c) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over an offense under this section if—

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

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

“(d) Authority of United States Secret Service.—The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

“(e) Official Duty Exclusion.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency
of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224.

“(f) BUSINESS EXCLUSION.—It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person engaged in business with, a facilities-based carrier, to engage in conduct (other than trafficking) otherwise prohibited by that subsection for the purpose of protecting the property or legal rights of that carrier, unless such conduct is for the purpose of obtaining telecommunications service provided by another facilities-based carrier without the authorization of such carrier.

“(g) AFFIRMATIVE DEFENSE.—In a prosecution for a violation of subsection (a)(9) (other than a violation consisting of producing or trafficking), it is an affirmative defense that the conduct charged was engaged in for research or development in connection with a lawful purpose.

“(h) DEFINITIONS.—As used in this section—

“(1) the term ‘access device’ means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or
in conjunction with another access device, to obtain
money, goods, services, or any other thing of value,
or that can be used to initiate a transfer of funds
(other than a transfer originated solely by paper in-
strument);

“(2) the term ‘counterfeit access device’ means
any access device that is counterfeit, fictitious, al-
tered, or forged, or an identifiable component of an
access device or a counterfeit access device;

“(3) the term ‘unauthorized access device’
means any access device that is lost, stolen, expired,
revoked, canceled, or obtained with intent to de-

“(4) the term ‘produce’ includes design, alter,
authenticate, duplicate, or assemble;

“(5) the term ‘traffic’ means transfer, or other-
wise dispose of, to another, or obtain control of with
intent to transfer or dispose of;

“(6) the term ‘device-making equipment’ means
any equipment, mechanism, or impression designed
or primarily used for making an access device or a
counterfeit access device;

“(7) the term ‘credit card system member’
means a financial institution or other entity that is
a member of a credit card system, including an enti-
ty, whether affiliated with or identical to the credit

card issuer, that is the sole member of a credit card

system;

“(8) the term ‘scanning receiver’ means a de-

vice or apparatus that can be used to intercept a

wire or electronic communication in violation of sub-

chapter B of chapter 37 or to intercept an electronic

serial number, mobile identification number, or other

identifier of any telecommunications service, equip-

ment, or instrument;

“(9) the term ‘telecommunications service’ has

the meaning given such term in section 3 of title I

of the Communications Act of 1934;

“(10) the term ‘facilities-based carrier’ means

an entity that owns communications transmission fa-

cilities, is responsible for the operation and mainte-

nance of those facilities, and holds an operating li-

cense issued by the Federal Communications Com-

mission under the authority of title III of the Com-

munications Act of 1934; and

“(11) the term ‘telecommunication identifying

information’ means electronic serial number or any

other number or signal that identifies a specific tele-

communications instrument or account, or a specific
communication transmitted from a telecommunications instrument.

§ 787. Fraud and related activity in connection with computers

"(a) Offense.—Whoever—

“(1) having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation knowingly communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or knowingly retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;
“(2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains—

“(A) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act;

“(B) information from any department or agency of the United States; or

“(C) information from any protected computer;

“(3) intentionally, without authorization to access any nonpublic computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects that use by or for the Government of the United States;

“(4) knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access, and by means of such
conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer and the value of such use is not more than $5,000 in any 1-year period;

“(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

“(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

“(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage and loss;

“(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

“(A) such trafficking affects interstate or foreign commerce; or

“(B) such computer is used by or for the Government of the United States; or

“(7) with intent to extort from any person any money or other thing of value, transmits in inter-
state or foreign commerce any communication con-

taining any—

“(A) threat to cause damage to a protected

computer;

“(B) threat to obtain information from a
protected computer without authorization or in
excess of authorization or to impair the con-

fidentiality of information obtained from a pro-
tected computer without authorization or by ex-
ceeding authorized access; or

“(C) demand or request for money or
other thing of value in relation to damage to a
protected computer, where such damage was
caused to facilitate the extortion;

shall be punished as provided in subsection (b) of this sec-
tion.

“(b) PUNISHMENT.—The punishment for an offense
under subsection (a) is—

“(1)(A) a fine under this title or imprisonment
for not more than ten years, or both, in the case of
an offense under subsection (a)(1) of this section
which does not occur after a conviction for another
offense under this section, or an attempt to commit
an offense punishable under this subparagraph; and
“(B) a fine under this title or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

“(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(2), (a)(3), (a)(5)(A)(iii), or (a)(6) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

“(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2) or an attempt to commit an offense punishable under this subparagraph, if—

“(i) the offense was committed for purposes of commercial advantage or private financial gain;

“(ii) the offense was committed in furtherance of any criminal or tortious act in violation
of the Constitution or laws of the United States or of any State; or

“(iii) the value of the information obtained exceeds $5,000; and

“(C) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (a)(3) or (a)(6) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this subpara-

“(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(7) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subpara-

“(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4), (a)(5)(A)(iii), or (a)(7) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subpara-
“(4)(A) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 5 years, or both, in the case of—

“(i) an offense under subsection (a)(5)(B), which does not occur after a conviction for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused)—

“(I) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least $5,000 in value;

“(II) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

“(III) physical injury to any person;

“(IV) a threat to public health or safety;

“(V) damage affecting a computer used by or for an entity of the United
States Government in furtherance of the administration of justice, national defense, or national security; or

“(VI) damage affecting 10 or more protected computers during any 1-year period; or

“(ii) an attempt to commit an offense punishable under this subparagraph;

“(B) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 10 years, or both, in the case of—

“(i) an offense under subsection (a)(5)(A), which does not occur after a conviction for another offense under this section, if the offense caused (or, in the case of an attempted offense, would, if completed, have caused) a harm provided in subclauses (I) through (VI) of subparagraph (A)(i); or

“(ii) an attempt to commit an offense punishable under this subparagraph;

“(C) except as provided in subparagraphs (E) and (F), a fine under this title, imprisonment for not more than 20 years, or both, in the case of—

“(i) an offense or an attempt to commit an offense under subparagraphs (A) or (B) of sub-
section (a)(5) that occurs after a conviction for
another offense under this section; or

“(ii) an attempt to commit an offense pun-
ishable under this subparagraph;

“(D) a fine under this title, imprisonment for
not more than 10 years, or both, in the case of—

“(i) an offense or an attempt to commit an
offense under subsection (a)(5)(C) that occurs
after a conviction for another offense under this
section; or

“(ii) an attempt to commit an offense pun-
ishable under this subparagraph;

“(E) if the offender attempts to cause or know-
ingly or recklessly causes serious bodily injury from
conduct in violation of subsection (a)(5)(A), a fine
under this title, imprisonment for not more than 20
years, or both;

“(F) if the offender attempts to cause or know-
ingly or recklessly causes death from conduct in vio-
lation of subsection (a)(5)(A), a fine under this title,
imprisonment for any term of years or for life, or
both; or

“(G) a fine under this title, imprisonment for
not more than 1 year, or both, for—
“(i) any other offense under subsection (a)(5); or

“(ii) an attempt to commit an offense punishable under this subparagraph.

“(c) INVESTIGATIVE AUTHORITY.—

“(1) UNITED STATES SECRET SERVICE.—The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

“(2) FEDERAL BUREAU OF INVESTIGATION.—The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving Espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11 y. of the Atomic Energy Act of 1954, except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a).

“(3) AGREEMENT.—Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

“(d) DEFINITIONS.—As used in this section—
“(1) the term ‘computer’ means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

“(2) the term ‘protected computer’ means a computer—

“(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not exclusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects that use by or for the financial institution or the Government; or

“(B) which is used in interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States;
“(3) the term ‘financial institution’ has meaning given the term in section 1, except that such term—

“(A) includes—

“(i) a broker or dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934; and

“(ii) the Securities Investor Protection Corporation; and

“(B) does not include—

“(i) a small business investment company (as defined in section 103 of the Small Business Investment Act of 1958); or

“(ii) a depository institution holding company (as defined in section 3(w)(1) of the Federal Deposit Insurance Act).

“(4) the term ‘financial record’ means information derived from any record held by a financial institution pertaining to a customer’s relationship with the financial institution;

“(5) the term ‘exceeds authorized access’ means to access a computer with authorization and to use such access to obtain or alter information in the
computer that the accesser is not entitled so to ob-
tain or alter;

“(6) the term ‘department of the United States’
means the legislative or judicial branch of the Gov-
ernment or one of the executive departments enu-
merated in section 101 of title 5;

“(7) the term ‘damage’ means any impairment
to the integrity or availability of data, a program, a
system, or information;

“(8) the term ‘government entity’ includes the
Government of the United States, any State or polit-
ical subdivision of the United States, any foreign
country, and any state, province, municipality, or
other political subdivision of a foreign country;

“(9) the term ‘conviction’ shall include a convic-
tion under the law of any State for a crime punish-
able by imprisonment for more than 1 year, an ele-
ment of which is unauthorized access, or exceeding
authorized access, to a computer; and

“(10) the term ‘loss’ means any reasonable cost
to any victim, including the cost of responding to an
offense, conducting a damage assessment, and re-
storing the data, program, system, or information to
its condition prior to the offense, and any revenue
lost, cost incurred, or other consequential damages incurred because of interruption of service.

“(e) Exclusion.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

“(f) Civil Action.—Whoever suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause subclause (I), (II), (III), (IV), or (V) of subsection (b)(4)(A)(i). Damages for a violation involving only conduct described in subsection (b)(4)(A)(i)(I) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage. No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.

“§ 788. Major fraud against the United States

“(a) Offense.—Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—
“(1) to defraud the United States; or

“(2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, including through the Troubled Asset Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government’s purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of such grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, or any constituent part thereof, is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be imprisoned not more than 10 years.

“(b) INCREASED FINE.—The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and—

“(1) the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or
“(2) the offense involves a conscious or reckless risk of serious personal injury.

“(c) INCREASED FINE ON MULTIPLE COUNTS.—The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed $10,000,000.

“(d) DISCLAIMER.—Nothing in this section shall preclude a court from imposing any other sentences available under this title, including a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to section 3571(d).

“(e) LIMITATION.—A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

“(f) WHISTLEBLOWER.—Any individual who—

“(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and
“(2) was not a participant in the unlawful activity that is the subject of such prosecution; may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney’s fees.

“§ 789. Concealment of assets from conservator, receiver, or liquidating agent

“Whoever—

“(1) knowingly conceals an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation’s corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13 of the Federal Deposit Insurance Act, any conservator appointed by the Comptroller of the Currency, the Federal Deposit Insurance Corporation acting as receiver for a covered financial company, in accordance with title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or the National Credit Union
Administration Board, acting as conservator or liquidating agent;

“(2) corruptly impedes the functions of such Corporation, Board, or conservator; or

“(3) corruptly places an asset or property beyond the reach of such Corporation, Board, or conservator,

shall be imprisoned not more than 5 years.

§ 790. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

“(a) FALSE STATEMENT OFFENSE.—(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or knowingly and materially overvalues any land, property or security—

“(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

“(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,
shall be punished as provided in paragraph (2).

“(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

“(b) Embezzlement and Similar Conduct.—(1) Whoever—

“(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

“(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, premiums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).
“(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed $5,000, whoever violates paragraph (1) shall be imprisoned not more than one year.

“(c) False Entries.—(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person,
about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

“(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

“(d) OBSTRUCTION.—Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be imprisoned not more than 10 years.

“(e) DISQUALIFICATION FOR INSURANCE BUSINESS.—(1)(A) Any individual who has been convicted of
any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who knowingly engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be imprisoned not more than 5 years.

“(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who knowingly permits the participation described in subparagraph (A) shall be imprisoned not more than 5 years.

“(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘business of insurance’ means—

“(A) the writing of insurance, or

“(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other
persons authorized to act on behalf of such persons; and

“(2) the term ‘insurer’ means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business.

“§ 791. Civil penalties and injunctions for violations of section 790

“(a) CIVIL PENALTY.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 790 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation, or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil
statutory, common law, or administrative remedy, which
is available by law to the United States or any other per-
son.

“(b) ORDER PROHIBITING.—If the Attorney General
has reason to believe that a person is engaged in conduct
constituting an offense under section 790, the Attorney
General may petition an appropriate United States district
court for an order prohibiting that person from engaging
in such conduct. The court may issue an order prohibiting
that person from engaging in such conduct if the court
finds that the conduct constitutes such an offense. The
filing of a petition under this section does not preclude
any other remedy which is available by law to the United
States or any other person.

§ 792. False statements relating to health care mat-
ters

“Whoever, in any matter involving a health care ben-
efit program, knowingly—

“(1) falsifies, conceals, or covers up by any
trick, scheme, or device a material fact; or

“(2) makes any materially false, fictitious, or
fraudulent statements or representations, or makes
or uses any materially false writing or document
knowing the same to contain any materially false,
fictitious, or fraudulent statement or entry, in con-
nection with the delivery of or payment for health
care benefits, items, or services,
shall be imprisoned not more than 5 years.

“§ 793. Entry by false pretenses to any real property,
vessel, or aircraft of the United States or
secure area of any airport or seaport
“(a) OFFENSE.—Whoever, by any fraud or false pre-
tense, enters—
“(1) any real property belonging in whole or in
part to, or leased by, the United States;
“(2) any vessel or aircraft belonging in whole or
in part to, or leased by, the United States;
“(3) any secure or restricted area of any sea-
port, designated as secure in an approved security
plan, as required under section 70103 of title 46 and
the rules and regulations promulgated under that
section; or
“(4) any secure area of any airport,
shall be punished as provided in subsection (b).
“(b) PUNISHMENT.—The punishment for an offense
under subsection (a) is—
“(1) imprisonment for not more than 10 years,
if the offense is committed with the intent to commit
a felony; or
“(2) imprisonment for not more than 6 months, in any other case.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘secure area’ means an area access to which is restricted by the airport authority, captain of the seaport, or a public agency; and

“(2) the term ‘airport’ has the meaning given such term in section 47102 of title 49.

“§ 794. Fraud and related activity in connection with electronic mail

“(a) IN GENERAL.—Whoever, in or affecting inter-state or foreign commerce, knowingly—

“(1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer,

“(2) uses a protected computer to relay or re-transmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages,

“(3) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,
“(4) registers, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or

“(5) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet Protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses,

shall be punished as provided in paragraph (b).

“(b) Penalties.—The punishment for an offense under subsection (a) is—

“(1) a fine under this title, imprisonment for not more than 5 years, or both, if—

“(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

“(B) the defendant has previously been convicted under this section or section 787, or under the law of any State for conduct involving the transmission of multiple commercial
electronic mail messages or unauthorized access
to a computer system;

“(2) a fine under this title, imprisonment for
not more than 3 years, or both, if—

“(A) the offense is an offense under sub-
section (a)(1);

“(B) the offense is an offense under sub-
section (a)(4) and involved 20 or more falsified
electronic mail or online user account registra-
tions, or 10 or more falsified domain name reg-
istrations;

“(C) the volume of electronic mail mes-
sages transmitted in furtherance of the offense
exceeded 2,500 during any 24-hour period,
25,000 during any 30-day period, or 250,000
during any 1-year period;

“(D) the offense caused loss to one or
more persons aggregating $5,000 or more in
value during any 1-year period;

“(E) as a result of the offense any indi-
vidual committing the offense obtained anything
of value aggregating $5,000 or more during any
1-year period; or

“(F) the offense was undertaken by the de-
fendant in concert with three or more other
persons with respect to whom the defendant oc-
cupied a position of organizer or leader; and
“(3) a fine under this title or imprisonment for
not more than 1 year, or both, in any other case.
“(c) DEFINITIONS.—For the purposes of this sec-
tion—
“(1) the term ‘loss’ has the meaning given that
term in section 787(d);
“(2) for purposes of paragraphs (3) and (4) of
subsection (a), header information or registration in-
formation is materially falsified if it is altered or
concealed in a manner that would impair the ability
of a recipient of the message, an Internet access
service processing the message on behalf of a recipi-
ent, a person alleging a violation of this section, or
a law enforcement agency to identify, locate, or re-
spond to a person who initiated the electronic mail
message or to investigate the alleged violation;
“(3) the term ‘multiple’ means more than 100
electronic mail messages during a 24-hour period,
more than 1,000 electronic mail messages during a
30-day period, or more than 10,000 electronic mail
messages during a 1-year period; and
“(4) any other term has the meaning given that
§ 795. False information and hoaxes

(a) CRIMINAL VIOLATION.—

(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of subchapter A or D of chapter 33, subchapter B of chapter 15, or subchapter B, D, E, or F of chapter 21 of this title, section 236 of the Atomic Energy Act of 1954, or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall—

(A) be imprisoned not more than 5 years;

(B) if serious bodily injury results, be imprisoned not more than 20 years; and

(C) if death results, be imprisoned for any number of years up to life.

(2) ARMED FORCES.—Whoever makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States, shall—

(A) be imprisoned not more than 8 years;

(B) if serious bodily injury results, be imprisoned not more than 20 years; and

(C) if death results, be imprisoned for any number of years up to life.
United States during a war or armed conflict in which the United States is engaged—

“(A) shall be imprisoned not more than 5 years;

“(B) if serious bodily injury results, shall be imprisoned not more than 20 years; and

“(C) if death results, shall be imprisoned for any number of years or for life.

“(b) CIVIL ACTION.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of subchapter A or D of chapter 33, subchapter B of chapter 15, or subchapter B, D, E, or F of chapter 21 of this title, section 236 of the Atomic Energy Act of 1954, or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(c) REIMBURSEMENT.—
“(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire or rescue service incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

“(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

“(d) ACTIVITIES OF LAW ENFORCEMENT.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.
§ 796. Fraud and related activity in connection with obtaining confidential phone records information of a covered entity

(a) CRIMINAL VIOLATION.—Whoever, in interstate or foreign commerce, knowingly and intentionally obtains, or attempts to obtain, confidential phone records information of a covered entity, by—

“(1) making false or fraudulent statements or representations to an employee of a covered entity;

“(2) making such false or fraudulent statements or representations to a customer of a covered entity;

“(3) providing a document to a covered entity knowing that such document is false or fraudulent; or

“(4) accessing customer accounts of a covered entity via the Internet, or by means of conduct that violates section 787, without prior authorization from the customer to whom such confidential phone records information relates;

shall be imprisoned for not more than 10 years.

(b) PROHIBITION ON SALE OR TRANSFER OF CONFIDENTIAL PHONE RECORDS INFORMATION.—

“(1) Except as otherwise permitted by applicable law, whoever, in interstate or foreign commerce, knowingly and intentionally sells or transfers, or at-
tempts to sell or transfer, confidential phone records information of a covered entity, without prior au-

thorization from the customer to whom such confidential phone records information relates, or know-
ing or having reason to know such information was obtained fraudulently, shall be imprisoned not more
than 10 years.

“(2) For purposes of this subsection, the exceptions specified in section 222(d) of the Communications Act of 1934 apply for the use of confidential phone records information by any covered entity, as defined in subsection (h).

“(c) PROHIBITION ON PURCHASE OR RECEIPT OF CONFIDENTIAL PHONE RECORDS INFORMATION.—

“(1) Except as otherwise permitted by applicable law, whoever, in interstate or foreign commerce, knowingly and intentionally purchases or receives, or attempts to purchase or receive, confidential phone records information of a covered entity, without prior authorization from the customer to whom such confidential phone records information relates, or knowing or having reason to know such information was obtained fraudulently, shall be imprisoned not more than 10 years.
“(2) For purposes of this subsection, the exceptions specified in section 222(d) of the Communications Act of 1934 apply for the use of confidential phone records information by any covered entity, as defined in subsection (h).

“(d) ENHANCED PENALTIES FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, subsection (a), (b), or (c) while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000, or more than 50 customers of a covered entity, in a 12-month period shall, in addition to the penalties provided for in such subsection, be imprisoned for not more than 5 years.

“(e) ENHANCED PENALTIES FOR USE OF INFORMATION IN FURTHERANCE OF CERTAIN CRIMINAL OFFENSES.—

“(1) Whoever, violates, or attempts to violate, subsection (a), (b), or (c) knowing that such information may be used in furtherance of, or with the intent to commit, an offense described in section 161 or any other crime of violence shall, in addition to the penalties provided for in such subsection, be imprisoned not more than 5 years.

“(2) Whoever, violates, or attempts to violate, subsection (a), (b), or (c) knowing that such infor-
mation may be used in furtherance of, or with the intent to commit, an offense under section 102, 112, 131, 1132, 1137, or 1138, or to intimidate, threaten, harass, injure, or kill any Federal, State, or local law enforcement officer shall, in addition to the penalties provided for in such subsection, be and imprisoned not more than 5 years.

“(f) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over an offense under this section.

“(g) Nonapplicability to Law Enforcement Agencies.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.

“(h) Definitions.—In this section:

“(1) Confidential Phone Records Information.—The term ‘confidential phone records information’ means information that—

“(A) relates to the quantity, technical configuration, type, destination, location, or amount of use of a service offered by a covered entity, subscribed to by any customer of that covered entity, and kept by or on behalf of that
covered entity solely by virtue of the relationship between that covered entity and the customer;

“(B) is made available to a covered entity by a customer solely by virtue of the relationship between that covered entity and the customer; or

“(C) is contained in any bill, itemization, or account statement provided to a customer by or on behalf of a covered entity solely by virtue of the relationship between that covered entity and the customer.

“(2) COVERED ENTITY.—The term ‘covered entity’—

“(A) has the same meaning given the term ‘telecommunications carrier’ in section 3 of the Communications Act of 1934; and

“(B) includes any provider of IP-enabled voice service.

“(3) CUSTOMER.—The term ‘customer’ means, with respect to a covered entity, any individual, partnership, association, joint stock company, trust, or corporation, or authorized representative of such customer, to whom the covered entity provides a product or service.
(4) IP-ENABLED VOICE SERVICE.—The term ‘IP-enabled voice service’ means the provision of real-time voice communications offered to the public, or such class of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, (whether part of a bundle of services or separately) with interconnection capability such that the service can originate traffic to, or terminate traffic from, the public switched telephone network, or a successor network.

"SUBCHAPTER B—MAIL FRAUD

§ 801. Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counter-
feit or spurious article, for the purpose of executing such
scheme or artifice or attempting so to do, places in any
post office or authorized depository for mail matter, any
matter or thing whatever to be sent or delivered by the
Postal Service, or deposits or causes to be deposited any
matter or thing whatever to be sent or delivered by any
private or commercial interstate carrier, or takes or re-
ceives therefrom, any such matter or thing, or knowingly
causes to be delivered by mail or such carrier according
to the direction thereon, or at the place at which it is di-
rected to be delivered by the person to whom it is ad-
dressed, any such matter or thing, shall be imprisoned not
more than 20 years. If the violation occurs in relation to,
or involving any benefit authorized, transported, trans-
mited, transferred, disbursed, or paid in connection with,
a presidentially declared major disaster or emergency (as
those terms are defined in section 102 of the Robert T.
Stafford Disaster Relief and Emergency Assistance Act),
or affects a financial institution, such person shall be im-
prisoned not more than 30 years.

§802. Fictitious name or address

Whoever, for the purpose of conducting, promoting,
or carrying on by means of the Postal Service, any scheme
or device mentioned in section 801 or any other unlawful
business, uses or assumes, or requests to be addressed by,
any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his or her own proper name, shall be imprisoned not more than five years.

“§ 803. Fraud by wire, radio, or television

“Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be imprisoned not more than 20 years. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presid-entially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act), or affects a financial institution, such person shall be imprisoned not more than 30 years.
§ 804. Bank fraud

“Whoever knowingly executes, a scheme or artifice—

“(1) to defraud a financial institution; or

“(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be imprisoned not more than 30 years.

§ 805. Definition of ‘scheme or artifice to defraud’

“For the purposes of this subchapter, the term ‘scheme or artifice to defraud’ includes a scheme or artifice to deprive another of the intangible right of honest services.

§ 806. Health care fraud

“Whoever knowingly executes a scheme or artifice—

“(1) to defraud any health care benefit program; or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury, such person...
shall be imprisoned not more than 20 years, and if the
violation results in death, such person shall be imprisoned
for any term of years or for life.

§ 807. Securities and commodities fraud

“Whoever knowingly executes a scheme or artifice—
“(1) to defraud any person in connection with
any commodity for future delivery, or any option on
a commodity for future delivery, or any security of
an issuer with a class of securities registered under
section 12 of the Securities Exchange Act of 1934
or that is required to file reports under section 15(d)
of the Securities Exchange Act of 1934; or
“(2) to obtain, by means of false or fraudulent
pretenses, representations, or promises, any money
or property in connection with the purchase or sale
of any commodity for future delivery, or any option
on a commodity for future delivery, or any security
of an issuer with a class of securities registered
under section 12 of the Securities Exchange Act of
1934 or that is required to file reports under section
15(d) of the Securities Exchange Act of 1934;
shall be imprisoned not more than 25 years.
“§ 808. Failure of corporate officers to certify financial reports

“(a) Certification of Periodic Financial Reports.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

“(b) Content.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

“(c) Criminal Penalties.—Whoever knowingly—

“(1) certifies any statement as set forth in subsections (a) and (b) knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be imprisoned not more than 10 years; or

“(2) certifies any statement as set forth in subsections (a) and (b) knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section,
shall be imprisoned not more than 20 years.

“CHAPTER 27—CRIMES RELATED TO FEDERAL GOVERNMENT RESPONSIBILITIES

Subchapter
A. Coins and currency
B. Customs
C. Indians
D. Bankruptcy
E. Civil rights
F. Foreign relations
G. Postal service
H. Special maritime and territorial jurisdiction of the United States

“SUBCHAPTER A—COINS AND CURRENCY

§851. Mutilation, diminution, and falsification of coins.
§852. Mutilation of national bank obligations.

“§851. Mutilation, diminution, and falsification of coins

“Whoever—

“(1) fraudulently alters, defaces, mutilates, impairs, diminishes, falsifies, scales, or lightens any of the coins coined at the mints of the United States, or any foreign coins which are by law made current or are in actual use or circulation as money within the United States; or

“(2) fraudulently possesses, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or brings into the United States, any such coin, knowing the same to be altered, defaced, muti-
lated, impaired, diminished, falsified, scaled, or
lightened;
shall be imprisoned not more than five years.

§ 852. Mutilation of national bank obligations

“Whoever mutilates, cuts, defaces, disfigures, or per-
forates, or unites or cements together, or does any other
thing to any bank bill, draft, note, or other evidence of
debt issued by any national banking association, or Fed-
eral Reserve bank, or the Federal Reserve System, with
intent to render such bank bill, draft, note, or other evi-
dence of debt unfit to be reissued, shall be imprisoned not
more than six months.

“SUBCHAPTER B—CUSTOMS

861. Entry of goods falsely classified.
862. Entry of goods by means of false statements.
863. Smuggling goods into the United States.
864. Smuggling goods into foreign countries.
865. Removing goods from Customs custody; breaking seals.
866. Importation or exportation of stolen motor vehicles, off-highway mobile
equipment, vessels, or aircraft.
867. Smuggling goods from the United States.
868. Border tunnels and passages.

§ 861. Entry of goods falsely classified

“Whoever knowingly effects any entry of goods,
wares, or merchandise, at less than the true weight or
measure thereof, or upon a false classification as to quality
or value, or by the payment of less than the amount of
duty legally due, shall be imprisoned not more than two
years.
§ 862. Entry of goods by means of false statements

(a) Offense.—Whoever—

(1) enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties; or

(2) knowingly engages in an act or omission whereby the United States is or may be deprived of any lawful duties accruing upon merchandise embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission;

shall be imprisoned not more than two years.

(b) Definition.—As used in this section, the term ‘commerce of the United States’ does not include commerce with Virgin Islands, American Samoa, Wake Island,
Midway Islands, Kingman Reef, Johnston Island, or Guam.

§ 863. Smuggling goods into the United States

(a) OFFENSE.—Whoever—

(1) knowingly and with intent to defraud the United States, smuggles, or clandestinely introduces or attempts to smuggle or clandestinely introduce into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

(2) fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law;

shall be imprisoned not more than 20 years.

(b) FORFEITURE.—Merchandise introduced into the United States in violation of this section, or the value thereof, to be recovered from any person described in subsection (a), shall be forfeited to the United States.
“(c) DEFINITION.—The term ‘United States’, as used in this section, does not include Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam.

§ 864. Smuggling goods into foreign countries

“(a) OFFENSE.—Whoever, owning in whole or in part any vessel of the United States, employs, or participates in, or allows the employment of, such vessel for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, and any person found, or discovered to have been, on board of any such vessel so employed and participating or assisting in any such purpose, shall be imprisoned not more than two years.

“(b) HIRING OR CHARTERING OF VESSELS.—It shall constitute an offense under this section to hire out or
charter a vessel if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel intends to employ such vessel for any of the purposes described in this section and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose.

§865. Removing goods from Customs custody; breaking seals

"Whoever knowingly—

“(1) without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package;

“(2) without authority, removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody;

“(3) enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise with intent unlawfully to remove therefrom any merchandise or baggage therein, or unlawfully removes any merchandise or baggage in such vessel,
vehicle, or bonded warehouse or otherwise in customs custody or control; or

“(4) receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed;

shall be imprisoned not more than 10 years.

“§ 866. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft

“(a) OFFENSE.—Whoever knowingly imports, exports, or attempts to import or export—

“(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

“(2) any motor vehicle or off-highway mobile equipment or part of any motor vehicle or off-highway mobile equipment, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered;

shall be imprisoned not more than 10 years.

“(b) EXCLUSION.—Subsection (a)(2) does not apply if the removal, obliteration, tampering, or alteration—
“(1) is caused by collision or fire; or

“(2)(A) in the case of a motor vehicle, is not a violation of section 717 (relating to altering or re-moving motor vehicle identification numbers); or

“(B) in the case of off-highway mobile equip-ment, would not be a violation of section 717 if such equipment were a motor vehicle.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘motor vehicle’ has the meaning given that term in section 32101 of title 49;

“(2) the term ‘off-highway mobile equipment’ means any self-propelled agricultural equipment, self-propelled construction equipment, and self-pro-pelled special use equipment, used or designed for running on land but not on rail or highway;

“(3) the term ‘vessel’ has the meaning given that term in section 401 of the Tariff Act of 1930;

“(4) the term ‘aircraft’ has the meaning given that term in section 40102(a) of title 49; and

“(5) the term ‘identification number’—

“(A) in the case of a motor vehicle, has the meaning given that term in section 717; and

“(B) in the case of any other vehicle or equipment covered by this section, means a number or symbol assigned to the vehicle or

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equipment, or part thereof, by the manufacturer primarily for the purpose of identifying such vehicle, equipment, or part.

§ 867. Smuggling goods from the United States

(a) OFFENSE.—Whoever fraudulently or knowingly exports or sends from the United States any merchandise, article, or object contrary to any law or regulation of the United States, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, shall be imprisoned not more than 10 years.

(b) DEFINITION.—As used in this section, the term ‘United States’ has the meaning given that term in section 863.

§ 868. Border tunnels and passages

(a) CONSTRUCTION.—Whoever knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by Immigration and Customs Enforcement, shall be imprisoned for not more than 20 years.
“(b) Disregarding Construction.—Whoever knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be imprisoned for not more than 10 years.

“(c) Use.—

“(1) Offense.—Whoever uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 863), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.

“(2) Definition.—As used in this subsection, the term ‘terrorist organization’ means an organization designated as a terrorist organization under section 219 of the Immigration and Nationality Act.

“Subchapter C—Indians

871. Indian country defined.
872. Laws governing.
873. Offenses committed within Indian country.
874. State jurisdiction over offenses committed by or against Indians in the Indian country.
875. Embezzlement and theft from Indian Tribal organizations.
876. Theft from gaming establishments on Indian lands.
877. Theft by officers or employees of gaming establishments on Indian lands.
§ 871. Indian country defined

“(1) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

“(2) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

“(3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

§ 872. Laws governing

“(a) Generally.—Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.
“(b) LIMITATION.—This section does not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

“§ 873. Offenses committed within Indian country

“(a) MAJOR CRIMES.—Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under subchapter A of chapter 13, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, an assault against an individual who has not attained the age of 16 years, arson, burglary, robbery, and a felony under section 649 within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

“(b) DEFINITION OF CERTAIN OFFENSES.—Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within
the exclusive jurisdiction of the United States shall be de-
dined and punished in accordance with the laws of the 
State in which such offense was committed as are in force 
at the time of such offense.

§ 874. State jurisdiction over offenses committed by 
or against Indians in the Indian country

(a) In General.—Each State listed in the fol-
lowing table shall have jurisdiction over offenses com-
mitted by or against Indians in the areas of Indian coun-
try listed opposite the name of the State to the same ex-
tent that such State has jurisdiction over offenses com-
mitted elsewhere within the State, and the criminal laws 
of such State shall have the same force and effect within 
such Indian country as they have elsewhere within the 
State:

<table>
<thead>
<tr>
<th>State</th>
<th>Jurisdiction Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>All Indian country within the State, except that on Annette Islands, the Metlakatla Indian community may exercise jurisdiction over offenses committed by Indians in the same manner in which such jurisdiction may be exercised by Indian tribes in Indian country over which State jurisdiction has not been extended.</td>
</tr>
<tr>
<td>California</td>
<td>All Indian country within the State.</td>
</tr>
<tr>
<td>Minnesota</td>
<td>All Indian country within the State, except the Red Lake Reservation.</td>
</tr>
<tr>
<td>Nebraska</td>
<td>All Indian country within the State.</td>
</tr>
<tr>
<td>Oregon</td>
<td>All Indian country within the State, except the Warm Springs Reservation.</td>
</tr>
<tr>
<td>Wisconsin</td>
<td>All Indian country within the State.</td>
</tr>
</tbody>
</table>

(b) Non-Criminal Matters Not Affected.—

Nothing in this section—
“(1) authorizes the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;

“(2) authorizes regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or

“(3) deprives any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

“(c) Nonapplication.—Sections 872 and 873 do not apply within the areas of Indian country listed in subsection (a) as areas over which a State has exclusive jurisdiction.

“(d) Exception.—Notwithstanding subsection (c), at the request of an Indian tribe, and after consultation with and consent by the Attorney General—

“(1) sections 872 and 873 apply in the areas of the Indian country of the Indian tribe; and
“(2) jurisdiction over those areas shall be concurrent among the Federal Government, State governments, and, where applicable, tribal governments.

“§ 875. Embezzlement and theft from Indian tribal organizations

“(a) OFFENSE.—Whoever embezzles, steals, unlawfully converts, knowingly misapplies, or knowingly permits to be misapplied, any of the property belonging to any Indian tribal organization or entrusted to the custody or care of any officer, employee, or agent of an Indian tribal organization shall be imprisoned not more than five years; but if the value of such property does not exceed the sum of $1,000, shall be imprisoned not more than one year.

“(b) DEFINITION.—As used in this section, the term ‘Indian tribal organization’ means any tribe, band, or community of Indians which is subject to the laws of the United States relating to Indian affairs or any corporation, association, or group which is organized under any of such laws.

“§ 876. Theft from gaming establishments on Indian lands

“Whoever abstracts, purloins, knowingly misapplies, or takes and carries away with intent to steal, any money, funds, or other property belonging to a gaming establishment operated by or for or licensed by an Indian tribe
pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be imprisoned for not more than ten years, but if the value of such property does not exceed $1,000, shall be imprisoned not more than one year.

§ 877. Theft by officers or employees of gaming establishments on Indian lands

“Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, knowingly misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment shall be imprisoned for not more than 20 years, but if the value of such property is $1,000 or less shall be imprisoned not more than five years.

§ 878. Reporting of child abuse

“(a) BASIC REPORTING OFFENSE.—Whoever—

“(1) is a—

“(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,
“(B) teacher, school counselor, instructional aide, teacher’s aide, teacher’s assistant, or bus driver employed by any tribal, Federal, public or private school,

“(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

“(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

“(E) psychiatrist, psychologist, or psychological assistant,

“(F) licensed or unlicensed marriage, family, or child counselor,

“(G) person employed in the mental health profession, or

“(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person employed in a public agency who is responsible for enforcing statutes and judicial orders;

“(2) knows, or has reasonable suspicion, that—

“(A) a child was abused in Indian country, or
“(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

“(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be imprisoned for not more than 6 months.

“(b) Offense by Supervisors.—Whoever—

“(1) supervises, or has authority over, a person described in subsection (a)(1), and

“(2) inhibits or prevents that person from making the report described in subsection (a),

shall be imprisoned for not more than 6 months.

“(c) Definitions.—As used in this section—

“(1) the term ‘abuse’ includes—

“(A) any case in which—

“(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and
“(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and
“(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;
“(2) the term ‘child’ means an individual who—
“(A) is not married, and
“(B) has not attained 18 years of age;
“(3) the term ‘local child protective services agency’ means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and
“(4) the term ‘local law enforcement agency’ means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.
“(d) IMMUNITY FROM CIVIL OR CRIMINAL LIABILITY FOR REPORTING.—Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.
§ 879. Illegal trafficking in Native American human remains and cultural items

(a) HUMAN REMAINS.—Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be imprisoned not more than 12 months, and in the case of a second or subsequent violation, be imprisoned not more than 5 years.

(b) CULTURAL ITEMS.—Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be imprisoned not more than one year, and in the case of a second or subsequent violation, be imprisoned not more than 5 years.

§ 881. Concealment of assets; false oaths and claims; bribery

§ 882. Embezzlement against estate.

§ 883. Adverse interest and conduct of officers.

§ 884. Fee agreements in cases under title 11 and receiverships.

§ 885. Bankruptcy fraud.

§ 886. Definition.

§ 881. Concealment of assets; false oaths and claims; bribery

Whoever—
“(1) knowingly conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

“(2) knowingly makes a false oath or account in or in relation to any case under title 11;

“(3) knowingly makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

“(4) knowingly presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

“(5) knowingly receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

“(6) knowingly and corruptly gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or
promise thereof for acting or forbearing to act in any case under title 11;

“(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly transfers or conceals any of his property or the property of such other person or corporation;

“(8) after the filing of a case under title 11 or in contemplation thereof, knowingly conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

“(9) after the filing of a case under title 11, knowingly withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be imprisoned not more than 5 years.
§ 882. Embezzlement against estate

(a) Offense.—Whoever, being described in subsection (b), knowingly and unlawfully appropriates to the person’s own use, embezzles, spends, or transfers any property or secrete(s) or destroys any document belonging to the estate of a debtor shall be imprisoned not more than 5 years.

(b) Person to whom section applies.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person’s participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

§ 883. Adverse interest and conduct of officers

Whoever, being a custodian, trustee, marshal, or other officer of the court—

(1) knowingly purchases any property of the estate of which the person is such an officer in a case under title 11;

(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person’s charge by parties when directed by the court to do so; or
“(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person’s charge, shall be fined under this title and shall forfeit the person’s office, which shall thereupon become vacant.

“§ 884. Fee agreements in cases under title 11 and receiverships

“Whoever, being a party in interest, whether as a debtor, creditor, receiver, trustee or representative of any of them, or attorney for any such party in interest, in any receivership or case under title 11 in any United States court or under its supervision, knowingly and corruptly enters into any agreement, express or implied, with another such party in interest or attorney for another such party in interest, for the purpose of fixing the fees or other compensation to be paid to any party in interest or to any attorney for any party in interest for services rendered in connection therewith, from the assets of the estate, shall be imprisoned not more than one year.

“§ 885. Bankruptcy fraud

“Whoever for the purpose of executing or concealing a scheme or artifice to defraud—
“(1) files a petition under title 11, including a fraudulent involuntary petition under section 303 of such title;

“(2) files a document in a proceeding under title 11; or

“(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be imprisoned not more than 5 years.

“§ 886. Definition

“As used in this subchapter, the term ‘debtor’ means a debtor concerning whom a petition has been filed under title 11.

“SUBCHAPTER E—CIVIL RIGHTS

§ 891. Conspiracy against rights

§ 892. Deprivation of rights under color of law

§ 893. Exclusion of jurors on account of race or color

§ 894. Discrimination against person wearing uniform of Armed Forces

§ 895. Federally protected activities

§ 896. Deprivation of relief benefits

§ 897. Damage to religious property; obstruction of persons in the free exercise of religious beliefs

§ 898. Freedom of access to clinic entrances

§ 899. Voting Rights Act violations

§ 900. Prevention of intimidation in fair housing cases

§ 901. Hate crime acts

“§ 891. Conspiracy against rights

“If two or more persons—
“(1) conspire to injure, oppress, threaten, or intimidate any person in any State in the free exercise or enjoyment of any right or privilege secured to that person by the Constitution or laws of the United States, or because of that person’s having so exercised the same; or

“(2) go in disguise on the highway, or on the premises of another, with intent to prevent or hinder that other’s free exercise or enjoyment of any right or privilege so secured;

each shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, each shall be imprisoned for any term of years or for life, or may be sentenced to death.

§ 892. Deprivation of rights under color of law

“Whoever, under color of any law, statute, ordinance, regulation, or custom, knowingly subjects any person in any State to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are pre-
scribed for the punishment of citizens, shall be imprisoned not more than one year; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be imprisoned for any term of years or for life, or may be sentenced to death.

§ 893. Exclusion of jurors on account of race or color

“§ 893. Exclusion of jurors on account of race or color

“No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than $5,000.

§ 894. Discrimination against person wearing uniform of Armed Forces

“§ 894. Discrimination against person wearing uniform of Armed Forces

“Whoever, being a proprietor, manager, or employee of a theater or other public place of entertainment or
amusement in the District of Columbia, or in any terri-
tory, or possession of the United States, causes any person
wearing the uniform of any of the armed forces of the
United States to be discriminated against because of that
uniform, shall be fined under this title.

§ 895. Federally protected activities

“(a) CONSTRUCTION.—

“(1) Nothing in this section shall be construed
as indicating an intent on the part of Congress to
prevent any State, any possession or Commonwealth
of the United States, or the District of Columbia,
from exercising jurisdiction over any offense over
which it would have jurisdiction in the absence of
this section, nor shall anything in this section be
construed as depriving State and local law enforce-
ment authorities of responsibility for prosecuting
acts that may be violations of this section and that
are violations of State and local law. No prosecution
of any offense described in this section shall be un-
dertaken by the United States except upon the cer-
tification in writing of the Attorney General, the
Deputy Attorney General, the Associate Attorney
General, or any Assistant Attorney General specially
designated by the Attorney General that in his judg-
ment a prosecution by the United States is in the
public interest and necessary to secure substantial
justice, which function of certification may not be
delegated.

“(2) Nothing in this subsection shall be con-
structed to limit the authority of Federal officers, or
a Federal grand jury, to investigate possible viola-
tions of this section.

“(b) OFFENSE.—Whoever, by force or threat of force,
knowingly injures, intimidates, or interferes with—

“(1) any person because he is or has been, or
in order to intimidate such person or any other per-
son or any class of persons from—

“(A) voting or qualifying to vote, qual-
ifying or campaigning as a candidate for elective
office, or qualifying or acting as a poll watcher,
or any legally authorized election official, in any
primary, special, or general election;

“(B) participating in or enjoying any ben-
efit, service, privilege, program, facility, or ac-
tivity provided or administered by the United
States;

“(C) applying for or enjoying employment,
or any perquisite thereof, by any agency of the
United States;
“(D) serving, or attending upon any court in connection with possible service, as a grand or petit juror in any court of the United States; or

“(E) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance;

“(2) any person because of his race, color, religion or national origin and because he is or has been—

“(A) enrolling in or attending any public school or public college;

“(B) participating in or enjoying any benefit service, privilege, program, facility or activity provided or administered by any State or subdivision thereof;

“(C) applying for or enjoying employment, or any perquisite thereof, by any private employer or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall, or employment agency;

“(D) serving, or attending upon any court of any State in connection with possible service, as a grand or petit juror;
“(E) traveling in or using any facility of interstate commerce, or using any vehicle, terminal, or facility of any common carrier by motor, rail, water, or air;

“(F) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests, or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food or beverages for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and—

“(i) which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments; and

“(ii) which holds itself out as serving patrons of such establishments;
“(3) during or incident to a riot or civil disorder, any person engaged in a business in commerce or affecting commerce, including, but not limited to, any person engaged in a business which sells or offers for sale to interstate travelers a substantial portion of the articles, commodities, or services which it sells or where a substantial portion of the articles or commodities which it sells or offers for sale have moved in commerce; or

“(4) any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from—

“(A) participating, without discrimination on account of race, color, religion or national origin, in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F); or

“(B) affording another person or class of persons opportunity or protection to so participate; or

“(5) any citizen because that person is or has been, or in order to intimidate such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin,
in any of the benefits or activities described in subparagraphs (1)(A) through (1)(E) or subparagraphs (2)(A) through (2)(F), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate, shall be imprisoned not more than one year; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be imprisoned for any term of years or for life or may be sentenced to death.

 ``(c) DEFINITION.—As used in this section, the term ‘participating lawfully in speech or peaceful assembly’ shall not mean the aiding, abetting, or inciting of other persons to riot or to commit any act of physical violence upon any individual or against any real or personal property in furtherance of a riot. Nothing in subparagraph (2)(F) or (4)(A) of this subsection applies to the proprietor of any establishment which provides lodging to transient guests, or to any employee acting on behalf of such
proprietor, with respect to the enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of such establishment if such establishment is located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor as the proprietor’s residence.

“(d) Law Enforcement Duties Not Affected.—Nothing in this section shall be construed so as to deter any law enforcement officer from lawfully carrying out the duties of his office; and no law enforcement officer shall be considered to be in violation of this section for lawfully carrying out the duties of his office or lawfully enforcing ordinances and laws of the United States, the District of Columbia, any of the several States, or any political subdivision of a State. For purposes of the preceding sentence, the term ‘law enforcement officer’ means any officer of the United States, the District of Columbia, a State, or political subdivision of a State, who is empowered by law to conduct investigations of, or make arrests because of, offenses against the United States, the District of Columbia, a State, or a political subdivision of a State.

§896. Deprivation of relief benefits

“Whoever directly or indirectly deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit pro-
vided for or made possible in whole or in part by any Act of Congress appropriating funds for work relief or relief purposes, on account of political affiliation, race, color, sex, religion, or national origin, shall be imprisoned not more than one year.

“§897. Damage to religious property; obstruction of persons in the free exercise of religious beliefs

“(a) Religious Property Offense Relating to Religious Character.—Whoever, in or affecting inter-
state or foreign commerce—

“(1) knowingly defaces, damages, or destroys any religious real property, because of the religious character of that property; or

“(2) knowingly obstructs, by force or threat of force, any person in the enjoyment of that person’s free exercise of religious beliefs;

shall be punished as provided in subsection (c).

“(b) Property Offense Motivated by Racial and Other Characteristics.—Whoever knowingly de-
faces, damages, or destroys any religious real property be-
cause of the race, color, or ethnic characteristics of any individual associated with that religious property, shall be punished as provided in subsection (c).
“(c) PUNISHMENT.—The punishment for a violation of subsection (a) is—

“(1) if death results from acts committed in violation of this section or if such acts include kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, imprisonment for any term of years or for life, or death;

“(2) if bodily injury results to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, and the violation is by means of fire or an explosive, or imprisonment for more that 40 years;

“(3) if bodily injury to any person, including any public safety officer performing duties as a direct or proximate result of conduct prohibited by this section, results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, imprisonment for not more than 20 years; and

“(4) in any other case, imprisonment for not more than one year.
“(d) Certification.—No prosecution of any offense described in this section shall be undertaken by the United States except upon the certification in writing of the Attorney General or his designee that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice.

“(e) Definition.—As used in this section, the term ‘religious real property’ means any church, synagogue, mosque, religious cemetery, or other religious real property, including fixtures or religious objects contained within a place of religious worship.

“(f) Limitation.—No person shall be prosecuted, tried, or punished for any noncapital offense under this section unless the indictment is found or the information is instituted not later than 7 years after the date on which the offense was committed.

“§ 898. Freedom of access to clinic entrances

“(a) Prohibited activities.—Whoever—

“(1) by force or threat of force or by physical obstruction, knowingly injures, intimidates or interferes with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;
“(2) by force or threat of force or by physical obstruction, knowingly injures, intimidates or interferes with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

“(3) knowingly damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or knowingly damages or destroys the property of a place of religious worship,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a child shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that child.

“(b) Penalties.—Whoever violates this section shall—

“(1) in the case of a first offense, be imprisoned not more than one year; and

“(2) in the case of a second or subsequent offense after a prior conviction under this section, be imprisoned not more than 3 years;

except that for an offense involving exclusively a non-violent physical obstruction, the fine shall, notwith-
standing section 3571, not be more than $10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall, notwithstanding section 3571, be not more than $25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

“(c) Civil Remedies.—

“(1) Right of action.—

“(A) In general.—Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or
by the entity that owns or operates such place of religious worship.

“(B) Relief.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of $5,000 per violation.

“(2) Action by attorney general of the United States.—

“(A) In general.—If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.
“(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent—

“(i) in an amount not exceeding $10,000 for a nonviolent physical obstruction and $15,000 for other first violations; and

“(ii) in an amount not exceeding $15,000 for a nonviolent physical obstruction and $25,000 for any other subsequent violation.

“(3) ACTIONS BY STATE ATTORNEYS GENERAL.—

“(A) IN GENERAL.—If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf
of natural persons residing in such State, in any appropriate United States District Court.

“(B) RELIEF.—In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

“(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

“(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution; or

“(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference.

“(e) DEFINITIONS.—As used in this section—

“(1) the term ‘facility’ includes a hospital, clinic, physician’s office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located;
“(2) the term ‘interfere with’ means to restrict a person’s freedom of movement;

“(3) the term ‘intimidate’ means to place a person in reasonable apprehension of bodily harm to him-or herself or to another;

“(4) the term ‘physical obstruction’ means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous; and

“(5) the term ‘reproductive health services’ means reproductive health services provided in a hospital, clinic, physician’s office, or other facility, and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

§ 899. Voting Rights Act violations

“(a) Deprivation of Rights.—Whoever deprives any person of any right secured by section 2, 3, 4, 5, 7, or 10 of the Voting Rights Act of 1965 or violates section 11(a) of such Act, shall be imprisoned not more than five years.
“(b) BALLOTS AND RECORDS OF VOTING.—Whoever, within a year following an election in a political subdivision in which an examiner has been appointed under the Voting Rights Act of 1965—

“(1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election; or

“(2) alters any official record of voting in such election tabulated from a voting machine or otherwise;

shall be imprisoned not more than five years.

“(c) INTERFERENCE WITH RIGHTS.—Whoever interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11(a) of the Voting Rights Act of 1965 shall be imprisoned not more than five years.

“§ 900. Prevention of intimidation in fair housing cases

“Whoever by force or threat of force willfully injures, intimidates or interferes with—

“(1) any person because of that person’s race, color, religion, sex, handicap (as such term is defined in section 802 of the Fair Housing Act), fami-

famil-

lial status (as such term is defined in section 802 of that Act), or national origin and because that person is or has been selling, purchasing, renting, financing,
occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

“(2) any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from—

“(A) participating, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in section 802 of the Fair Housing Act), familial status (as such term is defined in section 802 of that Act), or national origin, in any of the activities, services, organizations or facilities described in paragraph (1);

“(B) affording another person or class of persons opportunity or protection so to participate; or

“(C) any citizen because that citizen is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap (as such term is defined in
section 802 of the Fair Housing Act), familial status (as such term is defined in section 802 of that Act), or national origin, in any of the activities, services, organizations or facilities described in paragraph (1), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate; shall be imprisoned not more than one year; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire shall be imprisoned not more than ten years; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit ag- gravated sexual abuse, or an attempt to kill, shall be im- prisoned for any term of years or for life.

“§ 901. Hate crime acts

“(a) In General.—

“(1) Offenses involving actual or perceived race, color, religion, or national ori- gin.—Whoever, whether or not acting under color of law, knowingly causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, at-
tempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person—

“(A) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(B) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(i) death results from the offense; or

“(ii) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(2) Offenses involving actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability.—

“(A) In general.—Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B) or paragraph (3), knowingly causes bodily injury to any person or, through the use of fire, a firearm, a dangerous weapon, or an explosive or incendiary device, attempts to cause bodily injury
to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability of any person—

“(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

“(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if—

“(I) death results from the offense; or

“(II) the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

“(B) Circumstances described.—For purposes of subparagraph (A), the circumstances described in this subparagraph are that—

“(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim—
“(I) across a State line or national border; or

“(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

“(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

“(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, dangerous weapon, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

“(iv) the conduct described in subparagraph (A)—

“(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

“(II) otherwise affects interstate or foreign commerce.

“(3) OFFENSES OCCURRING IN THE SPECIAL MARITIME OR TERRITORIAL JURISDICTION OF THE
UNITED STATES.—Whoever, within the special maritime or territorial jurisdiction of the United States, engages in conduct described in paragraph (1) or in paragraph (2)(A) (without regard to whether that conduct occurred in a circumstance described in paragraph (2)(B)) shall be subject to the same penalties as prescribed in those paragraphs.

“(4) GUIDELINES.—All prosecutions conducted by the United States under this section shall be undertaken pursuant to guidelines issued by the Attorney General, or the designee of the Attorney General, to be included in the United States Attorneys’ Manual that shall establish neutral and objective criteria for determining whether a crime was committed because of the actual or perceived status of any person.

“(b) CERTIFICATION REQUIREMENT.—

“(1) IN GENERAL.—No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, or a designee, that—

“(A) the State does not have jurisdiction;

“(B) the State has requested that the Federal Government assume jurisdiction;
“(C) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence; or

“(D) a prosecution by the United States is in the public interest and necessary to secure substantial justice.

“(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of Federal officers, or a Federal grand jury, to investigate possible violations of this section.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘bodily injury’ does not include solely emotional or psychological harm to the victim;

“(2) the term ‘explosive or incendiary device’ has the meaning given such term in section 296(c);

“(3) the term ‘firearm’ has the meaning given such term in section 581;

“(4) the term ‘gender identity’ means actual or perceived gender-related characteristics; and

“SUBCHAPTER F—FOREIGN RELATIONS

921. Agents of foreign governments.
922. Diplomatic codes and correspondence.
923. False statements influencing foreign Government.
924. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.
925. Enlistment in foreign Service.
926. Expedition against friendly nation.
927. Detention of armed vessel.
928. Protection of property occupied by foreign governments.
§ 921. Agents of foreign governments

(a) OFFENSE.—Whoever, other than a diplomatic or consular officer or attache, acts in the United States as an agent of a foreign government without prior notification to the Attorney General if required in subsection (b), shall be imprisoned not more than ten years.

(b) RULES AND REGULATIONS.—The Attorney General shall promulgate rules and regulations establishing requirements for notification.

(c) TRANSMISSION.—The Attorney General shall, upon receipt, promptly transmit one copy of each notification statement filed under this section to the Secretary of State for such comment and use as the Secretary of State may determine to be appropriate from the point of view of the foreign relations of the United States. Failure of the Attorney General to do so is not a bar to prosecution under this section.

(d) DEFINITION.—As used in this section, the term ‘agent of a foreign government’ means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official, except that such term does not include—

(1) a duly accredited diplomatic or consular officer of a foreign government, who is so recognized by the Department of State;
“(2) any officially and publicly acknowledged and sponsored official or representative of a foreign government;

“(3) any officially and publicly acknowledged and sponsored member of the staff of, or employee of, an officer, official, or representative described in paragraph (1) or (2), who is not a United States citizen; or

“(4) any person engaged in a legal commercial transaction.

“(e) Additional Basis for Determining Agency.—Notwithstanding subsection (d)(4), any person engaged in a legal commercial transaction shall be considered to be an agent of a foreign government for purposes of this section if—

“(1) such person agrees to operate within the United States subject to the direction or control of a foreign government or official; and

“(2) such person—

“(A) is an agent of Cuba or any other country that the President determines (and so reports to the Congress) poses a threat to the national security interest of the United States for purposes of this section, unless the Attorney General, after consultation with the Secretary
of State, determines and so reports to the Congress that the national security or foreign policy interests of the United States require that this section does not apply in specific circumstances to agents of such country; or

“(B) has been convicted of, or has entered a plea of nolo contendere with respect to, any offense under section 301, 302, 303, 601, or 261 of this title or under section 11 of the Export Administration Act of 1979, except that this subsection does not apply to a person described in this subparagraph for a period of more than five years beginning on the date of the conviction or the date of entry of the plea of nolo contendere, as the case may be.

§ 922. Diplomatic codes and correspondence

“Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent authority, knowingly publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the
United States, shall be or imprisoned not more than ten years.

§923. False statements influencing foreign government

“Whoever, in relation to any dispute or controversy between a foreign government and the United States, knowingly makes any untrue statement, either orally or in writing, under oath before any person authorized and empowered to administer oaths, which the affiant has knowledge or reason to believe will, or may be used to influence the measures or conduct of any foreign government, or of any officer or agent of any foreign government, to the injury of the United States, or with a view or intent to influence any measure of or action by the United States or any department or agency thereof, to the injury of the United States, shall be imprisoned not more than ten years.

§924. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

“(a) Offense Against Persons.—

“(1) Elements.—Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any
place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in paragraph (2).

“(2) PUNISHMENT.—The punishment for an offense under paragraph (1) is—

“(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap;

and

“(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

“(b) OFFENSE AGAINST PROPERTY.—Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any
of the conspirators commits an act within the jurisdiction
of the United States to effect any object of the conspiracy,
be imprisoned not more than 25 years.

§ 925. Enlistment in foreign service

(a) OFFENSE.—Whoever, within the United States,
enlists or enters himself, or hires or retains another to
enlist or enter himself, or to go beyond the jurisdiction
of the United States with intent to be enlisted or entered
in the service of any foreign prince, state, colony, district,
or people as a soldier or as a marine or seaman on board
any vessel of war, letter of marque, or privateer, shall be
imprisoned not more than three years.

(b) EXCLUSIONS.—

(1) This section does not apply to citizens or
subjects of any country engaged in war with a coun-
try with which the United States is at war, unless
such citizen or subject of such foreign country shall
hire or solicit a citizen of the United States to enlist
or go beyond the jurisdiction of the United States
with intent to enlist or enter the service of a foreign
country. Enlistments under this subsection shall be
under regulations prescribed by the Secretary of the
Army.

(2) This section and section 926 do not apply
to any subject or citizen of any foreign prince, state,
colony, district, or people who is transiently within
the United States and enlists or enters himself on
board any vessel of war, letter of marque, or pri-
ivateer, which at the time of its arrival within the
United States was fitted and equipped as such, or
hires or retains another subject or citizen of the
same foreign prince, state, colony, district, or people
who is transiently within the United States to enlist
or enter himself to serve such foreign prince, state,
colony, district, or people on board such vessel of
war, letter of marque, or privateer, if the United
States shall then be at peace with such foreign
prince, state, colony, district, or people.

“§ 926. Expedition against friendly nation

“Whoever, within the United States, knowingly be-
gins or sets on foot or provides or prepares a means for
or furnishes the money for, or takes part in, any military
or naval expedition or enterprise to be carried on from
thence against the territory or dominion of any foreign
prince or state, or of any colony, district, or people with
whom the United States is at peace, shall be imprisoned
not more than three years.

“§ 927. Detention of armed vessel

“(a) Authority of President.—During a war in
which the United States is a neutral nation, the President,
or any person authorized by him, may detain any armed
vessel owned wholly or in part by citizens of the United
States, or any vessel, domestic or foreign (other than one
which has entered the ports of the United States as a pub-
lic vessel), which is manifestly built for warlike purposes
or has been converted or adapted from a private vessel
to one suitable for warlike use, until the owner or master,
or person having charge of such vessel, shall furnish proof
satisfactory to the President, or to the person duly author-
ized by him, that the vessel will not be employed to cruise
against or commit or attempt to commit hostilities upon
the subjects, citizens, or property of any foreign prince
or state, or of any colony, district, or people with which
the United States is at peace, and that the said vessel
will not be sold or delivered to any belligerent nation, or
to an agent, officer, or citizen of such nation, by them
or any of them, within the jurisdiction of the United
States, or upon the high seas.

“(b) OFFENSE.—Whoever, in violation of this section
takes, or attempts to take, or authorizes the taking of any
such vessel, out of port or from the United States, shall
be imprisoned not more than ten years.
§ 928. Protection of property occupied by foreign governments

(a) Property Offense.—Whoever knowingly injures, damages, or destroys, or attempts to injure, damage, or destroy, any property, real or personal, located within the United States and belonging to or utilized or occupied by any foreign government or international organization, by a foreign official or official guest, shall be imprisoned not more than five years.

(b) Threat and Harassment Offense.—Whoever, knowingly with intent to intimidate, coerce, threaten, or harass—

(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—

(A) a foreign government, including such use as a mission to an international organization;

(B) an international organization;

(C) a foreign official; or

(D) an official guest; or

(2) refuses to depart from such portion of such building or premises after a request—
“(A) by an employee of a foreign government or of an international organization, if such employee is authorized to make such request by the senior official of the unit of such government or organization which occupies such portion of such building or premises;

“(B) by a foreign official or any member of the foreign official’s staff who is authorized by the foreign official to make such request;

“(C) by an official guest or any member of the official guest’s staff who is authorized by the official guest to make such request; or

“(D) by any person present having law enforcement powers;

shall be imprisoned not more than six months.

“(c) DEFINITIONS.—For purposes of this section, the terms ‘foreign government’, ‘foreign official’, ‘international organization’, and ‘official guest’ have the same meanings as those provided in section 136.

“SUBCHAPTER G—POSTAL SERVICE

941. Obstruction of mails generally.
942. Obstruction of correspondence.
943. Delay or destruction of mail or newspapers.
944. Keys or locks stolen or reproduced.
945. Destruction of letter boxes or mail.
946. Theft of property used by Postal Service.
947. Theft or receipt of stolen mail matter generally.
948. Theft of mail matter by officer or employee.
949. Misappropriation of postal funds.
950. Injurious articles as nonmailable.
§ 941. Obstruction of mails generally

“Whoever knowingly obstructs the passage of the mail, or any carrier or conveyance carrying the mail, shall be imprisoned not more than six months.

§ 942. Obstruction of correspondence

“Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with intent to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embez- zles, or destroys the same, shall be imprisoned not more than five years.

§ 943. Delay or destruction of mail or newspapers

“(a) MAIL MATTER.—Whoever, being a Postal Serv- ice officer or employee, unlawfully secretes, destroys, de- tains, delays, or opens any letter, postal card, package, bag, or mail entrusted to that officer or employee or which shall come into his or her possession, and which was in- tended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or for- warded through or delivered from any post office or sta-
tion thereof established by authority of the Postmaster General or the Postal Service, shall be imprisoned not more than five years.

“(b) NEWSPAPER.—Whoever, being a Postal Service officer or employee, improperly detains, delays, or destroys any newspaper, or permits any other person to detain, delay, or destroy the same, or opens, or permits any other person to open, any mail or package of newspapers not directed to the office where he is employed.

“(c) BY ANY PERSON.—Whoever, without authority, opens or destroys any mail or package of newspapers not directed to him, shall be imprisoned not more than one year.

§ 944. Keys or locks stolen or reproduced

“Whoever—

“(1) steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department or the Postal Service and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter;

“(2) knowingly and unlawfully makes, forges, or counterfeits any such key, or possesses any such mail lock or key with the intent unlawfully or im-
properly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

“(3) being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by the department, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department or the Postal Service, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer;

shall be imprisoned not more than ten years.

§ 945. Destruction of letter boxes or mail

“Whoever knowingly injures, tears down, or destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same or knowingly injures, defaces, or destroys any mail deposited therein, shall be imprisoned not more than three years.

§ 946. Theft of property used by Postal Service

“Whoever steals, purloins, or embezzles any property used by the Postal Service, or appropriates any such prop-
erty to any other than its proper use, or conveys away any such property to the hindrance or detriment of the public service, shall be imprisoned not more than three years, but if the value of such property does not exceed $1,000, the offender shall be imprisoned not more than one year.

“§ 947. Theft or receipt of stolen mail matter generally

“Whoever—

“(1) steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter, package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card, package, bag, or mail, or any article or thing contained therein;

“(2) steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent
to a collection box or other authorized depository of
mail matter; or

“(3) buys, receives, or conceals, or unlawfully
has in his possession, any letter, postal card, pack-
age, bag, or mail, or any article or thing contained
therein, which has been so stolen, taken, embezzled,
or abstracted, as herein described, knowing the same
to have been stolen, taken, embezzled, or abstracted;
shall be imprisoned not more than five years.

“§ 948. Theft of mail matter by officer or employee

“Whoever, being a Postal Service officer or employee,
embezzles any letter, postal card, package, bag, or mail,
or any article or thing contained therein entrusted to him
or which comes into his possession intended to be conveyed
by mail, or carried or delivered by any carrier, messenger,
agent, or other person employed in any department of the
Postal Service, or forwarded through or delivered from
any post office or station thereof established by authority
of the Postmaster General or of the Postal Service; or
steals, abstracts, or removes from any such letter, pack-
age, bag, or mail, any article or thing contained therein,
shall be imprisoned not more than five years.

“§ 949. Misappropriation of postal funds

“(a) OFFENSE.—Whoever, being a Postal Service of-

icer or employee, loans, uses, pledges, hypothecates, or
converts to his own use, or deposits in any bank, or ex-
changes for other funds or property, except as authorized
by law, any money or property coming into his hands or
under his control in any manner, in the execution or under
color of his office, employment, or service, whether or not
the same shall be the money or property of the United
States; or fails or refuses to remit to or deposit in the
Treasury of the United States or in a designated deposi-
tory, or to account for or turn over to the proper officer
or agent, any such money or property, when required to
do so by law or the regulations of the Postal Service, or
upon demand or order of the Postal Service, either directly
or through a duly authorized officer or agent, is guilty
of embezzlement; and every such person, as well as every
other person advising or knowingly participating therein,
shall be imprisoned not more than ten years; but if the
amount or value thereof does not exceed $1,000, he shall
be imprisoned not more than one year.

“(b) EXCLUSION.—This section does not prohibit any
Postal Service officer or employee from depositing, under
the direction of the Postal Service, in a national bank des-
ignated by the Secretary of the Treasury for that purpose,
to his own credit as Postal Service officer or employee any
funds in his charge, nor prevent his negotiating drafts or
other evidences of debt through such bank, or through

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United States disbursing officers, or otherwise, when instructed or required so to do by the Postal Service, for the purpose of remitting surplus funds from one post office to another.

§ 950. Injurious articles as nonmailable

(a) In general.—All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, including firearms, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

(b) Exceptions.—The Postal Service may permit the transmission in the mails, under such rules and regulations as it shall prescribe as to preparation and packing, of any such articles which are not outwardly or of their own force dangerous or injurious to life, health, or property.
“(c) SCorpIONS.—The Postal Service is authorized and directed to permit the transmission in the mails, under regulations to be prescribed by it, of live scorpions which are to be used for purposes of medical research or for the manufacture of antivenom. Such regulations shall include such provisions with respect to the packaging of such live scorpions for transmission in the mails as the Postal Service deems necessary or desirable for the protection of Postal Service personnel and of the public generally and for ease of handling by such personnel and by any individual connected with such research or manufacture. Nothing in this paragraph shall be construed to authorize the transmission in the mails of live scorpions by means of aircraft engaged in the carriage of passengers for compensation or hire.

“(d) POISONOUS DRUGS AND MEDICINES.—The transmission in the mails of poisonous drugs and medicines may be limited by the Postal Service to shipments of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers, and veterinarians under such rules and regulations as it shall prescribe.

“(e) POISONS FOR SCIENTIFIC USE.—The transmission in the mails of poisons for scientific use, and which are not outwardly dangerous or of their own force
dangerous or injurious to life, health, or property, may be limited by the Postal Service to shipments of such articles between the manufacturers thereof, dealers therein, bona fide research or experimental scientific laboratories, and such other persons who are employees of the Federal, a State, or local government, whose official duties are comprised, in whole or in part, of the use of such poisons, and who are designated by the head of the agency in which they are employed to receive or send such articles, under such rules and regulations as the Postal Service shall prescribe.

“(f) INTOXICATING LIQUORS.—All spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are nonmailable and shall not be deposited in or carried through the mails.

“(g) KNIVES.—All knives having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both, are nonmailable and shall not be deposited in or carried by the mails or delivered by any officer or employee of the Postal Service. Such knives may be conveyed in the mails, under such regulations as the Postal Service shall prescribe—

“(1) to civilian or Armed Forces supply or procurement officers and employees of the Federal Gov-
ernment ordering, procuring, or purchasing such
knives in connection with the activities of the Fed-
eral Government;

“(2) to supply or procurement officers of the
National Guard, the Air National Guard, or militia
of a State ordering, procuring, or purchasing such
knives in connection with the activities of such orga-
nizations;

“(3) to supply or procurement officers or em-
ployees of any State, or any political subdivision of
a State, ordering, procuring, or purchasing such
knives in connection with the activities of such gov-
ernment; and

“(4) to manufacturers of such knives or bona
fide dealers therein in connection with any shipment
made pursuant to an order from any person des-
ignated in paragraphs (1), (2), and (3).

The Postal Service may require, as a condition of con-
voying any such knife in the mails, that any person pro-
posing to mail such knife explain in writing to the satisfac-
tion of the Postal Service that the mailing of such knife
will not be in violation of this section.

“(h) ADVERTISING, PROMOTIONAL, OR SALES MAT-
TER.—Any advertising, promotional, or sales matter which
solicits or induces the mailing of anything declared non-
mailable by this section is likewise nonmailable unless such matter contains wrapping or packaging instructions which are in accord with regulations promulgated by the Postal Service.

“(i) Ballistic Knives.—

“(1) Generally.—Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

“(2) Definition.—As used in this subsection, the term ‘ballistic knife’ means a knife with a detachable blade that is propelled by a spring-operated mechanism.

“(j) Offenses.—

“(1) Compliance with rules and regulations.—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared non-mailable by this section, unless in accordance with the rules and regulations authorized to be prescribed by the Postal Service, shall be imprisoned not more than one year.
“(2) With intent to kill or injure another or to injure the mails or property.—
Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, whether or not transmitted in accordance with the rules and regulations authorized to be prescribed by the Postal Service, with intent to kill or injure another, or injure the mails or other property, shall be imprisoned not more than twenty years.

“(3) Death penalty.—Whoever is convicted of any crime prohibited by this section, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

“§951. Tobacco products as nonmailable
“(a) Prohibition.—
“(1) In general.—All cigarettes and smokeless tobacco (as those terms are defined in section 1 of the Act of October 19, 1949, commonly referred to as the Jenkins Act) are nonmailable and shall not be deposited in or carried through the mails. The United States Postal Service shall not accept for de-
livery or transmit through the mails any package
that it knows or has reasonable cause to believe con-
tains any cigarettes or smokeless tobacco made non-
mailable by this paragraph.

“(2) REASONABLE CAUSE.—For the purposes
of this subsection reasonable cause includes—

“(A) a statement on a publicly available
website, or an advertisement, by any person
that the person will mail matter which is non-
mailable under this section in return for pay-
ment; or

“(B) the fact that the person is on the list
created under section 2A(e) of the Jenkins Act.

“(b) EXCEPTIONS.—

“(1) CIGARS.—Subsection (a) does not apply to
cigars (as defined in section 5702(a) of the Internal

“(2) GEOGRAPHIC EXCEPTION.—Subsection (a)
does not apply to mailings within the State of Alas-
ka or within the State of Hawaii.

“(3) BUSINESS PURPOSES.—

“(A) IN GENERAL.—Subsection (a) does
not apply to tobacco products mailed only—

“(i) for business purposes between le-
gally operating businesses that have all ap-
plicable State and Federal Government li-
censes or permits and are engaged in to-
bacco product manufacturing, distribution,
wholesale, export, import, testing, inves-
tigation, or research; or

“(ii) for regulatory purposes between
any business described in clause (i) and an
agency of the Federal Government or a
State government.

“(B) Rules.—

“(i) In general.—The Postmaster
General shall by rule establish the stand-
ards and requirements that apply to all
mailings described in subparagraph (A).

“(ii) Contents.—The rules issued
under clause (i) shall require—

“(I) the United States Postal
Service to verify that any person sub-
mitting an otherwise nonmailable to-
bacco product into the mails as au-
thorized under this paragraph is a
business or government agency per-
mitted to make a mailing under this
paragraph;
“(II) the United States Postal Service to ensure that any recipient of an otherwise nonmailable tobacco product sent through the mails under this paragraph is a business or government agency that may lawfully receive the product;

“(III) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(IV) that the identity of the business or government entity submitting the mailing containing otherwise nonmailable tobacco products for delivery and the identity of the business or government entity receiving the mailing are clearly set forth on the package;

“(V) the United States Postal Service to maintain identifying information described in subclause (IV) during the 3-year period beginning on
the date of the mailing and make the
information available to the Postal
Service, the Attorney General of the
United States, and to persons eligible
to bring enforcement actions under
section 4(d) of the Jenkins Act;

“(VI) that any mailing described
in subparagraph (A) be marked with
a United States Postal Service label
or marking that makes it clear to em-
ployees of the United States Postal
Service that it is a permitted mailing
of otherwise nonmailable tobacco
products that may be delivered only to
a permitted government agency or
business and may not be delivered to
any residence or individual person;
and

“(VII) that any mailing described
in subparagraph (A) be delivered only
to a verified employee of the recipient
business or government agency, who is
not a minor and who shall be required
to sign for the mailing.
“(C) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(4) CERTAIN INDIVIDUALS.—

“(A) IN GENERAL.—Subsection (a) does not apply to tobacco products mailed by individuals who are not minors for noncommercial purposes, including the return of a damaged or unacceptable tobacco product to the manufacturer.

“(B) RULES.—

“(i) IN GENERAL.—The Postmaster General shall by rule establish the standards and requirements that apply to all mailings described in subparagraph (A).

“(ii) CONTENTS.—The rules issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting an otherwise nonmailable tobacco product into the mails as authorized under this paragraph is the
individual identified on the return address label of the package and is not a minor;

“(II) for a mailing to an individual, the United States Postal Service to require the person submitting the otherwise nonmailable tobacco product into the mails as authorized by this paragraph to affirm that the recipient is not a minor;

“(III) that any package mailed under this paragraph shall weigh not more than 10 ounces;

“(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(V) that a mailing described in subparagraph (A) shall not be delivered or placed in the possession of any individual who has not been verified as not being a minor;
“(VI) for a mailing described in subparagraph (A) to an individual, that the United States Postal Service shall deliver the package only to a recipient who is verified not to be a minor at the recipient address or transfer it for delivery to an Air/Army Postal Office or Fleet Postal Office number designated in the recipient address; and

“(VII) that no person may initiate more than 10 mailings described in subparagraph (A) during any 30-day period.

“(C) DEFINITION.—In this paragraph, the term ‘minor’ means an individual who is less than the minimum age required for the legal sale or purchase of tobacco products as determined by applicable law at the place the individual is located.

“(5) EXCEPTION FOR MAILINGS FOR CONSUMER TESTING BY MANUFACTURERS.—

“(A) IN GENERAL.—Subject to subparagraph (B), subsection (a) does not preclude a legally operating cigarette manufacturer or a le-
gally authorized agent of a legally operating
cigarette manufacturer from using the United
States Postal Service to mail cigarettes to
verified adult smoker solely for consumer test-
ing purposes, if—

“(i) the cigarette manufacturer has a
permit, in good standing, issued under sec-
tion 5713 of the Internal Revenue Code of
1986;

“(ii) the package of cigarettes mailed
under this paragraph contains not more
than 12 packs of cigarettes (240 ciga-
rettes);

“(iii) the recipient does not receive
more than 1 package of cigarettes from
any 1 cigarette manufacturer under this
paragraph during any 30-day period;

“(iv) all taxes on the cigarettes mailed
under this paragraph levied by the State
and locality of delivery are paid to the
State and locality before delivery, and tax
stamps or other tax-payment indicia are
affixed to the cigarettes as required by law;
and
“(v)(I) the recipient has not made any payments of any kind in exchange for receiving the cigarettes;

“(II) the recipient is paid a fee by the manufacturer or agent of the manufacturer for participation in consumer product tests; and

“(III) the recipient, in connection with the tests, evaluates the cigarettes and provides feedback to the manufacturer or agent.

“(B) LIMITATION.—Subparagraph (A) does not permit a manufacturer, directly or through a legally authorized agent, to mail cigarettes in any calendar year in a total amount greater than 1 percent of the total cigarette sales of the manufacturer in the United States during the calendar year before the date of the mailing.

“(C) RULES.—

“(i) IN GENERAL.—The Postmaster General shall by rule establish the standards and requirements that apply to all mailings described in subparagraph (A).
“(ii) CONTENTS.—The rules issued under clause (i) shall require—

“(I) the United States Postal Service to verify that any person submitting a tobacco product into the mails under this paragraph is a legally operating cigarette manufacturer permitted to make a mailing under this paragraph, or an agent legally authorized by the legally operating cigarette manufacturer to submit the tobacco product into the mails on behalf of the manufacturer;

“(II) the legally operating cigarette manufacturer submitting the cigarettes into the mails under this paragraph to affirm that—

“(aa) the manufacturer or the legally authorized agent of the manufacturer has verified that the recipient is an adult established smoker;

“(bb) the recipient has not made any payment for the cigarettes;
“(cc) the recipient has signed a written statement that is in effect indicating that the recipient wishes to receive the mailings; and

“(dd) the manufacturer or the legally authorized agent of the manufacturer has offered the opportunity for the recipient to withdraw the written statement described in item (cc) not less frequently than once in every 3-month period;

“(III) the legally operating cigarette manufacturer or the legally authorized agent of the manufacturer submitting the cigarettes into the mails under this paragraph to affirm that any package mailed under this paragraph contains not more than 12 packs of cigarettes (240 cigarettes) on which all taxes levied on the cigarettes by the State and locality of delivery have been paid and all related State
tax stamps or other tax-payment indicia have been applied;

“(IV) that any mailing described in subparagraph (A) shall be sent through the systems of the United States Postal Service that provide for the tracking and confirmation of the delivery;

“(V) the United States Postal Service to maintain records relating to a mailing described in subparagraph (A) during the 3-year period beginning on the date of the mailing and make the information available to persons enforcing this section;

“(VI) that any mailing described in subparagraph (A) be marked with a United States Postal Service label or marking that makes it clear to employees of the United States Postal Service that it is a permitted mailing of otherwise nonmailable tobacco products that may be delivered only to the named recipient after verifying that the recipient is an adult; and
“(VII) the United States Postal Service shall deliver a mailing described in subparagraph (A) only to the named recipient and only after verifying that the recipient is an adult.

“(D) DEFINITIONS.—In this paragraph—

“(i) the term ‘adult’ means an individual who is not less than 21 years of age; and

“(ii) the term ‘consumer testing’ means testing limited to formal data collection and analysis for the specific purpose of evaluating the product for quality assurance and benchmarking purposes of cigarette brands or sub-brands among existing adult smokers.

“(6) FEDERAL GOVERNMENT AGENCIES.—An agency of the Federal Government involved in the consumer testing of tobacco products solely for public health purposes may mail cigarettes under the same requirements, restrictions, and rules and procedures that apply to consumer testing mailings of cigarettes by manufacturers under paragraph (5), except that the agency shall not be required to pay
the recipients for participating in the consumer testing.

“(c) Additional Penalties.—In addition to any other fines and penalties under this title for violations of this section, any person violating this section shall be subject to an additional civil penalty in the amount equal to 10 times the retail value of the nonmailable cigarettes or smokeless tobacco, including all Federal, State, and local taxes.

“(d) Criminal Penalty.—Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything that is nonmailable matter under this section shall be fined under this title, imprisoned not more than 1 year, or both.

“(e) Actions by State, Local, or Tribal Governments Relating to Certain Tobacco Products.—

“(1) In General.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may in a civil action in a United States district court obtain appropriate relief with respect to a violation of this
section. Appropriate relief includes injunctive and equitable relief and damages equal to the amount of unpaid taxes on tobacco products mailed in violation of this section to addressees in that State, locality, or tribal land.

“(2) SOVEREIGN IMMUNITY.—Nothing in this subsection abrogates or constitutes a waiver of any sovereign immunity of a State or local government or Indian tribe against any unconsented lawsuit under paragraph (1), or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian tribe.

“(3) ATTORNEY GENERAL REFERRAL.—A State, through its attorney general, or a local government or Indian tribe that levies an excise tax on tobacco products, through its chief law enforcement officer, may provide evidence of a violation of this section for commercial purposes by any person not subject to State, local, or tribal government enforcement actions for violations of this section to the Attorney General of the United States, who shall take appropriate actions to enforce this section.

“(4) NONEXCLUSIVITY OF REMEDIES.—The remedies available under this subsection are in addition to any other remedies available under Federal,
State, local, tribal, or other law. Nothing in this subsection shall be construed to expand, restrict, or otherwise modify any right of an authorized State, local, or tribal government official to proceed in a State, tribal, or other appropriate court, or take other enforcement actions, on the basis of an alleged violation of State, local, tribal, or other law.

“(5) Other enforcement actions.—Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of the State.

“§952. Franking privilege

“Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined under this title.

“SUBCHAPTER H—SPECIAL MARITIME AND TERRITORIAL JURISDICTION OF THE UNITED STATES

961. Laws of States adopted for areas within Federal jurisdiction.
§ 961. Laws of States adopted for areas within Federal jurisdiction

(a) Offense.—Whoever, within the reserved or acquired special maritime or territorial jurisdiction of the United States, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(b) Operating a Motor Vehicle Under the Influence of Alcohol.—

(1) Limitation on Right or Privilege to Operate a Motor Vehicle.—Subject to paragraph (2) and for purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall
apply only to the special maritime and territorial jurisdiction of the United States.

“(2) ADDITIONAL PUNISHMENT.—In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, not more than 5 years, or if death of a minor is caused, not more than 10 years, and an additional fine under this title, or both, if—

“(A) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

“(B) the law of the State in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in subparagraph (A).

“(c) TERRITORIAL SEA.—Whenever any waters of the territorial sea of the United States lie outside the territory of any State, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed, for purposes of subsection (a), to lie within the area of the State that it would lie within if the boundaries
of such State were extended seaward to the outer limit of the territorial sea of the United States.

“CHAPTER 29—CRIMES RELATED TO PROTECTION OF GOVERNMENT FUNCTIONS AND INTEGRITY

‘‘Subchapter
‘‘A. Bribery, graft, and conflicts of interest
‘‘B. Claims and services in matters affecting government
‘‘C. Contempts
‘‘D. Elections and political activities
‘‘E. Emblems, insignia, and names
‘‘F. Escape and rescue
‘‘G. False personation
‘‘H. Fugitives from justice
‘‘I. Obstruction of justice
‘‘J. Prisons
‘‘K. Public officers and employees
‘‘L. Records and reports
‘‘M. Searches and seizures
‘‘N. Malicious mischief
‘‘O. Public lands
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“SUBCHAPTER A—BRIBERY, GRAFT, AND CONFLICTS OF INTEREST

‘‘991. Bribery of public officials and witnesses.
‘‘992. Definitions for certain sections.
‘‘994. Practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal circuit by Members of Congress.
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‘‘1000. Offer to procure appointive public office.
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‘‘1003. Receipt of commissions or gifts for procuring loans.
‘‘1004. Penalties and injunctions.
“§ 991. Bribery of public officials and witnesses

“(a) DEFINITIONS.—As used in this section—

“(1) the term ‘public official’ means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

“(2) the term ‘person who has been selected to be a public official’ means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

“(3) the term ‘official act’ means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.

“(b) BRIBERY.—Whoever—
“(1) corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

“(A) to influence any official act; or

“(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

“(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

“(2) being a public official or person selected to be a public official, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for—

“(A) being influenced in the performance of any official act;
“(B) being influenced to commit or aid in
committing, or to collude in, or allow, any
fraud, or make opportunity for the commission
of any fraud on the United States; or
“(C) being induced to do or omit to do any
act in violation of the official duty of such offi-
cial or person;
“(3) corruptly gives, offers, or promises any-
thing of value to any person, or offers or promises
such person to give anything of value to any other
person or entity, with intent to influence the testi-
mony under oath or affirmation of such first-men-
tioned person as a witness upon a trial, hearing, or
other proceeding, before any court, any committee of
either House or both Houses of Congress, or any
agency, commission, or officer authorized by the
laws of the United States to hear evidence or take
testimony, or with intent to influence such person to
absent himself therefrom; or
“(4) corruptly demands, seeks, receives, ac-
cepts, or agrees to receive or accept anything of
value personally or for any other person or entity in
return for being influenced in testimony under oath
or affirmation as a witness upon any such trial,
hearing, or other proceeding, or in return for absent-
ing himself therefrom;
shall be imprisoned for not more than fifteen years and
may be disqualified from holding any office of honor,
trust, or profit under the United States.

“(c) UNLAWFUL REWARDS.—Whoever—

“(1) otherwise than as provided by law for the
proper discharge of official duty—

“(A) gives, offers, or promises anything of
value to any public official, former public offi-
cial, or person selected to be a public official,
for or because of any official act performed or
to be performed by such public official, former
public official, or person selected to be a public
official; or

“(B) being a public official, former public
official, or person selected to be a public offi-
cial, otherwise than as provided by law for the
proper discharge of official duty, demands,
seeks, receives, accepts, or agrees to receive or
accept anything of value personally for or be-
cause of any official act performed or to be per-
formed by such official or person;

“(2) gives, offers, or promises anything of value
to any person, for or because of the testimony under
oath or affirmation given or to be given by such per-
son as a witness upon a trial, hearing, or other pro-
ceeding, before any court, any committee of either
House or both Houses of Congress, or any agency,
commission, or officer authorized by the laws of the
United States to hear evidence or take testimony, or
for or because of such person’s absence therefrom;
“(3) demands, seeks, receives, accepts, or
agrees to receive or accept anything of value person-
ally for or because of the testimony under oath or
affirmation given or to be given by such person as
a witness upon any such trial, hearing, or other pro-
ceeding, or for or because of such person’s absence
therefrom;
shall be imprisoned for not more than two years.
“(d) EXCLUSION.—Paragraphs (3) and (4) of sub-
section (b) and paragraphs (2) and (3) of subsection (c)
shall not be construed to prohibit the payment or receipt
of witness fees provided by law, or the payment, by the
party upon whose behalf a witness is called and receipt
by a witness, of the reasonable cost of travel and subsist-
ence incurred and the reasonable value of time lost in at-
tendance at any such trial, hearing, or proceeding, or in
the case of expert witnesses, a reasonable fee for time
spent in the preparation of such opinion, and in appearing and testifying.

§992. Definitions for certain sections

(a) Sections 993, 995, 997, 998, and 999.—For the purpose of sections 993, 995, 997, 998, and 999 the term ‘special Government employee’ means—

(1) an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one 130 during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28;

(2) every person serving as a part-time local representative of a Member of Congress in the Member’s home district or State; and

(3) notwithstanding sections 502, 2105(d), and 5534 of title 5, a Reserve officer of the Armed
Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, while on active duty solely for training;

except that a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of 130 days shall be classified as an officer of the United States within the meaning of section 993 and sections 995 through 999 and 1005, and a Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms ‘officer or employee’ and ‘special Government employee’ as used in sections 993, 995, 997 through 999, and 1005, does not include enlisted members of the Armed Forces.

“(b) Sections 995 and 997.—For the purposes of sections 995 and 997, the term ‘official responsibility’ means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

“(c) Exclusion From ‘Officer’ and ‘Employee’.—Except as otherwise provided in such sections,
the terms ‘officer’ and ‘employee’ in sections 993, 995, 997 through 999, and 1005 does not include the President, the Vice President, a Member of Congress, or a Federal judge.

“(d) ‘MEMBER OF CONGRESS’.—The term ‘Member of Congress’ in sections 994 and 997 means—

“(1) a United States Senator; and

“(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

“(e) ADDITIONAL DEFINITIONS.—As used in this subchapter—

“(1) the term ‘executive branch’ includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

“(2) the term ‘judicial branch’ means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the
Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

“(3) the term ‘legislative branch’ means—

“(A) the Congress; and

“(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

“§ 993. Compensation to Members of Congress, officers, and others in matters affecting the Government

“(a) FEDERAL MATTERS.—Whoever, otherwise than as provided by law for the proper discharge of official duties—

“(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another—
“(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

“(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

“(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee;

shall be subject to the penalties set forth in section 1004.
“(b) DISTRICT OF COLUMBIA.—Whoever, otherwise than as provided by law for the proper discharge of official duties—

“(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

“(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 1004.

“(c) SPECIAL GOVERNMENT EMPLOYEES.—A special Government employee shall be subject to subsections (a)
and (b) only in relation to a particular matter involving
a specific party or parties—

“(1) in which such employee has at any time
participated personally and substantially as a Gov-
ernment employee or as a special Government em-
ployee through decision, approval, disapproval, rec-
ommendation, the rendering of advice, investigation
or otherwise; or

“(2) which is pending in the department or
agency of the Government in which such employee is
serving except that paragraph (2) of this subsection
does not apply in the case of a special Government
employee who has served in such department or
agency no more than sixty days during the imme-
diately preceding period of three hundred and sixty-
five consecutive days.

“(d) Exclusion.—Nothing in this section prevents
an officer or employee, including a special Government
employee, from acting, with or without compensation, as
agent or attorney for or otherwise representing his par-
ants, spouse, child, or any person for whom, or for any
estate for which, he is serving as guardian, executor, ad-
ministrator, trustee, or other personal fiduciary except—

“(1) in those matters in which he has partici-
pated personally and substantially as a Government
employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

“(2) in those matters that are the subject of his official responsibility,
subject to approval by the Government official responsible for appointment to his position.

“(e) Certification of National Interest.— Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

“(f) Testimony and Statements.—Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.
“§ 994. Practice in United States Court of Federal Claims or the United States Court of Appeals for the Federal circuit by Members of Congress

“Whoever, being a Member of Congress or Member of Congress Elect, practices in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit shall be subject to the penalties set forth in section 1004.

“§ 995. Activities of officers and employees in claims against and other matters affecting the Government

“(a) FEDERAL MATTERS.—Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties—

“(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

“(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United

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States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 1004.

“(b) District of Columbia.—Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties—

“(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

“(2) acts as agent or attorney for anyone before any department, agency, court, officer, or commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 1004.

“(c) Special Government Employees.—A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties—

“(1) in which he has at any time participated personally and substantially as a Government em-

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ployee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

“(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) does not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

“(d) EXCLUSION WITH RESPECT TO CERTAIN PERSONS.—

“(1) GENERALLY.—Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer’s or employee’s duties, from acting without compensation as agent or attorney for, or otherwise representing—

“(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

“(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not
established or operated for profit, if a majority of the organization’s or group’s members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

“(2) Exception.—Paragraph (1)(B) does not apply with respect to a covered matter that—

“(A) is a claim under subsection (a)(1) or (b)(1);

“(B) is a judicial or administrative proceeding where the organization or group is a party; or

“(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.

“(e) Exclusion with respect family members.—Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except—
“(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or
“(2) in those matters which are the subject of his official responsibility,
subject to approval by the Government official responsible for appointment to his position.

“(f) Certification of National Interest.—Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

“(g) Testimony and Statements.—Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

“(h) Definition.—For the purpose of this section, the term ‘covered matter’ means any judicial or other proceeding, application, request for a ruling or other deter-
mination, contract, claim, controversy, investigation,
charge, accusation, arrest, or other particular matter.

“(i) ADDITIONAL EXCLUSIONS.—Nothing in this sec-
tion prevents an employee from acting pursuant to—

“(1) chapter 71 of title 5;
“(2) section 1004 or chapter 12 of title 39;
“(3) section 3 of the Tennessee Valley Author-
ity Act of 1933;
“(4) chapter 10 of title I of the Foreign Service
Act of 1980; or
“(5) any provision of any other Federal or Dis-

tict of Columbia law that authorizes labor-manage-
ment relations between an agency or instrumentality
of the United States or the District of Columbia and
any labor organization that represents its employees.

“§ 996. Exemption of retired officers of the uniformed
services

“Sections 993 and 995 do not apply to a retired offi-
cer of the uniformed services of the United States while
not on active duty and not otherwise an officer or em-
ployee of the United States, or to any person specially ex-
cepted by Act of Congress.
§ 997. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) Restrictions on all officers and employees of the Executive Branch and certain other agencies.—

(1) Permanent restrictions on representation on particular matters.—Whoever is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,
“(B) in which the person participated personally and substantially as such officer or employee, and

“(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 1004.

“(2) Two-year restrictions concerning particular matters under official responsibility.—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter—

“(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

“(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer
or employee within a period of 1 year before the
termination of his or her service or employment
with the United States or the District of Co-

lumbia, and

“(C) which involved a specific party or spe-
cific parties at the time it was so pending,

shall be punished as provided in section 1004.

“(3) CLARIFICATION OF RESTRICTIONS.—The

restrictions contained in paragraphs (1) and (2)

apply—

“(A) in the case of an officer or employee

of the executive branch of the United States
(including any independent agency), only with
respect to communications to or appearances
before any officer or employee of any depart-
ment, agency, court, or court-martial of the
United States on behalf of any other person
(except the United States), and only with re-
spect to a matter in which the United States is
a party or has a direct and substantial interest;

and

“(B) in the case of an officer or employee

of the District of Columbia, only with respect to
communications to or appearances before any
officer or employee of any department, agency,
or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

“(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

“(1) IN GENERAL.—Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly rep-
resent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Whoever violates this subsection shall be punished as provided in section 1004.

“(2) DEFINITION.—For purposes of this paragraph—

“(A) the term ‘trade negotiation’ means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

“(B) the term ‘treaty’ means an international agreement made by the President that requires the advice and consent of the Senate.

“(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

“(1) Restrictions.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the
United States (including an independent agency),
who is referred to in paragraph (2), and who, within
1 year after the termination of his or her service or
employment as such officer or employee, knowingly
makes, with the intent to influence, any communi-
cation to or appearance before any officer or employee
of the department or agency in which such person
served within 1 year before such termination, on be-
half of any other person (except the United States),
in connection with any matter on which such person
seeks official action by any officer or employee of
such department or agency, shall be punished as
provided in section 1004.

“(2) Persons to whom restrictions
apply.—(A) Paragraph (1) applies to a person
(other than a person subject to the restrictions of
subsection (d))—

“(i) employed at a rate of pay specified in
or fixed according to subchapter II of chapter
53 of title 5,

“(ii) employed in a position which is not
referred to in clause (i) and for which that per-
son is paid at a rate of basic pay which is equal
to or greater than 86.5 percent of the rate of
basic pay for level II of the Executive Schedule,
or, for a period of 2 years following the enactment of the National Defense Authorization Act for Fiscal Year 2004, a person who, on the day prior to the enactment of that Act, was employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5304 or section 5304a of title 5, was equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service on the day prior to the enactment of that Act,

“(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3,

“(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O–7 or above, or

“(v) assigned from a private sector organization to an agency under chapter 37 of title 5.
“(B) Paragraph (1) does not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

“(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

“(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department or agency in obtaining qualified personnel to fill such position or positions, and

“(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

“(3) Members of the Independent Medicare Advisory Board.—

“(A) In general.—Paragraph (1) applies to a member of the Independent Medicare Advisory Board under section 1899A of the Social Security Act.
“(B) AGENCIES AND CONGRESS.—For purposes of paragraph (1), the agency in which the individual described in subparagraph (A) served shall be considered to be the Independent Medicare Advisory Board, the Department of Health and Human Services, and the relevant committees of jurisdiction of Congress, including the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.”.

“(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

“(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

“(A) serves in the position of Vice President of the United States,

“(B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of
the President at a rate of pay payable for level II of the Executive Schedule, or

“(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 2 years after the termination of that person’s service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 1004.

“(2) Persons who may not be contacted.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

“(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before
such person’s service or employment with the United States Government terminated, and

“(B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

“(e) Restrictions on Members of Congress and Officers and Employees of the Legislative Branch.—

“(1) Members of Congress and elected officers of the House.—

“(A) Senators.—Any person who is a Senator and who, within 2 years after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any Member, officer, or employee of either House of Congress or any employee of any other legislative office of the Congress, on behalf of any other person (except the United States) in connection with any matter on which such former Senator seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004.

“(B) Members and officers of the House of Representatives.—(i) Any person
who is a Member of the House of Representatives or an elected officer of the House of Representatives and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in clause (ii) or (iii), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004.

“(ii) The persons referred to in clause (i) with respect to appearances or communications by a former Member of the House of Representatives are any Member, officer, or employee of either House of Congress and any employee of any other legislative office of the Congress.

“(iii) The persons referred to in clause (i) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Representatives.
“(2) Officers and staff of the Senate.—

Any person who is an elected officer of the Senate, or an employee of the Senate to whom paragraph (7)(A) applies, and who, within 1 year after that person leaves office or employment, knowingly makes, with the intent to influence, any communication to or appearance before any Senator or any officer or employee of the Senate, on behalf of any other person (except the United States) in connection with any matter on which such former elected officer or former employee seeks action by a Senator or an officer or employee of the Senate, in his or her official capacity, shall be punished as provided in section 1004.

“(3) Personal staff.—(A) Any person who is an employee of a Member of the House of Representatives to whom paragraph (7)(A) applies and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or
her official capacity, shall be punished as provided in section 1004.

“(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

“(i) The Member of the House of Representatives for whom that person was an employee.

“(ii) Any employee of that Member of the House of Representatives.

“(4) COMMITTEE STAFF.—Any person who is an employee of a committee of the House of Representatives, or an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, to whom paragraph (7)(A) applies and who, within 1 year after the termination of that person’s employment on such committee or joint committee (as the case may be), knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or joint committee (as the case may be) or who was a Member of the committee or joint committee (as the case may be) in the year immediately prior to
the termination of such person’s employment by the committee or joint committee (as the case may be), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004.

“(5) Leadership Staff.—(A) Any person who is an employee on the leadership staff of the House of Representatives to whom paragraph (7)(A) applies and who, within 1 year after the termination of that person’s employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 1004.

“(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are any Member of the leader-
ship of the House of Representatives and any em-
ployee on the leadership staff of the House of Rep-
resentatives.

“(6) OTHER LEGISLATIVE OFFICES.—(A) Any
person who is an employee of any other legislative
office of the Congress to whom paragraph (7)(B) ap-
plies and who, within 1 year after the termination
of that person’s employment in such office, know-
ingly makes, with the intent to influence, any com-
munication to or appearance before any of the per-
sons described in subparagraph (B), on behalf of
any other person (except the United States) in con-
nection with any matter on which such former em-
ployee seeks action by any officer or employee of
such office, in his or her official capacity, shall be
punished as provided in section 1004.

“(B) The persons referred to in subparagraph
(A) with respect to appearances or communications
by a former employee are the employees and officers
of the former legislative office of the Congress of the
former employee.

“(7) LIMITATION ON RESTRICTIONS.—(A) The
restrictions contained in paragraphs (2), (3), (4),
and (5) apply only to acts by a former employee
who, for at least 60 days, in the aggregate, during
the 1-year period before that former employee’s serv-
ice as such employee terminated, was paid a rate of
basic pay equal to or greater than an amount which
is 75 percent of the basic rate of pay payable for a
Member of the House of Congress in which such em-
ployee was employed.

“(B) The restrictions contained in paragraph
(6) apply only to acts by a former employee who, for
at least 60 days, in the aggregate, during the 1-year
period before that former employee’s service as such
employee terminated, was employed in a position for
which the rate of basic pay, exclusive of any locality-
based pay adjustment under section 5302 of title 5,
is equal to or greater than the basic rate of pay pay-
able for level IV of the Executive Schedule.

“(8) EXCEPTION.—This subsection does not
apply to contacts with the staff of the Secretary of
the Senate or the Clerk of the House of Representa-
tives regarding compliance with lobbying disclosure
requirements under the Lobbying Disclosure Act of
1995.

“(9) DEFINITIONS.—As used in this sub-
section—
“(A) the term ‘committee of Congress’ includes standing committees, joint committees, and select committees;

“(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

“(C) the term ‘employee of the House of Representatives’ means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

“(D) the term ‘employee of the Senate’ means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

“(E) a person is an employee of a Member of the House of Representatives if that person
is an employee of a Member of the House of Representatives under the clerk hire allowance;

“(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

“(G) the term ‘employee of any other legislative office of the Congress’ means an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), (4), or (5) of this subsection;

“(H) the term ‘employee on the leadership staff of the House of Representatives’ means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

“(I) the term ‘employee on the leadership staff of the Senate’ means an employee of the
office of a Member of the leadership of the Senate described in subparagraph (M);

“(J) the term ‘Member of Congress’ means a Senator or a Member of the House of Representatives;

“(K) the term ‘Member of the House of Representatives’ means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

“(L) the term ‘Member of the leadership of the House of Representatives’ means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989); and
“(M) the term ‘Member of the leadership of the Senate’ means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and co-chairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

“(f) Restrictions Relating to Foreign Entities.—

“(1) Restrictions.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection—

“(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or
“(B) aids or advises a foreign entity with
the intent to influence a decision of any officer
or employee of any department or agency of the
United States, in carrying out his or her official
duties,
shall be punished as provided in section 1004.

“(2) SPECIAL RULE FOR TRADE REPRESENTA-
tive.—With respect to a person who is the United
States Trade Representative or Deputy United
States Trade Representative, the restrictions de-
scribed in paragraph (1) apply to representing, aid-
ing, or advising foreign entities at any time after the
termination of that person’s service as the United
States Trade Representative.

“(3) DEFINITION.—For purposes of this sub-
section, the term ‘foreign entity’ means the govern-
ment of a foreign country as defined in section 1(e)
of the Foreign Agents Registration Act of 1938, as
amended, or a foreign political party as defined in
section 1(f) of that Act.

“(g) SPECIAL RULES FOR DETAILLEES.—For pur-
poses of this section, a person who is detailed from one
department, agency, or other entity to another depart-
ment, agency, or other entity shall, during the period such
person is detailed, be deemed to be an officer or employee
of both departments, agencies, or such entities.

“(h) Designations of Separate Statutory
Agencies and Bureaus.—

“(1) Designations.—For purposes of sub-
section (c) and except as provided in paragraph (2),
whenever the Director of the Office of Government
Ethics determines that an agency or bureau within
a department or agency in the executive branch ex-
ercises functions which are distinct and separate
from the remaining functions of the department or
agency and that there exists no potential for use of
undue influence or unfair advantage based on past
Government service, the Director shall by rule des-
ignate such agency or bureau as a separate depart-
ment or agency. On an annual basis the Director of
the Office of Government Ethics shall review the
designations and determinations made under this
subparagraph and, in consultation with the depart-
ment or agency concerned, make such additions and
deletions as are necessary. Departments and agen-
cies shall cooperate to the fullest extent with the Di-
rector of the Office of Government Ethics in the ex-
ercise of his or her responsibilities under this para-
graph.
“(2) Inapplicability of Designations.—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

“(i) Definitions.—For purposes of this section—

“(1) the term ‘officer or employee’, when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include—

“(A) in subsections (a), (c), and (d), the President and the Vice President; and

“(B) in subsection (f), the President, the Vice President, and Members of Congress;

“(2) the term ‘participated’ means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

“(3) the term ‘particular matter’ includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

“(j) Exceptions.—
“(1) OFFICIAL GOVERNMENT DUTIES.—

“(A) IN GENERAL.—The restrictions contained in this section do not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

“(B) TRIBAL ORGANIZATIONS AND INTERTRIBAL CONSORTIUMS.—The restrictions contained in this section do not apply to acts authorized by section 104(j) of the Indian Self-Determination and Education Assistance Act.

“(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) do not apply to acts done in carrying out official duties as an employee of—

“(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

“(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965, or a hospital or medical research organization, ex-
emptied and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

“(3) INTERNATIONAL ORGANIZATIONS.—The restrictions contained in this section do not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

“(4) SPECIAL KNOWLEDGE.—The restrictions contained in subsections (c), (d), and (e) do not prevent an individual from making or providing a statement, which is based on the individual’s own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

“(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.—The restrictions contained in subsections (a), (c), and (d) do not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under
procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term ‘officer or employee’ includes the Vice President.

“(6) EXCEPTION FOR TESTIMONY.—Nothing in this section prevents an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence—

“(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert
witness for any other person (except the United States) in that matter; and

“(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

“(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) do not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

“(B) Subparagraph (A) does not apply to—

“(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

“(ii) a communication or appearance made by a person who is subject to the restrictions
contained in subsection (c), (d), or (e) if, at the
time of the communication or appearance, the
person is employed by a person or entity other
than—

“(I) a candidate, an authorized com-
mittee, a national committee, a national
Federal campaign committee, a State com-
mittee, or a political party; or

“(II) a person or entity who rep-
resents, aids, or advises only persons or en-
tities described in subclause (I).

“(C) For purposes of this paragraph—

“(i) the term ‘candidate’ means any person
who seeks nomination for election, or election,
to Federal or State office or who has authorized
others to explore on his or her behalf the possi-
bility of seeking nomination for election, or elec-
tion, to Federal or State office;

“(ii) the term ‘authorized committee’
means any political committee designated in
writing by a candidate as authorized to receive
contributions or make expenditures to promote
the nomination for election, or the election, of
such candidate, or to explore the possibility of
seeking nomination for election, or the election,
of such candidate, except that a political com-
mittee that receives contributions or makes ex-
penditures to promote more than 1 candidate
may not be designated as an authorized com-
mittee for purposes of subparagraph (A);

“(iii) the term ‘national committee’ means
the organization which, by virtue of the bylaws
of a political party, is responsible for the day-
to-day operation of such political party at the
national level;

“(iv) the term ‘national Federal campaign
committee’ means an organization that, by vir-
tue of the bylaws of a political party, is estab-
lished primarily for the purpose of providing as-
sistance, at the national level, to candidates
nominated by that party for election to the of-
vice of Senator or Representative in, or Dele-
gate or Resident Commissioner to, the Con-
gress;

“(v) the term ‘State committee’ means the
organization which, by virtue of the bylaws of
a political party, is responsible for the day-to-
day operation of such political party at the
State level; and
“(vi) the term ‘political party’ means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization.

“(k) WAIVER.—(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

“(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person’s Federal Government employment is terminated and only to that person’s employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person’s Federal Government employment began.
“(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person’s Federal Government employment began shall apply to that person’s employment by any such national laboratory after the person’s employment by the Federal Government is terminated.

“(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

“(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

“(A) the officer or employee covered by the waiver by name and by position, and

“(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

“(4) The President may not delegate the authority provided by this subsection.

“(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subpara-
graph (B), stating whether the person has engaged in ac-
tivities otherwise prohibited by this section for each six-
month period described in subparagraph (B), and if so,
what those activities were.

“(B) A report under subparagraph (A) shall cover
each six-month period beginning on the date of the termi-
nation of the person’s Federal Government employment
(with respect to which the waiver under this subsection
was granted) and ending two years after that date. Such
report shall be filed with the President and the Director
of the Office of Government Ethics not later than 60 days
after the end of the six-month period covered by the re-
port. All reports filed with the Director under this para-
graph shall be made available for public inspection and
copying.

“(C) If a person fails to file any report in accordance
with subparagraphs (A) and (B), the President shall re-
voke the waiver and shall notify the person of the revoca-
tion. The revocation shall take effect upon the person’s
receipt of the notification and shall remain in effect until
the report is filed.

“(D) Any person who is granted a waiver under this
subsection shall be ineligible for appointment in the civil
service unless all reports required of such person by sub-
paragraphs (A) and (B) have been filed.
“(E) As used in this subsection, the term ‘civil service’ has the meaning given that term in section 2101 of title 5.

“(l) Contract Advice by Former Details.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 1004.

§ 998. Acts affecting a personal financial interest

“(a) Offense.—Except as permitted by subsection (b), whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge,
accusation, arrest, or other particular matter in which, to
his knowledge, he, his spouse, minor child, general part-
er, organization in which he is serving as officer, director,
trustee, general partner or employee, or any person or or-
ganization with whom he is negotiating or has any ar-
angement concerning prospective employment, has a fi-
nancial interest shall be subject to the penalties set forth
in section 1004.

“(b) EXCLUSIONS.—Subsection (a) does not apply—
“(1) if the officer or employee first advises the
Government official responsible for appointment to
his or her position of the nature and circumstances
of the judicial or other proceeding, application, re-
quest for a ruling or other determination, contract,
claim, controversy, charge, accusation, arrest, or
other particular matter and makes full disclosure of
the financial interest and receives in advance a writ-
ten determination made by such official that the in-
terest is not so substantial as to be deemed likely to
affect the integrity of the services which the Govern-
ment may expect from such officer or employee;
“(2) if, by regulation issued by the Director of
the Office of Government Ethics, applicable to all or
a portion of all officers and employees covered by
this section, and published in the Federal Register,
the financial interest has been exempted from the re-
quirements of subsection (a) as being too remote or
too inconsequential to affect the integrity of the
services of the Government officers or employees to
which such regulation applies;

“(3) in the case of a special Government em-
ployee serving on an advisory committee within the
meaning of the Federal Advisory Committee Act (in-
cluding an individual being considered for an ap-
pointment to such a position), the official responsible
for the employee’s appointment, after review of the
financial disclosure report filed by the individual
pursuant to the Ethics in Government Act of 1978,
certifies in writing that the need for the individual’s
services outweighs the potential for a conflict of in-
terest created by the financial interest involved; or

“(4) if the financial interest that would be af-
fected by the particular matter involved is that re-
sulting solely from the interest of the officer or em-
ployee, or his or her spouse or minor child, in birth-
rights—

“(A) in an Indian tribe, band, nation, or
other organized group or community, including
any Alaska Native village corporation as de-

fined in or established pursuant to the Alaska
Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

“(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

“(C) in an Indian claims fund held in trust or administered by the United States, if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

“(c) Deeming Provision.—(1) For the purpose of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

“(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an exemption being granted pursuant to another paragraph of subsection (b).

“(d) Public Availability.—
“(1) GENERALLY.—Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.

“(2) UNIFORM REGULATIONS.—The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall—

“(A) list and describe exemptions; and

“(B) provide guidance with respect to the types of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from the employee.
§ 999. Salary of Government officials and employees payable only by United States

(a) Offense.—Whoever—

(1) receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

(2) whoever, whether an individual, partnership, association, corporation, or other organization pays, makes any contribution to, or in any way supplements, the salary of any such officer or employee under circumstances which would make its receipt a violation of this subsection;

shall be subject to the penalties set forth in section 1004.

(b) Exclusion.—Nothing in this section prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-shar-
ing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

“(c) Special Government Employee.—This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

“(d) Payments Under Chapter 41 of Title 5.—This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of chapter 41 of title 5.

“(e) Relocation Expenses.—This section does not prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same by a participant in an executive exchange or fellowship program in an executive agency, if such program has been established by statute or Executive order of the President, offers appointments not to exceed three hundred and sixty-five days, and permits no extensions in excess of ninety additional days or, in the case of participants in overseas assignments, in excess of 365 days.

“(f) Injuries During Certain Offense.—This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an of-
fense described in section 102(6) or 102(7), of contribu-
tions or payments from an organization which is described
in section 501(c)(3) of the Internal Revenue Code of 1986
and which is exempt from taxation under section 501(a)
of such Code.

“(g) Private Sector Organization.—

“(1) Generally.—This section does not pro-
hibit an employee of a private sector organization,
while assigned to an agency under chapter 37 of title
5, from continuing to receive pay and benefits from
such organization in accordance with such chapter.

“(2) Definition.—As used in this subsection,
the term ‘agency’ means an agency (as defined by
section 3701 of title 5) and the Office of the Chief
Technology Officer of the District of Columbia.

“(h) Reserve Components of Armed Forces.—
This section does not prohibit a member of the reserve
components of the armed forces on active duty pursuant
to a call or order to active duty under a provision of law
referred to in section 101(a)(13) of title 10 from receiving
from any person that employed such member before the
call or order to active duty any payment of any part of
the salary or wages that such person would have paid the
member if the member’s employment had not been inter-
rupted by such call or order to active duty.
“§ 1000. Offer to procure appointive public office

“Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be imprisoned not more than one year.

“§ 1001. Acceptance or solicitation to obtain appointive public office

“(a) Promise of Office.—Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be imprisoned not more than one year.

“(b) Adding Person to Obtain Employment.—Whoever solicits or receives any thing of value in consideration of aiding a person to obtain employment under the United States either by referring his name to an executive department or agency of the United States or by requiring the payment of a fee because such person has secured such employment shall be imprisoned not more than one year.

“(c) Exclusion.—This section does not apply to such services rendered by an employment agency pursuant
to the written request of an executive department or agency of the United States.

§ 1002. Offer or acceptance of loan or gratuity

(a) Offer to Financial Institution Examiner.—Whoever, being an officer, director, or employee of a financial institution, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, branch, agency, organization, corporation, association, or institution—

“(1) shall imprisoned not more than 1 year;

and

“(2) may be fined, in addition to any fine otherwise imposed under this title, a sum equal to the money so loaned or gratuity given.

(b) Acceptance by Financial Institution Examiner.—Whoever, being an examiner or assistant examiner, accepts a loan or gratuity from any bank, branch, agency, organization, corporation, association, or institution examined by the examiner or from any person connected with it, shall—

“(1) be imprisoned not more than 1 year; and

“(2) shall be disqualified from holding office as an examiner.

(c) Definitions.—In this section:
“(1) EXAMINER.—The term ‘examiner’ means any person—

“(A) appointed by a Federal financial institution regulatory agency or pursuant to the laws of any State to examine a financial institution; or

“(B) elected under the law of any State to conduct examinations of any financial institutions.

“(2) FEDERAL FINANCIAL INSTITUTION REGULATORY AGENCY.—The term ‘Federal financial institution regulatory agency’ means—

“(A) the Office of the Comptroller of the Currency;

“(B) the Board of Governors of the Federal Reserve System;

“(C) the Office of Thrift Supervision;

“(D) the Federal Deposit Insurance Corporation;

“(E) the Federal Housing Finance Agency;

“(F) the Farm Credit Administration;

“(G) the Farm Credit System Insurance Corporation; and

“(H) the Small Business Administration.
“(3) **FINANCIAL INSTITUTE.**—The term ‘financial institution’ does not include a credit union, a Federal Reserve Bank, a Federal home loan bank, or a depository institution holding company.

“(4) **LOAN.**—The term ‘loan’ does not include any credit card account established under an open end consumer credit plan or a loan secured by residential real property that is the principal residence of the examiner, if—

“(A) the applicant satisfies any financial requirements for the credit card account or residential real property loan that are generally applicable to all applicants for the same type of credit card account or residential real property loan;

“(B) the terms and conditions applicable with respect to such account or residential real property loan, and any credit extended to the examiner under such account or residential real property loan, are no more favorable generally to the examiner than the terms and conditions that are generally applicable to credit card accounts or residential real property loans offered by the same financial institution to other borrowers or cardholders in comparable cir-
cumstances under open end consumer credit
plans or for residential real property loans; and

“(C) with respect to residential real prop-
erty loans, the loan is with respect to the pri-
mary residence of the applicant.

“§ 1003. Receipt of commissions or gifts for procuring
loans

“(a) OFFENSE.—Whoever—

“(1) corruptly gives, offers, or promises any-
thing of value to any person, with intent to influence
or reward an officer, director, employee, agent, or
attorney of a financial institution in connection with
any business or transaction of such institution; or

“(2) as an officer, director, employee, agent, or
attorney of a financial institution, corruptly solicits
or demands for the benefit of any person, or cor-
ruptly accepts or agrees to accept, anything of value
from any person, intending to be influenced or re-
warded in connection with any business or trans-
action of such institution;

shall be imprisoned not more than 30 years, but if the
value of the thing given, offered, promised, solicited, de-
manded, accepted, or agreed to be accepted does not ex-
ceed $1,000, shall be imprisoned not more than one year.
“(b) EXCLUSION.—This section does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

“(c) GUIDELINES.—Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.

“§ 1004. Penalties and injunctions

“(a) CRIMINAL PENALTIES.—The punishment for an offense under section 993, 994, 995, 997, 998, or 999 is the following:

“(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year.

“(2) Whoever knowingly engages in the conduct constituting the offense shall be imprisoned for not more than five years.

“(b) CIVIL ACTION.—The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 993, 994, 995, 997, 998, or 999 and, upon proof of such conduct by a prepon-
derance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this sub-section does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

“(e) COURT ORDER.—If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 993, 994, 995, 997, 998, or 999, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

“§ 1005. Voiding transactions in violation of sub-
chapter; recovery by the United States

“In addition to any other remedies provided by law the President or, under regulations prescribed by him, the head of any department or agency involved, may declare void and rescind any contract, loan, grant, subsidy, li-
cense, right, permit, franchise, use, authority, privilege, benefit, certificate, ruling, decision, opinion, or rate sche-
dule awarded, granted, paid, furnished, or published, or the performance of any service or transfer or delivery of any thing to, by or for any agency of the United States or officer or employee of the United States or person acting on behalf thereof, in relation to which there has been a final conviction for any violation of this subchapter, and the United States shall be entitled to recover in addition to any penalty prescribed by law or in a contract the amount expended or the thing transferred or delivered on its behalf, or the reasonable value thereof.

“§1006. Officers and employees acting as agents of foreign principals

“(a) OFFENSE.—Whoever, being a public official, is or acts as an agent of a foreign principal required to reg-
ister under the Foreign Agents Registration Act of 1938 or a lobbyist required to register under the Lobbying Dis-
closure Act of 1995 in connection with the representation of a foreign entity, as defined in section 3(6) of that Act shall be imprisoned for not more than two years.

“(b) EXCLUSION.—Nothing in this section applies to the employment of any agent of a foreign principal as a special Government employee in any case in which the head of the employing agency certifies that such employ-
ment is required in the national interest. A copy of any certification under this paragraph shall be forwarded by the head of such agency to the Attorney General who shall cause the same to be filed with the registration statement and other documents filed by such agent, and made available for public inspection in accordance with section 6 of the Foreign Agents Registration Act of 1938, as amended.

“(c) DEFINITION.—As used in this section ‘public official’ means Member of Congress, Delegate, or Resident Commissioner, either before or after he has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency, or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government.

“§ 1007. Bribery in sporting contests

“(a) OFFENSE.—Whoever knowingly engages in any scheme in or affecting interstate or foreign commerce to influence any sporting contest in any way by bribery, shall be imprisoned not more than 5 years.

“(b) DEFINITION.—As used in this section, the term ‘sporting contest’ means any contest in any sport, between individual contestants or teams of contestants (without regard to the amateur or professional status of the contest-
§ 1008. Continuing financial crimes enterprise

(a) OFFENSE.—Whoever—

(1) organizes, manages, or supervises a continuing financial crimes enterprise; and

(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,

shall be imprisoned for a term of not less than 10 years, or for life.

(b) DEFINITION.—As used in subsection (a), the term ‘continuing financial crimes enterprise’ means a series of violations under section 1003, 644, 645, 773, 774, 775, 779, 789, or 804, or section 801 or 803 affecting a financial institution, committed by at least 4 persons acting in concert.

SUBCHAPTER B—CLAIMS AND SERVICES IN MATTERS AFFECTING GOVERNMENT

§ 1017. False, fictitious, or fraudulent claims

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency

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thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years.

"SUBCHAPTER C—CONTEMPTS

"Sec.
"1021. Power of court.
"1022. Contempts constituting crimes.

§ 1021. Power of Court

A court of the United States shall have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as—

“(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

“(2) misbehavior of any of its officers in their official transactions; or

“(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

§ 1022. Contempts constituting crimes

“(a) OFFENSE.—Whoever disobeys any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such...
contempt as provided in section 3691 and shall be imprison

ed any term of years or for life.

“(b) Payment of Fine and Limitations on Fine

and Imprisonment.—Such fine shall be paid to the

United States or to the complainant or other party injured

by the act constituting the contempt, or may, where more

than one is so damaged, be divided or apportioned among

them as the court may direct, but in no case shall the

fine to be paid to the United States exceed, in case the

accused is a natural person, the sum of $1,000, nor shall

such imprisonment exceed the term of six months.

“(c) Applicability of Section.—This section shall

not be construed to relate to contempts committed in the

presence of the court, or so near thereto as to obstruct

the administration of justice, nor to contempts committed

in disobedience of any lawful writ, process, order, rule, de-

cree, or command entered in any suit or action brought

or prosecuted in the name of, or on behalf of, the United

States, but the same, and all other cases of contempt not

specifically embraced in this section may be punished in

conformity to the prevailing usages at law.

“Subchapter D—Elections and Political

Activities

1031. Intimidation of voters.
1032. Deprivation of employment or other benefit for political contribution.
1033. Solicitation of political contributions.
1034. Coercion of political activity.
1035. Voting by aliens.
§ 1031. Intimidation of voters

“Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be imprisoned not more than one year.

§ 1032. Deprivation of employment or other benefit for political contribution

“(a) OFFENSE.—Whoever knowingly causes or attempts to cause any person to make a contribution of a thing of value (including services) for the benefit of any candidate or any political party, by means of the denial or deprivation, or the threat of the denial or deprivation, of—

“(1) any employment, position, or work in or for any agency or other entity of the Government of the United States, a State, or a political subdivision of a State, or any compensation or benefit of such employment, position, or work; or...
“(2) any payment or benefit of a program of
the United States, a State, or a political subdivision
of a State;

if such employment, position, work, compensation, pay-
ment, or benefit is provided for or made possible in whole
or in part by an Act of Congress, shall be imprisoned not
more than one year.

“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘candidate’ means an individual
who seeks nomination for election, or election, to
Federal, State, or local office, whether or not such
individual is elected, and, for purposes of this para-
graph, an individual shall be deemed to seek nomi-
nation for election, or election, to Federal, State, or
local office, if he has (A) taken the action necessary
under the law of a State to qualify himself for nomi-
nation for election, or election, or (B) received con-
tributions or made expenditures, or has given his
consent for any other person to receive contributions
or make expenditures, with a view to bringing about
his nomination for election, or election, to such of-
office; and

“(2) the term ‘election’ means (A) a general,
special primary, or runoff election, (B) a convention
or caucus of a political party held to nominate a
candidate, (C) a primary election held for the selection of delegates to a nominating convention of a political party, (D) a primary election held for the expression of a preference for the nomination of persons for election to the office of President, and (E) the election of delegates to a constitutional convention for proposing amendments to the Constitution of the United States or of any State.

§ 1033. Solicitation of political contributions

“(a) Offense.—It shall be unlawful for—

“(1) a candidate for the Congress;

“(2) an individual elected to or serving in the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

“(3) an officer or employee of the United States or any department or agency thereof; or

“(4) a person receiving any salary or compensation for services from money derived from the Treasury of the United States; to knowingly solicit any contribution within the meaning of section 301(8) of the Federal Election Campaign Act of 1971 from any other such officer, employee, or person. Whoever violates this section shall be imprisoned not more than 3 years.
“(b) EXCLUSION.—The prohibition in subsection (a) do not apply to any activity of an employee (as defined in section 7322(1) of title 5) or any individual employed in or under the United States Postal Service or the Postal Rate Commission, unless that activity is prohibited by section 7323 or 7324 of such title.

§1034. Coercion of political activity

“§1034. Coercion of political activity

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, to engage in, or not to engage in, any political activity, including, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Whoever violates this section shall be imprisoned not more than three years.

§1035. Voting by aliens

“§1035. Voting by aliens

“(a) ELEMENTS OF OFFENSE.—It shall be unlawful for any alien to vote in any election held solely or in part for the purpose of electing a candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, unless—
“(1) the election is held partly for some other purpose;

“(2) aliens are authorized to vote for such other purpose under a State constitution or statute or a local ordinance; and

“(3) voting for such other purpose is conducted independently of voting for a candidate for such Federal offices, in such a manner that an alien has the opportunity to vote for such other purpose, but not an opportunity to vote for a candidate for any one or more of such Federal offices.

“(b) PUNISHMENT.—Whoever violates this section shall be imprisoned not more than one year.

“(c) EXCLUSION.—Subsection (a) does not apply to an alien if—

“(1) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization);

“(2) the alien permanently resided in the United States prior to attaining the age of 16; and

“(3) the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States.
“SUBCHAPTER E—EMBLEMS, INSIGNIA, AND NAMES

1051. Desecration of the flag of the United States; penalties.
1052. Official badges, identification cards, other insignia.
1053. Uniform of Armed Forces and public health Service.
1054. Military medals or decorations.
1055. False advertising or misuse of names to indicate Federal agency.
1056. Misuse of names, words, emblems, or insignia.
1057. Use of likenesses of the great seal of the United States, the seals of the President and Vice President, the seal of the United States Senate, the seal of the United States House of Representatives, and the seal of the United States Congress.
1058. Public employee insignia and uniform.

§ 1051. Desecration of the flag of the United States; penalties

“(a) Offense.—Whoever knowingly mutilates, defaces, physically defiles, burns, maintains on the floor or ground, or tramples upon any flag of the United States shall be imprisoned for not more than one year.

“(b) Exclusions.—This subsection does not prohibit any conduct consisting of the disposal of a flag when it has become worn or soiled.

“(c) Definition.—As used in this section, the term ‘flag of the United States’ means any flag of the United States, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

“(d) Expedited Appeal.—

“(1) Nature of Claim.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order issued by a United States district court.
court ruling upon the constitutionality of subsection
(a).

“(2) PROCEDURAL EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal and advance on the docket and expedite to the greatest extent possible.

“§ 1052. Official badges, identification cards, other insignia

“Whoever manufactures, sells, or possesses any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be imprisoned not more than six months.

“§ 1053. Uniform of Armed Forces and Public Health Service

“Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of any of the
Armed Forces of the United States, Public Health Service or any auxiliary of such, shall be imprisoned not more than six months.

§ 1054. Military medals or decorations

(a) In general.—Whoever knowingly wears, purchases, attempts to purchase, solicits for purchase, mails, ships, imports, exports, produces blank certificates of receipt for, manufactures, sells, attempts to sell, advertises for sale, trades, barters, or exchanges for anything of value any decoration or medal authorized by Congress for the Armed Forces of the United States, or any of the service medals or badges awarded to the members of such forces, or the ribbon, button, or rosette of any such badge, decoration or medal, or any colorable imitation thereof, except when authorized under regulations made pursuant to law, shall be imprisoned not more than six months.

(b) False claim about receipt of military decorations or medals.—Whoever falsely represents himself or herself, verbally or in writing, to have been awarded any decoration or medal authorized by Congress for the Armed Forces of the United States, any of the service medals or badges awarded to the members of such forces, the ribbon, button, or rosette of any such badge, decoration, or medal, or any colorable imitation of such item shall be imprisoned not more than six months.
“(c) Enhanced Penalty for Offenses Involving Congressional Medal of Honor.—

“(1) In General.—If a decoration or medal involved in an offense under subsection (a) or (b) is a Congressional Medal of Honor, in lieu of the punishment provided in that subsection, the offender shall be imprisoned not more than 1 year.

“(2) Congressional Medal of Honor Defined.—In this subsection, the term ‘Congressional Medal of Honor’ means—

“(A) a medal of honor awarded under section 3741, 6241, or 8741 of title 10 or section 491 of title 14;

“(B) a duplicate medal of honor issued under section 3754, 6256, or 8754 of title 10 or section 504 of title 14; or

“(C) a replacement of a medal of honor provided under section 3747, 6253, or 8747 of title 10 or section 501 of title 14.

“(d) Enhanced Penalty for Offenses Involving Certain Other Medals.—If a decoration or medal involved in an offense described in subsection (a) or (b) is a distinguished-service cross awarded under section 3742 of title 10, a Navy cross awarded under section 6242 of title 10, an Air Force cross awarded under section 8742 of title 10, a Medal of Honor awarded under section 3741, 6241, or 8741 of title 10, a Distinguished Service Cross awarded under section 3742 of title 10, a Navy Cross awarded under section 6242 of title 10, or an Air Force Cross awarded under section 8742 of title 10, the offender shall be imprisoned not more than 1 year.
of section 10, a silver star awarded under section 3746, 6244, or 8746 of title 10, a Purple Heart awarded under section 1129 of title 10, or any replacement or duplicate medal for such medal as authorized by law, in lieu of the punishment provided in the applicable subsection, the offender shall be imprisoned not more than 1 year.

§ 1055. False advertising or misuse of names to indicate Federal agency

“(a) OFFENSE.—Whoever—

“(1) except as permitted by the laws of the United States, uses the words ‘national’, ‘Federal’, ‘United States’, ‘reserve’, or ‘Deposit Insurance’ as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity engaged in the banking, loan, building and loan, brokerage, factorage, insurance, indemnity, savings or trust business;

“(2) falsely advertises or represents, or publishes or displays any sign, symbol or advertisement reasonably calculated to convey the impression that a nonmember bank, banking association, firm or partnership is a member of the Federal reserve system;

“(3) except as expressly authorized by Federal law, uses the words ‘Federal Deposit’, ‘Federal De-
possit Insurance’, or ‘Federal Deposit Insurance Cor-
poration’ or a combination of any three of these
words, as the name or a part thereof under which
he or it does business, or advertises or otherwise
represents falsely by any device whatsoever that his
or its deposit liabilities, obligations, certificates, or
shares are insured or guaranteed by the Federal De-
posit Insurance Corporation, or by the United States
or by any instrumentality thereof, or whoever adver-
tises that his or its deposits, shares, or accounts are
federally insured, or falsely advertises or otherwise
represents by any device whatsoever the extent to
which or the manner in which the deposit liabilities
of an insured bank or banks are insured by the Fed-
al Deposit Insurance Corporation;

“(4) other than a bona fide organization or as-
sociation of Federal or State credit unions or except
as permitted by the laws of the United States, uses
as a firm or business name or transacts business
using the words ‘National Credit Union’, ‘National
Credit Union Administration’, ‘National Credit
Union Board’, ‘National Credit Union Share Insur-
ance Fund’, ‘Share Insurance’, or ‘Central Liquidity
Facility’, or the letters ‘NCUA’, ‘NCUSIF’, or
‘CLF’, or any other combination or variation of
those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act;

“(5) not being organized under the Farm Credit Act of 1971, advertises or represents that it
makes Federal Farm loans or advertises or offers
for sale as Federal Farm loan bonds any bond not
issued under the Farm Credit Act of 1971, or uses
the word ‘Federal’ or the words ‘United States’ or
any other words implying Government ownership,
obligation or supervision in advertising or offering
for sale any bond, note, mortgage or other security
not issued by the Government of the United States
under the Farm Credit Act of 1971;

“(6) uses the words ‘Federal Home Loan Bank’
or any combination or variation of these words alone
or with other words as a business name or part of
a business name, or falsely publishes, advertises or
represents by any device or symbol or other means
reasonably calculated to convey the impression that
he or it is a Federal Home Loan Bank or member
of or subscriber for the stock of a Federal Home
Loan Bank;

“(7) uses the words ‘Federal intermediate cred-
it bank’ as part of the business or firm name for any
person, corporation, partnership, business trust, as-
sociation or other business entity not organized as
an intermediate credit bank under the laws of the
United States;
“(8) uses as a firm or business name the words ‘Department of Housing and Urban Development’, ‘Housing and Home Finance Agency’, ‘Federal Housing Administration’, ‘Government National Mortgage Association’, ‘United States Housing Authority’, or ‘Public Housing Administration’ or the letters ‘HUD’, ‘FHA’, ‘PHA’, or ‘USHA’, or any combination or variation of those words or the letters ‘HUD’, ‘FHA’, ‘PHA’, or ‘USHA’ alone or with other words or letters reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely claims that any repair, improvement, or alteration of any existing structure is required or recommended by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States
Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof, for the purpose of inducing any person to enter into a contract for the making of such repairs, alterations, or improvements, or falsely advertises or falsely represents by any device whatsoever that any housing unit, project, business, or product has been in any way endorsed, authorized, inspected, appraised, or approved by the Department of Housing and Urban Development, the Housing and Home Finance Agency, the Federal Housing Administration, the Government National Mortgage Association, the United States Housing Authority, the Public Housing Administration, the Government of the United States, or any agency thereof;

“(9) except with the written permission of the Director of the Federal Bureau of Investigation, knowingly uses the words ‘Federal Bureau of Investigation’ or the initials ‘F.B.I.’, or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication,
play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the Federal Bureau of Investigation;

“(10) except with written permission of the Director of the United States Secret Service, knowingly uses the words ‘Secret Service’, ‘Secret Service Uniformed Division’, the initials ‘U.S.S.S.’, ‘U.D.’, or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division;

“(11) except with the written permission of the Director of the United States Mint, knowingly uses the words ‘United States Mint’ or ‘U.S. Mint’ or any colorable imitation of such words, in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably cal-
culated to convey the impression that such advertise-
ment, circular, book, pamphlet, or other publication,
play, motion picture, broadcast, telecast, or other
production, is approved, endorsed, or authorized by
or associated in any manner with, the United States
Mint;

“(12) uses the words ‘Overseas Private Invest-
ment’, ‘Overseas Private Investment Corporation’, or
‘OPIC’, as part of the business or firm name of a
person, corporation, partnership, business trust, as-
sociation, or business entity;

“(13) except with the written permission of the
Administrator of the Drug Enforcement Administra-
tion, knowingly uses the words ‘Drug Enforcement
Administration’ or the initials ‘DEA’ or any
colorable imitation of such words or initials, in con-
nection with any advertisement, circular, book, pam-
phlet, software or other publication, play, motion
picture, broadcast, telecast, or other production, in
a manner reasonably calculated to convey the im-
pression that such advertisement, circular, book,
pamphlet, software or other publication, play, motion
picture, broadcast, telecast, or other production is
approved, endorsed, or authorized by the Drug En-
forcement Administration; or
“(14) except with the written permission of the Director of the United States Marshals Service, knowingly uses the words ‘United States Marshals Service’, ‘U.S. Marshals Service’, ‘United States Marshal’, ‘U.S. Marshal’, ‘U.S.M.S.’, or any colorable imitation of any such words, or the likeness of a United States Marshals Service badge, logo, or insignia on any item of apparel, in connection with any advertisement, circular, book, pamphlet, software, or other publication, or any play, motion picture, broadcast, telecast, or other production, in a manner that is reasonably calculated to convey the impression that the wearer of the item of apparel is acting pursuant to the legal authority of the United States Marshals Service, or to convey the impression that such advertisement, circular, book, pamphlet, software, or other publication, or such play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by the United States Marshals Service;

shall be imprisoned not more than one year.

“(b) EXCLUSIONS.—

“(1) LAWFUL BEFORE ENACTMENT.—This section does not make unlawful the use of any name or title which was lawful on June 25, 1948.
“(2) Insurance.—This section does not make unlawful the use of the word ‘national’ as part of the name of any business or firm engaged in the insurance or indemnity business, whether such firm was engaged in the insurance or indemnity business prior or subsequent to the date of enactment of this paragraph.

“(c) Enjoining of Violation.—A violation of this section may be enjoined at the suit of the United States Attorney, upon complaint by any duly authorized representative of any department or agency of the United States.

“§ 1056. Misuse of names, words, emblems, or insignia

“Whoever, in the course of collecting or aiding in the collection of private debts or obligations, or being engaged in furnishing private police, investigation, or other private detective services, uses or employs in any communication, correspondence, notice, advertisement, or circular the words ‘national’, ‘Federal’, or ‘United States’, the initials ‘U.S.’, or any emblem, insignia, or name, for the purpose of conveying and in a manner reasonably calculated to convey the false impression that such communication is from a department, agency, bureau, or instrumentality of the United States or in any manner represents the United States, shall be imprisoned not more than one year.
§ 1057. Use of likenesses of the great seal of the
United States, the seals of the President
and Vice President, the seal of the United
States Senate, the seal of the United
States House of Representatives, and the
seal of the United States Congress

(a) Display.—Whoever knowingly displays any
printed or other likeness of the great seal of the United
States, or of the seals of the President or the Vice Presi-
dent of the United States, or the seal of the United States
Senate, or the seal of the United States House of Rep-
resentatives, or the seal of the United States Congress,
or any facsimile thereof, in, or in connection with, any ad-
vertisement, poster, circular, book, pamphlet, or other
publication, public meeting, play, motion picture, telecast,
or other production, or on any building, monument, or sta-
tionery, for the purpose of conveying, or in a manner rea-
sonably calculated to convey, a false impression of spon-
sorship or approval by the Government of the United
States or by any department, agency, or instrumentality
thereof, shall be imprisoned not more than six months.

(b) Likeness on Articles.—Whoever, except as
authorized under regulations promulgated by the Presi-
dent and published in the Federal Register, knowingly
manufactures, reproduces, sells, or purchases for resale,
either separately or appended to any article manufactured
or sold, any likeness of the seals of the President or Vice President, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be imprisoned not more than six months.

“(c) SEAL OF THE UNITED STATES.—Whoever, except as directed by the United States Senate, or the Secretary of the Senate on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States Senate, or any substantial part thereof, except for manufacture or sale of the article for the official use of the Government of the United States, shall be imprisoned not more than six months.

“(d) SEAL OF UNITED STATES HOUSE OF REPRESENTATIVES.—Whoever, except as directed by the United States House of Representatives, or the Clerk of the House of Representatives on its behalf, knowingly uses, manufactures, reproduces, sells or purchases for resale, either separately or appended to any article manufactured or sold, any likeness of the seal of the United States House of Representatives, or any substantial part thereof, except for manufacture or sale of the article for the official
use of the Government of the United States, shall be im-
prisoned not more than six months.

“(e) SEAL OF CONGRESS.—Whoever, except as di-
rected by the United States Congress, or the Secretary
of the Senate and the Clerk of the House of Representa-
tives, acting jointly on its behalf, knowingly uses, manu-
factures, reproduces, sells or purchases for resale, either
separately or appended to any article manufactured or
sold, any likeness of the seal of the United States Con-
gress, or any substantial part thereof, except for manufac-
ture or sale of the article for the official use of the Govern-
ment of the United States, shall be imprisoned not more
than six months.

“(f) VIOLATION MAY BE ENJOINED.—A violation of
this section may be enjoined at the suit of the Attorney
General—

“(1) in the case of the great seal of the United
States and the seals of the President and Vice Presi-
dent, upon complaint by any authorized representa-
tive of any department or agency of the United
States;

“(2) in the case of the seal of the United States
Senate, upon complaint by the Secretary of the Sen-
ate;
“(3) in the case of the seal of the United States House of Representatives, upon complaint by the Clerk of the House of Representatives; and

“(4) in the case of the seal of the United States Congress, upon complaint by the Secretary of the Senate and the Clerk of the House of Representatives, acting jointly.

“§ 1058. Public employee insignia and uniform

“(a) Offense.—Whoever—

“(1) knowingly transfers, transports, or receives, in interstate or foreign commerce, a counterfeit official insignia or uniform;

“(2) knowingly transfers, in interstate or foreign commerce, a genuine official insignia or uniform to an individual, knowing that such individual is not authorized to possess it under the law of the place in which the badge is the official insignia or uniform;

“(3) knowingly receives a genuine official insignia or uniform in a transfer prohibited by paragraph (2); or

“(4) being a person not authorized to possess a genuine official insignia or uniform under the law of the place in which the badge is the official insignia
or uniform, knowingly transports that badge in
interstate or foreign commerce,
shall be imprisoned not more than 6 months.

“(b) Defense for Certain Uses.—It is a defense
to a prosecution under this section that the insignia or
uniform is other than a counterfeit insignia or uniform
and is not used to mislead or deceive, or is used or is
intended to be used exclusively—

“(1) as a memento, or in a collection or exhibit;
“(2) for decorative purposes;
“(3) for a dramatic presentation, such as a thea-
trical, film, or television production; or
“(4) for any other recreational purpose.

“(c) Defense for Certain Other Uses.—It is a
defense to a prosecution under this section that the official
insignia or uniform is not used or intended to be used to
mislead or deceive, or is a counterfeit insignia or uniform
and is used or is intended to be used exclusively—

“(1) for a dramatic presentation, such as a thea-
trical, film, or television production; or
“(2) for legitimate law enforcement purposes.

“(d) Definitions.—As used in this section—
“(1) the term ‘genuine police badge’ means an
official badge issued by public authority to identify
an individual as a law enforcement officer having po-
lice powers;

“(2) the term ‘counterfeit police badge’ means
an item that so resembles a police badge that it
would deceive an ordinary individual into believing it
was a genuine police badge; and

“(3) the term ‘official insignia or uniform’
means an article of distinctive clothing or insignia,
including a badge, emblem or identification card,
that is an indicium of the authority of a public em-
ployee;

“(4) the term ‘public employee’ means any offi-
cer or employee of the Federal Government or of a
State or local government; and

“(5) the term ‘uniform’ means distinctive cloth-
ing or other items of dress, whether real or counter-
feit, worn during the performance of official duties
and which identifies the wearer as a public agency
employee.

“SUBCHAPTER F—ESCAPE AND RESCUE

1071. Prisoners in custody of institution or officer.
1072. Instigating or assisting escape.
1073. Officer permitting escape.
1074. High speed flight from immigration checkpoint.
1075. Escape from hospitalization.

§ 1071. Prisoners in custody of institution or officer

“(a) ADULTS.—Whoever escapes or attempts to es-
cape from the custody of the Attorney General or his au-
authorized representative, or from any institution or facility
in which he is confined by direction of the Attorney Gen-
eral, or from any custody under or by virtue of any process
issued under the laws of the United States by any court,
judge, or magistrate judge, or from the custody of an offi-
cer or employee of the United States pursuant to lawful
arrest, shall, if the custody or confinement is by virtue
of an arrest on a charge of felony, or conviction of any
offense, be imprisoned not more than five years; or if the
custody or confinement is for extradition, or for exclusion
or expulsion proceedings under the immigration laws, or
by virtue of an arrest or charge of or for a misdemeanor,
and prior to conviction, be imprisoned not more than one
year.

"(b) JUVENILES.—Whoever escapes or attempts to
escape from the custody of the Attorney General or his
authorized representative, or from any institution or facil-
ity in which he is confined by direction of the Attorney
General, or from any custody under or by virtue of any
process issued under the laws of the United States by any
court, judge, or magistrate judge, or from the custody of
an officer or employee of the United States pursuant to
lawful arrest, shall, if the custody or confinement is by
virtue of a lawful arrest for a violation of any law of the
United States not punishable by death or life imprison-
ment and committed before such person’s eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034, be imprisoned not more than one year. Nothing in this section affects the discretionary authority vested in the Attorney General pursuant to section 5032.

“§ 1072. Instigating or assisting escape

“(a) ADULTS.—Whoever rescues or attempts to rescue or instigates, aids or assists the escape, or attempt to escape, of any person arrested upon a warrant or other process issued under any law of the United States, or committed to the custody of the Attorney General or to any institution or facility by his direction, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be imprisoned not more than five years; or, if the custody or confinement is for extradition, or for exclusion or expulsion proceedings under the immigration laws, or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be imprisoned not more than one year.

“(b) JUVENILES.—Whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempted escape of any person in the custody of the Attor-
ney General or his authorized representative, or of any person arrested upon a warrant or other process issued under any law of the United States or from any institution or facility in which he is confined by direction of the Attorney General, shall, if the custody or confinement is by virtue of a lawful arrest for a violation of any law of the United States not punishable by death or life imprisonment and committed before such person’s eighteenth birthday, and as to whom the Attorney General has not specifically directed the institution of criminal proceedings, or by virtue of a commitment as a juvenile delinquent under section 5034, be imprisoned not more than one year.

“§ 1073. Officer permitting escape

“Whoever, having in his custody any prisoner by virtue of process issued under the laws of the United States by any court, judge, or magistrate judge, voluntarily suffers such prisoner to escape, shall be imprisoned not more than 5 years; or if he negligently suffers such person to escape, he shall be imprisoned not more than one year.

“§ 1074. High speed flight from immigration checkpoint

“Whoever flees or evades a checkpoint operated by the Immigration and Naturalization Service, or any other Federal law enforcement agency, in a motor vehicle and
flees Federal, State, or local law enforcement agents in excess of the legal speed limit shall be imprisoned not more than five years.

“§ 1075. Escape from hospitalization

“Whoever escapes or attempts to escape from the custody of any facility or from any place in which or to which he is confined pursuant to this section 1826 of title 28 or section 4243 of this title, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be imprisoned not more than three years.

“SUBCHAPTER G—FALSE PERSONATION

“1091. Citizen of the United States.

“Whoever falsely represents oneself to be a citizen of the United States shall be imprisoned not more than three years.

“1092. Officer or employee of the United States.

“Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be imprisoned not more than three years.
§ 1093. Impersonator making arrest or search

Whoever falsely represents oneself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be imprisoned not more than three years.

SUBCHAPTER H—FUGITIVES FROM JUSTICE

§ 1101. Concealing person from arrest

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be imprisoned not more than one year; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine under this title, or imprisonment for not more than five years, or both.

§ 1102. Concealing escaped prisoner

Whoever harbors or conceals any prisoner after that prisoner’s escape from the custody of the Attorney General
or from a Federal penal or correctional institution, shall
be imprisoned not more than three years.

§ 1103. Flight to avoid prosecution or giving testi-
mony

(a) Offense.—Whoever moves or travels in inter-
state or foreign commerce with intent—

“(1) to avoid prosecution, or custody or confine-
ment after conviction, under the laws of the place
from which he flees, for a crime, or an attempt to
commit a crime, punishable by death or which is a
felony under the laws of the place from which the
fugitive flees;

“(2) to avoid giving testimony in any criminal
proceedings in such place in which the commission
of an offense punishable by death or which is a fel-
ony under the laws of such place, is charged; or

“(3) to avoid service of, or contempt pro-
ceedings for alleged disobedience of, lawful process
requiring attendance and the giving of testimony or
the production of documentary evidence before an
agency of a State empowered by the law of such
State to conduct investigations of alleged criminal
activities;

shall be imprisoned not more than five years.
“(b) **Special Venue and Approval Required.**—

Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in subsection (a)(3) is alleged to have been committed, and only upon formal approval in writing by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General of the United States, which function of approving prosecutions may not be delegated.

“§ 1104. Flight to avoid prosecution for damaging or destroying any building or other real or personal property

“(a) **Offense.**—Whoever moves or travels in inter-state or foreign commerce with intent—

“(1) to avoid prosecution, or custody, or confinement after conviction, under the laws of the place from which he flees, for attempting to or damaging or destroying by fire or explosive any building, structure, facility, vehicle, dwelling house, synagogue, church, religious center or educational institution, public or private; or
“(2) to avoid giving testimony in any criminal proceeding relating to any such offense; shall be imprisoned not more than five years.

“(b) VENUE.—Violations of this section may be prosecuted in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement.

“(c) RULE OF CONSTRUCTION.—This section shall not be construed as indicating an intent on the part of Congress to prevent the exercise by a State of any jurisdiction over any offense over which that State would have jurisdiction in the absence of such section.

“SUBCHAPTER I—OBSTRUCTION OF JUSTICE

§ 1131. Assault on process server

“Whoever—

“(1) knowingly obstructs, resists, or opposes any officer of the United States, or other person duly authorized, in serving, or attempting to serve or
execute, any legal or judicial writ or process of any court of the United States, or United States magistrate judge; or

“(2) assaults, beats, or wounds any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process;

shall, except as otherwise provided by law, be imprisoned not more than one year.

§1132. Influencing or injuring officer or juror generally

“(a) Elements of the offense.—Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate, in the discharge of duty, or injures any such grand or petit juror in his or her person or property on account of any verdict or indictment assented to by him or her, or on account of being or having been such juror, or injures any such officer, magistrate judge, or other committing mag-
istrate in his or her person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be punished as provided in subsection (b).

If the offense under this section occurs in connection with a trial of a criminal case, and the act in violation of this section involves the threat of physical force or physical force, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

“(b) PUNISHMENT.—The punishment for an offense under this section is—

“(1) in the case of a killing, the punishment provided in sections 103 and 104;

“(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and, imprisonment for not more than 20 years; and

“(3) in any other case, imprisonment for not more than 10 years.
“§ 1133. Obstruction of proceedings before departments, agencies, and committees

“Whoever—

“(1) with intent to avoid, evade, prevent, or obstruct compliance, in whole or in part, with any civil investigative demand duly and properly made under the Antitrust Civil Process Act, knowingly withholds, misrepresents, removes from any place, conceals, covers up, destroys, mutilates, alters, or by other means falsifies any documentary material, answers to written interrogatories, or oral testimony, which is the subject of such demand; or attempts to do so or solicits another to do so; or

“(2) corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes the due and proper administration of the law under which any pending proceeding is being had before any department or agency of the United States, or the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress;

shall be imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 283), imprisoned not more than 8 years.
“§1134. Obstruction of Court orders

“(a) Offense.—Whoever, by threats or force, knowingly prevents, obstructs, impedes, or interferes with the due exercise of rights or the performance of duties under any order, judgment, or decree of a court of the United States, shall be imprisoned not more than one year.

“(b) Injunctive and Other Relief Available.—No injunctive or other civil relief against the conduct made criminal by this section shall be denied on the ground that such conduct is a crime.

“§1135. Obstruction of criminal investigations

“(a) In General.—Whoever knowingly attempts by means of bribery to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator shall be imprisoned not more than five years.

“(b) Financial Institutions.—(1) Whoever, being an officer of a financial institution, with the intent to obstruct a judicial proceeding, notifies any other person about the existence or contents of a subpoena for records of that financial institution, or information that has been furnished in response to that subpoena, shall be imprisoned not more than 5 years.

“(2) Whoever, being an officer of a financial institution notifies—
“(A) a customer of that financial institution whose records are sought by a subpoena for records; or

“(B) any other person named in that subpoena; about the existence or contents of that subpoena or information that has been furnished in response to that subpoena, shall be imprisoned not more than one year.

“(3) As used in this subsection—

“(A) the term ‘an officer of a financial institution’ means an officer, director, partner, employee, agent, or attorney of or for a financial institution; and

“(B) the term ‘subpoena for records’ means a Federal grand jury subpoena or a Department of Justice subpoena (issued under section 3486 of title 18), for customer records that has been served relating to a violation of, or a conspiracy to violate—

“(i) section 1003, 644, 645, 773, 774, 775, 779, 804, 1451, 1452, or chapter 53 of title 31; or

“(ii) section 801 or 803 affecting a financial institution.

“(c) DEFINITION.—As used in this section, the term ‘criminal investigator’ means any individual duly authorized by a department, agency, or armed force of the
United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States.

“(d) INSURANCE.—(1) Whoever—

“(A) acting as, or being, an officer, director, agent or employee of a person engaged in the business of insurance whose activities affect interstate commerce, or

“(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

with intent to obstruct a judicial proceeding, notifies any other person about the existence or contents of a subpoena for records of that person engaged in such business or information that has been furnished to a Federal grand jury in response to that subpoena, shall be imprisoned not more than 5 years.

“(2) As used in paragraph (1), the term ‘subpoena for records’ means a Federal grand jury subpoena for records that has been served relating to a violation of, or a conspiracy to violate, section 790.

“(e) Whoever, having been notified of the applicable disclosure prohibitions or confidentiality requirements of
section 3120G(c)(1) of this title, section 626(d)(1) or 627(c)(1) of the Fair Credit Reporting Act, section 1114(a)(3)(A) or 1114(a)(5)(D)(i) of the Right to Financial Privacy Act of 1978, or section 802(b)(1) of the National Security Act of 1947, knowingly and with the intent to obstruct an investigation or judicial proceeding violates such prohibitions or requirements applicable by law to such person shall be imprisoned for not more than five years.

“§ 1136. Obstruction of State or local law enforcement with regard to illegal gambling business

“(a) ELEMENTS OF THE OFFENSE.—It shall be unlawful for two or more persons to conspire to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business if—

“(1) one or more of such persons does any act to effect the object of such a conspiracy;

“(2) one or more of such persons is an official or employee, elected, appointed, or otherwise, of such State or political subdivision; and

“(3) one or more of such persons conducts finances, manages, supervises, directs, or owns all or part of an illegal gambling business.
“(b) DEFINITIONS.—As used in this section—

“(1) the term ‘illegal gambling business’ means a gambling business which—

“(A) is a violation of the law of a State or political subdivision in which it is conducted;

“(B) involves five or more persons who conduct, finance, manage, supervise, direct, or own all or part of such business; and

“(C) has been or remains in substantially continuous operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day; and

“(2) the term ‘gambling’ includes pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

“(c) EXCLUSION.—This section does not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1986, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except
as reimbursement for actual expenses incurred in the con-
duct of such activity.

“(d) PUNISHMENT.—Whoever violates this section
shall be imprisoned not more than five years.

“§ 1137. Tampering with a witness, victim, or an in-
formant

“(a) VIOLENT OFFENSE.—

“(1) KILLING.—Whoever kills or attempts to
kill another person, with intent to—

“(A) prevent the attendance or testimony
of any person in an official proceeding;

“(B) prevent the production of a record,
document, or other object, in an official pro-
ceeding; or

“(C) prevent the communication by any
person to a law enforcement officer or judge of
the United States of information relating to the
commission or possible commission of a Federal
offense or a violation of conditions of probation,
parole, or release pending judicial proceedings;
shall be punished as provided in paragraph (3).

“(2) USE OR THREAT OF PHYSICAL FORCE.—
Whoever uses physical force or the threat of physical
force against any person, or attempts to do so, with
intent to—
“(A) influence, delay, or prevent the testimony of any person in an official proceeding;

“(B) cause or induce any person to—

“(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

“(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

“(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

“(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

“(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

shall be punished as provided in paragraph (3).
“(3) PUNISHMENT.—The punishment for an offense under this subsection is—

“(A) in the case of a murder, the same as provided for a like offense in chapter 10;

“(B) in the case of an attempt to murder or the use or attempted use of physical force against any person, imprisonment for not more than 30 years; and

“(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 20 years.

“(b) NONVIOLENT OFFENSES INVOLVING OTHER PERSONS.—Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

“(1) influence, delay, or prevent the testimony of any person in an official proceeding;

“(2) cause or induce any person to—

“(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

“(B) alter, destroy, mutilate, or conceal an object with intent to impair the object’s integ-
rity or availability for use in an official pro-
ceeding;

“(C) evade legal process summoning that
person to appear as a witness, or to produce a
record, document, or other object, in an official
proceeding; or

“(D) be absent from an official proceeding
to which such person has been summoned by
legal process; or

“(3) hinder, delay, or prevent the communica-
tion to a law enforcement officer or judge of the
United States of information relating to the commis-
ion or possible commission of a Federal offense or
a violation of conditions of probation, supervised re-
lease, parole, or release pending judicial proceedings.

“(c) NONVIOLENT OFFENSES NOT INVOLVING
OTHER PERSONS.—Whoever corruptly—

“(1) alters, destroys, mutilates, or conceals a
record, document, or other object, or attempts to do
so, with the intent to impair the object’s integrity or
availability for use in an official proceeding; or

“(2) otherwise obstructs, influences, or impedes
any official proceeding, or attempts to do so,
“(d) HARASSMENT.—Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

“(1) attending or testifying in an official proceeding;

“(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;

“(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

“(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

shall be imprisoned not more than one year.

“(e) AFFIRMATIVE DEFENSE.—In a prosecution for an offense under this section, it is an affirmative defense, that the conduct consisted solely of lawful conduct and that the defendant’s sole intention was to encourage, induce, or cause the other person to testify truthfully.

“(f) SPECIAL RULES.—For the purposes of this section—
“(1) an official proceeding need not be pending
or about to be instituted at the time of the offense;
and
“(2) the testimony, or the record, document, or
other object need not be admissible in evidence or
free of a claim of privilege.
“(g) STATE OF MIND.—In a prosecution for an of-
fense under this section, no state of mind need be proved
with respect to the circumstance—
“(1) that the official proceeding before a judge,
court, magistrate judge, grand jury, or government
agency is before a judge or court of the United
States, a United States magistrate judge, a bank-
ruptcy judge, a Federal grand jury, or a Federal
Government agency; or
“(2) that the judge is a judge of the United
States or that the law enforcement officer is an offi-
cer or employee of the Federal Government or a per-
son authorized to act for or on behalf of the Federal
Government or serving the Federal Government as
an adviser or consultant.
“(h) EXTRATERRITORIAL JURISDICTION.—There is
extraterritorial Federal jurisdiction over an offense under
this section.
“(i) **Venue.**—A prosecution under this section or section 1132 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

“(j) **Increased Punishment.**—If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

§1138. **Retaliating against a witness, victim, or an informant**

“(a) **Offenses Involving Killing.**—

“(1) **Elements of the offense.**—Whoever kills another person with intent to retaliate against any person for—

“(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

“(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a
violation of conditions of probation, supervised
release, parole, or release pending judicial pro-
ceedings,

shall be punished as provided in paragraph (2).

“(2) PUNISHMENT.—The punishment for an of-
fense under this subsection is the same as for a like
offense under subchapter A of chapter 10.

“(b) OFFENSES INVOLVING BODILY INJURY.—Who-
ever knowingly engages in any conduct and thereby causes
bodily injury to another person or damages the tangible
property of another person, or threatens to do so, with
intent to retaliate against any person for—

“(1) the attendance of a witness or party at an
official proceeding, or any testimony given or any
record, document, or other object produced by a wit-
ness in an official proceeding; or

“(2) any information relating to the commission
or possible commission of a Federal offense or a vio-
lution of conditions of probation, supervised release,
parole, or release pending judicial proceedings given
by a person to a law enforcement officer,

shall be imprisoned for not more than 20 years.

“(c) INCREASED PUNISHMENT.—If the retaliation
occurred because of attendance at or testimony in a crimi-
nal case, the maximum term of imprisonment which may
be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

“(d) Extraterritorial Jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.

“(e) Other Retaliation.—Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be imprisoned not more than 10 years.

“§ 1139. Civil action to restrain harassment of a victim or witness

“(a) Temporary Restraining Order.—(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and
restrain an offense under section 1137, other than an offense consisting of misleading conduct, or under section 1138.

“(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party’s attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

“(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

“(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 14 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 14 days or for such longer period agreed to by the adverse party.

“(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the
same character, and when such motion comes on for hear-
ing, if the attorney for the Government does not proceed
with the application for a protective order, the court shall
dissolve the temporary restraining order.

“(E) If on two days notice to the attorney for the
Government, excluding intermediate weekends and holi-
days, or on such shorter notice as the court may prescribe,
the adverse party appears and moves to dissolve or modify
the temporary restraining order, the court shall proceed
to hear and determine such motion as expeditiously as the
ends of justice require.

“(F) A temporary restraining order shall set forth the
reasons for the issuance of such order, be specific in
terms, and describe in reasonable detail (and not by ref-
erence to the complaint or other document) the act or acts
being restrained.

“(b) PROTECTIVE ORDER.—(1) A United States dis-
trict court, upon motion of the attorney for the Govern-
ment, or on its own motion shall issue a protective order
prohibiting harassment of a victim or witness in a Federal
criminal case or investigation if the court, after a hearing,
finds by a preponderance of the evidence that harassment
of an identified victim or witness in a Federal criminal
case or investigation exists or that such order is necessary
to prevent and restrain an offense under section 1137,
other than an offense consisting of misleading conduct, or under section 1138.

“(2) In the case of a minor witness or victim, the court shall issue a protective order prohibiting harassment or intimidation of the minor victim or witness if the court finds evidence that the conduct at issue is reasonably likely to adversely affect the willingness of the minor witness or victim to testify or otherwise participate in the Federal criminal case or investigation. Any hearing regarding a protective order under this paragraph shall be conducted in accordance with paragraphs (1) and (3), except that the court may issue an ex parte emergency protective order in advance of a hearing if exigent circumstances are present. If such an ex parte order is applied for or issued, the court shall hold a hearing not later than 14 days after the date such order was applied for or is issued.

“(3) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

“(4) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail the act or acts being restrained.

“(5) The court shall set the duration of effect of the protective order for such period as the court determines
necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order’s issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section, except that in the case of a minor victim or witness, the court may order that such protective order expires on the later of 3 years after the date of issuance or the date of the eighteenth birthday of that minor victim or witness.

“(c) OFFENSE.—Whoever knowingly and intentionally violates an order issued under this section shall be fined under this title, imprisoned not more than 5 years, or both.

“(d) DEFINITIONS.—(1) As used in this section—

“(A) the term ‘course of conduct’ means a series of acts over a period of time, however short, indicating a continuity of purpose;

“(B) the term ‘harassment’ means a serious act or course of conduct directed at a specific person that—

“(i) causes substantial emotional distress in such person; and

“(ii) serves no legitimate purpose;
“(C) the term ‘family’ has the meaning given that term in section 136 and includes grandchildren;

“(D) the term ‘intimidation’ means a serious act or course of conduct directed at a specific person that—

“(i) causes fear or apprehension in such person; and

“(ii) serves no legitimate purpose;

“(E) the term ‘restricted personal information’ has the meaning given that term in section 119;

“(F) the term ‘serious act’ means a single act of threatening, retaliatory, harassing, or violent conduct that is reasonably likely to influence the willingness of a victim or witness to testify or participate in a Federal criminal case or investigation; and

“(G) the term ‘specific person’ means a victim or witness in a Federal criminal case or investigation, and includes a family member of such a victim or witness.

“(2) For purposes of subparagraphs (B)(ii) and (D)(ii) of paragraph (1), a court shall presume, subject to rebuttal by the person, that the distribution or publication using the Internet of a photograph of, or restricted personal information regarding, a specific person serves no legitimate purpose, unless that use is authorized by
that specific person, is for news reporting purposes, is de-
dsigned to locate that specific person (who has been re-
ported to law enforcement as a missing person), or is part
of a government-authorized effort to locate a fugitive or
person of interest in a criminal, antiterrorism, or national
security investigation.

“§1140. Civil action to protect against retaliation in
fraud cases

“(a) WHISTLEBLOWER PROTECTION FOR EMPLOY-
EES OF PUBLICLY TRADED COMPANIES.—No company
with a class of securities registered under section 12 of
the Securities Exchange Act of 1934, or that is required
to file reports under section 15(d) of the Securities Ex-
change Act of 1934, including any subsidiary or affiliate
whose financial information is included in the consolidated
financial statements of such company, or nationally recog-
nized statistical rating organization (as defined in section
3(a) of the Securities Exchange Act of 1934, or any offi-
cer, employee, contractor, subcontractor, or agent of such
company or nationally recognized statistical rating organi-
zation, may discharge, demote, suspend, threaten, harass,
or in any other manner discriminate against an employee
in the terms and conditions of employment because of any
lawful act done by the employee—
“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 801, 803, 804, or 807, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct);

or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 801, 803, 804, or 807, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.
“(b) Enforcement Action.—

“(1) In General.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor; or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) Procedure.—

“(A) In General.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49.

“(B) Exception.—Notification made under section 42121(b)(1) of title 49, shall be made to the person named in the complaint and to the employer.
“(C) Burdens of Proof.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49.

“(D) Statute of Limitations.—An action under paragraph (1) shall be commenced not later than 180 days after the date on which the violation occurs, or after the date on which the employee became aware of the violation.

“(E) Jury Trial.—A party to an action brought under paragraph (1)(B) shall be entitled to trial by jury.

“(c) Remedies.—

“(1) In General.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) Compensatory Damages.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, in-
including litigation costs, expert witness fees, and
reasonable attorney fees.

“(d) Rights Retained by Employee.—Nothing in
this section diminishes the rights, privileges, or remedies
of any employee under any Federal or State law, or under
any collective bargaining agreement.

“(e) Nonenforceability of Certain Provisions
Waiving Rights and Remedies or Requiring Arbi-
tration of Disputes.—

“(1) Waiver of rights and remedies.—The
rights and remedies provided for in this section may
not be waived by any agreement, policy form, or con-
dition of employment, including by a predispute ar-
bitration agreement.

“(2) Predispute Arbitration Agree-
ments.—No predispute arbitration agreement shall
be valid or enforceable, if the agreement requires ar-
bitration of a dispute arising under this section.

“§ 1141. Definitions for certain provisions; general
provision

“(a) Definitions for Sections 1137 and 1138.—
As used in sections 1137 and 1138 and in this section—
“(1) the term ‘official proceeding’ means—
“(A) a proceeding before a judge or court
of the United States, a United States mag-
istrate judge, a bankruptcy judge, a judge of
the United States Tax Court, a special trial
judge of the Tax Court, a judge of the United
States Court of Federal Claims, or a Federal
grand jury;

“(B) a proceeding before the Congress;

“(C) a proceeding before a Federal Gov-
ernment agency which is authorized by law; or

“(D) a proceeding involving the business of
insurance whose activities affect interstate com-
merce before any insurance regulatory official
or agency or any agent or examiner appointed
by such official or agency to examine the affairs
of any person engaged in the business of insur-
ance whose activities affect interstate com-
merce;

“(2) the term ‘physical force’ means physical
action against another, and includes confinement;

“(3) the term ‘misleading conduct’ means—

“(A) knowingly making a false statement;

“(B) intentionally omitting information
from a statement and thereby causing a portion
of such statement to be misleading, or inten-
tionally concealing a material fact, and thereby
creating a false impression by such statement;
“(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

“(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

“(E) knowingly using a trick, scheme, or device with intent to mislead;

“(4) the term ‘law enforcement officer’ means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

“(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

“(B) serving as a probation or pretrial services officer under this title;

“(5) the term ‘corruptly persuades’ does not include conduct which would be misleading conduct but for a lack of a state of mind.
“(b) Definition for Section 1133.—As used in section 1133, the term ‘corruptly’ means acting with an improper purpose, personally or by influencing another, including making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.

“(c) Exclusion.—This subchapter does not prohibit or punish the providing of lawful, bona fide, legal representation services in connection with or anticipation of an official proceeding.

§ 1142. Destruction of corporate audit records

“(a) Regulatory Requirements.—(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

“(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or re-
received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

“(b) OFFENSE.—Whoever knowingly violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be imprisoned not more than 10 years.

“(c) RULE OF CONSTRUCTION.—Nothing in this section diminishes or relieves any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.

“SUBCHAPTER J—PRISONS

“Sec.
“1161. Providing or possessing contraband in prison.
“1162. Mutiny and riot prohibited.
“1163. Trespass on Bureau of Prisons reservations and land.

“§ 1161. Providing or possessing contraband in prison

“(a) OFFENSE.—Whoever—
“(1) in violation of a statute or a rule or order issued under a statute, provides to an inmate of a prison a prohibited object, or attempts to do so; or

“(2) being an inmate of a prison, makes, possesses, or obtains, or attempts to make or obtain, a prohibited object;

shall be punished as provided in subsection (b) of this section.

“(b) PUNISHMENT.—The punishment for an offense under this section is a fine under this title or—

“(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;

“(2) imprisonment for not more than 10 years, or both, if the object is specified in subsection (d)(1)(A) of this section;

“(3) imprisonment for not more than 5 years, or both, if the object is specified in subsection (d)(1)(B) of this section;

“(4) imprisonment for not more than one year, or both, if the object is specified in subsection (d)(1)(D), (d)(1)(E), or (d)(1)(F) of this section; and
“(5) imprisonment for not more than 6 months, or both, if the object is specified in subsection (d)(1)(G) of this section.

“(c) CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN CASES.—Any punishment imposed under subsection (b) for a violation of this section involving a controlled substance shall be consecutive to any other sentence imposed by any court for an offense involving such a controlled substance. Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘prohibited object’ means—

“(A) a firearm or destructive device or a controlled substance in schedule I or II, other than marijuana or a controlled substance referred to in subparagraph (C) of this subsection;

“(B) marijuana or a controlled substance in schedule III, other than a controlled substance referred to in subparagraph (C) of this subsection, ammunition, a weapon (other than a firearm or destructive device), or an object that
is designed or intended to be used as a weapon
or to facilitate escape from a prison;

“(C) a narcotic drug, methamphetamine,
its salts, isomers, and salts of its isomers, lyser-
gic acid diethylamide, or phencyclidine;

“(D) a controlled substance (other than a
controlled substance referred to in subpara-
graph (A), (B), or (C) of this subsection) or an
alcoholic beverage;

“(E) any United States or foreign cur-
rency;

“(F) a phone or other device used by a
user of commercial mobile service (as defined in
section 332(d) of the Communications Act of
1934) in connection with such service; and

“(G) any other object that threatens the
order, discipline, or security of a prison, or the
life, health, or safety of an individual;

“(2) the terms ‘ammunition’, ‘firearm’, and ‘de-
structive device’ have, respectively, the meanings
given those terms in section 581;

“(3) the term ‘narcotic drug’ has the meaning
given that term in section 102 of the Controlled
Substances Act; and
“(4) the term ‘prison’ means a Federal correctional, detention, or penal facility or any prison, institution, or facility in which persons are held in custody by direction of or pursuant to a contract or agreement with the Attorney General.

§ 1162. Mutiny and riot prohibited

Whoever instigates any mutiny or riot, at any Federal penal, detention, or correctional facility, shall be imprisoned not more than ten years.

§ 1163. Trespass on Bureau of Prisons reservations and land

Whoever, without lawful authority or permission, goes upon a reservation, land, or a facility of the Bureau of Prisons shall be imprisoned not more than six months.

SUBCHAPTER K—PUBLIC OFFICERS AND EMPLOYEES

Sec. 1171. Disclosure of confidential information generally.

Whoever, being an officer or employee of the United States or of any department or agency thereof, any person acting on behalf of the Federal Housing Finance Agency, or agent of the Department of Justice as defined in the Antitrust Civil Process Act, or being an employee of a private sector organization who is or was assigned to an...
agency under chapter 37 of title 5, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be imprisoned not more than one year; and shall be removed from office or employment.

“SUBCHAPTER L—RECORDS AND REPORTS

§1181. Concealment, removal, or mutilation generally

“Whoever knowingly and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other
thing, filed or deposited with any clerk or officer of any
court of the United States, or in any public office, or with
any judicial or public officer of the United States, shall
be imprisoned not more than three years.

§ 1182. False entries and reports of moneys or secu-

rities

“Whoever—

“(1) being an officer, clerk, agent, or other em-
ployee of the United States or any of its agencies,
charged with the duty of keeping accounts or records
of any kind, with intent to deceive, mislead, injure,
or defraud, makes in any such account or record any
false or fictitious entry or record of any matter re-
lating to or connected with his duties; or

“(2) being an officer, clerk, agent, or other em-
ployee of the United States or any of its agencies,
charged with the duty of receiving, holding, or pay-
ing over moneys or securities to, for, or on behalf of
the United States, or of receiving or holding in trust
for any person any moneys or securities, with like
intent, makes a false report of such moneys or secu-
rities;

shall be imprisoned not more than ten years.

“SUBCHAPTER M—SEARCHES AND SEIZURES

See.

1191. Destruction or removal of property to prevent seizure.

1192. Rescue of seized property.
§ 1191. Destruction or removal of property to prevent seizure

(a) Destruction or Removal of Property to Prevent Seizure.—Whoever, before, during, or after any search for or seizure of property by any person authorized to make such search or seizure, knowingly destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of preventing or impairing the Government’s lawful authority to take such property into its custody or control or to continue holding such property under its lawful custody and control, shall be imprisoned not more than 5 years.

(b) Impairment of In Rem Jurisdiction.—Whoever, knowing that property is subject to the in rem jurisdiction of a United States court for purposes of civil forfeiture under Federal law, knowingly and without authority from that court, destroys, damages, wastes, disposes of, transfers, or otherwise takes any action, or knowingly attempts to destroy, damage, waste, dispose of, transfer, or otherwise take any action, for the purpose of impairing or defeating the court’s continuing in rem jurisdiction over the property, shall be imprisoned not more than 5 years.

(c) Notice of Search or Execution of Seizure Warrant or Warrant of Arrest In Rem.—Whoever,
having knowledge that any person authorized to make
searches and seizures, or to execute a seizure warrant or
warrant of arrest in rem, in order to prevent the author-
ized seizing or securing of any person or property, gives
notice or attempts to give notice in advance of the search,
seizure, or execution of a seizure warrant or warrant of
arrest in rem, to any person shall be imprisoned not more
than 5 years.

“(d) Notice of Certain Electronic Surveillance.—Whoever, having knowledge that a Federal inves-
tigative or law enforcement officer has been authorized or
has applied for authorization under subchapter C of chap-
ter 37 to intercept a wire, oral, or electronic communica-
tion, in order to obstruct, impede, or prevent such inter-
ception, gives notice or attempts to give notice of the pos-
sible interception to any person shall be imprisoned not
more than 5 years.

“(e) Foreign Intelligence Surveillance.—Whoever, having knowledge that a Federal officer has
been authorized or has applied for authorization to con-
duct electronic surveillance under the Foreign Intelligence
Surveillance Act of 1978, in order to obstruct, impede, or
prevent such activity, gives notice or attempts to give no-
tice of the possible activity to any person shall be impris-
ioned not more than 5 years.
§ 1192. Rescue of seized property

"Whoever forcibly rescues, dispossesses, or attempts to rescue or dispossess any property, articles, or objects after the same shall have been taken, detained, or seized by any officer or other person under the authority of any revenue law of the United States, or by any person authorized to make searches and seizures, shall be imprisoned not more than two years.

§ 1201. Government property or contracts

"Whoever knowingly and without authority injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, or attempts to commit any of the foregoing offenses, shall be punished as follows:

“(1) If the damage or attempted damage to such property exceeds the sum of $1,000, by imprisonment for not more than ten years.
“(2) If the damage or attempted damage to such property does not exceed the sum of $1,000, by imprisonment for not more than one year.

§ 1202. Communication lines, stations, or systems

“(a) Offense.—Whoever knowingly and without authority—

“(1) injures or destroys any of the works, property, or material of any radio, telegraph, telephone or cable, line, station, or system, or other means of communication, operated or controlled by the United States, or used or intended to be used for military or civil defense functions of the United States, whether constructed or in process of construction;

“(2) interferes in any way with the working or use of any such line or system; or

“(3) obstructs, hinders, or delays the transmission of any communication over any such line or system;

shall be imprisoned not more than ten years.

“(b) Exclusion.—In the case of any works, property, or material, not operated or controlled by the United States, this section does not apply to any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used
or intended to be used for the military or civil defense functions of the United States.

“§ 1203. Buildings or property within special maritime and territorial jurisdiction

“Whoever, within the special maritime and territorial jurisdiction of the United States, knowingly and without authority destroys or injures any structure, conveyance, or other real or personal property shall be imprisoned not more than five years, and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be imprisoned not more than twenty years.

“§ 1204. Tampering with consumer products

“(a) TAMPERING IN GENERAL.—Whoever, with reckless disregard for the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk, tampers with any consumer product that affects interstate or foreign commerce, or the labeling of, or container for, any such product, or attempts to do so, shall—

“(1) in the case of an attempt, be imprisoned not more than ten years;

“(2) if death of an individual results, be imprisoned for any term of years or for life;
“(3) if serious bodily injury to any individual results, be imprisoned not more than twenty years; and
“(4) in any other case, be imprisoned not more than ten years.
“(b) Tainting With Intent To Cause Serious Injury Through Business.—Whoever, with intent to cause serious injury to the business of any person, taints any consumer product or renders materially false or misleading the labeling of, or container for, a consumer product, if such consumer product affects interstate or foreign commerce, shall be imprisoned not more than three years.
“(c) False Information.—(1) Whoever knowingly communicates false information that a consumer product has been tainted, if such product or the results of such communication affect interstate or foreign commerce, and if such tainting, had it occurred, would create a risk of death or bodily injury to another person, shall be imprisoned not more than five years.
“(2) As used in paragraph (1) of this subsection, the term ‘communicates false information’ means communicates information that is false and that the communicator knows is false, under circumstances in which the information may reasonably be expected to be believed.
“(d) Threats.—Whoever knowingly threatens, under circumstances in which the threat may reasonably be expected to be believed, that conduct that, if it occurred, would violate subsection (a) of this section will occur, shall be imprisoned not more than five years.

“(e) Conspiracy.—Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties intentionally engages in any conduct in furtherance of such offense, shall be imprisoned not more than ten years.

“(f) Tampering with Writing.—(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be imprisoned not more than 1 year.

“(2) Notwithstanding paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be imprisoned for not more than 3 years.

“(3) In this subsection, the term ‘writing’ means any form of representation or communication, including hand-
bills, notices, or advertising, that contain letters, words, or pictorial representations.

“(g) **Authority of Food and Drug Administration and Department of Agriculture.**—In addition to any other agency which has authority to investigate violations of this section, the Food and Drug Administration and the Department of Agriculture, respectively, have authority to investigate violations of this section involving a consumer product that is regulated by a provision of law such Administration or Department, as the case may be, administers.

“(h) **Definitions.**—As used in this section—

“(1) the term ‘consumer product’ means—

“(A) any ‘food’, ‘drug’, ‘device’, or ‘cosmetic’, as those terms are respectively defined in section 201 of the Federal Food, Drug, and Cosmetic Act; or

“(B) any article, product, or commodity which is customarily produced or distributed for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which is designed to be consumed or expended in the course of such consumption or use; and
“(2) the term ‘labeling’ has the meaning given such term in section 201(m) of the Federal Food, Drug, and Cosmetic Act.

§ 1205. Destruction of an energy facility

“(a) Damage Exceeding $100,000.—Whoever knowingly and without authority—

“(1) damages the property of an energy facility in an amount that exceeds $100,000; or

“(2) damages the property of an energy facility in any amount and thereby causes a significant interruption or impairment of a function of an energy facility;

shall be imprisoned for not more than 20 years.

“(b) Damage Exceeding $5,000.—Whoever knowingly and without authority damages the property of an energy facility in an amount that exceeds $5,000 shall be imprisoned for not more than five years.

“(c) Definition.—As used in this section, the term ‘energy facility’ means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning, except a facility subject to the jurisdiction, administration, or in the
custody of the Nuclear Regulatory Commission or an interstate gas pipeline facility as defined in section 60101 of title 49.

“(d) INCREASED PUNISHMENT WHERE DEATH RESULTS.—Whoever is convicted of a violation of subsection (a) or (b) that has resulted in the death of any person shall be subject to imprisonment for any term of years or life.

“§ 1206. Harming animals used in law enforcement

“(a) OFFENSE.—Whoever maliciously harms any police animal shall be imprisoned not more than 1 year. If the offense permanently disables or disfigures the animal, or causes serious bodily injury to or the death of the animal, the maximum term of imprisonment shall be 10 years.

“(b) DEFINITION.—In this section, the term ‘police animal’ means a dog or horse employed by a Federal agency (whether in the executive, legislative, or judicial branch) for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of criminal offenders.

“§ 1207. Destruction of veterans’ memorials

“(a) OFFENSE.—Whoever, as made applicable by subsection (b), knowingly and without authority injures or destroys any structure, plaque, statue, or other monument
on public property commemorating the service of any person or persons in the armed forces of the United States shall be imprisoned not more than 10 years.

“(b) FEDERAL NEXUS.—Subsection (a) applies if—

“(1) in committing the offense, the defendant travels or causes another to travel in interstate or foreign commerce, or uses the mail or an instrumentality of interstate or foreign commerce; or

“(2) the structure, plaque, statue, or other monument is located on property owned by, or under the jurisdiction of, the Federal Government.

“SUBCHAPTER O—PUBLIC LANDS

§1211. Timber removed or transported

“(a) OFFENSE.—Whoever knowingly and without authority—

“(1) cuts or destroys any timber growing on the public lands of the United States;

“(2) removes any timber from those public lands, with intent to export or to dispose of that timber; or

“(3) being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or
the owner, director, or agent of any railroad, knowingly transports any timber so cut or removed, or lumber manufactured from that timber; shall be imprisoned not more than one year.

“(b) EXCLUSION.—This section does not prevent any miner or agriculturist from clearing land in the ordinary working of the miner’s mining claim, or in the preparation of the agriculturalist’s farm for tillage, or from taking the timber necessary to support improvements, or the taking of timber for the use of the United States; nor shall it interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands.

“§ 1212. Trees cut or injured

"Whoever knowingly and without authority cuts, injures, or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be imprisoned not more than one year.
§ 1213. Timber set afire

(a) OFFENSE.—Whoever, knowingly and without authority, sets on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States, or under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, or upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be imprisoned not more than five years.

(b) EXCLUSION.—This section does not apply in the case of a fire set by an allottee in the reasonable exercise of his proprietary rights in the allotment.

§ 1214. Fires left unattended and unextinguished

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian...
dian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States, leaves said fire without totally extinguishing the same, or permits or suffers the fire to burn or spread beyond his control, or leaves or suffers the fire to burn unattended, shall be imprisoned not more than six months.

“§ 1215. Trespass on national forest lands

“Whoever, without authority goes upon any national forest land while it is closed to the public pursuant to lawful regulation of the Secretary of Agriculture, shall be imprisoned not more than six months.

“§ 1216. Hazardous or injurious devices on Federal lands

“(a) ELEMENTS OF THE OFFENSE.—Whoever—

“(1) with the intent to violate the Controlled Substances Act,

“(2) with the intent to obstruct or harass the harvesting of timber, or

“(3) with reckless disregard to the risk that another person will be placed in danger of death or
bodily injury and under circumstances manifesting extreme indifference to such risk,
uses a hazardous or injurious device on Federal land, on an Indian reservation, or on an Indian allotment while the title to such allotment is held in trust by the United States or while such allotment remains inalienable by the allottee without the consent of the United States shall be punished under subsection (b).

“(b) PUNISHMENT.—An individual who violates subsection (a) shall—

“(1) if death of an individual results, be imprisoned for any term of years or for life;
“(2) if serious bodily injury to any individual results, be imprisoned for not more than 40 years;
“(3) if bodily injury to any individual results, be imprisoned for not more than 20 years;
“(4) if damage to the property of any individual results or if avoidance costs have been incurred exceeding $10,000, in the aggregate, be imprisoned for not more than 20 years; and
“(5) in any other case, be imprisoned for not more than one year.

“(c) INCREASED PUNISHMENT.—Any individual who is punished under subsection (b)(5) after one or more
prior convictions under any such subsection shall be im-
prisoned for not more than 20 years.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘hazardous or injurious device’
means a device, which when assembled or placed, is
capable of causing bodily injury, or damage to prop-
erty, by the action of any person making contact
with such device subsequent to the assembly or
placement. Such term includes guns attached to trip
wires or other triggering mechanisms, ammunition
attached to trip wires or other triggering mecha-
nisms, or explosive devices attached to trip wires or
other triggering mechanisms, sharpened stakes, lines
or wires, lines or wires with hooks attached, nails
placed so that the sharpened ends are positioned in
an upright manner, or tree spiking devices including
spikes, nails, or other objects hammered, driven, fas-
tened, or otherwise placed into or on any timber,
whether or not severed from the stump; and

“(2) the term ‘avoidance costs’ means costs in-
curred by any individual for the purpose of—

“(A) detecting a hazardous or injurious de-
vice; or

“(B) preventing death, serious bodily in-
jury, bodily injury, or property damage likely to
result from the use of a hazardous or injurious device in violation of subsection (a).

“(e) CIVIL ACTION.—Any person injured as the result of a violation of subsection (a) may commence a civil action on his own behalf against any person who is alleged to be in violation of subsection (a). The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, in such civil actions. The court may award, in addition to monetary damages for any injury resulting from an alleged violation of subsection (a), costs of litigation, including reasonable attorney and expert witness fees, to any prevailing or substantially prevailing party, whenever the court determines such award is appropriate.

“SUBCHAPTER P—RESTRICTED BUILDING OR GROUNDS

“Sec.

“1221. Restricted building or grounds.

“§ 1221. Restricted building or grounds

“(a) Whoever—

“(1) enters or remains in any restricted building or grounds without lawful authority to do so;

“(2) with intent to impede or disrupt the orderly conduct of Government business or official functions, engages in disorderly or disruptive conduct in, or within such proximity to, any restricted
building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions;

“(3) with the intent to impede or disrupt the orderly conduct of Government business or official functions, obstructs or impedes ingress or egress to or from any restricted building or grounds; or

“(4) engages in any act of physical violence against any person or property in any restricted building or grounds;

shall be punished as provided in subsection (b).

“(b) The punishment for a violation of subsection (a) is—

“(1) a fine under this title or imprisonment for not more than 10 years, or both, if—

“(A) the person, during and in relation to the offense, uses or carries a deadly or dangerous weapon or firearm; or

“(B) the offense results in significant bodily injury as defined by section 2118(e)(3); and

“(2) a fine under this title or imprisonment for not more than one year, or both, in any other case.

“(e) In this section—
“(1) the term ‘restricted buildings or grounds’ means any posted, cordoned off, or otherwise restricted area—

“(A) of the White House or its grounds, or the Vice President’s official residence or its grounds;

“(B) of a building or grounds where the President or other person protected by the Secret Service is or will be temporarily visiting; or

“(C) of a building or grounds so restricted in conjunction with an event designated as a special event of national significance; and

“(2) the term ‘other person protected by the Secret Service’ means any person whom the United States Secret Service is authorized to protect under section 3056 of this title or by Presidential memorandum, when such person has not declined such protection.

“CHAPTER 31—INTERNATIONAL LAW CRIMES

“SUBCHAPTER A—PIRACY AND PRIVATEERING

Sec.
1251. Piracy under law of nations.
§ 1251. Piracy under law of nations

“Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life.

§ 1261. Peonage

“Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be imprisoned not more than 20 years. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

§ 1262. Sale into involuntary servitude

“Whoever knowingly holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States
any person so held, shall be imprisoned not more than 20 years. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life.

§ 1263. Forced labor

(a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—

(1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;

(2) by means of serious harm or threats of serious harm to that person or another person;

(3) by means of the abuse or threatened abuse of law or legal process; or

(4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint,

shall be punished as provided under subsection (d).

(b) Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture
which has engaged in the providing or obtaining of labor
or services by any of the means described in subsection
(a), knowing or in reckless disregard of the fact that the
venture has engaged in the providing or obtaining of labor
or services by any of such means, shall be punished as
provided in subsection (d).

“(c) In this section:

“(1) The term ‘abuse or threatened abuse of
law or legal process’ means the use or threatened
use of a law or legal process, whether administrative,
civil, or criminal, in any manner or for any purpose
for which the law was not designed, in order to exert
pressure on another person to cause that person to
take some action or refrain from taking some action.

“(2) The term ‘serious harm’ means any harm,
whether physical or nonphysical, including psycho-
logical, financial, or reputational harm, that is suffi-
ciently serious, under all the surrounding cir-
cumstances, to compel a reasonable person of the
same background and in the same circumstances to
perform or to continue performing labor or services
in order to avoid incurring that harm.

“(d) Whoever violates this section shall be imprisoned
not more than 20 years. If death results from a violation
of this section, or if the violation includes kidnaping, an
• attempt to kidnap, aggravated sexual abuse, or an attempt
to kill, the defendant shall be imprisoned for any term of
years or for life.

§ 1264. Trafficking with respect to peonage, slavery,
involuntary servitude, or forced labor

“Whoever knowingly recruits, harbors, transports,
provides, or obtains by any means, any person for labor
or services in violation of this subchapter shall be impris-
oned not more than 20 years. If death results from the
violation of this section, or if the violation includes kidnap-
ing or an attempt to kidnap, aggravated sexual abuse,
or the attempt to commit aggravated sexual abuse, or an
attempt to kill, the defendant shall be imprisoned for any
term of years or life.

§ 1265. Sex trafficking of children or by force, fraud,
or coercion

“(a) ELEMENTS OF THE OFFENSE.—Whoever know-
ingly—

“(1) in or affecting interstate or foreign com-
merce, or within the special maritime and territorial
jurisdiction of the United States, recruits, entices,
harbors, transports, provides, obtains, or maintains
by any means a person; or

“(2) benefits, financially or by receiving any-
thing of value, from participation in a venture which
has engaged in an act described in violation of para-
paragraph (1),
knowing, or in reckless disregard of the fact, that means
of force, threats of force, fraud, coercion described in sub-
section (e)(2), or any combination of such means will be
used to cause the person to engage in a commercial sex
act, or that the person has not attained the age of 18
years and will be caused to engage in a commercial sex
act, shall be punished as provided in subsection (b).

“(b) PUNISHMENT.—The punishment for an offense
under subsection (a) is—

“(1) if the offense was effected by means of
force, threats of force, fraud, or coercion described
in subsection (e)(2), or by any combination of such
means, or if the person recruited, enticed, harbored,
transported, provided, or obtained had not attained
the age of 14 years at the time of such offense, by
a fine under this title or imprisonment for any term
of years or for life, or both; or

“(2) if the offense was not so effected, and the
person recruited, enticed, harbored, transported,
provided, or obtained had attained the age of 14
years but had not attained the age of 18 years at
the time of such offense, by a fine under this title
or imprisonment for not more than 40 years, or both.

“(c) STATE OF MIND REQUIREMENT.—In a prosecution under subsection (a)(1) in which the defendant had a reasonable opportunity to observe the person so recruited, enticed, harbored, transported, provided, obtained or maintained, the Government need not prove that the defendant knew that the person had not attained the age of 18 years.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘abuse or threatened abuse of law or legal process’ means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action;

“(2) the term ‘coercion’ means—

“(A) threats of serious harm to or physical restraint against any person;

“(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
“(C) the abuse or threatened abuse of law or the legal process; and
“(3) the term ‘commercial sex act’ means any sex act, on account of which anything of value is given to or received by any person;
“(4) the term ‘serious harm’ means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm;
“(5) the term ‘venture’ means any group of two or more individuals associated in fact, whether or not a legal entity.

§ 1266. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor
“(a) Offense.—Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person—
“(1) in the course of a violation of section 1261, 1262, 1263, 1264, or 1265;

“(2) with intent to violate section 1261, 1262, 1263, 1264, or 1265; or

“(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person’s liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, shall be imprisoned for not more than 5 years.

“(b) Exclusion.—Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

§ 1267. Civil remedy

“(a) Civil action.—An individual who is a victim of a violation of this subchapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this sub-
chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.

(b) STAY.—(1) Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.

(2) In this subsection, a ‘criminal action’ includes investigation and prosecution and is pending until final adjudication in the trial court.

(c) LIMITATION.—No action may be maintained under this section unless it is commenced not later than 10 years after the cause of action arose.

SUBCHAPTER C—GENOCIDE

Sec.
1281. Genocide.
1282. Definitions.

§ 1281. Genocide

(a) BASIC OFFENSE.—Whoever, whether in time of peace or in time of war and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

(1) kills members of that group;

(2) causes serious bodily injury to members of that group;
“(3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

“(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

“(5) imposes measures intended to prevent births within the group; or

“(6) transfers by force children of the group to another group;

shall be punished as provided in subsection (b).

“(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment for an offense under subsection (a) is—

“(1) in the case of an offense under subsection (a)(1), where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both; and

“(2) in any other case, a fine of not more than $1,000,000 or imprisonment for not more than twenty years, or both.

“(c) INCITEMENT OFFENSE.—Whoever directly and publicly incites another to violate subsection (a) shall be imprisoned not more than five years.

“(d) JURISDICTION.—There is jurisdiction over the offenses described in subsections (a) and (c) if—
“(1) the offense is committed in whole or in part within the United States; or

“(2) regardless of where the offense is committed, the alleged offender is—

“(A) a national of the United States (as that term is defined in section 101 of the Immigration and Nationality Act);

“(B) an alien lawfully admitted for permanent residence in the United States (as that term is defined in section 101 of the Immigration and Nationality Act);

“(C) a stateless person whose habitual residence is in the United States; or

“(D) present in the United States.

“(e) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282, in the case of an offense under this section, an indictment may be found, or information instituted, at any time without limitation.

“§ 1282. Definitions

“As used in this subchapter—

“(1) the term ‘children’ means the plural and means individuals who have not attained the age of eighteen years;
“(2) the term ‘ethnic group’ means a set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage;

“(3) the term ‘incites’ means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

“(4) the term ‘members’ means the plural;

“(5) the term ‘national group’ means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;

“(6) the term ‘racial group’ means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

“(7) the term ‘religious group’ means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

“(8) the term ‘substantial part’ means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.

“SUBCHAPTER D—TORTURE

"Sec.
"1291. Torture.
"1292. Definitions.
§ 1291. Torture

(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be imprisoned not more than 20 years and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

(1) the alleged offender is a national of the United States; or

(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender.

(c) CONSPIRACY.—A person who conspires to commit an offense under this section shall be subject to the same penalties (other than the penalty of death) as the penalties prescribed for the offense, the commission of which was the object of the conspiracy.

§ 1292. Definitions

As used in this subchapter—

(1) the term ‘torture’ means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to
lawful sanctions) upon another person within his


custody or physical control; and

“(2) the term ‘severe mental pain or suffering’

means the prolonged mental harm caused by or re-

resulting from—

“(A) the intentional infliction or threat-

ened infliction of severe physical pain or suf-

fering;

“(B) the administration or application, or

threatened administration or application, of

mind-altering substances or other procedures

calculated to disrupt profoundly the senses or

the personality;

“(C) the threat of imminent death; or

“(D) the threat that another person will

imminently be subjected to death, severe phys-

ical pain or suffering, or the administration or

application of mind-altering substances or other

procedures calculated to disrupt profoundly the

senses or personality.

“SUBCHAPTER E—WAR CRIMES

1Sec.

1296. War crimes.

1297. Recruitment or use of child soldiers.

22 “§ 1296. War crimes

23 “(a) OFFENSE.—Whoever, whether inside or outside

the United States, commits a war crime, in any of the
circumstances described in subsection (b), shall be impris-
one for life or any term of years and if death results
to the victim, shall also be subject to the penalty of death.

“(b) CIRCUMSTANCES.—The circumstances referred
to in subsection (a) are that the person committing such
war crime or the victim of such war crime is a member
of the Armed Forces of the United States or a national
of the United States (as defined in section 101 of the Im-
migration and Nationality Act).

“(c) DEFINITION.—As used in this section the term
‘war crime’ means any conduct—

“(1) defined as a grave breach in any of the
international conventions signed at Geneva 12 Au-
gust 1949, or any protocol to such convention to
which the United States is a party;

“(2) prohibited by Article 23, 25, 27, or 28 of
the Annex to the Hague Convention IV, Respecting
the Laws and Customs of War on Land, signed 18
October 1907;

“(3) which constitutes a grave breach of com-
mon Article 3 (as defined in subsection (d)) when
committed in the context of and in association with
an armed conflict not of an international character; or
“(4) of a person who, in relation to an armed conflict and contrary to the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended at Geneva on 3 May 1996 (Protocol II as amended on 3 May 1996), when the United States is a party to such Protocol, knowingly kills or causes serious injury to civilians.

“(d) COMMON ARTICLE 3 VIOLATIONS.—

“(1) PROHIBITED CONDUCT.—In subsection (c)(3), the term ‘grave breach of common Article 3’ means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

“(A) TORTURE.—The act of a person who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

“(B) CRUEL OR INHUMAN TREATMENT.—

The act of a person who commits an act in-
tended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control.

“(C) Performing biological experiments.—The act of a person who subjects one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

“(D) Murder.—The act of a person who intentionally kills or kills whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause.

“(E) Mutilation or maiming.—The act of a person who intentionally injures or injures whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those
placed out of combat by sickness, wounds, detention, or any other cause, by disfiguring the person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of his body, without any legitimate medical or dental purpose.

“(F) Intentionally causing serious bodily injury.—The act of a person who intentionally causes serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

“(G) Rape.—The act of a person who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

“(H) Sexual assault or abuse.—The act of a person who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact.

“(I) Taking hostages.—The act of a person who, having knowingly seized or detained one or more persons, threatens to kill,
injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

“(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (e)(3)—

“(A) the term ‘severe mental pain or suffering’ shall be applied for purposes of paragraphs (1)(A) and (1)(B) in accordance with the meaning given that term in section 1292(2);

“(B) the term ‘sexual contact’ shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 205(2);

“(C) the term ‘serious physical pain or suffering’ shall be applied for purposes of paragraph (1)(B) as meaning bodily injury that involves—

“(i) a substantial risk of death;

“(ii) extreme physical pain;
“(iii) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

“(iv) significant loss or impairment of the function of a bodily member, organ, or mental faculty; and

“(D) the term ‘serious mental pain or suffering’ shall be applied for purposes of paragraph (1)(B) in accordance with the meaning given the term ‘severe mental pain or suffering’ (as defined in section 1292(2)), except that—

“(i) the term ‘serious’ shall replace the term ‘severe’ where it appears; and

“(ii) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term ‘serious and non-transitory mental harm (which need not be prolonged)’ shall replace the term ‘prolonged mental harm’ where it appears.

“(3) Inapplicability of certain provisions with respect to collateral damage or incident of lawful attack.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) or paragraph (1) precludes the applicability of
those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

“(A) collateral damage; or

“(B) death, damage, or injury incident to a lawful attack.

“(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.

“(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.

§ 1297. Recruitment or use of child soldiers

“(a) OFFENSE.—Whoever knowingly—

“(1) recruits, enlists, or conscripts a person to serve while such person is under 15 years of age in an armed force or group; or

“(2) uses a person under 15 years of age to participate actively in hostilities; knowing such person is under 15 years of age, shall be punished as provided in subsection (b).
“(b) Penalty.—Whoever violates subsection (a) shall be imprisoned not more than 20 years, and, if death of any person results, shall be imprisoned for any term of years or for life.

“(c) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over an offense under this section.

“(d) Definitions.—In this section:

“(1) Participate actively in hostilities.—The term ‘participate actively in hostilities’ means taking part in—

“(A) combat or military activities related to combat, including sabotage and serving as a decoy, a courier, or at a military checkpoint; or

“(B) direct support functions related to combat, including transporting supplies or providing other services.

“(2) Armed force or group.—The term ‘armed force or group’ means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association.

“CHAPTER 33—TRANSPORTATION-RELATED CRIMES

Subchapter "A. Aircraft and motor vehicles
("B. Railroads

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“SUBCHAPTER A—AIRCRAFT AND MOTOR VEHICLES

1301. Destruction of aircraft or aircraft facilities.
1302. Destruction of motor vehicles or motor vehicle facilities.
1303. Penalty when death results.
1304. Imparting or conveying false information.
1305. Violence at international airports.
1306. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce.
1307. Aircraft piracy.
1308. Interference with flight crew members and attendants.
1309. Carrying a weapon or explosive on an aircraft.
1310. Application of certain criminal laws to acts on aircraft.
1311. Aiming a laser pointer at an aircraft.
1312. Definitions.

§ 1301. Destruction of aircraft or aircraft facilities

(a) In General.—Whoever knowingly without authority—

(1) sets fire to, damages, destroys, disables, or wrecks any aircraft in the special aircraft jurisdiction of the United States or any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce;

(2) places or causes to be placed a destructive device or substance in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any such aircraft, or any part or other materials used or intended to be used in connection with the operation of such aircraft, if such placing or causing to be
placed or such making or causing to be made is like-
ly to endanger the safety of any such aircraft;

“(3) sets fire to, damages, destroys, or disables
any air navigation facility, or interferes by force or
violence with the operation of such facility, if such
fire, damaging, destroying, disabling, or interfering
is likely to endanger the safety of any such aircraft
in flight;

“(4) with the intent to damage, destroy, or dis-
able any such aircraft, sets fire to, damages, de-
stroys, or disables or places a destructive device or
substance in, upon, or in proximity to, any appliance
or structure, ramp, landing area, property, machine,
or apparatus, or any facility or other material used,
or intended to be used, in connection with the oper-
ation, maintenance, loading, unloading or storage of
any such aircraft or any cargo carried or intended
to be carried on any such aircraft;

“(5) interferes with or disables, with intent to
endanger the safety of any person or with a reckless
disregard for the safety of human life, anyone en-
gaged in the authorized operation of such aircraft or
any air navigation facility aiding in the navigation of
any such aircraft;
“(6) performs an act of violence against or incapacitates any individual on any such aircraft, if such act of violence or incapacitation is likely to endanger the safety of such aircraft; or

“(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any such aircraft in flight,

shall be imprisoned not more than 20 years.

“(b) OTHER CIVIL AIRCRAFT.—Whoever knowingly—

“(1) performs an act of violence against any individual on board any civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of that aircraft;

“(2) destroys a civil aircraft registered in a country other than the United States while such aircraft is in service or causes damage to such an aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft’s safety in flight; or

“(3) places or causes to be placed on a civil aircraft registered in a country other than the United States while such aircraft is in flight, if such act is likely to endanger the safety of such aircraft, or

shall be imprisoned not more than 20 years.
States while such aircraft is in service, a device or substance which is likely to destroy that aircraft, or to cause damage to that aircraft which renders that aircraft incapable of flight or which is likely to endanger that aircraft’s safety in flight,

shall be imprisoned not more than 20 years. There is also extraterritorial jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States.

“(c) Threats.—Whoever knowingly imparts or conveys any threat to do an act which would violate any of paragraphs (1) through (6) of subsection (a) or any of paragraphs (1) through (3) of subsection (b) of this section, with an apparent determination and will to carry the threat into execution shall be imprisoned not more than five years.

“§1302. Destruction of motor vehicles or motor vehicle facilities

“(a) Offense.—Whoever—

“(1) knowingly, with intent to endanger the safety of any person on board or anyone who he believes will board the same, or with a reckless disregard for the safety of human life, damages, dis-
ables, destroys, tampers with, or places or causes to
be placed any explosive or other destructive sub-
stance in, upon, or in proximity to, any motor vehi-

cle which is used, operated, or employed in interstate
or foreign commerce, or its cargo or material used
or intended to be used in connection with its oper-

ation;

“(2) knowingly, with like intent, damages, dis-
ables, destroys;

“(3) sets fire to, tampers with, or places or
causes to be placed any explosive or other destruc-
tive substance in, upon, or in proximity to any ga-
rage, terminal, structure, supply, or facility used in
the operation of, or in support of the operation of,
motor vehicles engaged in interstate or foreign com-
merce or otherwise makes or causes such property to
be made unworkable, unusable, or hazardous to
work or use; or

“(4) with like intent, knowingly disables or in-
 capacitates any driver or person employed in connec-
tion with the operation or maintenance of the motor
vehicle, or in any way lessens the ability of such per-
son to perform his duties as such;

shall be imprisoned not more than 20 years.
“(b) INCREASED PENALTY.—Whoever is convicted of a violation of subsection (a) involving a motor vehicle that, at the time the violation occurred, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982), shall be imprisoned for any term of years not less than 30, or for life.

§ 1303. PENALTY WHEN DEATH RESULTS

“Whoever is convicted of any crime prohibited by this subchapter, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

§ 1304. IMPARTING OR CONVEYING FALSE INFORMATION

“(a) CIVIL PENALTY.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subchapter or subchapter B or D of this chapter shall be subject to a civil penalty of not more than $1,000 which shall be recoverable in a civil action brought in the name of the United States.

“(b) CRIMINAL OFFENSE.—Whoever knowingly, or with reckless disregard for the safety of human life, im-
parts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohib-
ited by this subchapter or subchapter B or D of this chap-
ter shall be imprisoned not more than five years.

“§ 1305. Violence at international airports

“(a) OFFENSE.—Whoever unlawfully and knowingly, using any device, substance, or weapon—

“(1) performs an act of violence against a per-
son at an airport serving international civil aviation that causes or is likely to cause serious bodily injury or death; or

“(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or dis-
rupts the services of the airport,

shall be imprisoned not more than 20 years, and if the death of any person results from conduct prohibited by this subsection, shall be punished as provided in chapter 10.

“(b) JURISDICTION.—There is jurisdiction over the prohibited activity in subsection (a) if—

“(1) the prohibited activity takes place in the United States; or
“(2) the prohibited activity takes place outside the United States and—

“(A) the offender is later found in the United States; or

“(B) an offender or a victim is a national of the United States.

“(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed.

“(d) DEFINITION.—As used in this section, the term ‘labor dispute’ has the meaning set forth in section 13(c) of the Act of March 23, 1932 (47 Stat. 70) (commonly known as the Norris-LaGuardia Act).

§ 1306. Fraud involving aircraft or space vehicle parts in interstate or foreign commerce

“(a) OFFENSES.—Whoever, in or affecting interstate or foreign commerce, knowingly and with the intent to defraud—

“(1)(A) falsifies or conceals a material fact concerning any aircraft or space vehicle part;
“(B) makes any materially fraudulent representation concerning any aircraft or space vehicle part; or

“(C) makes or uses any materially false writing, entry, certification, document, record, data plate, label, or electronic communication concerning any aircraft or space vehicle part; or

“(2) exports from or imports or introduces into the United States, sells, trades, installs on or in any aircraft or space vehicle any aircraft or space vehicle part using or by means of a fraudulent representation, document, record, certification, depiction, data plate, label, or electronic communication; shall be punished as provided in subsection (b).

“(b) PENALTIES.—The punishment for an offense under subsection (a) is as follows:

“(1) AVIATION QUALITY.—If the offense relates to the aviation quality of a part and the part is installed in an aircraft or space vehicle, a fine of not more than $500,000, imprisonment for not more than 15 years, or both.

“(2) FAILURE TO OPERATE AS REPRESENTED.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the proximate cause of a malfunc-
tion or failure that results in serious bodily injury, a fine of not more than $1,000,000, imprisonment for not more than 20 years, or both.

“(3) Failure resulting in death.—If, by reason of the failure of the part to operate as represented, the part to which the offense is related is the proximate cause of a malfunction or failure that results in the death of any person, a fine of not more than $1,000,000, imprisonment for any term of years or life, or both.

“(4) Other circumstances.—In the case of an offense under subsection (a) not described in paragraph (1), (2), or (3) of this subsection, a fine under this title, imprisonment for not more than 10 years, or both.

“(5) Organizations.—If the offense is committed by an organization, a fine of not more than—

“(A) $10,000,000 in the case of an offense described in paragraph (1) or (4); and

“(B) $20,000,000 in the case of an offense described in paragraph (2) or (3).

“(c) Civil remedies.—The district courts of the United States shall have jurisdiction to prevent and restrain violations of this section by issuing appropriate orders, including—
“(1) ordering a person (convicted of an offense under this section) to divest any interest, direct or indirect, in any enterprise used to commit or facilitate the commission of the offense, or to destroy, or to mutilate and sell as scrap, aircraft material or part inventories or stocks;

“(2) imposing reasonable restrictions on the future activities or investments of any such person, including prohibiting engagement in the same type of endeavor as used to commit the offense; and

“(3) ordering the dissolution or reorganization of any enterprise knowingly used to commit or facilitate the commission of an offense under this section making due provisions for the rights and interests of innocent persons.

“(d) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over an offense under this section.

§1307. Aircraft piracy

“(a) In Special Aircraft Jurisdiction.—(1) For the purposes of this subsection—

“(A) the term ‘aircraft piracy’ means seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, vio-
ence, threat of force or violence, or any form of intimidation, and with wrongful intent; and

“(B) an attempt to commit aircraft piracy is in the special aircraft jurisdiction of the United States although the aircraft is not in flight at the time of the attempt if the aircraft would have been in the special aircraft jurisdiction of the United States had the aircraft piracy been completed.

“(2) Whoever commits aircraft piracy shall be imprisoned for not less than 20 years.

“(b) Outside Special Aircraft Jurisdiction.—

(1) Whoever commits an offense (as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft) on an aircraft in flight outside the special aircraft jurisdiction of the United States shall be imprisoned for at least 20 years.

“(2) There is extraterritorial jurisdiction over the offense in paragraph (1) if—

“(A) a national of the United States was aboard the aircraft;

“(B) an offender is a national of the United States; or

“(C) an offender is afterwards found in the United States.
“§ 1308. Interference with flight crew members and attendants

“An individual on an aircraft in the special aircraft jurisdiction of the United States who, by assaulting or intimidating a flight crew member or flight attendant of the aircraft, interferes with the performance of the duties of the member or attendant or lessens the ability of the member or attendant to perform those duties, shall be imprisoned for not more than 20 years. However, if a dangerous weapon is used in assaulting or intimidating the member or attendant, the individual shall be imprisoned for any term of years or for life.

“§ 1309. Carrying a weapon or explosive on an aircraft

“(a) Definition.—In this section, ‘loaded firearm’ means a starter gun or a weapon designed or converted to expel a projectile through an explosive, that has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip.

“(b) General Criminal Penalty.—An individual shall be imprisoned for not more than 10 years if the individual—

“(1) when on, or attempting to get on, an aircraft in, or intended for operation in, air transportation or intrastate air transportation, has on or about the individual or the property of the individual
a concealed dangerous weapon that is or would be accessible to the individual in flight;

“(2) has placed, attempted to place, or attempted to have placed a loaded firearm on that aircraft in property not accessible to passengers in flight; or

“(3) has on or about the individual, or has placed, attempted to place, or attempted to have placed on that aircraft, an explosive or incendiary device.

“(c) Criminal Penalty Involving Disregard for Human Life.—An individual who willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, violates subsection (b) of this section, shall be imprisoned for not more than 20 years, and, if death results to any person, shall be imprisoned for any term of years or for life.

“(d) Nonapplication.—Subsection (b)(1) of this section does not apply to—

“(1) a law enforcement officer of a State or political subdivision of a State, or an officer or employee of the United States Government, authorized to carry arms in an official capacity;

“(2) another individual the Administrator of the Federal Aviation Administration or the Under
Secretary of Transportation for Security by regulation authorizes to carry a dangerous weapon in air transportation or intrastate air transportation; or

“(3) an individual transporting a weapon (except a loaded firearm) in baggage not accessible to a passenger in flight if the air carrier was informed of the presence of the weapon.

§ 1310. Application of certain criminal laws to acts on aircraft

“An individual on an aircraft in the special aircraft jurisdiction of the United States who commits an act that—

“(1) if committed in the special maritime and territorial jurisdiction of the United States would violate section 102, 111, 121, 141, 649, 650, or subchapter A of chapter 13, shall be imprisoned under that section or chapter; or

“(2) if committed in the District of Columbia would violate section 9 of the Act of July 29, 1892 (D.C. Code Sec. 22-1112), shall be imprisoned under section 9 of the Act.

§ 1311. Aiming a laser pointer at an aircraft

“(a) Offense.—Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of
such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

“(b) **Laser Pointer Defined.—**As used in this section, the term ‘laser pointer’ means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.

“(c) **Exceptions.—**This section does not prohibit aiming a beam of a laser pointer at an aircraft, or the flight path of such an aircraft, by—

“(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

“(2) members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing, or training; or

“(3) by an individual using a laser emergency signaling device to send an emergency distress signal.
“(d) Authority To Establish Additional Exceptions by Regulation.—The Attorney General, in consultation with the Secretary of Transportation, may provide by regulation, after public notice and comment, such additional exceptions to this section as may be necessary and appropriate. The Attorney General shall provide written notification of any proposed regulations under this section to the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, not less than 90 days before such regulations become final.

§ 1312. Definitions

“(a) Definitions.—As used in sections 1301 through 1306, the following definitions apply:

“(1) Aircraft.—The term ‘aircraft’ means a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air.

“(2) Aviation quality.—The term ‘aviation quality’, with respect to a part of an aircraft or space vehicle, means the quality of having been manufactured, constructed, produced, maintained, repaired, overhauled, rebuilt, reconditioned, or restored
in conformity with applicable standards specified by
law (including applicable regulations).

“(3) DESTRUCTIVE SUBSTANCE.—The term
‘destructive substance’ means an explosive sub-
stance, flammable material, infernal machine, or
other chemical, mechanical, or radioactive device or
matter of a combustible, contaminative, corrosive, or
explosive nature.

“(4) IN FLIGHT.—The term ‘in flight’ means—

“(A) any time from the moment at which
all the external doors of an aircraft are closed
following embarkation until the moment when
any such door is opened for disembarkation; and

“(B) in the case of a forced landing, until
competent authorities take over the responsi-
bility for the aircraft and the persons and prop-
erty on board.

“(5) IN SERVICE.—The term ‘in service’
means—

“(A) any time from the beginning of pre-
flight preparation of an aircraft by ground per-
sonnel or by the crew for a specific flight until
24 hours after any landing; and
“(B) in any event includes the entire period during which the aircraft is in flight.

“(6) MOTOR VEHICLE.—The term ‘motor vehicle’ means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo.

“(7) PART.—The term ‘part’ means a frame, assembly, component, appliance, engine, propeller, material, part, spare part, piece, section, or related integral or auxiliary equipment.

“(8) SPACE VEHICLE.—The term ‘space vehicle’ means a man-made device, either manned or unmanned, designed for operation beyond the Earth’s atmosphere.

“(9) USED FOR COMMERCIAL PURPOSES.—The term ‘used for commercial purposes’ means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit.

“(b) TERMS DEFINED IN OTHER LAW.—In this subchapter, the terms ‘aircraft engine’, ‘air navigation facility’, ‘appliance’, ‘civil aircraft’, ‘foreign air commerce’,
‘interstate air commerce’, ‘landing area’, ‘overseas air commerce’, ‘propeller’, ‘spare part’, and ‘special aircraft jurisdiction of the United States’ have the meanings given those terms in sections 40102(a) and 46501 of title 49.

“SUBCHAPTER B—RAILROADS

“Sec.

“1331. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.

“§ 1331. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air

“(a) General Prohibitions.—Whoever, as made applicable by subsection (c), knowingly and without lawful authority—

“(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

“(2) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

“(3) places or releases a hazardous material or a biological agent or toxin on or near any property
described in subparagraph (A) or (B) of paragraph (4), with intent to endanger the safety of any person, or with reckless disregard for the safety of human life;

“(4) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

“(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment; or

“(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, and with intent to, or knowing or having reason to know, such activity would likely, derail, disable, or wreck a mass transportation vehicle used,
operated, or employed by a mass transportation provider;

“(5) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal;

“(6) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, controlling, or maintaining railroad on-track equipment or a mass transportation vehicle;

“(7) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (4);

“(8) surveils, photographs, videotapes, diagrams, or otherwise collects information with the intent to plan or assist in planning any of the acts described in paragraphs (1) through (6);
“(9) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt to engage in a violation of this subsection; or

“(10) threatens to engage in any violation of any of paragraphs (1) through (9); shall be imprisoned not more than 20 years, and if the offense results in the death of any person, shall be imprisoned for any term of years or for life, or be subject to the penalty of death, except in the case of a violation of paragraph (8), (9), or (10).

“(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

“(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

“(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense; or

“(3) the offense was committed with the intent to endanger the safety of any person, or with a reckless disregard for the safety of any person, and the railroad on-track equipment or mass transportation
vehicle was carrying a hazardous material at the
time of the offense that—

“(A) was required to be placarded under
subpart F of part 172 of title 49, Code of Fed-
eral Regulations; and

“(B) is identified as class number 3, 4, 5,
6.1, or 8 and packing group I or packing group
II, or class number 1, 2, or 7 under the haz-
ardous materials table of section 172.101 of
title 49, Code of Federal Regulations,
shall be imprisoned for any term of years or life, and if
the offense resulted in the death of any person, the person
may be sentenced to death.

“(c) APPLICABILITY.—Subsection (a) applies if any
of the following are true:

“(1) Any of the conduct required for the offense
is, or, in the case of an attempt, threat, or con-
spiracy to engage in conduct, the conduct required
for the completed offense would be, engaged in, on,
against, or affecting a mass transportation provider,
or a railroad carrier engaged in interstate or foreign
commerce.

“(2) Any person travels or communicates across
a State line in order to commit the offense, or trans-
ports materials across a State line in aid of the com-
mmission of the offense.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘biological agent’ has the meaning
given to that term in section 627(1);

“(2) the term ‘dangerous weapon’ means a
weapon, device, instrument, material, or substance,
animate or inanimate, that is used for, or is readily
capable of, causing death or serious bodily injury, in-
cluding a pocket knife with a blade of less than 2 1/2
inches in length and a box cutter;

“(3) the term ‘destructive device’ has the mean-
ing given to that term in section 581(2);

“(4) the term ‘destructive substance’ means an
explosive substance, flammable material, infernal
machine, or other chemical, mechanical, or radio-
active device or material, or matter of a combustible,
contaminative, corrosive, or explosive nature, except
that the term ‘radioactive device’ does not include
any radioactive device or material used solely for
medical, industrial, research, or other peaceful pur-
poses;

“(5) the term ‘hazardous material’ has the
meaning given to that term in chapter 51 of title 49;
“(6) the term ‘high-level radioactive waste’ has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982;

“(7) the term ‘mass transportation’ has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes intercity bus transportation, school bus, charter, and sightseeing transportation and passenger vessel as that term is defined in section 2101(22) of title 46;

“(8) the term ‘on-track equipment’ means a carriage or other contrivance that runs on rails or electromagnetic guideways;

“(9) the term ‘railroad on-track equipment’ means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

“(10) the term ‘railroad’ has the meaning given to that term in chapter 201 of title 49;

“(11) the term ‘railroad carrier’ has the meaning given to that term in chapter 201 of title 49;

“(12) the term ‘spent nuclear fuel’ has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982;
“(13) the term ‘toxin’ has the meaning given to that term in section 627(2); and
“(14) the term ‘vehicle’ means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.

“SUBCHAPTER C—SEAMEN AND STOWAWAYS

“Sec.
“1341. Drunkenness or neglect of duty by seamen.
“1342. Misuse of Federal certificate, license, or document.
“1343. Stowaways on vessels or aircraft.

“§ 1341. Drunkenness or neglect of duty by seamen

“Whoever, being a master, officer, radio operator, seaman, apprentice or other person employed on any merchant vessel, by willful breach of duty, or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel, or tending immediately to endanger the life or limb of any person belonging to or on board of such vessel; or, by knowing breach of duty or by neglect of duty or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall be imprisoned not more than one year.
§ 1342. Misuse of Federal certificate, license, or document

“Whoever—

“(1) not being lawfully entitled thereto, uses, exhibits, or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same;

“(2) without authority, alters or attempts to alter any such certificate, license, or document by addition, interpolation, deletion, or erasure;

“(3) forges, counterfeits, or steals, or attempts to forge, counterfeit, or steal, any such certificate, license, or document; or unlawfully possesses or knowingly uses any such altered, changed, forged, counterfeit, or stolen certificate, license, or document;

“(4) without authority, prints or manufactures any blank form of such certificate, license, or document;

“(5) possesses without lawful excuse, and with intent unlawfully to use the same, any blank form of such certificate, license, or document; or

“(6) in any manner, transfers or negotiates such transfer of, any blank form of such certificate,
license, or document, or any such altered, forged, counterfe
to which the party transferring or receiving the same is not lawfully entitled;
shall be imprisoned not more than five years.

§ 1343. Stowaways on vessels or aircraft

(a) OFFENSE.—Whoever—

(1) without the consent of the owner, charterer, master, or person in command of any vessel, or aircraft, with intent to obtain transportation, boards, enters or secretes himself aboard such vessel or aircraft and is thereon at the time of departure of said vessel or aircraft from a port, harbor, wharf, airport or other place within the jurisdiction of the United States;

(2) with like intent, having boarded, entered or secreted himself aboard a vessel or aircraft at any place within or without the jurisdiction of the United States, remains aboard after the vessel or aircraft has left such place and is thereon at any place within the jurisdiction of the United States; or

(3) with intent to obtain a ride or transportation, boards or enters any aircraft owned or operated by the United States without the consent of the
person in command or other duly authorized officer
or agent;
shall be punished as provided in subsection (b).

“(b) PUNISHMENT.—The punishment for an offense
under subsection (a) is imprisonment for not more than
5 years, but—

“(1) if the person commits an offense under
this section, with the intent to commit serious bodily
injury, and serious bodily injury occurs to any per-
son other than a participant as a result of the of-
fense shall be imprisoned not more than 20 years;
and

“(2) if an individual commits an offense under
this section, with the intent to cause death, and if
the death of any person other than a participant oc-
curs as a result of the offense shall be imprisoned
for any number of years or for life.

“(c) DEFINITION.—As used in this section the term
‘aircraft’ includes any contrivance for navigation or flight
in the air.

“SUBCHAPTER D—SHIPPING

“1345. Violence against maritime navigation.
“1346. Devices or dangerous substances in waters of the United States likely
to destroy or damage Ships or to interfere with maritime com-
merce.
“1347. Violence against aids to maritime navigation.
“1348. Transportation of explosive, biological, chemical, or radioactive or nu-
clear materials.
“1349. Transportation of terrorists.
§ 1345. Violence against maritime navigation

(a) Offenses.—

(1) In general.—A person who unlawfully and intentionally—

(A) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

(B) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

(C) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

(D) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

(E) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;
“(F) communicates information, knowing
the information to be false and under cir-
cumstances in which such information may rea-
sonably be believed, thereby endangering the
safe navigation of a ship; or
“(G) injures or kills any person in connec-
tion with the commission or the attempted com-
mission of any of the offenses set forth in sub-
paragraphs (A) through (F),
shall be imprisoned not more than 20 years; and if
the death of any person results from conduct prohib-
ited by this paragraph, shall be punished by death
or imprisoned for any term of years or for life.
“(2) THREAT TO NAVIGATION.—A person who
threatens to do any act prohibited under paragraph
(1)(B), (C) or (E), with apparent determination and
will to carry the threat into execution, if the threat-
ened act is likely to endanger the safe navigation of
the ship in question, shall be imprisoned not more
than 5 years.
“(b) JURISDICTION.—There is jurisdiction over the
activity prohibited in subsection (a)—
“(1) in the case of a covered ship, if—
“(A) such activity is committed—
“(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

“(ii) in the United States; or

“(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

“(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

“(C) the offender is later found in the United States after such activity is committed;

“(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

“(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

“(c) BAR TO PROSECUTION.—It is a bar to Federal prosecution under subsection (a) for conduct that occurred within the United States that the conduct involved was during or in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in
which it was committed. For purposes of this section, the term ‘labor dispute’ has the meaning set forth in section 13(c) of the Act of March 23, 1932 (47 Stat. 70) (commonly known as the Norris-LaGuardia Act).

“(d) Delivery of Suspected Offender.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that there is on board that ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action to take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of the master’s intention to deliver such person and the reasons therefor. If the master delivers such person, the master shall furnish to the authorities of such country the evidence in the master’s possession that pertains to the alleged offense.
“(e) DEFINITIONS.—As used in this section—

“(1) the term ‘covered ship’ means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country;

“(2) the term ‘territorial sea of the United States’ means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

“(3) the term ‘ship’ means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up.
§ 1346. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

(a) OFFENSE.—Whoever knowingly places in navigable waters of the United States a device or dangerous substance which is likely—

(1) to destroy or cause damage to a vessel or its cargo;

(2) to cause interference with the safe navigation of vessels, or interference with maritime commerce (such as by damaging or destroying marine terminals, facilities, or any other marine structure or entity used in maritime commerce);

with the intent of causing such destruction or damage, interference with the safe navigation of vessels, or interference with maritime commerce shall be imprisoned for any term of years or for life.

(b) SPECIAL RULE FOR OFFENSE RESULTING IN DEATH.—Whoever causes the death of any person by engaging in conduct prohibited under subsection (a) may be punished by death.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.
“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘dangerous substance’ means any solid, liquid, or gaseous material that has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel; and

“(2) the term ‘device’ means any object that, because of its physical, mechanical, structural, or chemical properties, has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.

“§ 1347. Violence against aids to maritime navigation

“Whoever intentionally destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (68 Stat. 92), by the Coast Guard pursuant to section 81 of title 14, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, if such act endangers or is likely to endanger the safe navigation of a ship, shall imprisoned for not more than 20 years.

“§ 1348. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

“(a) In General.—Whoever knowingly transports aboard any vessel within the United States and on waters
subject to the jurisdiction of the United States or any ves-
sel outside the United States and on the high seas or hav-
ing United States nationality an explosive or incendiary
device, biological agent, chemical weapon, or radioactive
or nuclear material, knowing that any such item is in-
tended to be used to commit an offense listed in section
273(g)(3)(B), shall be imprisoned for any term of years
or for life.

“(b) CAUSING DEATH.—Whoever causes the death of
a person by engaging in conduct prohibited by subsection
(a) may be punished by death.

“(c) DEFINITIONS.—In this section:

“(1) BIOLOGICAL AGENT.—The term ‘biological
agent’ means any biological agent, toxin, or vector
(as those terms are defined in section 627).

“(2) BY-PRODUCT MATERIAL.—The term ‘by-
product material’ has the meaning given that term
in section 11(e) of the Atomic Energy Act of 1954.

“(3) CHEMICAL WEAPON.—The term ‘chemical
weapon’ has the meaning given that term in section
636(1).

“(4) EXPLOSIVE OR INCENDIARY DEVICE.—The
term ‘explosive or incendiary device’ has the mean-
ing given the term in section 296(e)(4) and includes
explosive materials, as that term is defined in sec-
tion 611(1) and explosive as defined in section 614(j).

“(5) NUCLEAR MATERIAL.—The term ‘nuclear material’ has the meaning given that term in section 601(f)(1).

“(6) RADIOACTIVE MATERIAL.—The term ‘radioactive material’ means—

“(A) source material and special nuclear material, but does not include natural or depleted uranium;

“(B) nuclear by-product material;

“(C) material made radioactive by bombardment in an accelerator; or

“(D) all refined isotopes of radium.

“(7) SOURCE MATERIAL.—The term ‘source material’ has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954.

“(8) SPECIAL NUCLEAR MATERIAL.—The term ‘special nuclear material’ has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954.

“§ 1349. Transportation of terrorists

“(a) IN GENERAL.—Whoever knowingly and intentionally transports any terrorist aboard any vessel within the United States and on waters subject to the jurisdiction
of the United States or any vessel outside the United States and on the high seas or having United States nationality, knowing that the transported person is a terrorist, shall be imprisoned for any term of years or for life.

“(b) DEFINED TERM.—In this section, the term ‘terrorist’ means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 273(g)(3)(B).

“§ 1350. Operation of submersible vessel or semi-submersible vessel without nationality

“(a) OFFENSE.—Whoever knowingly operates, by any means, or embarks in any submersible vessel or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country’s territorial sea with an adjacent country, with the intent to evade detection, shall be imprisoned not more than 15 years.

“(b) EVIDENCE OF INTENT TO EVADE DETECTION.—For purposes of subsection (a), the presence of any of the indicia described in paragraph (1)(A), (E), (F), or (G), or in paragraph (4), (5), or (6), of section 70507(b) of title 46 may be considered, in the totality of
the circumstances, to be prima facie evidence of intent to evade detection.

“(c) Extraterritorial Jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.

“(d) Claim of Nationality or Registry.—A claim of nationality or registry under this section includes only—

“(1) possession on board the vessel and production of documents evidencing the vessel’s nationality as provided in article 5 of the 1958 Convention on the High Seas;

“(2) flying its nation’s ensign or flag; or

“(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

“(e) Affirmative Defenses.—

“(1) In general.—It is an affirmative defense to a prosecution for a violation of subsection (a), which the defendant has the burden to prove by a preponderance of the evidence, that the submersible vessel or semi-submersible vessel involved was, at the time of the offense—

“(A) a vessel of the United States or lawfully registered in a foreign nation as claimed by the master or individual in charge of the ves-
vessel when requested to make a claim by an officer of the United States authorized to enforce applicable provisions of United States law;

“(B) classed by and designed in accordance with the rules of a classification society;

“(C) lawfully operated in government-regulated or licensed activity, including commerce, research, or exploration; or

“(D) equipped with and using an operable automatic identification system, vessel monitoring system, or long range identification and tracking system.

“(2) PRODUCTION OF DOCUMENTS.—The affirmative defenses provided by this subsection are proved conclusively by the production of—

“(A) government documents evidencing the vessel’s nationality at the time of the offense, as provided in article 5 of the 1958 Convention on the High Seas;

“(B) a certificate of classification issued by the vessel’s classification society upon completion of relevant classification surveys and valid at the time of the offense; or
“(C) government documents evidencing license, regulation, or registration for commerce, research, or exploration.

“(f) FEDERAL ACTIVITIES EXCEPTED.—Nothing in this section applies to lawfully authorized activities carried out by or at the direction of the United States Government.

“(g) APPLICABILITY OF OTHER PROVISIONS.—Sections 70504 and 70505 of title 46 apply to offenses under this section in the same manner as they apply to offenses under section 70503 of such title.

“(h) DEFINITIONS.—In this section, the terms ‘submersible vessel’, ‘semi-submersible vessel’, ‘vessel of the United States’, and ‘vessel without nationality’ have the meaning given those terms in section 70502 of title 46.

“SUBCHAPTER E—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

“§1351. Nonapplication of subchapter

“Nothing in this subchapter applies to otherwise lawful activities carried out by or at the direction of the United States Government.

“1351. Nonapplication of subchapter.
“1352. Destruction of vessel or maritime facility.
“1353. Imparting or conveying false information.
“1354. Bar to prosecution.

“§1351. Nonapplication of subchapter
§ 1352. Destruction of vessel or maritime facility

(a) Offense.—Whoever, within waters subject to the jurisdiction of the United States or outside the United States, knowingly—

(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

(2) places or causes to be placed a destructive device, as defined in section 581(2), destructive substance, as defined in section 1311, or an explosive, as defined in section 611, in, upon, or near, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment;

(4) interferes by force or violence with the operation of any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment, if such action is likely to endanger the safety of any vessel in navigation;

(5) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon,
or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

“(6) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

“(7) performs an act of violence against a person that causes or is likely to cause serious bodily injury in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel; or

“(8) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation;

shall be imprisoned not more than 20 years.
“(b) LIMITATION.—Subsection (a) does not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the transportation of hazardous materials regulated and allowed to be transported under chapter 51 of title 49.

“(c) PENALTY.—Whoever is convicted under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 or spent nuclear fuel (as that term is defined in section 2(23) of that Act), shall be imprisoned for any term of years or for life.

“(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted under subsection (a) and intended to cause death by the prohibited conduct, if the conduct resulted in the death of any person, shall be subject to the death penalty or to imprisonment for any term of years or for life.

“(e) THREATS.—Whoever knowingly and intentionally imparts or conveys any threat to do an act which would violate this subchapter, with an apparent determination and will to carry the threat into execution, shall be imprisoned not more than 5 years and is liable for all costs incurred as a result of such threat.
“(f) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over an offense under subsection (a).

§ 1353. Imparting or conveying false information

“(a) In General.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that would be a crime prohibited by this subchapter or by subchapter D, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

“(b) Malicious Conduct.—Whoever knowingly, intentionally, maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this subchapter or by subchapter D, shall be imprisoned not more than 5 years.

“(c) Jurisdiction.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the offense under section 1352, or under subchapter D, to which the imparted or conveyed false information relates, as applicable.
“§ 1354. Bar to prosecution

“(a) IN GENERAL.—It is a bar to prosecution under section 1352 or 1353 that—

“(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

“(2) such conduct is prohibited as a misdemeanor, and not as a felony, under the law of the State in which it was committed.

“(b) DEFINITION.—In this section, the term ‘labor dispute’ has the meaning given that term in section 13(c) of the Act of March 23, 1932 (47 Stat. 70) (commonly known as the Norris-LaGuardia Act).

“§ 1355. Bribery affecting port security

“(a) IN GENERAL.—Whoever knowingly—

“(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent to commit international terrorism or domestic terrorism (as those terms are defined under section 283), to—

“(A) influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or
“(B) induce any official or person to do or
omit to do any act in violation of the lawful
duty of such official or person that affects any
secure or restricted area or seaport; or
“(2) directly or indirectly, corruptly demands,
seeks, receives, accepts, or agrees to receive or ac-
cept anything of value personally or for any other
person or entity in return for—
“(A) being influenced in the performance
of any official act affecting any secure or re-
stricted area or seaport; and
“(B) knowing that such influence will be
used to commit, or plan to commit, inter-
national or domestic terrorism,
shall be imprisoned not more than 15 years.
“(b) DEFINITION.—In this section, the term ‘secure
or restricted area’ means an area of a vessel or facility
designated as secure in an approved security plan, as re-
quired under section 70103 of title 46, and the rules and
regulations promulgated under that section.

“CHAPTER 35—REGULATORY CRIMES

“Subchapter
“A. Animals, birds, fish, and plants
“B. Gambling
“C. Protection of trade secrets
“D. Trafficking in contraband cigarettes
“E. Child support
“F. Obscenity
“G. Money laundering
“SUBCHAPTER A—ANIMALS, BIRDS, FISH, AND PLANTS

§ 1371. Hunting, fishing, trapping; disturbance or injury on wildlife refuges

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, knowingly disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or knowingly injures, molests, or destroys any property of the United States on any such lands or waters, shall be imprisoned not more than six months.

§ 1372. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations

“(a) Prohibition.—The importation into the United States, any territory of the United States, the District of
Columbia, the Commonwealth of Puerto Rico, or any possession of the United States, or any shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States, of the mongoose of the species Herpestes auropunctatus; of the species of so-called ‘flying foxes’ or fruit bats of the genus Pteropus; of the zebra mussel of the species Dreissena polymorpha; of the bighead carp of the species Hypophthalmichthys nobilis; and such other species of wild mammals, wild birds, fish (including mollusks and crustacea), amphibians, reptiles, brown tree snakes, or the offspring or eggs of any of the foregoing which the Secretary of the Interior may prescribe by regulation to be injurious to human beings, to the interests of agriculture, horticulture, forestry, or to wildlife or the wildlife resources of the United States, is hereby prohibited. All such prohibited mammals, birds, fish (including mollusks and crustacea), amphibians, and reptiles, and the eggs or offspring therefrom, shall be promptly exported or destroyed at the expense of the importer or consignee. Nothing in this section shall be construed to repeal or modify any provision of the Public Health Service Act or Federal Food, Drug, and Cosmetic Act. Also, this section does not authorize any action with respect to the importation of any plant pest as defined
in the Plant Protection Act, insofar as such importation
is subject to regulation under that Act.

“(b) DEFINITIONS.—As used in subsection (a), the
term ‘wild’ relates to any creatures that, whether or not
raised in captivity, normally are found in a wild state; and
the terms ‘wildlife’ and ‘wildlife resources’ include those
resources that comprise wild mammals, wild birds, fish
(including mollusks and crustacea), and all other classes
of wild creatures whatsoever, and all types of aquatic and
land vegetation upon which such wildlife resources are de-
pendent.

“(c) EXCEPTIONS.—The Secretary of the Interior, if
the Secretary finds that there has been a proper showing
of responsibility and continued protection of the public in-
terest and health, shall permit the importation for zoolog-
ical, educational, medical, and scientific purposes of any
mammal, bird, fish, (including mollusks and crustacea),
amphibian, or reptile, or the offspring or eggs thereof,
where such importation would otherwise be prohibited
under this subchapter. This subchapter does not restrict
importations by Federal agencies for their own use.

“(d) EXCLUSION.—Nothing in this section restricts
the importation of dead natural-history specimens for mu-
seums or for scientific collections, or the importation of
domesticated canaries, parrots (including all other species
of psittacine birds), or such other cage birds as the Sec-
retary of the Interior may designate.

“(e) ENFORCEMENT.—The Secretary of the Treasury
and the Secretary of the Interior shall enforce this sub-
section, including any regulations issued hereunder, and,
if requested by the Secretary of the Interior, the Secretary
of the Treasury may require the furnishing of an appro-
priate bond when desirable to insure compliance with such
provisions.

“(f) OFFENSE.—Whoever violates this section, or any
regulation issued pursuant thereto, shall be imprisoned
not more than six months.

“§1373. Force, violence, and threats involving animal
enterprises

“(a) OFFENSE.—Whoever travels in interstate or for-
ereign commerce, or uses or causes to be used the mail or
any facility of interstate or foreign commerce—

“(1) for the purpose of damaging or interfering
with the operations of an animal enterprise; and

“(2) in connection with such purpose—

“(A) intentionally damages or causes the
loss of any real or personal property (including
animals or records) used by an animal enter-
prise, or any real or personal property of a per-
son or entity having a connection to, relation-
ship with, or transactions with an animal enter-
prise; or

“(B) intentionally places a person in rea-
sonable fear of the death of, or serious bodily
injury to that person, a member of the family
(as defined in section 136) of that person, or a
spouse or intimate partner of that person by a
course of conduct involving threats, acts of van-
dalism, property damage, criminal trespass,
harassment, or intimidation;

shall be punished as provided for in subsection (b).

“(b) PENALTIES.—The punishment for a violation of
subsection (a) is—

“(1) a fine under this title or imprisonment for
not more than 1 year, or both, if the offense does
not instill in another the reasonable fear of serious
bodily injury or death and—

“(A) the offense results in no economic
damage or bodily injury; or

“(B) the offense results in economic dam-
age that does not exceed $10,000;

“(2) a fine under this title or imprisonment for
not more than 5 years, or both, if no bodily injury
occurs and—
“(A) the offense results in economic damage exceeding $10,000 but not exceeding $100,000; or

“(B) the offense instills in another the reasonable fear of serious bodily injury or death;

“(3) a fine under this title or imprisonment for not more than 10 years, or both, if—

“(A) the offense results in economic damage exceeding $100,000; or

“(B) the offense results in substantial bodily injury to another individual;

“(4) a fine under this title or imprisonment for not more than 20 years, or both, if—

“(A) the offense results in serious bodily injury to another individual; or

“(B) the offense results in economic damage exceeding $1,000,000; and

“(5) imprisonment for life or for any terms of years, a fine under this title, or both, if the offense results in death of another individual.

“(c) RESTITUTION.—An order of restitution under this title with respect to a violation of this section may also include restitution—
“(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense;

“(2) for the loss of food production or farm income reasonably attributable to the offense; and

“(3) for any other economic damage, including any losses or costs caused by economic disruption, resulting from the offense.

“(d) DEFINITIONS.—As used in this section—

“(1) the term ‘animal enterprise’ means—

“(A) a commercial or academic enterprise that uses or sells animals or animal products for profit, food or fiber production, agriculture, education, research, or testing;

“(B) a zoo, aquarium, animal shelter, pet store, breeder, furrier, circus, or rodeo, or other lawful competitive animal event; or

“(C) any fair or similar event intended to advance agricultural arts and sciences;

“(2) the term ‘course of conduct’ means a pattern of conduct composed of 2 or more acts, evidencing a continuity of purpose;

“(3) the term ‘economic damage’—

“(A) means the replacement costs of lost or damaged property or records, the costs of re-
peating an interrupted or invalidated experi-
ment, the loss of profits, or increased costs, in-
cluding losses and increased costs resulting
from threats, acts or vandalism, property dam-
age, trespass, harassment, or intimidation taken
against a person or entity on account of that
person’s or entity’s connection to, relationship
with, or transactions with the animal enter-
prise; but

“(B) does not include any lawful economic
disruption (including a lawful boycott) that re-
results from lawful public, governmental, or busi-
ness reaction to the disclosure of information
about an animal enterprise;

“(4) the term ‘substantial bodily injury’
means—

“(A) deep cuts and serious burns or abra-
sions;

“(B) short-term or nonobvious disfigure-
ment;

“(C) fractured or dislocated bones, or torn
members of the body;

“(D) significant physical pain;

“(E) illness;
“(F) short-term loss or impairment of the function of a bodily member, organ, or mental faculty; or

“(G) any other significant injury to the body.

“(e) Rules of Construction.—Nothing in this section shall be construed—

“(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution; or

“(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, regardless of the point of view expressed, or to limit any existing legal remedies for such interference.

“§ 1374. Use of aircraft or motor vehicles to hunt certain wild horses or burros; pollution of watering holes

“(a) Aircraft for Hunting.—Whoever uses an aircraft or a motor vehicle to hunt, for the purpose of capturing or killing, any wild unbranded horse, mare, colt, or burro running at large on any of the public land or ranges shall be imprisoned not more than six months.
“(b) POLLUTION OF WATERING HOLES.—Whoever pollutes or causes the pollution of any watering hole on any of the public land or ranges for the purpose of trapping, killing, wounding, or maiming any of the animals referred to in subsection (a) of this section shall be imprisoned not more than six months.

“(c) DEFINITIONS.—As used in subsection (a) of this section—

“(1) the term ‘aircraft’ means any contrivance used for flight in the air; and

“(2) the term ‘motor vehicle’ includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land.

“§ 1375. Animal crush videos

“(a) DEFINITION.—In this section the term ‘animal crush video’ means any photograph, motion-picture film, video or digital recording, or electronic image that—

“(1) depicts actual conduct in which 1 or more living non-human mammals, birds, reptiles, or amphibians is intentionally crushed, burned, drowned, suffocated, impaled, or otherwise subjected to serious bodily injury; and

“(2) is obscene.

“(b) PROHIBITIONS.—
“(1) CREATION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly create an animal crush video, if—

“(A) the person intends or has reason to know that the animal crush video will be distributed in, or using a means or facility of, interstate or foreign commerce; or

“(B) the animal crush video is distributed in, or using a means or facility of, interstate or foreign commerce.

“(2) DISTRIBUTION OF ANIMAL CRUSH VIDEOS.—It shall be unlawful for any person to knowingly sell, market, advertise, exchange, or distribute an animal crush video in, or using a means or facility of, interstate or foreign commerce.

“(c) EXTRATERRITORIAL APPLICATION.—Subsection (b) applies to the knowing sale, marketing, advertising, exchange, distribution, or creation of an animal crush video outside of the United States, if—

“(1) the person engaging in such conduct intends or has reason to know that the animal crush video will be transported into the United States or its territories or possessions; or

“(2) the animal crush video is transported into the United States or its territories or possessions.
“(d) PENALTY.—Any person who violates subsection (b) shall be fined under this title, imprisoned for not more than 7 years, or both.

“(e) EXCEPTIONS.—

“(1) IN GENERAL.—This section does not apply with regard to any visual depiction of—

“(A) customary and normal veterinary or agricultural husbandry practices;

“(B) the slaughter of animals for food; or

“(C) hunting, trapping, or fishing.

“(2) GOOD-FAITH DISTRIBUTION.—This section does not apply to the good-faith distribution of an animal crush video to—

“(A) a law enforcement agency; or

“(B) a third party for the sole purpose of analysis to determine if referral to a law enforcement agency is appropriate.

“§ 1376. Enforcement of animal fighting prohibitions

“Whoever violates subsection (a), (b), (c), or (e) of section 26 of the Animal Welfare Act shall be imprisoned for not more than 5 years.

“SUBCHAPTER B—GAMBLING

“Sec.

“1381. Transmission of wagering information; penalties.

“1382. Definitions.
§ 1381. Transmission of wagering information; penalties

(a) OFFENSE.—Whoever, being engaged in the business of betting or wagering, knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be imprisoned not more than two years.

(b) EXCLUSION.—Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information for use in news reporting of sporting events or contests, or for the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State or foreign country where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

(c) NOTIFICATION TO COMMON CARRIER.—When any common carrier, subject to the jurisdiction of the Federal Communications Commission, is notified in writing by a Federal, State, or local law enforcement agency, acting within its jurisdiction, that any facility furnished by it is
being used or will be used for the purpose of transmitting
or receiving gambling information in interstate or foreign
commerce in violation of Federal, State or local law, it
shall discontinue or refuse, the leasing, furnishing, or
maintaining of such facility, after reasonable notice to the
subscriber, but no damages, penalty or forfeiture, civil or
criminal, shall be found against any common carrier for
any act done in compliance with any notice received from
a law enforcement agency. Nothing in this section preju-
dices the right of any person affected thereby to secure
an appropriate determination, as otherwise provided by
law, in a Federal court or in a State or local tribunal or
agency, that such facility should not be discontinued or
removed, or should be restored.

§ 1382. Definition

“As used in this subchapter, the term ‘wire commu-
nication facility’ means any and all instrumentalities, per-
sonnel, and services (among other things, the receipt, for-
warding, or delivery of communications) used or useful in
the transmission of writings, signs, pictures, and sounds
of all kinds by aid of wire, cable, or other like connection
between the points of origin and reception of such trans-
mission.
“SUBCHAPTER C—PROTECTION OF TRADE SECRETS

‘1391. Economic espionage.
‘1392. Theft of trade secrets.
‘1393. Exceptions to prohibitions.
‘1394. Orders to preserve confidentiality.
‘1395. Civil proceedings to enjoin violations.
‘1396. Applicability to conduct outside the United States.
‘1397. Definitions.

§ 1391. Economic espionage

(a) IN GENERAL.—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

“(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

“(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret; or

“(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

shall, except as provided in subsection (b), be imprisoned not more than 15 years.

(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined
not more than the greater of $10,000,000 or 3 times the value of the stolen trade secret to the organization, including expenses for research and design and other costs of reproducing the trade secret that the organization has thereby avoided.

“§ 1392. Theft of trade secrets

“(a) OFFENSE.—Whoever, with intent to convert a trade secret, that is related to a product or service used in or intended for use in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

“(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

“(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information; or

“(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;
shall, except as provided in subsection (b), be imprisoned not more than 10 years.

“(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $5,000,000.

“§ 1393. Exceptions to prohibitions

“This subchapter does not prohibit—

“(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

“(2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

“§ 1394. Orders to preserve confidentiality

“In any prosecution or other proceeding under this subchapter and any forfeiture relating to a violation of this subchapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a dis-
strict court authorizing or directing the disclosure of any trade secret.

“§ 1395. Civil proceedings to enjoin violations

“(a) CIVIL ACTION.—The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this subchapter.

“(b) EXCLUSIVE JURISDICTION.—The district courts of the United States shall have exclusive original jurisdiction of civil actions under this section.

“§ 1396. Applicability to conduct outside the United States

“This subchapter also applies to conduct occurring outside the United States if—

“(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

“(2) an act in furtherance of the offense was committed in the United States.

“§ 1397. Definitions

“As used in this subchapter—

“(1) the term ‘foreign instrumentality’ means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or busi-
ness organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

“(2) the term ‘foreign agent’ means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

“(3) the term ‘trade secret’ means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

“(A) the owner thereof has taken reasonable measures to keep such information secret; and

“(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and
“(4) the term ‘owner’, with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.

“SUBCHAPTER D—TRAFFICKING IN CONTRABAND CIGARETTES

“1411. Definitions.
“1413. Recordkeeping, reporting, and inspection.
“1414. Penalties.
“1415. Enforcement and regulations.

“§ 1411. Definitions

“As used in this chapter—

“(1) the term ‘cigarette’ means—

“(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

“(B) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

“(2) the term ‘contraband cigarettes’ means a quantity in excess of 10,000 cigarettes, which bear no evidence of the payment of applicable State or local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government requires a stamp, impression, or other indi-
ation to be placed on packages or other containers of cigarettes to evidence payment of cigarette taxes, and which are in the possession of any person other than—

“(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as a manufacturer of tobacco products or as an export warehouse proprietor, or a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 or an agent of such person;

“(B) a common or contract carrier transporting the cigarettes involved under a proper bill of lading or freight bill which states the quantity, source, and destination of such cigarettes;

“(C) a person—

“(i) who is licensed or otherwise authorized by the State where the cigarettes are found to account for and pay cigarette taxes imposed by such State; and

“(ii) who has complied with the accounting and payment requirements relating to such license or authorization with respect to the cigarettes involved; or
“(D) an officer, employee, or other agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State) having possession of such cigarettes in connection with the performance of official duties;

“(3) the term ‘common or contract carrier’ means a carrier holding a certificate of convenience and necessity, a permit for contract carrier by motor vehicle, or other valid operating authority under subtitle IV of title 49, or under equivalent operating authority from a regulatory agency of the United States or of any State;

“(4) the term ‘Attorney General’ means the Attorney General of the United States;

“(5) the term ‘smokeless tobacco’ means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted;

“(6) the term ‘contraband smokeless tobacco’ means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—
“(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930, or an agent of such person;

“(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

“(C) a person who—

“(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products; and

“(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

“(D) an officer, employee, or agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of
a State), having possession of such smokeless
tobacco in connection with the performance of
official duties.

“§ 1412. Unlawful Acts

“It shall be unlawful for any person knowingly to
ship, transport, receive, possess, sell, distribute, or pur-
chase contraband cigarettes or contraband smokeless to-

“§ 1413. Recordkeeping, reporting, and inspection

“(a) RECORDKEEPING.—Whoever ships, sells, or dis-
tributes any quantity of cigarettes in excess of 10,000, or
any quantity of smokeless tobacco in excess of 500 single-
unit consumer-sized cans or packages, in a single trans-
action shall maintain such information about the ship-
ment, receipt, sale, and distribution of cigarettes as the
Attorney General may prescribe by rule or regulation. The
Attorney General may require such person to keep such
information as the Attorney General considers appropriate
for purposes of enforcement of this subchapter, includ-
ing—

“(1) the name, address, destination (including
street address), vehicle license number, driver’s li-
cense number, signature of the person receiving such
cigarettes, and the name of the purchaser;
“(2) a declaration of the specific purpose of the receipt (personal use, resale, or delivery to another); and

“(3) a declaration of the name and address of the recipient’s principal in all cases when the recipient is acting as an agent.

Such information shall be contained on business records kept in the normal course of business.

“(b) REPORTING.—Whoever, except for a tribal government, engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

“(1) The person’s beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

“(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).
“(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.

“(e) INSPECTION.—

“(1) Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (a) or (b) for the purposes of inspecting—

“(A) any records or information required to be maintained by the person under this chapter; or

“(B) any cigarettes or smokeless tobacco kept or stored by the person at the premises.

“(2) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by paragraph (1).

“(3) Whoever denies access to an officer under paragraph (1), or who fails to comply with an order issued under paragraph (2), shall be subject to a civil penalty in an amount not to exceed $10,000.
“(d) Others to receive reports.—Any report required to be submitted under this subchapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded.

“(e) Delivery sale defined.—As used in this section, the term ‘delivery sale’ means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

“(1) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

“(2) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.
§ 1414. Penalties

(a) 1412(a) Violations.—Whoever knowingly violates section 1412(a) shall be imprisoned not more than five years.

(b) 1413(a) and 1416 Violations.—Whoever knowingly violates any rule or regulation promulgated under section 1413(a) or 1416 or violates section 1412(b) shall be imprisoned not more than three years.

§ 1415. Enforcement and regulations

(a) Generally.—The Attorney General, subject to section 1413(a), shall enforce this subchapter and may prescribe rules and regulations to carry out this subchapter.

(b) State Enforcement Through Civil Actions.—

(1) A State, through its attorney general, a local government, through its chief law enforcement officer (or a designee thereof), or any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this subchapter by any person (or by any person controlling such person), except that any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986 may not bring such an action against a State or local government. No
civil action may be commenced under this paragraph against an Indian tribe or an Indian in Indian coun-
try (as defined in section 871).

“(2) A State, through its attorney general, or a local government, through its chief law enforce-
ment officer (or a designee thereof), may in a civil action under paragraph (1) also obtain any other ap-
propriate relief for violations of this subchapter from any person (or by any person controlling such per-
son), including civil penalties, money damages, and injunctive or other equitable relief. Nothing in this 
chapter abrogates or constitutes a waiver of any sov-
ereign immunity of a State or local government, or an Indian tribe against any unconsented lawsuit under this chapter, or otherwise restricts, expands, or modifies any sovereign immunity of a State or local government, or an Indian tribe.

“SUBCHAPTER E—CHILD SUPPORT

19 “Sec. 1431. Failure to pay legal child support obligations

1431. Failure to pay legal child support obligations

“(a) Offense.—Whoever—

“(1) knowingly fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than $5,000;
“(2) travels in interstate or foreign commerce
with the intent to evade a support obligation, if such
obligation has remained unpaid for a period longer
than 1 year, or is greater than $5,000; or
“(3) knowingly fails to pay a support obligation
with respect to a child who resides in another State,
if such obligation has remained unpaid for a period
longer than 2 years, or is greater than $10,000;
shall be punished as provided in subsection (c).
“(b) PRESUMPTION.—The existence of a support ob-
ligation that was in effect for the time period charged in
the indictment or information creates a rebuttable pre-
sumption that the obligor has the ability to pay the sup-
port obligation for that time period.
“(c) PUNISHMENT.—The punishment for an offense
under this section is—
“(1) in the case of a first offense under sub-
section (a)(1), imprisonment for not more than 6
months; and
“(2) in the case of an offense under paragraph
(2) or (3) of subsection (a), or a second or subse-
quent offense under subsection (a)(1), imprisonment
for not more than 2 years.
“(d) VENUE.—With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for—

“(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an ‘obligor’) failed to meet that support obligation;

“(2) the district in which the obligor resided during a period described in paragraph (1); or

“(3) any other district with jurisdiction otherwise provided for by law.

“(e) DEFINITIONS.—As used in this section—

“(1) the term ‘Indian tribe’ has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994; and

“(2) the term ‘support obligation’ means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

“SUBCHAPTER F—OBSCENITY

“1441. Mailing obscene or crime-inciting matter.
“1442. Importation or transportation of obscene matters.
§ 1441. Mailing obscene or crime-inciting matter

(a) NONMAILABILITY.—The following are non-mailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier:

(1) Every obscene, lewd, lascivious, indecent, filthy or vile article, matter, thing, device, or substance.

(2) Every article or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use.

(3) Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for producing abortion, or for any indecent or immoral purpose.

(4) Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or pro-
ducing of abortion will be done or performed, or how
or by what means abortion may be produced, whether
sealed or unsealed.

“(5) Every paper, writing, advertisement, or
representation that any article, instrument, sub-
stance, drug, medicine, or thing may, or can, be
used or applied for producing abortion, or for any
indecent or immoral purpose.

“(6) Every description calculated to induce or
incite a person to so use or apply any such article,
instrument, substance, drug, medicine, or thing.

“(b) OFFENSE.—Whoever knowingly uses the mails
for the mailing, carriage in the mails, or delivery of any-
thing declared by this section or section 3001(e) of title
39 to be nonmailable, or knowingly causes to be delivered
by mail according to the direction thereon, or at the place
at which it is directed to be delivered by the person to
whom it is addressed, or knowingly takes any such thing
from the mails for the purpose of circulating or disposing
thereof, or of aiding in the circulation or disposition there-
of, shall be imprisoned not more than five years, for the
first such offense, and shall be imprisoned not more than
ten years for each such offense thereafter.
§ 1442. Importation or transportation of obscene matters

"Whoever—

"(1) brings into the United States, or any place subject to the jurisdiction thereof, or knowingly uses any express company or other common carrier or interactive computer service (as defined in section 230(f)(2) of the Communications Act of 1934), for carriage in interstate or foreign commerce—

"(A) any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character;

"(B) any obscene, lewd, lascivious, or filthy phonograph recording, electrical transcription, or other article or thing capable of producing sound; or

"(C) any drug, medicine, article, or thing designed, adapted, or intended for producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or
“(2) knowingly takes or receives, from such express company or other common carrier or interactive computer service (as defined in section 230(f)(2) of the Communications Act of 1934) any matter or thing the carriage or importation of which is herein made unlawful;

shall be imprisoned not more than five years for the first such offense and shall be imprisoned not more than ten years for each such offense thereafter.

“§ 1443. Production and transportation of obscene matters for sale or distribution

“(a) OFFENSE.—Whoever knowingly produces with the intent to transport, distribute, or transmit in interstate or foreign commerce, or whoever knowingly transports or travels in, or uses a facility or means of, interstate or foreign commerce or an interactive computer service (as defined in section 230(f)(2) of the Communications Act of 1934) in or affecting such commerce, for the purpose of sale or distribution, of any obscene, lewd, lascivious, or filthy book, pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription or other article capable of producing sound or any other matter of indecent or immoral character, shall be imprisoned not more than five years.
“(b) PRESUMPTION.—The transportation as afore-
said of two or more copies of any publication or two or
more of any article of the character described above, or
a combined total of five such publications and articles,
shall create a presumption that such publications or arti-
cles are intended for sale or distribution, but such pre-
sumption shall be rebuttable.

“§ 1444. Engaging in the business of selling or trans-
ferring obscene matter

“(a) OFFENSE.—Whoever is engaged in the business
of producing with intent to distribute or sell, or selling
or transferring obscene matter, who knowingly receives or
possesses with intent to distribute any obscene book, mag-
azine, picture, paper, film, videotape, or phonograph or
other audio recording, which has been shipped or trans-
ported in interstate or foreign commerce, shall be pun-
ished by imprisonment for not more than 5 years or by
a fine under this title, or both.

“(b) DEFINITION.—As used in this section, the term
‘engaged in the business’ means that the person who pro-
duces, sells, or transfers, or offers to sell or transfer ob-
scene matter devotes time, attention, or labor to such ac-
tivities, as a regular course of trade or business, with the
objective of earning a profit, although it is not necessary
that the person make a profit or that the production, sell-
ing or transferring or offering to sell or transfer such ma-
terial be the person’s sole or principal business or source
of income. The offering for sale of or to transfer, at one
time, two or more copies of any obscene publication, or
two or more of any obscene article, or a combined total
of five or more such publications and articles, shall create
a rebuttable presumption that the person so offering them
is ‘engaged in the business’ as defined in this subsection.

“§ 1445. Obscene visual representations of the sexual
abuse of children

“(a) IN GENERAL.—Whoever, as made applicable by
subsection (d), knowingly produces, distributes, receives,
or possesses with intent to distribute, a visual depiction
of any kind, including a drawing, cartoon, sculpture, or
painting, that—

“(1)(A) depicts a minor engaging in sexually
explicit conduct; and

“(B) is obscene; or

“(2)(A) depicts an image that is, or appears to
be, of a minor engaging in graphic bestiality, sadis-
tic or masochistic abuse, or sexual intercourse, in-
cluding genital-genital, oral-genital, anal-genital, or
oral-anal, whether between persons of the same or
opposite sex; and
“(B) lacks serious literary, artistic, political, or scientific value;
shall be subject to the penalties provided in section 223(c)(1), including the penalties provided for cases involving a prior conviction.

“(b) ADDITIONAL OFFENSES.—Whoever, as made applicable by subsection (d), knowingly possesses a visual depiction of any kind, including a drawing, cartoon, sculpture, or painting, that—

“(1)(A) depicts a minor engaging in sexually explicit conduct; and

“(B) is obscene; or

“(2)(A) depicts an image that is, or appears to be, of a minor engaging in graphic bestiality, sadistic or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; and

“(B) lacks serious literary, artistic, political, or scientific value;
shall be subject to the penalties provided in section 223(c)(2), including the penalties provided for cases involving a prior conviction.
“(c) NONREQUIRED ELEMENT OF OFFENSE.—It is not a required element of any offense under this section that the minor depicted actually exist.

“(d) APPLICABILITY.—Subsections (a) and (b) apply if—

“(1) any communication involved in or made in furtherance of the offense is communicated or transported by the mail, or in interstate or foreign commerce by any means, including by computer, or any means or instrumentality of interstate or foreign commerce is otherwise used in committing or in furtherance of the commission of the offense;

“(2) any communication involved in or made in furtherance of the offense contemplates the transmission or transportation of a visual depiction by the mail, or in interstate or foreign commerce by any means, including by computer;

“(3) any person travels or is transported in interstate or foreign commerce in the course of the commission or in furtherance of the commission of the offense;

“(4) any visual depiction involved in the offense has been mailed, or has been shipped or transported in interstate or foreign commerce by any means, including by computer, or was produced using mate-
rials that have been mailed, or that have been
shipped or transported in interstate or foreign com-
merce by any means, including by computer; or
“(5) the offense is committed in the special
maritime and territorial jurisdiction of the United
States or in any territory or possession of the
United States.
“(e) AFFIRMATIVE DEFENSE.—It shall be an affirm-
ative defense to a charge of violating subsection (b) that
the defendant—
“(1) possessed less than 3 such visual depic-
tions; and
“(2) promptly and in good faith, and without
retaining or allowing any person, other than a law
enforcement agency, to access any such visual depic-
tion—
“(A) took reasonable steps to destroy each
such visual depiction; or
“(B) reported the matter to a law enforce-
ment agency and afforded that agency access to
each such visual depiction.
“(f) DEFINITIONS.—As used in this section—
“(1) the term ‘visual depiction’ includes unde-
veloped film and videotape, and data stored on a
computer disk or by electronic means which is capa-
ble of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means;

“(2) the term ‘sexually explicit conduct’ has the meaning given the term in section 225(1)(A) or 225(1)(B); and

“(3) the term ‘graphic’, when used with respect to a depiction of sexually explicit conduct, means that a viewer can observe any part of the genitals or pubic area of any depicted person or animal during any part of the time that the sexually explicit conduct is being depicted.

“§ 1446. Presumptions

“(a) INTERSTATE COMMERCE.—In any prosecution under this subchapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.
“(b) FOREIGN COMMERCE.—In any prosecution under this subchapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.

“§ 1447. Transfer of obscene material to minor

“Whoever, using the mail or any facility or means of interstate or foreign commerce, knowingly transfers obscene matter to another individual who has not attained the age of 16 years, knowing that such other individual has not attained the age of 16 years, or attempts to do so, shall be imprisoned not more than 10 years.

“SUBCHAPTER G—MONEY LAUNDERING

“1451. Laundering of monetary instruments.
“1452. Engaging in monetary transactions in property derived from specified unlawful activity.
“1453. Structuring transactions to evade reporting requirement prohibited.
“1454. Bulk cash smuggling into or out of the United States.

“§ 1451. Laundering of monetary instruments

“(a) OFFENSES.—(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity—
“(A)(i) with the intent to promote the carrying
on of specified unlawful activity; or
“(ii) with intent to engage in conduct constit-
tuting a violation of section 7201 or 7206 of the In-
ternal Revenue Code of 1986; or
“(B) knowing that the transaction is designed
in whole or in part—
“(i) to conceal or disguise the nature, the
location, the source, the ownership, or the con-
trol of the proceeds of specified unlawful activ-
ity; or
“(ii) to avoid a transaction reporting re-
quirement under State or Federal law,
shall be sentenced to a fine of not more than $500,000
or twice the value of the property involved in the trans-
action, whichever is greater, or imprisonment for not more
than twenty years, or both. For purposes of this para-
graph, a financial transaction shall be considered to be
one involving the proceeds of specified unlawful activity
if it is part of a set of parallel or dependent transactions,
any one of which involves the proceeds of specified unlaw-
ful activity, and all of which are part of a single plan or
arrangement.
“(2) Whoever transports, transmits, or transfers, or
attempts to transport, transmit, or transfer a monetary
instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States—

“(A) with the intent to promote the carrying on of specified unlawful activity; or

“(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part—

“(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

“(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater, or imprisonment for not more than twenty years, or both. For the purpose of the offense described in subparagraph (B), the defendant’s knowledge may be established by proof that a law enforcement officer
represented the matter specified in subparagraph (B) as 
true, and the defendant’s subsequent statements or ac-
tions indicate that the defendant believed such representa-
tions to be true.

“(3) Whoever, with the intent—

“(A) to promote the carrying on of specified un-
lawful activity;

“(B) to conceal or disguise the nature, location,
source, ownership, or control of property believed to 
be the proceeds of specified unlawful activity; or

“(C) to avoid a transaction reporting require-
ment under State or Federal law,

conducts or attempts to conduct a financial transaction 
involving property represented to be the proceeds of speci-
fied unlawful activity, or property used to conduct or fa-
cilitate specified unlawful activity, shall be imprisoned for 
not more than 20 years. For purposes of this paragraph 
and paragraph (2), the term ‘represented’ means any repre-
sentation made by a law enforcement officer or by an-
other person at the direction of, or with the approval of, 
a Federal official authorized to investigate or prosecute 
violations of this section.

“(b) Penalties and Civil Remedies.—

“(1) Criminal.—
“(A) GENERALLY.—Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or section 1452, or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of—

“(i) the value of the property, funds, or monetary instruments involved in the transaction; or

“(ii) $10,000.

“(B) ALTERNATIVE PUNISHMENT FOR CERTAIN OFFENSES.—If the offense under this section involves a pre-retail medical product (as defined in section 657), it shall be punished under section 657 unless the penalties provided for the offense under this section are greater.

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

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

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

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

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

“(4) FEDERAL RECEIVER.—

“(A) IN GENERAL.—A court may appoint
a Federal Receiver, in accordance with subpara-
graph (B) of this paragraph, to collect, mar-
shal, and take custody, control, and possession
of all assets of the defendant, wherever located, to satisfy a civil judgment under this subsection, a forfeiture judgment under chapter 50, or a criminal sentence under section 1452 or subsection (a) of this section, including an order of restitution to any victim of a specified unlawful activity.

“(B) APPOINTMENT AND AUTHORITY.—A Federal Receiver described in subparagraph (A)—

“(i) may be appointed upon application of a Federal prosecutor or a Federal or State regulator, by the court having jurisdiction over the defendant in the case;

“(ii) shall be an officer of the court, and the powers of the Federal Receiver shall include the powers set out in section 754 of title 28; and

“(iii) shall have standing equivalent to that of a Federal prosecutor for the purpose of submitting requests to obtain information regarding the assets of the defendant—
“(I) from the Financial Crimes Enforcement Network of the Department of the Treasury; or

“(II) from a foreign country pursuant to a mutual legal assistance treaty, multilateral agreement, or other arrangement for international law enforcement assistance, provided that such requests are in accordance with the policies and procedures of the Attorney General.

“(c) DEFINITIONS.—As used in this section—

“(1) the term ‘knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity’ means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, Federal, or foreign law, regardless of whether or not such activity is specified in paragraph (7);

“(2) the term ‘conducts’ includes initiating, concluding, or participating in initiating, or concluding a transaction;
“(3) the term ‘transaction’ includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

“(4) the term ‘financial transaction’ means (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

“(5) the term ‘monetary instruments’ means (i) coin or currency of the United States or of any other country, travelers’ checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or
otherwise in such form that title thereto passes upon delivery;

“(6) the term ‘financial institution’ means—

“(A) any financial institution, as defined in section 5312(a)(2) of title 31, or regulations under such section; or

“(B) any foreign bank, as defined in section 1 of the International Banking Act of 1978;

“(7) the term ‘specified unlawful activity’ means—

“(A) any act or activity constituting an offense listed in section 511(1) except an act which is indictable under subchapter II of chapter 53 of title 31;

“(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving—

“(i) the manufacture, importation, sale, or distribution of a controlled substance;

“(ii) murder, kidnapping, robbery, extortion, destruction of property by means of explosive or fire, or a crime of violence;
“(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978);

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

“(v) smuggling or export control violations involving—

“(I) an item controlled on the United States Munitions List established under section 38 of the Arms Export Control Act; or

“(II) an item controlled under regulations under the Export Administration Regulations (15 C.F.R. Parts 730–774); or

“(vi) an offense with respect to which the United States would be obligated by a multilateral treaty, either to extradite the alleged offender or to submit the case for prosecution, if the offender were found within the territory of the United States; or
“(vii) trafficking in persons, selling or buying of children, sexual exploration or children, or transporting, recruiting or harboring a person, including a child, for commercial sex acts;

“(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 413;

“(D) an offense under section 1301 (relating to the destruction of aircraft), section 1305 (relating to violence at international airports), section 131 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section 871 (relating to concealment of assets; false oaths and claims; bribery), section 624 (relating to the variola virus), section 1003 (relating to commissions or gifts for procuring loans), section 711 (relating to money orders), section 712 (relating to postage stamps, postage meter stamps, and postal cards), section 718 (relating to securities of States and private entities), section 861 (relating to entry of goods falsely classified), section 862 (relating to entry of goods by means of false statements), section
863 (relating to smuggling goods into the United States), section 865 (relating to removing goods from customs custody; breaking seals), section 867 (relating to smuggling goods from the United States), section 868 (relating to border tunnels and passages), section 641 (relating to public money, property, or records), section 644 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 645 (relating to lending, credit, and insurance institutions), section 646 (relating to property mortgaged or pledged to farm credit agencies), section 654 (relating to theft or bribery concerning programs receiving Federal funds), section 301, 302, or 303 (relating to espionage and censorship), section 601 (relating to prohibited transactions involving nuclear materials), section 614 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 144 (relating to communication of ransom demands and other threatening communications in or affecting commerce), section 582(1) (relating to the unlawful importation of firearms), section 584(n)
(relating to firearms trafficking), section 924
(relating to conspiracy to kill, kidnap, maim, or
injure certain property in a foreign country),
section 773 (relating to fraudulent bank en-
tries), section 774 (relating to fraudulent Fed-
eral credit institution entries), section 775 (re-
lating to Federal Deposit Insurance Corpora-
tion transactions), section 779 (relating to
fraudulent loan or credit applications), section
787 (relating to computer fraud and abuse),
section 789 (relating to concealment of assets
from conservator, receiver, or liquidating agent
of financial institution), section 102 (relating to
Federally punishable homicides), section 121
(relating to kidnapping), section 123 (relating
to hostage taking), section 1201 (relating to
Government property or contracts), section
1203 (relating to buildings or property within
the special maritime and territorial jurisdi-
cion), section 947 (relating to theft or receipt of
stolen mail matter generally), section 143 (re-
lating to bank robbery and incidental crimes),
section 223 (relating to certain activities relat-
ing to material involving the sexual exploitation
of children and child pornography) where the
child pornography contains a visual depiction of
an actual minor engaging in sexually explicit
conduct, section 1345 (relating to violence
against maritime navigation), section 676 (rel-
lating to criminal infringement of a copyright),
section 680 (relating to trafficking in counter-
feit goods and services), section 271 (relating to
weapons of mass destruction, and explosives
and other lethal devices), section 272 (relating
to atomic weapons), section 273 (relating to
acts of terrorism transcending national bound-
daries), section 275 (relating to missile systems
designed to destroy aircraft), section 276 (relat-
ing to radiological dispersal devices), section
278 or 279 (relating to providing material sup-
port to terrorists), section 280 (relating to pro-
hibitions against the financing of terrorism),
section 281 (relating to receiving military-type
training from a foreign terrorist organization),
section 414 (relating to drug paraphernalia), or
section 1307 (relating to aircraft piracy) of this
title, a felony violation of the Chemical Diver-
sion and Trafficking Act of 1988 (relating to
precursor and essential chemicals), section 590
of the Tariff Act of 1930 (relating to aviation
smuggling), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading with the Enemy Act, any felony violation of section 15 of the Food and Nutrition Act of 2008 (relating to violations and enforcement) involving a quantity of benefits having a value of not less than $5,000, any violation of section 543(a)(1) of the Housing Act of 1949 (relating to equity skimming), any felony violation of the Foreign Agents Registration Act of 1938, or any felony violation of the Foreign Corrupt Practices Act;

“(E) a felony violation of the Federal Water Pollution Control Act, the Ocean Dumping Act, the Act to Prevent Pollution from Ships, the Safe Drinking Water Act, or the Resources Conservation and Recovery Act; or

“(F) any act or activity constituting an offense involving a Federal health care offense; and
“(8) the term ‘proceeds’ means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

“(d) Extraterritorial Jurisdiction.—There is extraterritorial jurisdiction over the an offense under this section if—

“(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

“(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

“(e) Notice of Conviction of Financial Institutions.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1452 or 508, or section 5322 or 5324 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.

“(f) Venue.—(1) Except as provided in paragraph (2), a prosecution for an offense under this section or section 1452 may be brought in—

“(A) any district in which the financial or monetary transaction is conducted; or
“(B) any district where a prosecution for the underlying specified unlawful activity could be brought, if the defendant participated in the transfer of the proceeds of the specified unlawful activity from that district to the district where the financial or monetary transaction is conducted.

“(2) A prosecution for an attempt or conspiracy offense under this section or section 1957 may be brought in the district where venue would lie for the completed offense under paragraph (1), or in any other district where an act in furtherance of the attempt or conspiracy took place.

“(3) For purposes of this section, a transfer of funds from 1 place to another, by wire or any other means, shall constitute a single, continuing transaction. Any person who conducts (as that term is defined in subsection (c)(2)) any portion of the transaction may be charged in any district in which the transaction takes place.

“§ 1452. Engaging in monetary transactions in property derived from specified unlawful activity

“(a) ELEMENTS OF OFFENSE.—Whoever, as made applicable by subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than $10,000 and is
derived from specified unlawful activity, shall be punished as provided in subsection (b).

“(b) PUNISHMENT.—(1) Except as provided in paragraph (2), the punishment for an offense under this section is imprisonment for not more than ten years.

“(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.

“(c) PROOF.—In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

“(d) APPLICABILITY.—Subsection (a) applies if—

“(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

“(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077, but excluding the class described in paragraph (2)(D) of such section).

“(e) INVESTIGATIVE AUTHORITY.—Violations of this section may be investigated by such components of the De-
partment of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General.

“(f) DEFINITIONS.—As used in this section—

“(1) the term ‘monetary transaction’ means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1451(c)(5)) by, through, or to a financial institution (as defined in section 1451), including any transaction that would be a financial transaction under section 1451(c)(4)(B), but such term does not include any transaction necessary to preserve a per-
son’s right to representation as guaranteed by the sixth amendment to the Constitution;

“(2) the term ‘criminally derived property’ means any property constituting, or derived from, proceeds obtained from a criminal offense; and

“(3) the terms ‘specified unlawful activity’ and ‘proceeds’ shall have the meaning given those terms in section 1451.

“§ 1453. Structuring transactions to evade reporting requirement prohibited

“(a) Domestic Coin and Currency Transactions Involving Financial Institutions.—No person shall, for the purpose of evading the reporting requirements of section 5313(a) or 5325 of title 31 or any regulation prescribed under any such section, the reporting or recordkeeping requirements imposed by any order issued under section 5326 of that title, or the recordkeeping requirements imposed by any regulation prescribed under section 21 of the Federal Deposit Insurance Act or section 123 of Public Law 91–508—

“(1) cause or attempt to cause a domestic financial institution to fail to file a report required under section 5313(a) or 5325 of title 31 or any regulation prescribed under any such section, to file a report or to maintain a record required by an
order issued under section 5326 of title 31, or to
maintain a record required pursuant to any regula-
tion prescribed under section 21 of the Federal De-
posit Insurance Act or section 123 of Public Law
91–508;

“(2) cause or attempt to cause a domestic fi-
nancial institution to file a report required under
section 5313(a) or 5325 of title 31 or any regulation
prescribed under any such section, to file a report or
to maintain a record required by any order issued
under section 5326 of title 31, or to maintain a
record required pursuant to any regulation pre-
scribed under section 5326 of title 31, or to main-
tain a record required pursuant to any regulation
prescribed under section 21 of the Federal Deposit
Insurance Act or section 123 of Public Law 91–508,
that contains a material omission or misstatement of
fact; or

“(3) structure or assist in structuring, or at-
ttempt to structure or assist in structuring, any
transaction with one or more domestic financial in-
stitutions.

“(b) DOMESTIC COIN AND CURRENCY TRANS-
ACTIONS INVOLVING NONFINANCIAL TRADES OR BUSI-
NESSSES.—No person shall, for the purpose of evading the
report requirements of section 5331 of title 31 or any regulation prescribed under such section—

“(1) cause or attempt to cause a nonfinancial trade or business to fail to file a report required under section 5331 of title 31 or any regulation prescribed under such section;

“(2) cause or attempt to cause a nonfinancial trade or business to file a report required under section 5331 of title 31 or any regulation prescribed under such section that contains a material omission or misstatement of fact; or

“(3) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with 1 or more nonfinancial trades or businesses.

“(c) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316 of title 31—

“(1) fail to file a report required by section 5316 of title 31, or cause or attempt to cause a person to fail to file such a report;

“(2) file or cause or attempt to cause a person to file a report required under section 5316 of title
that contains a material omission or misstatement of fact; or

“(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.

“(d) CRIMINAL PENALTY.—

“(1) IN GENERAL.—Whoever violates this section shall be imprisoned for not more than 5 years.

“(2) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates this section while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be imprisoned for not more than 10 years.

“§ 1454. Bulk cash smuggling into or out of the United States

“(a) CRIMINAL OFFENSE.—

“(1) IN GENERAL.—Whoever, with the intent to evade a currency reporting requirement under section 5316 of title 31, knowingly conceals more than $10,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, and transports or transfers or attempts to transport or transfer such currency or monetary in-
strums from a place within the United States to
a place outside of the United States, or from a place
outside the United States to a place within the
United States, shall be guilty of a currency smug-
gling offense and imprisoned for not more than 5
years.

"(2) CONCEALMENT ON PERSON.—For pur-
poses of this section, the concealment of currency on
the person of any individual includes concealment in
any article of clothing worn by the individual or in
any luggage, backpack, or other container worn or
carried by such individual.

"CHAPTER 37—PRIVACY

"Subchapter
"A. Privacy
"B. Wire and electronic communications interception and interception of oral
communications
"C. Stored wire and electronic communications and transactional records access
"D. Prohibition on release and use of certain personal information from State
motor vehicle records
"E. Identity theft

"SUBCHAPTER A—PRIVACY

"Sec.
"1481. Video voyeurism.

§ 1481. Video voyeurism

"(a) OFFENSE.—Whoever, in the special maritime
and territorial jurisdiction of the United States, has the
intent to capture an image of a private area of an indi-
vidual without their consent, and knowingly does so under
circumstances in which the individual has a reasonable ex-
pectation of privacy, shall be imprisoned not more than
one year.

“(b) DEFINITIONS FOR SECTION.—As used in this
section—

“(1) the term ‘capture’, with respect to an
image, means to videotape, photograph, film, record
by any means, or broadcast;

“(2) the term ‘broadcast’ means to electroni-
cally transmit a visual image with the intent that it
be viewed by a person or persons;

“(3) the term ‘a private area of the individual’
means the naked or undergarment clad genitals,
pubic area, buttocks, or female breast of that indi-
vidual;

“(4) the term ‘female breast’ means any portion
of the female breast below the top of the areola; and

“(5) the term ‘under circumstances in which
that individual has a reasonable expectation of pri-
vacy’ means—

“(A) circumstances in which a reasonable
person would believe that he or she could dis-
robe in privacy, without being concerned that
an image of a private area of the individual was
being captured; or
“(B) circumstances in which a reasonable person would believe that a private area of the individual would not be visible to the public, regardless of whether that person is in a public or private place.

“(c) EXCLUSION.—This section does not prohibit any lawful law enforcement, correctional, or intelligence activity.

“SUBCHAPTER B—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

§1491. Definitions

“As used in this subchapter—

“(1) the term ‘wire communication’ means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of interstate or foreign commu-
communications or communications affecting interstate or foreign commerce;

“(2) the term ‘oral communication’ means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation, but such term does not include any electronic communication;

“(3) the term ‘intercept’ means the aural or other acquisition of the contents of any wire, electronic, or oral communication through the use of any electronic, mechanical, or other device;

“(4) the term ‘electronic, mechanical, or other device’ means any device or apparatus which can be used to intercept a wire, oral, or electronic communication other than—

“(A) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a provider of wire or electronic communication service in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business or furnished by such subscriber or user for connection to the facilities of such service and used in the
ordinary course of its business; or (ii) being
used by a provider of wire or electronic commu-
nication service in the ordinary course of its
business, or by an investigative or law enforce-
ment officer in the ordinary course of his du-
ties;

“(B) a hearing aid or similar device being
used to correct subnormal hearing to not better
than normal;

“(5) the term ‘Investigative or law enforcement
officer’ means any officer of the United States or of
a State or political subdivision thereof, who is em-
powered by law to conduct investigations of or to
make arrests for offenses enumerated in this chap-
ter, and any attorney authorized by law to prosecute
or participate in the prosecution of such offenses;

“(6) the term ‘contents’, when used with re-
spect to any wire, oral, or electronic communication,
includes any information concerning the substance,
purport, or meaning of that communication;

“(7) the term ‘Judge of competent jurisdiction’
means—

“(A) a judge of a United States district
court or a United States court of appeals; and
“(B) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire, oral, or electronic communications;

“(8) the term ‘communication common carrier’ has the meaning given that term in section 3 of the Communications Act of 1934;

“(9) the term ‘aggrieved person’ means a person who was a party to any intercepted wire, oral, or electronic communication or a person against whom the interception was directed;

“(10) the term ‘electronic communication’ means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

“(A) any wire or oral communication;

“(B) any communication made through a tone-only paging device;

“(C) any communication from a tracking device (as defined in section 3117); or
“(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds;

“(11) the term ‘user’ means any person or entity who—

“(A) uses an electronic communication service; and

“(B) is duly authorized by the provider of such service to engage in such use;

“(12) the term ‘electronic communications system’ means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

“(13) the term ‘electronic communication service’ means any service which provides to users thereof the ability to send or receive wire or electronic communications;

“(14) the term ‘readily accessible to the general public’ means, with respect to a radio communication, that such communication is not—

“(A) scrambled or encrypted;
“(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

“(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

“(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

“(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

“(15) the term ‘electronic storage’ means—

“(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

“(B) any storage of such communication by an electronic communication service for pur-
poses of backup protection of such communication;

“(16) the term ‘aural transfer’ means a transfer containing the human voice at any point between and including the point of origin and the point of reception;

“(17) the term ‘foreign intelligence information’, for purposes of section 3119B(f), means—

“(A) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

“(i) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

“(ii) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

“(iii) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

“(B) information, whether or not concerning a United States person, with respect to
a foreign power or foreign territory that relates to—

“(i) the national defense or the security of the United States; or

“(ii) the conduct of the foreign affairs of the United States;

“(18) the term ‘protected computer’ has the meaning set forth in section 787; and

“(19) the term ‘computer trespasser’—

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

“(B) does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.

§ 1492. Interception and disclosure of wire, oral, or electronic communications prohibited

“(a) OFFENSE.—Except as otherwise specifically provided in this subchapter whoever—
“(1) intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication;

“(2) intentionally uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when—

“(A) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication;

“(B) such device transmits communications by radio, or interferes with the transmission of such communication;

“(C) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce;

“(D) such use or endeavor to use (i) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (ii) obtains or is for the purpose of obtaining information relating to the operations of any
business or other commercial establishment the
operations of which affect interstate or foreign
commerce; or

“(E) such person acts in the District of
Columbia, the Commonwealth of Puerto Rico,
or any territory or possession of the United
States;

“(3) intentionally discloses, or endeavors to dis-
close, to any other person the contents of any wire,
oral, or electronic communication, knowing or having
reason to know that the information was obtained
through the interception of a wire, oral, or electronic
communication in violation of this subsection;

“(4) intentionally uses, or endeavors to use, the
contents of any wire, oral, or electronic communica-
tion, knowing or having reason to know that the in-
formation was obtained through the interception of
a wire, oral, or electronic communication in violation
of this subsection; or

“(5) intentionally discloses, or endeavors to dis-
close, to any other person the contents of any wire,
oral, or electronic communication, intercepted by
means authorized by sections 1492(b)(1)(B),
1492(b)(2)–(3), 1492(b)(5), 3119A, and 3119C—
“(A) knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation;

“(B) having obtained or received the information in connection with a criminal investigation; and

“(C) with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,

shall be punished as provided in subsection (d) or shall be subject to suit as provided in subsection (e).

“(b) EXCLUSIONS.—(1) (A) It shall not be unlawful under this subchapter for an operator of a switchboard, or an officer, employee, or agent of a provider of wire or electronic communication service, whose facilities are used in the transmission of a wire or electronic communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the provider of that service, except that a provider of wire communication service to the public shall not utilize service observing or random monitoring except for mechanical or service quality control checks.
“(B) Notwithstanding any other law, providers of wire or electronic communication service, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire, oral, or electronic communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if such provider, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

“(i) a court order directing such assistance or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978 signed by the authorizing judge, or

“(ii) a certification in writing by a person specified in section 3119C(g) or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required, setting forth the period of time during which the provision of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No provider of wire or electronic communication service, officer, employee, or agent thereof,
or landlord, custodian, or other specified person shall dis- 

close the existence of any interception or surveillance or 
the device used to accomplish the interception or surveil-
lance with respect to which the person has been furnished 
a court order or certification under this subchapter, except 
as may otherwise be required by legal process and then 
only after prior notification to the Attorney General or to 
the principal prosecuting attorney of a State or any polit-
ical subdivision of a State, as may be appropriate. Any 
such disclosure, shall render such person liable for the civil 
damages provided for in section 3119E. No cause of action 
shall lie in any court against any provider of wire or elec-
tronic communication service, its officers, employees, or 
agents, landlord, custodian, or other specified person for 
providing information, facilities, or assistance in accord-
ance with the terms of a court order, statutory authoriza-
tion, or certification under this subchapter.

“(C) If a certification under subparagraph (B)(ii) for 
assistance to obtain foreign intelligence information is 
based on statutory authority, the certification shall iden-
tify the specific statutory provision and shall certify that 
the statutory requirements have been met.

“(2) It shall not be unlawful under this subchapter 
for an officer, employee, or agent of the Federal Commu-

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ment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire or electronic communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

“(3) It shall not be unlawful under this subchapter for a person acting under color of law to intercept a wire, oral, or electronic communication, where such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

“(4) It shall not be unlawful under this subchapter for a person not acting under color of law to intercept a wire, oral, or electronic communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State.

“(5) Notwithstanding any other provision of this title or section 705 or 706 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official
duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

“(6) Nothing in this subchapter, subchapter C or chapter 205B of this title, or section 705 of the Communications Act of 1934, affects the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978. The procedures in this subchapter, subchapter C or chapter 205B of this title, or section 705 of the Communications Act of 1934, and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire, oral, and electronic communications may be conducted.

“(7) It shall not be unlawful under this subchapter or subchapter C for any person—

“(A) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic
communication is readily accessible to the general public;

“(B) to intercept any radio communication which is transmitted—

“(i) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

“(ii) by any governmental, law enforcement, civil defense, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

“(iii) by a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

“(iv) by any marine or aeronautical communications system;

“(C) to engage in any conduct which—

“(i) is prohibited by section 633 of the Communications Act of 1934; or

“(ii) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;
“(D) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment, to the extent necessary to identify the source of such interference; or

“(E) for other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled or encrypted.

“(8) It shall not be unlawful under this subchapter—

“(A) to use a pen register or a trap and trace device (as those terms are defined for the purposes of chapter 206 (relating to pen registers and trap and trace devices)); or

“(B) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service.

“(9) It shall not be unlawful under this subchapter for a person acting under color of law to intercept the wire
or electronic communications of a computer trespasser transmitted to, through, or from the protected computer, if—

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

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

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

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

“(c) CONTENTS IN TRANSMISSION.—(1) Except as provided in paragraph (2) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.
“(2) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

“(A) as otherwise authorized in section 1492(b)(1) or 3119B;

“(B) with the lawful consent of the originator or any addressee or intended recipient of such communication;

“(C) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

“(D) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.

“(d) PUNISHMENT.—(1) Except as provided in paragraph (2) of this subsection or in subsection (e), whoever violates subsection (a) of this section shall be imprisoned not more than five years.

“(2) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted—

“(A) to a broadcasting station for purposes of retransmission to the general public; or
“(B) as an audio subcarrier intended for redistribution to facilities open to the public, but not including data transmissions or telephone calls, is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

“(e) Certain Communications.—(1)(A) If the communication is—

“(i) a private satellite video communication that is not scrambled or encrypted and the conduct in violation of this subchapter is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or

“(ii) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct in violation of this subchapter is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain,

then the person who engages in such conduct shall be subject to suit by the Federal Government in a court of competent jurisdiction.
“(B) In an action under this subsection—

“(i) if the violation of this subchapter is a first
offense for the person under paragraph (1) of sub-
section (d) and such person has not been found lia-
ble in a civil action under section 3119E, the Fed-
eral Government shall be entitled to appropriate in-
junctive relief; and

“(ii) if the violation of this subchapter is a sec-
ond or subsequent offense under paragraph (1) of
subsection (d) or such person has been found liable
in any prior civil action under section 3119E, the
person shall be subject to a mandatory $500 civil
fine.

“(2) The court may use any means within its author-
ity to enforce an injunction issued under paragraph
(1)(B)(i), and shall impose a civil fine of not less than
$500 for each violation of such an injunction.

“§ 1493. Manufacture, distribution, possession, and
advertising of wire, oral, or electronic
communication intercepting devices pro-
hibited

“(a) OFFENSE.—Except as otherwise specifically pro-
vided in this subchapter, whoever intentionally—

“(1) sends through the mail, or sends or carries
in interstate or foreign commerce, any electronic,
mechanical, or other device, knowing or having rea-
son to know that the design of such device renders
it primarily useful for the purpose of the surrep-
titious interception of wire, oral, or electronic com-
munications;

“(2) manufactures, assembles, possesses, or
sells any electronic, mechanical, or other device,
knowing or having reason to know that the design
of such device renders it primarily useful for the
purpose of the surreptitious interception of wire,
oral, or electronic communications, and that such
device or any component thereof has been or will be
sent through the mail or transported in interstate or
foreign commerce; or

“(3) places in any newspaper, magazine, hand-
bill, or other publication or disseminates by elec-
tronic means any advertisement of—

“(A) any electronic, mechanical, or other
device knowing or having reason to know that
the design of such device renders it primarily
useful for the purpose of the surreptitious inter-
ception of wire, oral, or electronic communica-
tions; or

“(B) any other electronic, mechanical, or
other device, where such advertisement pro-
motes the use of such device for the purpose of
the surreptitious interception of wire, oral, or
electronic communications,
knowing the content of the advertisement and know-
ing or having reason to know that such advertise-
ment will be sent through the mail or transported in
interstate or foreign commerce,
shall be imprisoned for not more than five years.

“(b) EXCLUSION.—It shall not be unlawful under this
section for—

“(1) a provider of wire or electronic commu-
nication service or an officer, agent, or employee of,
or a person under contract with, such a provider, in
the normal course of the business of providing that
wire or electronic communication service, or

“(2) an officer, agent, or employee of, or a per-
son under contract with, the United States, a State,
or a political subdivision thereof, in the normal
course of the activities of the United States, a State,
or a political subdivision thereof,
to send through the mail, send or carry in interstate or
foreign commerce, or manufacture, assemble, possess, or
sell any electronic, mechanical, or other device knowing
or having reason to know that the design of such device
renders it primarily useful for the purpose of the surrep-
titious interception of wire, oral, or electronic communications.

“(c) ADDITIONAL EXCLUSION.—It shall not be unlawful under this section to advertise for sale a device described in subsection (a) of this section if the advertisement is mailed, sent, or carried in interstate or foreign commerce solely to a domestic provider of wire or electronic communication service or to an agency of the United States, a State, or a political subdivision thereof which is duly authorized to use such device.

“§1494. Confiscation of wire, oral, or electronic communication intercepting devices

“Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 1492 or section 1493 may be seized and forfeited to the United States. All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19 of the United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, apply to seizures and forfeit-
ures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of electronic, mechanical, or other intercepting devices under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

``SUBCHAPTER C—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

``Sec.
``1521. Unlawful access to stored communications.

``§ 1521. Unlawful access to stored communications

``(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

``(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

``(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in elec-
tronic storage in such system shall be punished as pro-
vided in subsection (b) of this section.

“(b) PUNISHMENT.—The punishment for an offense
under subsection (a) of this section is—

“(1) if the offense is committed for purposes of
commercial advantage, malicious destruction or dam-
age, or private commercial gain, or in furtherance of
any criminal or tortious act in violation of the Con-
stitution or laws of the United States or any State—

“(A) a fine under this title or imprison-
ment for not more than 5 years, or both, in the
case of a first offense under this subparagraph; and

“(B) a fine under this title or imprison-
ment for not more than 10 years, or both, for
any subsequent offense under this subpara-
graph; and

“(2) in any other case—

“(A) a fine under this title or imprison-
ment for not more than 1 year or both, in the
case of a first offense under this paragraph; and

“(B) a fine under this title or imprison-
ment for not more than 5 years, or both, in the
case of an offense under this subparagraph that
occurs after a conviction of another offense under this section.

“(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

“(1) by the person or entity providing a wire or electronic communications service;

“(2) by a user of that service with respect to a communication of or intended for that user; or

“(3) in section 3120A, 3120B, or 3119C.

“§ 1522. Definitions

“A term that is defined by chapter 205B has the same meaning when used in this subchapter.

“SUBCHAPTER D—PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS

“1541. Prohibition on release and use of certain personal information from State motor vehicle records.

“1542. Additional unlawful acts.

“1543. Penalties.

“1544. Civil action.

“1545. Definitions.

“§ 1541. Prohibition on release and use of certain personal information from State motor vehicle records

“(a) IN GENERAL.—A State department of motor vehicles, and any officer, employee, or contractor thereof,
shall not knowingly disclose or otherwise make available to any person or entity—

“(1) personal information about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or

“(2) highly restricted personal information about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9), but this paragraph does not in any way affect the use of organ donation information on an individual’s driver’s license or affect the administration of organ donation initiatives in the States.

“(b) PERMISSIBLE USES.—Personal information referred to in subsection (a) shall be disclosed for use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or advisories, performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti Car Theft Act
of 1992, the Automobile Information Disclosure Act, the
Clean Air Act, and chapters 301, 305, and 321–331 of
title 49, and, subject to subsection (a)(2), may be disclosed
as follows:

“(1) For use by any government agency, includ-
ing any court or law enforcement agency, in carrying
out its functions, or any private person or entity act-
ing on behalf of a Federal, State, or local agency in
carrying out its functions.

“(2) For use in connection with matters of
motor vehicle or driver safety and theft; motor vehi-
cle emissions; motor vehicle product alterations, re-
calls, or advisories; performance monitoring of motor
vehicles, motor vehicle parts and dealers; motor vehi-
cle market research activities, including survey re-
search; and removal of non-owner records from the
original owner records of motor vehicle manufactur-
ers.

“(3) For use in the normal course of business
by a legitimate business or its agents, employees, or
contractors, but only—

“(A) to verify the accuracy of personal in-
formation submitted by the individual to the
business or its agents, employees, or contrac-
tors; and
“(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

“(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

“(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals.

“(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting.

“(7) For use in providing notice to the owners of towed or impounded vehicles.
“(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

“(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver’s license that is required under chapter 313 of title 49.

“(10) For use in connection with the operation of private toll transportation facilities.

“(11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.

“(12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

“(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

“(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.
“(c) Resale or Redisclosure.—An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

“(d) Waiver Procedures.—A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, together with a statement to the effect that the in-
formation will not be released unless the individual waives
such individual’s right to privacy under this section.

“(e) Prohibition on Conditions.—No State may
condition or burden in any way the issuance of an individ-
ual’s motor vehicle record to obtain express consent. Noth-
ing in this paragraph shall be construed to prohibit a
State from charging an administrative fee for issuance of
a motor vehicle record.

“§1542. Additional unlawful acts

“(a) Procurement for Unlawful Purpose.—It
shall be unlawful for any person knowingly to obtain or
disclose personal information, from a motor vehicle record,
for any use not permitted under section 1541(b).

“(b) False Representation.—It shall be unlawful
for any person to make false representation to obtain any
personal information from an individual’s motor vehicle
record.

“§1543. Penalties

“(a) Criminal Fine.—Whoever knowingly violates
this subchapter shall be fined under this title.

“(b) Violations by State Department of
Motor Vehicles.—Any State department of motor vehi-
cles that has a policy or practice of substantial noneompli-
ance with this chapter shall be subject to a civil penalty
imposed by the Attorney General of not more than $5,000 a day for each day of substantial noncompliance.

§ 1544. Civil action

(a) Cause of Action.—A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

(b) Remedies.—The court may award—

(1) actual damages, but not less than liquidated damages in the amount of $2,500;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorneys’ fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

§ 1545. Definitions

As used in this subchapter—

(1) the term ‘motor vehicle record’ means any record that pertains to a motor vehicle operator’s permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;
“(2) the term ‘personal information’ means information that identifies an individual, including an individual’s photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status;

“(3) the term ‘highly restricted personal information’ means an individual’s photograph or image, social security number, medical or disability information; and

“(4) the term ‘express consent’ means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106–229.

“SUBCHAPTER E—IDENTITY THEFT

18 “§1551. Obtaining information under false pretenses

“Whoever knowingly obtains information on a consumer from a consumer reporting agency under false pretenses shall be imprisoned for not more than 2 years.
“§ 1552. Unauthorized disclosures by officers or employees

“Any officer or employee of a consumer reporting agency who knowingly provides information concerning an individual from the agency’s files to a person not authorized to receive that information shall be imprisoned for not more than 2 years.

“§ 1553. Definitions for subchapter

“A term defined in the Fair Credit Reporting Act shall have the same meaning when used in this subchapter.

“CHAPTER 50—FORFEITURE

“SUBCHAPTER A—PROPERTY SUBJECT TO FORFEITURE

“Sec. 2501. Forfeitable property.

“As used in this chapter—

“(1) the term ‘forfeitable property’—

“(A) means any property, real or personal, tangible or intangible, that is—

“(i) used or intended to be used to commit or facilitate the offense;
“(ii) constituting, derived from, or traceable to proceeds of the offense; or

“(iii) substitute assets for property described in subparagraph (A) or (B); and

“(B) in the case of a Federal crime of terrorism (as defined in section 273(g)(3)), includes all assets, foreign and domestic—

“(i) of any individual, entity, or organization engaged in planning or perpetrating the act, and all assets, foreign or domestic, affording any person a source of influence over any such entity or organization;

“(ii) acquired or maintained by any person with the intent and for the purpose of supporting, planning, conducting, or concealing the act; or

“(iii) derived from, involved in, or used or intended to be used to commit the act; and

“(2) the term ‘proceeds’ means all property obtained directly or indirectly from the offense.

“SUBCHAPTER B—CIVIL FORFEITURE

2551. Offenses giving rise to civil forfeiture.
2552. Procedure generally.
2553. General rules for civil forfeiture proceedings.
2554. Civil forfeiture of fungible property.
2555. Civil forfeiture of real property.

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§ 2551. Offenses giving rise to civil forfeiture

(a) CRIMINALLY RELATED PROPERTY SUBJECT TO FORFEITURE.—All right, title, and interest in forfeitable property relating to an offense described in subsection (b) shall vest in the United States upon commission of that offense.

(b) OFFENSES GIVING RISE TO CIVIL FORFEITURE.—The following offenses give rise to civil forfeiture under this section:

(1) A violation of section 508, 1451, or 1452.

(2) An offense against a foreign nation, or any property used to facilitate such an offense, if the offense—

(A) involves trafficking in nuclear, chemical, biological, or radiological weapons technology or material, or the manufacture, importation, sale, or distribution of a controlled substance, or any other conduct described in section 1451(c)(7)(B);

(B) would be punishable within the jurisdiction of the foreign nation by death or imprisonment for a term exceeding one year; and

(C) would be punishable under the laws of the United States by imprisonment for a
term exceeding one year, if the conduct constit-
tuting the offense had occurred within the juris-
diction of the United States.

“(3) A violation of section 512, 612, 614, 644,
645, 692–695, 697–702, 712, 716, 773–775, 779,
783, 786, 787, 789, 804, 862, 863, or 1003 or any
offense constituting ‘specified unlawful activity’ (as
defined in section 1451(c)(7)).

“(4) A violation of—

“(A) section 653(a)(1) (relating to theft or
concerning programs receiving Federal funds);

“(B) section 772 (relating to fraud and
false statements);

“(C) section 788 (relating to major fraud
against the United States);

“(D) section 789 (relating to concealment
of assets from conservator or receiver of insured
financial institution);

“(E) section 801 (relating to mail fraud);
or

“(F) section 803 (relating to wire fraud),
if such violation relates to the sale of assets acquired
or held by the Federal Deposit Insurance Corpora-
tion, as conservator or receiver for a financial insti-
tution, or any other conservator for a financial insti-

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tution appointed by the Office of the Comptroller of
the Currency or the National Credit Union Adminis-
tration, as conservator or liquidating agent for a fi-
nancial institution.

“(5) A violation of—

“(A) section 717 (relating to altering or
removing motor vehicle identification numbers);
“(B) section 866 (relating to importing or
exporting stolen motor vehicles);
“(C) section 671 (relating to transporting
stolen motor vehicles in interstate commerce);
or
“(D) section 672 (relating to possessing or
selling a stolen motor vehicle that has moved in
interstate commerce).

“(6) A Federal crime of terrorism (as defined
in section 273(g)(3)).

“(7) Any act of international terrorism (as de-
defined in section 283) against the United States, citi-
zens or residents of the United States, or their prop-
erty, against any international organization as de-
defined in the State Department Basic Authorities Act
of 1956, or against any foreign government.

“(8) A violation of section 280.

“(9) A violation of chapter 17.
“(10) A violation of subchapter D or F of chapter 35.

“(11) A violation of section 221, 222, 223, or 224, or subchapter B of chapter 13.

“(12) A violation of section 318, 505, 951, or 1454.

“(13) A violation of section 675, 676, 677, 678, 679, 680, or subchapter C of chapter 35.

“(c) Application to Other Civil Forfeitures.—Unless otherwise specified, whenever a law of the United States provides for civil forfeiture, this subchapter applies to that forfeiture.

§2552. Procedure generally

“(a) Seizure and Preliminary Matters.—

“(1) Except as provided in section 2555, any property subject to forfeiture to the United States under section 2551 may be seized by the Attorney General and, in the case of property involved in a violation investigated by the Secretary of the Treasury or the United States Postal Service, the property may also be seized by the Secretary of the Treasury or the Postal Service, respectively.

“(2) Seizures under this section shall be made pursuant to a warrant obtained in the same manner as provided for a search warrant under the Federal
Rules of Criminal Procedure, except that a seizure may be made without a warrant if—

“(A) a complaint for forfeiture has been filed in the United States district court and the court issued an arrest warrant in rem pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims;

“(B) there is probable cause to believe that the property is subject to forfeiture and—

“(i) the seizure is made pursuant to a lawful arrest or search; or

“(ii) another exception to the Fourth Amendment warrant requirement would apply; or

“(C) the property was lawfully seized by a State or local law enforcement agency and transferred to a Federal agency.

“(3) Notwithstanding rule 41(a) of the Federal Rules of Criminal Procedure, a seizure warrant may be issued pursuant to this subsection by a judicial officer in any district in which a forfeiture action against the property may be filed under section 1355(b) of title 28, and may be executed in any district in which the property is found, or transmitted to the central authority of any foreign state for serv-
ice in accordance with any treaty or other inter-
national agreement. Any motion for the return of
property seized under this section shall be filed in
the district court in which the seizure warrant was
issued or in the district court for the district in
which the property was seized.

“(4)(A) If any person is arrested or charged in
a foreign country in connection with an offense that
would give rise to the forfeiture of property in the
United States under this section, the Attorney Gen-
eral may apply to any Federal judge or magistrate
judge in the district in which the property is located
for an ex parte order restraining the property sub-
ject to forfeiture for not more than 30 days, except
that the time may be extended for good cause shown
at a hearing conducted in the manner provided in
rule 43(e) of the Federal Rules of Civil Procedure.

“(B) The application for the restraining order
shall set forth the nature and circumstances of the
foreign charges and the basis for belief that the per-
son arrested or charged has property in the United
States that would be subject to forfeiture, and shall
contain a statement that the restraining order is
needed to preserve the availability of property for
such time as is necessary to receive evidence from
the foreign country or elsewhere in support of prob-
able cause for the seizure of the property under this
subsection.

“(b) SECURING OF PROPERTY.—Property taken or
detained under this section shall not be repleviable, but
shall be deemed to be in the custody of the Attorney Gen-
eral, the Secretary of the Treasury, or the Postal Service,
as the case may be, subject only to the orders and decrees
of the court or the official having jurisdiction thereof.

Whenever property is seized under this subsection, the At-
torney General, the Secretary of the Treasury, or the
Postal Service, as the case may be, may—

“(1) place the property under seal;

“(2) remove the property to a place designated
by him; or

“(3) require that the General Services Adminis-
tration take custody of the property and remove it,
if practicable, to an appropriate location for disposi-
tion in accordance with law.

“(c) APPLICATION OF CUSTOMS LAWS.—For pur-
poses of this section, sections 602 through 619 of the Tar-
iff Act of 1930, insofar as they are applicable and not
inconsistent with this section, apply to seizures and for-
feitures incurred, or alleged to have been incurred, under
this section, except that such duties as are imposed upon
the customs officer or any other person with respect to
the seizure and forfeiture of property under the customs
laws shall be performed with respect to seizures and for-
feitures of property under this section by such officers,
agents, or other persons as may be authorized or des-
ignated for that purpose by the Attorney General, the Sec-
retary of the Treasury, or the Postal Service, as the case
may be. The Attorney General shall have sole responsi-
bility for disposing of petitions for remission or mitigation
with respect to property involved in a judicial forfeiture
proceeding.

“(d) RETENTION OR TRANSFER OF FORFEITED
PROPERTY.—Notwithstanding any other provision of the
law, except section 3 of the Anti Drug Abuse Act of 1986,
the Attorney General, the Secretary of the Treasury, or
the Postal Service, as the case may be, is authorized to
retain property forfeited pursuant to this section, or to
transfer such property on such terms and conditions as
the Attorney General may determine—

“(1) to any other Federal agency;

“(2) to any State or local law enforcement
agency which participated directly in any of the acts
which led to the seizure or forfeiture of the property;
“(3) in the case of property referred to in section 2551(b)(1), to any Federal financial institution regulatory agency—

“(A) to reimburse the agency for payments to claimants or creditors of the institution; and

“(B) to reimburse the insurance fund of the agency for losses suffered by the fund as a result of the receivership or liquidation;

“(4) in the case of property referred to in section 2551(b)(1), upon the order of the appropriate Federal financial institution regulatory agency, to the financial institution as restitution, with the value of the property so transferred to be set off against any amount later recovered by the financial institution as compensatory damages in any State or Federal proceeding;

“(5) in the case of property referred to in section 2551(b)(1), to any Federal financial institution regulatory agency, to the extent of the agency’s contribution of resources to, or expenses involved in, the seizure and forfeiture, and the investigation leading directly to the seizure and forfeiture, of such property;

“(6) as restoration to any victim of the offense giving rise to the forfeiture, including, in the case of
a money laundering offense, any offense constituting
the underlying specified unlawful activity; or

“(7) in the case of property referred to in sec-
tion 2551(b)(3), to the Federal Deposit Insurance
Corporation or any other Federal financial institu-
tion regulatory agency (as defined in section
8(e)(7)(D) of the Federal Deposit Insurance Act).

The Attorney General, the Secretary of the Treasury, or
the Postal Service, as the case may be, shall ensure the
equitable transfer pursuant to paragraph (2) of any for-
feited property to the appropriate State or local law en-
forcement agency so as to reflect generally the contribu-
tion of any such agency participating directly in any of
the acts which led to the seizure or forfeiture of such prop-
erty. A decision by the Attorney General, the Secretary
of the Treasury, or the Postal Service pursuant to para-
graph (2) shall not be subject to review. The United States
shall not be liable in any action arising out of the use of
any property the custody of which was transferred pursu-
ant to this section to any non-Federal agency. The Attor-
ney General, the Secretary of the Treasury, or the Postal
Service may order the discontinuance of any forfeiture
proceedings under this section in favor of the institution
of forfeiture proceedings by State or local authorities
under an appropriate State or local statute. After the fil-
ing of a complaint for forfeiture under this section, the
Attorney General may seek dismissal of the complaint in
favor of forfeiture proceedings under State or local law.
Whenever forfeiture proceedings are discontinued by the
United States in favor of State or local proceedings, the
United States may transfer custody and possession of the
seized property to the appropriate State or local official
immediately upon the initiation of the proper actions by
such officials. Whenever forfeiture proceedings are discon-
tinued by the United States in favor of State or local pro-
ceedings, notice shall be sent to all known interested par-
ties advising them of the discontinuance or dismissal. The
United States shall not be liable in any action arising out
of the seizure, detention, and transfer of seized property
to State or local officials. The United States shall not be
liable in any action arising out of a transfer under para-
graph (3), (4), or (5) of this subsection.

“(e) STAYS.—

“(1) Upon the motion of the United States, the
court shall stay the civil forfeiture proceeding if the
court determines that civil discovery will adversely
affect the ability of the Government to conduct a re-
lated criminal investigation or the prosecution of a
related criminal case.
“(2) Upon the motion of a claimant, the court shall stay the civil forfeiture proceeding with respect to that claimant if the court determines that—

“(A) the claimant is the subject of a related criminal investigation or case;

“(B) the claimant has standing to assert a claim in the civil forfeiture proceeding; and

“(C) continuation of the forfeiture proceeding will burden the right of the claimant against self-incrimination in the related investigation or case.

“(3) With respect to the impact of civil discovery described in paragraphs (1) and (2), the court may determine that a stay is unnecessary if a protective order limiting discovery would protect the interest of one party without unfairly limiting the ability of the opposing party to pursue the civil case. In no case, however, shall the court impose a protective order as an alternative to a stay if the effect of such protective order would be to allow one party to pursue discovery while the other party is substantially unable to do so.

“(4) In this subsection, the terms ‘related criminal case’ and ‘related criminal investigation’ mean an actual prosecution or investigation in
progress at the time at which the request for the
stay, or any subsequent motion to lift the stay is
made. In determining whether a criminal case or in-
vestigation is ‘related’ to a civil forfeiture pro-
ceeding, the court shall consider the degree of simi-
larity between the parties, witnesses, facts, and cir-
cumstances involved in the two proceedings, without
requiring an identity with respect to any one or
more factors.

“(5) In requesting a stay under paragraph (1),
the Government may, in appropriate cases, submit
evidence ex parte in order to avoid disclosing any
matter that may adversely affect an ongoing crimi-
nal investigation or pending criminal trial.

“(6) Whenever a civil forfeiture proceeding is
stayed pursuant to this subsection, the court shall
enter any order necessary to preserve the value of
the property or to protect the rights of lienholders
or other persons with an interest in the property
while the stay is in effect.

“(7) A determination by the court that the
claimant has standing to request a stay pursuant to
paragraph (2) applies only to this subsection and
does not preclude the Government from objecting to
the standing of the claimant by dispositive motion or
at the time of trial.

“(f) VENUE.—In addition to the venue provided for
in section 1395 of title 28 or any other provision of law,
in the case of property of a defendant charged with a viola-
tion that is the basis for forfeiture of the property under
this section, a proceeding for forfeiture under this section
may be brought in the judicial district in which the defend-
ant owning such property is found or in the judicial dis-
trict in which the criminal prosecution is brought.

“(g) DISPOSITION.—

“(1) Whenever property is forfeited under this
subchapter, the Attorney General or the Secretary of
the Treasury, as the case may be, may transfer the
forfeited personal property or the proceeds of the
sale of any forfeited personal or real property to any
foreign country which participated directly or indi-
rectly in the seizure or forfeiture of the property, if
such a transfer—

“(A) has been agreed to by the Secretary
of State;

“(B) is authorized in an international
agreement between the United States and the
foreign country; and
“(C) is made to a country which, if applicable, has been certified under section 490(a)(1) of the Foreign Assistance Act of 1961.

A decision by the Attorney General or the Secretary of the Treasury pursuant to this paragraph shall not be subject to review. The foreign country shall, in the event of a transfer of property or proceeds of sale of property under this subsection, bear all expenses incurred by the United States in the seizure, maintenance, inventory, storage, forfeiture, and disposition of the property, and all transfer costs. The payment of all such expenses, and the transfer of assets pursuant to this paragraph, shall be upon such terms and conditions as the Attorney General or the Secretary of the Treasury may, in his discretion, set.

“(2) This section does not limit or supersede any other authority of the United States to provide assistance to a foreign country in obtaining property related to a crime committed in the foreign country, including property which is sought as evidence of a crime committed in the foreign country.

“(3) A certified order or judgment of forfeiture by a court of competent jurisdiction of a foreign country concerning property which is the subject of
forfeiture under this section and was determined by
such court to be the type of property described in
section 2551(b)(2), and any certified recordings or
transcripts of testimony taken in a foreign judicial
proceeding concerning such order or judgment of
forfeiture, shall be admissible in evidence in a pro-
ceeding brought pursuant to this section. Such cer-
tified order or judgment of forfeiture, when admitted
into evidence, shall constitute probable cause that
the property forfeited by such order or judgment of
forfeiture is subject to forfeiture under this section
and creates a rebuttable presumption of the forfeit-
ability of such property under this section.

“(4) A certified order or judgment of conviction
by a court of competent jurisdiction of a foreign
country concerning an unlawful drug activity which
gives rise to forfeiture under this section and any
certified recordings or transcripts of testimony taken
in a foreign judicial proceeding concerning such
order or judgment of conviction shall be admissible
in evidence in a proceeding brought pursuant to this
section. Such certified order or judgment of convic-
tion, when admitted into evidence, creates a rebutta-
ble presumption that the unlawful drug activity giv-
ing rise to forfeiture under this section has occurred.
“(5) Paragraphs (3) and (4) do not limit the admissibility of any evidence otherwise admissible, or the ability of the United States to establish probable cause that property is subject to forfeiture by any evidence otherwise admissible.

“(h) DEFINITIONS.—As used in this section—

“(1) the term ‘Attorney General’ means the Attorney General or his delegate; and

“(2) the term ‘Secretary of the Treasury’ means the Secretary of the Treasury or his delegate.

“(i) INTERBANK ACCOUNTS.—

“(1) IN GENERAL.—

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

“(B) AUTHORITY TO SUSPEND.—The Attorney General, in consultation with the Secretary of the Treasury, may suspend or terminate a forfeiture under this section if the Attorney General determines that a conflict of law exists between the laws of the jurisdiction in which the foreign financial institution is located and the laws of the United States with respect to liabilities arising from the restraint, seizure, or arrest of such funds, and that such suspension or termination would be in the interest of justice and would not harm the national interests of the United States.

“(2) NO REQUIREMENT FOR GOVERNMENT TO TRACE FUNDS.—If a forfeiture action is brought against funds that are restrained, seized, or arrested under paragraph (1), it shall not be necessary for the Government to establish that the funds are directly traceable to the funds that were deposited into the foreign financial institution, nor shall it be necessary for the Government to rely on the application of section 2554.
“(3) Claims brought by owner of the funds.—If a forfeiture action is instituted against funds restrained, seized, or arrested under paragraph (1), the owner of the funds deposited into the account at the foreign financial institution may contest the forfeiture by filing a claim under section 2553.

“(4) Definitions.—For purposes of this subsection, the following definitions apply:

“(A) Interbank account.—The term ‘interbank account’ has the same meaning as in section 2554(c)(2)(B).

“(B) Owner.—

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

“(I) means the person who was the owner, as that term is defined in section 2553(d)(6), of the funds that were deposited into the foreign financial institution at the time such funds were deposited; and

“(II) does not include either the foreign financial institution or any financial institution acting as an inter-
mediary in the transfer of the funds into the interbank account.

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

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

“(II) the foreign financial institution establishes, by a preponderance of the evidence, that prior to the restraint, seizure, or arrest of the funds, the foreign financial institution had discharged all or part of its obligation to the prior owner of the funds, in which case the foreign financial institution shall be deemed the owner of the funds to the extent of such discharged obligation.

“(C) FOREIGN FINANCIAL INSTITUTION.—

The term ‘foreign financial institution’ includes a foreign bank as defined in section 1(b)(7) of the International Banking Act of 1978.
§ 2553. General rules for civil forfeiture proceedings

“(a) NOTICE; CLAIM; COMPLAINT.—

“(1)(A)(i) Except as provided in clauses (ii) through (v), in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute, with respect to which the Government is required to send written notice to interested parties, such notice shall be sent in a manner to achieve proper notice as soon as practicable, and in no case more than 60 days after the date of the seizure.

“(ii) No notice is required if, before the 60-day period expires, the Government files a civil judicial forfeiture action against the property and provides notice of that action as required by law.

“(iii) If, before the 60-day period expires, the Government does not file a civil judicial forfeiture action, but does obtain a criminal indictment containing an allegation that the property is subject to forfeiture, the Government shall either—

“(I) send notice within the 60 days and continue the nonjudicial civil forfeiture proceeding under this section; or

“(II) terminate the nonjudicial civil forfeiture proceeding, and take the steps necessary to preserve its right to maintain custody of the
property as provided in the applicable criminal forfeiture statute.

“(iv) In a case in which the property is seized by a State or local law enforcement agency and turned over to a Federal law enforcement agency for the purpose of forfeiture under Federal law, notice shall be sent not more than 90 days after the date of seizure by the State or local law enforcement agency.

“(v) If the identity or interest of a party is not determined until after the seizure or turnover but is determined before a declaration of forfeiture is entered, notice shall be sent to such interested party not later than 60 days after the determination by the Government of the identity of the party or the party’s interest.

“(B) A supervisory official in the headquarters office of the seizing agency may extend the period for sending notice under subparagraph (A) for a period not to exceed 30 days (which period may not be further extended except by a court), if the official determines that the conditions in subparagraph (D) are present.

“(C) Upon motion by the Government, a court may extend the period for sending notice under sub-
paragraph (A) for a period not to exceed 60 days, which period may be further extended by the court for 60-day periods, as necessary, if the court determines, based on a written certification of a supervisory official in the headquarters office of the seizing agency, that the conditions in subparagraph (D) are present.

“(D) The period for sending notice under this paragraph may be extended only if there is reason to believe that notice may have an adverse result, including—

“(i) endangering the life or physical safety of an individual;

“(ii) flight from prosecution;

“(iii) destruction of or tampering with evidence;

“(iv) intimidation of potential witnesses; or

“(v) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

“(E) Each of the Federal seizing agencies conducting nonjudicial forfeitures under this section shall report periodically to the Committees on the Judiciary of the House of Representatives and the Senate the number of occasions when an extension of time is granted under subparagraph (B).
“(F) If the Government does not send notice of
a seizure of property in accordance with subpara-
graph (A) to the person from whom the property
was seized, and no extension of time is granted, the
Government shall return the property to that person
without prejudice to the right of the Government to
commence a forfeiture proceeding at a later time.
The Government shall not be required to return con-
traband or other property that the person from
whom the property was seized may not legally pos-
sess.

“(2)(A) Any person claiming property seized in
a nonjudicial civil forfeiture proceeding under a civil
forfeiture statute may file a claim with the appro-
priate official after the seizure.

“(B) A claim under subparagraph (A) may be
filed not later than the deadline set forth in a per-
sonal notice letter (which deadline may be not earlier
than 35 days after the date the letter is mailed), ex-
cept that if that letter is not received, then a claim
may be filed not later than 30 days after the date
of final publication of notice of seizure.

“(C) A claim shall—

“(i) identify the specific property being
claimed;
“(ii) state the claimant’s interest in such property; and

“(iii) be made under oath, subject to penalty of perjury.

“(D) A claim need not be made in any particular form. Each Federal agency conducting non-judicial forfeitures under this section shall make claim forms generally available on request, which forms shall be written in easily understandable language.

“(E) Any person may make a claim under subparagraph (A) without posting bond with respect to the property which is the subject of the claim.

“(3)(A) Not later than 90 days after a claim has been filed, the Government shall file a complaint for forfeiture in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims or return the property pending the filing of a complaint, except that a court in the district in which the complaint will be filed may extend the period for filing a complaint for good cause shown or upon agreement of the parties.

“(B) If the Government does not—
“(i) file a complaint for forfeiture or return the property, in accordance with subparagraph (A); or

“(ii) before the time for filing a complaint has expired—

“(I) obtain a criminal indictment containing an allegation that the property is subject to forfeiture; and

“(II) take the steps necessary to preserve its right to maintain custody of the property as provided in the applicable criminal forfeiture statute,

the Government shall promptly release the property pursuant to regulations promulgated by the Attorney General, and may not take any further action to effect the civil forfeiture of such property in connection with the underlying offense.

“(C) In lieu of, or in addition to, filing a civil forfeiture complaint, the Government may include a forfeiture allegation in a criminal indictment. If criminal forfeiture is the only forfeiture proceeding commenced by the Government, the Government’s right to continued possession of the property shall be governed by the applicable criminal forfeiture statute.
“(D) No complaint may be dismissed on the ground that the Government did not have adequate evidence at the time the complaint was filed to establish the forfeitability of the property.

“(4)(A) In any case in which the Government files in the appropriate United States district court a complaint for forfeiture of property, any person claiming an interest in the seized property may file a claim asserting such person’s interest in the property in the manner set forth in the Supplemental Rules for Certain Admiralty and Maritime Claims, except that such claim may be filed not later than 30 days after the date of service of the Government’s complaint or, as applicable, not later than 30 days after the date of final publication of notice of the filing of the complaint.

“(B) A person asserting an interest in seized property, in accordance with subparagraph (A), shall file an answer to the Government’s complaint for forfeiture not later than 20 days after the date of the filing of the claim.

“(b) REPRESENTATION.—

“(1)(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is finan-
cially unable to obtain representation by counsel, and the person is represented by counsel appointed under section 3006A in connection with a related criminal case, the court may authorize counsel to represent that person with respect to the claim.

“(B) In determining whether to authorize counsel to represent a person under subparagraph (A), the court shall take into account such factors as—

“(i) the person’s standing to contest the forfeiture; and

“(ii) whether the claim appears to be made in good faith.

“(2)(A) If a person with standing to contest the forfeiture of property in a judicial civil forfeiture proceeding under a civil forfeiture statute is financially unable to obtain representation by counsel, and the property subject to forfeiture is real property that is being used by the person as a primary residence, the court, at the request of the person, shall insure that the person is represented by an attorney for the Legal Services Corporation with respect to the claim.

“(B)(i) At appropriate times during a representation under subparagraph (A), the Legal Services
Corporation shall submit a statement of reasonable attorney fees and costs to the court.

“(ii) The court shall enter a judgment in favor of the Legal Services Corporation for reasonable attorney fees and costs submitted pursuant to clause (i) and treat such judgment as payable under section 2465 of title 28, regardless of the outcome of the case.

“(3) The court shall set the compensation for representation under this subsection, which shall be equivalent to that provided for court-appointed representation under section 3006A.

“(c) Burden of Proof.—In a suit or action brought under any civil forfeiture statute for the civil forfeiture of any property—

“(1) the burden of proof is on the Government to establish, by a preponderance of the evidence, that the property is subject to forfeiture;

“(2) the Government may use evidence gathered after the filing of a complaint for forfeiture to establish, by a preponderance of the evidence, that property is subject to forfeiture; and

“(3) if the Government’s theory of forfeiture is that the property was used to commit or facilitate the commission of a criminal offense, or was in-
volved in the commission of a criminal offense, the
Government shall establish that there was a substan-
tial connection between the property and the offense.
“(d) INNOCENT OWNER DEFENSE.—
“(1) An innocent owner’s interest in property
shall not be forfeited under any civil forfeiture stat-
ute. The claimant shall have the burden of proving
that the claimant is an innocent owner by a prepon-
derance of the evidence.
“(2)(A) With respect to a property interest in
existence at the time the illegal conduct giving rise
to forfeiture took place, the term ‘innocent owner’
means an owner who—
“(i) did not know of the conduct giving
rise to forfeiture; or
“(ii) upon learning of the conduct giving
rise to the forfeiture, did all that reasonably
could be expected under the circumstances to
terminate such use of the property.
“(B)(i) For the purposes of this paragraph,
ways in which a person may show that such person
did all that reasonably could be expected may in-
clude demonstrating that such person, to the extent
permitted by law—
“(I) gave timely notice to an appropriate law enforcement agency of information that led the person to know the conduct giving rise to a forfeiture would occur or has occurred; and

“(II) in a timely fashion revoked or made a good faith attempt to revoke permission for those engaging in such conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

“(ii) A person is not required by this subparagraph to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

“(3)(A) With respect to a property interest acquired after the conduct giving rise to the forfeiture has taken place, the term ‘innocent owner’ means a person who, at the time that person acquired the interest in the property—

“(i) was a bona fide purchaser or seller for value (including a purchaser or seller of goods or services for value); and
“(ii) did not know and was reasonably without cause to believe that the property was subject to forfeiture.

“(B) An otherwise valid claim under subparagraph (A) shall not be denied on the ground that the claimant gave nothing of value in exchange for the property if—

“(i) the property is the primary residence of the claimant;

“(ii) depriving the claimant of the property would deprive the claimant of the means to maintain reasonable shelter in the community for the claimant and all dependents residing with the claimant;

“(iii) the property is not, and is not traceable to, the proceeds of any criminal offense; and

“(iv) the claimant acquired his or her interest in the property through marriage, divorce, or legal separation, or the claimant was the spouse or legal dependent of a person whose death resulted in the transfer of the property to the claimant through inheritance or probate, except that the court shall limit the value of any real property interest for which innocent ownership is
recognized under this subparagraph to the value nec-
essary to maintain reasonable shelter in the commu-
nity for such claimant and all dependents residing
with the claimant.

“(4) Notwithstanding any provision of this sub-
section, no person may assert an ownership interest
under this subsection in contraband or other prop-
erty that it is illegal to possess.

“(5) If the court determines, in accordance with
this section, that an innocent owner has a partial in-
terest in property otherwise subject to forfeiture, or
a joint tenancy or tenancy by the entirety in such
property, the court may enter an appropriate
order—

“(A) severing the property;

“(B) transferring the property to the Gov-
ernment with a provision that the Government
compensate the innocent owner to the extent of
his or her ownership interest once a final order
of forfeiture has been entered and the property
has been reduced to liquid assets; or

“(C) permitting the innocent owner to re-
tain the property subject to a lien in favor of
the Government to the extent of the forfeitable
interest in the property.
“(6) In this subsection, the term ‘owner’—

“(A) means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security interest, or valid assignment of an ownership interest; and

“(B) does not include—

“(i) a person with only a general unsecured interest in, or claim against, the property or estate of another;

“(ii) a bailee unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized; or

“(iii) a nominee who exercises no dominion or control over the property.

“(e) MOTION TO SET ASIDE FORFEITURE.—

“(1) Any person entitled to written notice in any nonjudicial civil forfeiture proceeding under a civil forfeiture statute who does not receive such notice may file a motion to set aside a declaration of forfeiture with respect to that person’s interest in the property, which motion shall be granted if—

“(A) the Government knew, or reasonably should have known, of the moving party’s inter-
est and failed to take reasonable steps to pro-
vide such party with notice; and

“(B) the moving party did not know or
have reason to know of the seizure within suffi-
cient time to file a timely claim.

“(2)(A) Notwithstanding the expiration of any
applicable statute of limitations, if the court grants
a motion under paragraph (1), the court shall set
aside the declaration of forfeiture as to the interest
of the moving party without prejudice to the right
of the Government to commence a subsequent for-
feiture proceeding as to the interest of the moving
party.

“(B) Any proceeding described in subparagraph
(A) shall be commenced—

“(i) if nonjudicial, within 60 days of the
entry of the order granting the motion; or

“(ii) if judicial, within 6 months of the
entry of the order granting the motion.

“(3) A motion under paragraph (1) may be
filed not later than 5 years after the date of final
publication of notice of seizure of the property.

“(4) If, at the time a motion made under para-
graph (1) is granted, the forfeited property has been
disposed of by the Government in accordance with
law, the Government may institute proceedings against a substitute sum of money equal to the value of the moving party’s interest in the property at the time the property was disposed of.

“(5) A motion filed under this subsection shall be the exclusive remedy for seeking to set aside a declaration of forfeiture under a civil forfeiture statute.

“(f) RELEASE OF SEIZED PROPERTY.—

“(1) A claimant under subsection (a) is entitled to immediate release of seized property if—

“(A) the claimant has a possessory interest in the property;

“(B) the claimant has sufficient ties to the community to provide assurance that the property will be available at the time of the trial;

“(C) the continued possession by the Government pending the final disposition of forfeiture proceedings will cause substantial hardship to the claimant, such as preventing the functioning of a business, preventing an individual from working, or leaving an individual homeless;

“(D) the claimant’s likely hardship from the continued possession by the Government of
the seized property outweighs the risk that the
property will be destroyed, damaged, lost, con-
cealed, or transferred if it is returned to the
claimant during the pendency of the proceeding;
and
“(E) none of the conditions set forth in
paragraph (8) applies.
“(2) A claimant seeking release of property
under this subsection must request possession of the
property from the appropriate official, and the re-
quest must set forth the basis on which the require-
ments of paragraph (1) are met.
“(3)(A) If not later than 15 days after the date
of a request under paragraph (2) the property has
not been released, the claimant may file a petition
in the district court in which the complaint has been
filed or, if no complaint has been filed, in the dis-
trict court in which the seizure warrant was issued
or in the district court for the district in which the
property was seized.
“(B) The petition described in subparagraph
(A) shall set forth—
“(i) the basis on which the requirements of
paragraph (1) are met; and
“(ii) the steps the claimant has taken to secure release of the property from the appropriate official.

“(4) If the Government establishes that the claimant’s claim is frivolous, the court shall deny the petition. In responding to a petition under this subsection on other grounds, the Government may in appropriate cases submit evidence ex parte in order to avoid disclosing any matter that may adversely affect an ongoing criminal investigation or pending criminal trial.

“(5) The court shall render a decision on a petition filed under paragraph (3) not later than 30 days after the date of the filing, unless such 30-day limitation is extended by consent of the parties or by the court for good cause shown.

“(6) If—

“(A) a petition is filed under paragraph (3); and

“(B) the claimant demonstrates that the requirements of paragraph (1) have been met, the district court shall order that the property be returned to the claimant, pending completion of proceedings by the Government to obtain forfeiture of the property.
“(7) If the court grants a petition under paragraph (3)—

“(A) the court may enter any order necessary to ensure that the value of the property is maintained while the forfeiture action is pending, including—

“(i) permitting the inspection, photographing, and inventory of the property;

“(ii) fixing a bond in accordance with rule E(5) of the Supplemental Rules for Certain Admiralty and Maritime Claims; and

“(iii) requiring the claimant to obtain or maintain insurance on the subject property; and

“(B) the Government may place a lien against the property or file a lis pendens to ensure that the property is not transferred to another person.

“(8) This subsection does not apply if the seized property—

“(A) is contraband, currency, or other monetary instrument, or electronic funds unless such currency or other monetary instrument or
electronic funds constitutes the assets of a legitimate business which has been seized;

“(B) is to be used as evidence of a violation of the law;

“(C) by reason of design or other characteristic, is particularly suited for use in illegal activities; or

“(D) is likely to be used to commit additional criminal acts if returned to the claimant.

“(g) PROPORTIONALITY.—

“(1) The claimant under subsection (a)(4) may petition the court to determine whether the forfeiture was constitutionally excessive.

“(2) In making this determination, the court shall compare the forfeiture to the gravity of the offense giving rise to the forfeiture.

“(3) The claimant shall have the burden of establishing that the forfeiture is grossly disproportional by a preponderance of the evidence at a hearing conducted by the court without a jury.

“(4) If the court finds that the forfeiture is grossly disproportional to the offense it shall reduce or eliminate the forfeiture as necessary to avoid a violation of the Excessive Fines Clause of the Eighth Amendment of the Constitution.
“(h) Civil Fine.—

“(1) In any civil forfeiture proceeding under a civil forfeiture statute in which the Government prevails, if the court finds that the claimant’s assertion of an interest in the property was frivolous, the court may impose a civil fine on the claimant of an amount equal to 10 percent of the value of the forfeited property, but in no event shall the fine be less than $250 or greater than $5,000.

“(2) Any civil fine imposed under this subsection shall not preclude the court from imposing sanctions under rule 11 of the Federal Rules of Civil Procedure.

“(3) In addition to the limitations of section 1915 of title 28, in no event shall a prisoner file a claim under a civil forfeiture statute or appeal a judgment in a civil action or proceeding based on a civil forfeiture statute if the prisoner has, on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous or malicious, unless the prisoner shows extraordinary and exceptional circumstances.
“(i) Civil Forfeiture Statute Defined.—In this section, the term ‘civil forfeiture statute’—

“(1) means any provision of Federal law providing for the forfeiture of property other than as a sentence imposed upon conviction of a criminal offense; and

“(2) does not include—

“(A) the Tariff Act of 1930 or any other provision of law codified in title 19;

“(B) the Internal Revenue Code of 1986;

“(C) the Federal Food, Drug, and Cosmetic Act;

“(D) the Trading with the Enemy Act or the International Emergency Economic Powers Act (IEEPA); or


“(j) Restraining Orders; Protective Orders.—

“(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of satisfactory performance bonds, create receiverships, appoint conservators, custodians, appraisers, accountants, or trustees, or take any other action to seize, secure, maintain, or
preserve the availability of property subject to civil forfeiture—

“(A) upon the filing of a civil forfeiture complaint alleging that the property with respect to which the order is sought is subject to civil forfeiture; or

“(B) prior to the filing of such a complaint, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

“(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

“(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

“(2) An order entered pursuant to paragraph (1)(B) shall be effective for not more than 90 days,
unless extended by the court for good cause shown, or unless a complaint described in paragraph (1)(A) has been filed.

“(3) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when a complaint has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought is subject to civil forfeiture and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 14 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

“(4) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.
§ 2554. Civil forfeiture of fungible property

(a) GENERALLY.—

(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution or precious metals—

(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

(2) Except as provided in subsection (b), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

(b) LIMITATION.—No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

(c) EXCEPTION.—

(1) Subsection (a) does not apply to an action against funds held by a financial institution in an interbank account unless the account holder know-
ingly engaged in the offense that is the basis for the forfeiture.

“(2) In this subsection—

“(A) the term ‘financial institution’ includes a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978); and

“(B) the term ‘interbank account’ means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.

“(d) DISCLAIMER.—Nothing in this section limits the ability of the Government to forfeit property under any provision of law if the property involved in the offense giving rise to the forfeiture or property traceable thereto is available for forfeiture.

“§ 2555. Civil forfeiture of real property

“(a) JUDICIAL FORFEITURES.—Notwithstanding any other provision of law, all civil forfeitures of real property and interests in real property shall proceed as judicial forfeitures.

“(b) PRELIMINARY MATTERS.—

“(1) Except as provided in this section—
“(A) real property that is the subject of a civil forfeiture action shall not be seized before entry of an order of forfeiture; and

“(B) the owners or occupants of the real property shall not be evicted from, or otherwise deprived of the use and enjoyment of, real property that is the subject of a pending forfeiture action.

“(2) The filing of a lis pendens and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection.

“(c) INITIATION.—

“(1) The Government shall initiate a civil forfeiture action against real property by—

“(A) filing a complaint for forfeiture;

“(B) posting a notice of the complaint on the property; and

“(C) serving notice on the property owner, along with a copy of the complaint.

“(2) If the property owner cannot be served with the notice under paragraph (1) because the owner—

“(A) is a fugitive;
“(B) resides outside the United States and efforts at service pursuant to rule 4 of the Federal Rules of Civil Procedure are unavailing; or

“(C) cannot be located despite the exercise of due diligence,

constructive service may be made in accordance with the laws of the State in which the property is located.

“(3) If real property has been posted in accordance with this subsection, it shall not be necessary for the court to issue an arrest warrant in rem, or to take any other action to establish in rem jurisdiction over the property.

“(d) SEIZURE PRIOR TO ENTRY OF ORDER.—

“(1) Real property may be seized prior to the entry of an order of forfeiture if—

“(A) the Government notifies the court that it intends to seize the property before trial; and

“(B) the court—

“(i) issues a notice of application for warrant, causes the notice to be served on the property owner and posted on the property, and conducts a hearing in which
the property owner has a meaningful opportuni-
ty to be heard; or

“(ii) makes an ex parte determination
that there is probable cause for the forfeiture and that there are exigent cir-
cumstances that permit the Government to seize the property without prior notice and an opportunity for the property owner to be heard.

“(2) For purposes of paragraph (1)(B)(ii), to establish exigent circumstances, the Government shall show that less restrictive measures such as a lis pendens, restraining order, or bond would not suffice to protect the Government’s interests in preventing the sale, destruction, or continued unlawful use of the real property.

“(e) POST-SEIZURE HEARING.—If the court authorizes a seizure of real property under subsection (d)(1)(B)(ii), it shall conduct a prompt post-seizure hearing during which the property owner shall have an opportunity to contest the basis for the seizure.

“(f) APPLICATION.—This section—

“(1) applies only to civil forfeitures of real property and interests in real property;
“(2) does not apply to forfeitures of the proceeds of the sale of such property or interests, or of money or other assets intended to be used to acquire such property or interests; and

“(3) shall not affect the authority of the court to enter a restraining order relating to real property.

“§ 2556. Subpoenas for bank records

“(a) In general.—At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1451, 1452, and 508 of this title, section 5322 or 5324 of title 31, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 2555 shall apply to subpoenas issued under this section.

“(b) Service.—Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the
subpoena and the custodian of records. The party request-
ing the subpoena may require the custodian of records to
submit an affidavit certifying the authenticity and com-
pleteness of the records and explaining the omission of any
record called for in the subpoena.

“(c) DISCOVERY.—Nothing in this section precludes
any party from pursuing any form of discovery pursuant
to the Federal Rules of Civil Procedure.

“(d) ACCESS TO RECORDS IN BANK SECRECY JURIS-
DICTIONS.—

“(1) IN GENERAL.—In any civil forfeiture case,
or in any ancillary proceeding in any criminal for-
feiture case involving a violation of Chapter 17 pun-
ishable by imprisonment by more than one year, in
which—

“(A) financial records located in a foreign
country may be material—

“(i) to any claim or to the ability of
the Government to respond to such claim;
or

“(ii) in a civil forfeiture case, to the
ability of the Government to establish the
forfeitability of the property; and

“(B) it is within the capacity of the claim-
ant to waive the claimant’s rights under appli-
cable financial secrecy laws, or to obtain the
records so that such records can be made avail-
able notwithstanding such secrecy laws,
the refusal of the claimant to provide the records in
response to a discovery request or to take the action
necessary otherwise to make the records available
shall be grounds for judicial sanctions, up to and in-
cluding dismissal of the claim with prejudice.
“(2) PRIVILEGE.—This subsection does not af-
fect the right of the claimant to refuse production on
the basis of any privilege guaranteed by the Con-
stitution of the United States or any other provision
of Federal law.

“§ 2557. Anti-terrorist forfeiture protection
“(a) RIGHT TO CONTEST.—An owner of property
that is confiscated under any provision of law relating to
the confiscation of assets of suspected international terror-
ists, may contest that confiscation by filing a claim in the
manner set forth in the Federal Rules of Civil Procedure
(Supplemental Rules for Certain Admiralty and Maritime
Claims), and asserting as an affirmative defense that—
“(1) the property is not subject to confiscation
under such provision of law; or
“(2) the innocent owner provisions of section
2553(d) apply to the case.
“(b) Evidence.—In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

“(c) Clarifications.—

“(1) Protection of rights.—The exclusion of certain provisions of Federal law from the definition of the term ‘civil forfeiture statute’ in section 2553(i) shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under—

“(A) subsection (a) of this section;

“(B) the Constitution; or

“(C) subchapter II of chapter 5 of title 5.

“(2) Savings clause.—Nothing in this section limits or otherwise affects any other remedies that may be available to an owner of property under section 2553 or any other provision of law.

“Subchapter C—Criminal Forfeiture

Sec.

2561. Offenses giving rise to criminal forfeiture.

2562. Procedures for criminal forfeiture.

“§ 2561. Offenses giving rise to criminal forfeiture

“(a) Property forfeited at time of sentence.—The court, when imposing a sentence on a de-
fendant convicted of an offense described in subsection (b), shall order the defendant forfeit to the United States all forfeitable property (as defined in section 2501) related to the offense.

“(b) Offenses for Which Criminal Forfeiture Is To Be Ordered.—The offenses for which criminal forfeiture shall occur under this section are the following:

“(1) A violation of section 508, 1451, or 1452.

“(2) A violation of, or a conspiracy to violate—

“(A) section 644, 645, 773–775, 779, 801, 803, 804, or 1003, affecting a financial institution;

“(B) section 614, 692–695, 697–702, 712, 716, 783, 862, or 863;

“(3) A violation of—

“(A) section 653(a)(1) (relating to theft or bribery concerning programs receiving Federal funds);

“(B) section 772 (relating to fraud and false statements);

“(C) section 788 (relating to major fraud against the United States);

“(D) section 789 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);
“(E) section 801 (relating to mail fraud); or

“(F) section 803 (relating to wire fraud), involving the sale of assets acquired or held by the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

“(4) A violation of—

“(A) section 717 (altering or removing motor vehicle identification numbers);

“(B) section 866 (importing or exporting stolen motor vehicles);

“(C) section 671 (transporting stolen motor vehicles in interstate commerce); or

“(D) section 672 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).
“(5) A violation of, or conspiracy to violate, 274A(a)(1), or 274A(a)(2) of the Immigration and Nationality Act, or any of sections 311 through 316, section 318(a), section 867 of this title, or a violation of, or conspiracy to violate, section 783 of this title if committed in connection with passport or visa issuance or use.

“(6) A Federal health care offense.

“(7) A violation of, or conspiracy to violate, section 783, 786, 801, 802, 803, or 804.

“(8) A violation of chapter 17 punishable by imprisonment for more than one year.

“(9) A violation of section 221, 222, 223, or 224, or subchapter B of chapter 13.

“(10) A violation of section 512.

“(11) A violation of section 783, 786, 787, or 794.

“(12) A violation of section 302, 302, 631, or 927, or subchapter F of chapter 35.

“(13) A violation of section 675, 676, 677, 678, 679, 680, or subchapter C of chapter 35.

“(14) A violation of section 868.

§2562. Procedures for criminal forfeiture

“(a) APPLICATION OF PROCEDURES.—Unless otherwise provided by law, the procedures set forth in this sec-
tion govern any criminal forfeiture under a law of the United States.

“(b) THIRD PARTY TRANSFERS.—All right, title, and interest in forfeitable vests in the United States upon the commission of the act giving rise to forfeiture under this subchapter. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (n) that the transferee is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

“(c) REBUTTABLE PRESUMPTION.—There is a rebuttable presumption at trial that any property of a person convicted of a felony under chapter 17 is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

“(1) such property was acquired by such person during the period of the violation or within a reasonable time after such period; and

“(2) there was no likely source for such property other than the violation

“(d) PROTECTIVE ORDERS.—
“(1) WHEN ISSUED.—Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property for forfeiture under this section—

“(A) upon the filing of an indictment or information charging a violation for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

“(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

“(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and
“(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

“(2) LENGTH.—An order entered pursuant to paragraph (1)(B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in paragraph (1)(A) has been filed.

“(3) EX PARTE.—A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 14 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents
to an extension for a longer period. A hearing re-
quested concerning an order entered under this
paragraph shall be held at the earliest possible time
and prior to the expiration of the temporary order.

“(4) Evidence.—The court may receive and
consider, at a hearing held pursuant to this sub-
section, evidence and information that would be in-
admissible under the Federal Rules of Evidence.

“(5) Order to repatriate and deposit.—

“(A) In general.—Pursuant to its au-
thority to enter a pretrial restraining order
under this section, the court may order a de-
fendant to repatriate any property that may be
seized and forfeited, and to deposit that prop-
erty pending trial in the registry of the court,
or with the United States Marshals Service or
the Secretary of the Treasury, in an interest-
bearing account, if appropriate.

“(B) Failure to comply.—Failure to
comply with an order under this subsection, or
an order to repatriate property under sub-
section (o), shall be punishable as a civil or
criminal contempt of court, and may also result
in an enhancement of the sentence of the de-
fendant under the obstruction of justice provi-


“(e) WARRANT OF SEIZURE.—The Government may
request the issuance of a warrant authorizing the seizure
of property subject to forfeiture under this section in the
same manner as provided for a search warrant. If the
court determines that there is probable cause to believe
that the property to be seized would, in the event of con-

viction, be subject to forfeiture and that an order under
subsection (d) may not be sufficient to assure the avail-
ability of the property for forfeiture, the court shall issue
a warrant authorizing the seizure of such property.

“(f) EXECUTION.—Upon entry of an order of for-
feiture under this section, the court shall authorize the
Attorney General to seize all property ordered forfeited
upon such terms and conditions as the court shall deem
proper. Following entry of an order declaring the property
forfeited, the court may, upon application of the United
States, enter such appropriate restraining orders or in-
junctions, require the execution of satisfactory perform-
ance bonds, appoint receivers, conservators, appraisers,
accountants, or trustees, or take any other action to pro-
tect the interest of the United States in the property or-
dered forfeited. Any income accruing to or derived from
property ordered forfeited under this section may be used
to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to pro-
tect the interests of the United States or third parties.

“(g) DISPOSITION OF PROPERTY.—Following the sei-
zure of property ordered forfeited under this section, the
Attorney General shall direct the disposition of the prop-
erty by sale of any other commercially feasible means, making due provision for the rights of any inno-
cent persons. Any property right or interest not exer-
cisable by, or transferable for value to, the United States
shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with or on the behalf of the defendant be eligible to purchase for-
feited property at any sale held by the United States.
Upon application of a person, other than the defendant
or a person acting in concert with or on the behalf of the defendant, the court may restrain or stay the sale or dis-
position of the property pending the conclusion of any ap-
peal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale
or disposition of the property will result in irreparable in-
jury, harm, or loss to the applicant.

“(h) AUTHORITY OF THE ATTORNEY GENERAL.—
With respect to property ordered forfeited under this sec-
tion, the Attorney General is authorized to—
“(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with this section;

“(2) compromise claims arising under this section;

“(3) award compensation to persons providing information resulting in a forfeiture under this section;

“(4) direct the disposition by the United States, in accordance with section 511(e) of the Controlled Substances Act, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

“(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

“(i) Applicability of Civil Forfeiture Provisions.—Except to the extent that they are inconsistent with this section, section 2552(g) of this title and section 511(d) of the Controlled Substances Act apply to a criminal forfeiture under this section.
“(j) Bar on Intervention.—Except as provided in subsection (m), no party claiming an interest in property subject to forfeiture under this section may—

“(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

“(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property in subject to forfeiture under this section.

“(k) Jurisdiction to Enter Orders.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

“(l) Depositions.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be
taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time any place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

“(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

“(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within thirty days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

“(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner’s right, title, or interest in
the property, the time and circumstances of the petitioner’s acquisition of the right, title, or interest in the property, and additional facts supporting the petitioner’s claim, and the relief sought.

“(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within thirty days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

“(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of this claim to the property and cross-examine witnesses who appear at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

“(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

“(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was
vested in the petitioner rather than the defendant or
was superior to any right, title, or interest of the de-
fendant at the time of the commission of the acts
which gave rise to the forfeiture of the property
under the section; or

“(B) the petitioner is a bona fide purchaser for
value of the right, title, or interest in the property
and was at the time of purchase reasonably without
cause to believe that the property was subject to for-
feiture under this section;

the court shall amend the order of forfeiture in accordance
with its determination.

“(7) Following the court’s disposition of all petitions
filed under this subsection, or if no such petitions are filed
following the expiration of the period provided in para-
graph (2) for the filing of such petitions, the United States
shall have clear title to property that is the subject of the
order of forfeiture and may warrant good title to any sub-
sequent purchaser or transferee.

“(n) RULE OF CONSTRUCTION.—This section shall
be liberally construed to effectuate its remedial purposes.

“(o) FORFEITURE OF SUBSTITUTE PROPERTY.—

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

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

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

“(C) has been placed beyond the jurisdiction of the court;

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

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

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

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

“(4) LIMITATION.—This subsection shall not be
used to order a defendant to forfeit assets in place
of the actual property laundered where such defend-
ant acted merely as an intermediary who handled
but did not retain the property in the course of the
money laundering offense unless the defendant, in
committing the offense or offenses giving rise to the
forfeiture, conducted three or more separate trans-
actions involving a total of $100,000 or more in any
twelve month period.

“(p) SPECIAL RESTITUTION.—The court, when sen-
tencing a defendant convicted of an offense under chapter
17 involving the manufacture, the possession, or the pos-
session with intent to distribute, of amphetamine or meth-
amphetamine, shall—

“(1) order restitution as provided in sections
3612 and 3664;

“(2) order the defendant to reimburse the
United States, the State or local government con-
cerned, or both the United States and the State or
local government concerned for the costs incurred by
the United States or the State or local government
concerned, as the case may be, for the cleanup asso-
associated with the manufacture of amphetamine or methamphetamine by the defendant, or on premises or in property that the defendant owns, resides, or does business in; and

“(3) order restitution to any person injured as a result of the offense as provided in section 3663A.”.

SEC. 3. CONFORMING REPEALS.

(a) CONTROLLED SUBSTANCES ACT.—The Controlled Substances Act is amended—

(1) by striking all of the sections in part D, except sections 412 (relating to application of treaties and other international agreements) and 421 (relating to denial of Federal benefits to drug traffickers and possessors); and

(2) by striking section 511 (relating to forfeitures).

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—The Controlled Substances Import and Export Act is amended by striking sections 1010 (relating to prohibited acts), 1010A (relating to foreign terrorist organizations, terrorist persons and groups), 1012 (relating to second or subsequent offenses), 1013 (relating to attempt and conspiracy), and 1017 (relating to criminal forfeitures).
(c) Immigration and Nationality Act.—The Immigration and Nationality Act is amended by striking sections 243, 274, 275, 276, and 277.

(d) Atomic Energy Act of 1954.—The Atomic Energy Act of 1954 is amended—

(1) by striking sections 92, 221, 224, 225, 226, 227, and 235;

(2) by striking subsections a. and b. of section 57;

(3) in section 222 a., by striking “57 or”; and

(4) by striking subsection b. of section 222.

(e) Consumer Credit Protection Act.—The Consumer Credit Protection Act is amended by striking sections 134 (relating to fraudulent use of credit card), 619 (relating to obtaining information under false pretenses), and 620 (relating to unauthorized disclosures by officers or employees).

(f) Title 17, United States Code.—Title 17, United States Code, is amended by striking section 506 (relating to copyright infringement criminal offenses).

(g) Title 28, United States Code.—Title 28, United States Code, is amended by striking subsection (c) of section 1826 (relating to recalcitrant witnesses).

(h) Title 29, United States Code.—Title 29, United States Code, is amended by striking subsection (c)
of section 501 (relating to fiduciary responsibility of officers of labor organizations).

(i) Title 31, United States Code.—Title 31, United States Code, is amended by striking sections 5324 (relating to structuring transactions to evade reporting requirement prohibited) and 5332 (relating to bulk cash smuggling into or out of the United States).

(j) Title 49, United States Code.—Title 49, United States Code, is amended by striking sections 46502, 46504, 46505, and 46506 (relating to special aircraft jurisdiction of the United States).

(k) Additional Conforming Repeals.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to Congress proposed legislation repealing additional provisions of law that have been rendered superfluous by the enactment of this Act.

SEC. 4. CROSS REFERENCES.

(a) In General.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to Congress proposed legislation correcting cross references in other laws to provisions of law that have been amended or repealed by this Act.

(b) Relating to Public Law 112–55.—Section 511 of Public Law 112–55 is amended—
(1) by striking “subsection 922(t)” each place it appears and inserting “section 582(t)”;

(2) in paragraph (2), by striking “section 922 of” and inserting “section 582 of”.

(c) RELATING TO PUBLIC LAW 112–239.—Section 1251 of Public Law 112–239 is amended—

(1) in subsection (b), by striking “section 2333” and inserting “section 282(a)”;

(2) in subsection (c), by striking “Notwithstanding section 2335” through “section 2333 of such title” and inserting “Notwithstanding section 282(h) of title 18, United States Code, a civil action under section 282(a) of such title”.

(d) RELATING TO PUBLIC LAW 112–144.—Section 717 of Public Law 112–144 is amended—

(1) in subsection (a)(4), by striking “section 2320” and inserting “section 680”; and

(2) in subsection (b)(1), by striking “section 2320(a)(4)” and inserting “section 680(a)(4)”.

SEC. 5. SUNSET OF PROVISION RELATING TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Effective December 31, 2017, except as provided by section 404 of the FISA Amendments Act of 2008, section 1492(b)(1)(B)(i) of title 18, United States Code, is...
amended by striking “or a court order pursuant to section 704 of the Foreign Intelligence Surveillance Act of 1978”.

SEC. 6. REENACTMENT OUTSIDE TITLE 18 OF FORMER SECTION 2258A (RELATING TO REPORTING REQUIREMENTS OF ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS).

(a) Duty To Report.—

(1) In General.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public through a facility or means of interstate or foreign commerce, obtains actual knowledge of any facts or circumstances described in paragraph (2) shall, as soon as reasonably possible—

(A) provide to the CyberTipline of the National Center for Missing and Exploited Children, or any successor to the CyberTipline operated by such center, the mailing address, telephone number, facsimile number, electronic mail address of, and individual point of contact for, such electronic communication service provider or remote computing service provider; and

(B) make a report of such facts or circumstances to the CyberTipline, or any suc-
cessor to the CyberTipline operated by such center.

(2) FACTS OR CIRCUMSTANCES.—The facts or circumstances described in this paragraph are any facts or circumstances from which there is an apparent violation of—

(A) section 221, 222, 223, or 224 of title 18, United States Code, that involves child pornography; or

(B) section 1445 of title 18, United States Code.

(b) CONTENTS OF REPORT.—To the extent the information is within the custody or control of an electronic communication service provider or a remote computing service provider, the facts and circumstances included in each report under subsection (a)(1) may include the following information:

(1) INFORMATION ABOUT THE INVOLVED INDIVIDUAL.—Information relating to the identity of any individual who appears to have violated a Federal law described in subsection (a)(2), which may, to the extent reasonably practicable, include the electronic mail address, Internet Protocol address, uniform resource locator, or any other identifying information, including self-reported identifying information.
(2) **HISTORICAL REFERENCE.**—Information relating to when and how a customer or subscriber of an electronic communication service or a remote computing service uploaded, transmitted, or received apparent child pornography or when and how apparent child pornography was reported to, or discovered by the electronic communication service provider or remote computing service provider, including a date and time stamp and time zone.

(3) **GEOGRAPHIC LOCATION INFORMATION.**—

(A) **IN GENERAL.**—Information relating to the geographic location of the involved individual or website, which may include the Internet Protocol address or verified billing address, or, if not reasonably available, at least 1 form of geographic identifying information, including area code or zip code.

(B) **INCLUSION.**—The information described in subparagraph (A) may also include any geographic information provided to the electronic communication service or remote computing service by the customer or subscriber.
(4) Images of apparent child pornography.—Any image of apparent child pornography relating to the incident such report is regarding.

(5) Complete communication.—The complete communication containing any image of apparent child pornography, including—

(A) any data or information regarding the transmission of the communication; and

(B) any images, data, or other digital files contained in, or attached to, the communication.

(c) Forwarding of report to law enforcement.—

(1) In general.—The National Center for Missing and Exploited Children shall forward each report made under subsection (a)(1) to any appropriate law enforcement agency designated by the Attorney General under subsection (d)(2).

(2) State and local law enforcement.—

The National Center for Missing and Exploited Children may forward any report made under subsection (a)(1) to an appropriate law enforcement official of a State or political subdivision of a State for the purpose of enforcing State criminal law.

(3) Foreign law enforcement.—
(A) **IN GENERAL.**—The National Center for Missing and Exploited Children may forward any report made under subsection (a)(1) to any appropriate foreign law enforcement agency designated by the Attorney General under subsection (d)(3), subject to the conditions established by the Attorney General under subsection (d)(3).

(B) **TRANSMITTAL TO DESIGNATED FEDERAL AGENCIES.**—If the National Center for Missing and Exploited Children forwards a report to a foreign law enforcement agency under subparagraph (A), the National Center for Missing and Exploited Children shall concurrently provide a copy of the report and the identity of the foreign law enforcement agency to—

(i) the Attorney General; or

(ii) the Federal law enforcement agency or agencies designated by the Attorney General under subsection (d)(2).

(d) **ATTORNEY GENERAL RESPONSIBILITIES.**—

(1) **IN GENERAL.**—The Attorney General shall enforce this section.
(2) DESIGNATION OF FEDERAL AGENCIES.—
The Attorney General shall designate promptly the Federal law enforcement agency or agencies to which a report shall be forwarded under subsection (c)(1).

(3) DESIGNATION OF FOREIGN AGENCIES.—
The Attorney General shall promptly—

(A) in consultation with the Secretary of State, designate the foreign law enforcement agencies to which a report may be forwarded under subsection (c)(3);

(B) establish the conditions under which such a report may be forwarded to such agencies; and

(C) develop a process for foreign law enforcement agencies to request assistance from Federal law enforcement agencies in obtaining evidence related to a report referred under subsection (c)(3).

(4) REPORTING DESIGNATED FOREIGN AGENCIES.—The Attorney General shall maintain and make available to the Department of State, the National Center for Missing and Exploited Children, electronic communication service providers, remote computing service providers, the Committee on the
Judiciary of the Senate, and the Committee on the
Judiciary of the House of Representatives a list of
the foreign law enforcement agencies designated
under paragraph (3).

(5) Sense of Congress regarding designation of foreign agencies.—It is the sense of
Congress that—

(A) combating the international manufacturing, possession, and trade in online child
pornography requires cooperation with competent, qualified, and appropriately trained for-

(B) the Attorney General, in cooperation with the Secretary of State, should make a sub-
stantial effort to expand the list of foreign
law enforcement agencies designated under paragraph (3).

(6) Notification to providers.—If an elec-
tronic communication service provider or remote
computing service provider notifies the National
Center for Missing and Exploited Children that the
electronic communication service provider or remote
computing service provider is making a report under
this section as the result of a request by a foreign
law enforcement agency, the National Center for
Missing and Exploited Children shall—
(A) if the Center forwards the report to the requesting foreign law enforcement agency or another agency in the same country designated by the Attorney General under paragraph (3), notify the electronic communication service provider or remote computing service provider of—

(i) the identity of the foreign law enforcement agency to which the report was forwarded; and

(ii) the date on which the report was forwarded; or

(B) notify the electronic communication service provider or remote computing service provider if the Center declines to forward the report because the Center, in consultation with the Attorney General, determines that no law enforcement agency in the foreign country has been designated by the Attorney General under paragraph (3).

(e) FAILURE TO REPORT.—An electronic communication service provider or remote computing service provider that knowingly and willfully fails to make a report required under subsection (a)(1) shall be fined—
(1) in the case of an initial knowing and willful failure to make a report, not more than $150,000; and

(2) in the case of any second or subsequent knowing and willful failure to make a report, not more than $300,000.

(f) Protection of Privacy.—Nothing in this section shall be construed to require an electronic communication service provider or a remote computing service provider to—

(1) monitor any user, subscriber, or customer of that provider;

(2) monitor the content of any communication of any person described in paragraph (1); or

(3) affirmatively seek facts or circumstances described in subsections (a) and (b).

(g) Conditions of Disclosure Information Contained Within Report.—

(1) In General.—Except as provided in paragraph (2), a law enforcement agency that receives a report under subsection (c) shall not disclose any information contained in that report.

(2) Permitted Disclosures by Law Enforcement.—
(A) IN GENERAL.—A law enforcement agency may disclose information in a report received under subsection (c)—

(i) to an attorney for the government for use in the performance of the official duties of that attorney;

(ii) to such officers and employees of that law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

(iii) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law;

(iv) if the report discloses a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law;

(v) to a defendant in a criminal case or the attorney for that defendant, subject to the terms and limitations under section
3509(m) of title 18, United States Code, or a similar State law, to the extent the information relates to a criminal charge pending against that defendant;

(vi) subject to subparagraph (B), to an electronic communication service provider or remote computing provider if necessary to facilitate response to legal process issued in connection to a criminal investigation, prosecution, or post-conviction remedy relating to that report; and

(vii) as ordered by a court upon a showing of good cause and pursuant to any protective orders or other conditions that the court may impose.

(B) LIMITATIONS.—

(i) LIMITATIONS ON FURTHER DISCLOSURE.—The electronic communication service provider or remote computing service provider shall be prohibited from disclosing the contents of a report provided under subparagraph (A)(vi) to any person, except as necessary to respond to the legal process.
(ii) Effect.—Nothing in subparagraph (A)(vi) authorizes a law enforcement agency to provide child pornography images to an electronic communications service provider or a remote computing service.

(3) Permitted disclosures by the National Center for Missing and Exploited Children.—The National Center for Missing and Exploited Children may disclose information received in a report under subsection (a) only—

(A) to any Federal law enforcement agency designated by the Attorney General under subsection (d)(2);

(B) to any State, local, or tribal law enforcement agency involved in the investigation of child pornography, child exploitation, kidnapping, or enticement crimes;

(C) to any foreign law enforcement agency designated by the Attorney General under subsection (d)(3); and

(D) to an electronic communication service provider or remote computing service provider as described in section 8.

(h) Preservation.—
(1) IN GENERAL.—For the purposes of this section, the notification to an electronic communication service provider or a remote computing service provider by the CyberTipline of receipt of a report under subsection (a)(1) shall be treated as a request to preserve, as if such request was made pursuant to section 3120A(f) of title 18, United States Code.

(2) PRESERVATION OF REPORT.—Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve the contents of the report provided pursuant to subsection (b) for 90 days after such notification by the CyberTipline.

(3) PRESERVATION OF COMMINGLED IMAGES.—Pursuant to paragraph (1), an electronic communication service provider or a remote computing service shall preserve any images, data, or other digital files that are commingled or interspersed among the images of apparent child pornography within a particular communication or user-created folder or directory.

(4) PROTECTION OF PRESERVED MATERIALS.—An electronic communications service or remote computing service preserving materials under this section shall maintain the materials in a secure location.
and take appropriate steps to limit access by agents
or employees of the service to the materials to that
access necessary to comply with the requirements of
this subsection.

(5) **AUTHORITIES AND DUTIES NOT AFFECTED.**—Nothing in this section shall be construed
as replacing, amending, or otherwise interfering with
the authorities and duties under section 3120A of
title 18, United States Code.

SEC. 7. REENACTMENT OUTSIDE TITLE 18 OF FORMER SEC-
TION 2258B (RELATING TO LIMITED LIABILITY
FOR ELECTRONIC COMMUNICATION
SERVICE PROVIDERS, REMOTE COMPUTING
SERVICE PROVIDERS, OR DOMAIN NAME REG-
ISTRAR).

(a) **IN GENERAL.**—Except as provided in subsection
(b), a civil claim or criminal charge against an electronic
communication service provider, a remote computing serv-
vice provider, or domain name registrar, including any di-
rector, officer, employee, or agent of such electronic com-
munication service provider, remote computing service
provider, or domain name registrar arising from the per-
formance of the reporting or preservation responsibilities
of such electronic communication service provider, remote
computing service provider, or domain name registrar
under this section, section 6, or section 8 may not be
brought in any Federal or State court.

(b) INTENTIONAL, RECKLESS, OR OTHER MIS-
CONDUCT.—Subsection (a) does not apply to a claim if
the electronic communication service provider, remote
computing service provider, or domain name registrar, or
a director, officer, employee, or agent of that electronic
communication service provider, remote computing service
provider, or domain name registrar—

(1) engaged in intentional misconduct; or

(2) acted, or failed to act—

(A) with actual malice;

(B) with reckless disregard to a substantial
risk of causing physical injury without legal jus-
tification; or

(C) for a purpose unrelated to the per-
formance of any responsibility or function
under this section, section 6 or 8, or section
3120 or 3120A of title 18, United States Code.

(c) MINIMIZING ACCESS.—An electronic communica-
tion service provider, a remote computing service provider,
and domain name registrar shall—

(1) minimize the number of employees that are
provided access to any image provided under section
6 or 8; and
(2) ensure that any such image is permanently destroyed, upon a request from a law enforcement agency to destroy the image.

SEC. 8. REENACTMENT OUTSIDE TITLE 18 OF FORMER SECTION 2258C (RELATING TO USE TO COMBAT CHILD PORNOGRAPHY OF TECHNICAL ELEMENTS RELATING TO IMAGES REPORTED TO THE CYBERTIPLINE).

(a) ELEMENTS.—

(1) IN GENERAL.—The National Center for Missing and Exploited Children may provide elements relating to any apparent child pornography image of an identified child to an electronic communication service provider or a remote computing service provider for the sole and exclusive purpose of permitting that electronic communication service provider or remote computing service provider to stop the further transmission of images.

(2) INCLUSIONS.—The elements authorized under paragraph (1) may include hash values or other unique identifiers associated with a specific image, Internet location of images, and other technological elements that can be used to identify and stop the transmission of child pornography.
(3) EXCLUSION.—The elements authorized under paragraph (1) may not include the actual images.

(b) USE BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS AND REMOTE COMPUTING SERVICE PROVIDERS.—Any electronic communication service provider or remote computing service provider that receives elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children under this section may use such information only for the purposes described in this section, but such use does not relieve that electronic communication service provider or remote computing service provider from its reporting obligations under section 6.

(c) LIMITATIONS.—Nothing in subsection (a) or (b) requires electronic communication service providers or remote computing service providers receiving elements relating to any apparent child pornography image of an identified child from the National Center for Missing and Exploited Children to use the elements to stop the further transmission of the images.

(d) PROVISION OF ELEMENTS TO LAW ENFORCEMENT.—The National Center for Missing and Exploited Children shall make available to Federal, State, and local law enforcement involved in the investigation of child por-
nography crimes elements, including hash values, relating
to any apparent child pornography image of an identified
child reported to the National Center for Missing and Ex-

(e) USE BY LAW ENFORCEMENT.—Any Federal,
State, or local law enforcement agency that receives ele-
ments relating to any apparent child pornography image
of an identified child from the National Center for Missing
and Exploited Children under subsection (d) may use such
elements only in the performance of the official duties of
that agency to investigate child pornography crimes.

SEC. 9. REENACTMENT OUTSIDE TITLE 18 OF FORMER SEC-
TION 2258D (RELATING TO LIMITED LIABILITY FOR THE NATIONAL CENTER FOR MISS-
ING AND EXPLOITED CHILDREN).

(a) IN GENERAL.—Except as provided in subsections
(b) and (c), a civil claim or criminal charge against the
National Center for Missing and Exploited Children, in-
cluding any director, officer, employee, or agent of such
center, arising from the performance of the CyberTipline
responsibilities or functions of such center, as described
in this section, section 6 or 8, or section 404 of the Miss-
ing Children’s Assistance Act, or from the effort of such
center to identify child victims may not be brought in any
Federal or State court.
(b) INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—Subsection (a) does not apply to a claim or charge if the National Center for Missing and Exploited Children, or a director, officer, employee, or agent of such center—

(1) engaged in intentional misconduct; or

(2) acted, or failed to act—

(A) with actual malice;

(B) with reckless disregard to a substantial risk of causing injury without legal justification;

or

(C) for a purpose unrelated to the performance of any responsibility or function under this section, section 6 or 8, or section 404 of the Missing Children’s Assistance Act.

(e) ORDINARY BUSINESS ACTIVITIES.—Subsection (a) does not apply to an act or omission relating to an ordinary business activity, including general administration or operations, the use of motor vehicles, or personnel management.

(d) MINIMIZING ACCESS.—The National Center for Missing and Exploited Children shall—

(1) minimize the number of employees that are provided access to any image provided under section 6; and
(2) ensure that any such image is permanently destroyed upon notification from a law enforcement agency.

SEC. 10. REENACTMENT OUTSIDE TITLE 18 OF FORMER SECTION 2258E (RELATING TO DEFINITIONS).

In sections 6 through 9—

(1) the terms “attorney for the government” and “State” have the meanings given those terms in rule 1 of the Federal Rules of Criminal Procedure;

(2) the term “electronic communication service” has the meaning given that term in section 1491 of title 18, United States Code;

(3) the term “electronic mail address” has the meaning given that term in section 3 of the CAN–SPAM Act of 2003;

(4) the term “Internet” has the meaning given that term in section 1101 of the Internet Tax Freedom Act;

(5) the term “remote computing service” has the meaning given that term in section 3120I of title 18, United States Code; and

(6) the term “website” means any collection of material placed in a computer server-based file archive so that it is publicly accessible, over the Inter-
net, using hypertext transfer protocol or any successor protocol.

**SEC. 11. REENACTMENT OUTSIDE TITLE 18 OF SUBSECTION (F) OF FORMER SECTION 1716E (RELATING TO USE OF PENALTIES).**

There is established a separate account in the Treasury, to be known as the “PACT Postal Service Fund”.

Notwithstanding any other provision of law, an amount equal to 50 percent of any criminal fines, civil penalties, or other monetary penalties collected by the Federal Government in enforcing section 951 of title 18, United States Code, shall be transferred into the PACT Postal Service Fund and shall be available to the Postmaster General for the purpose of enforcing this section.

**SEC. 12. TRANSFER TO PART II OF TITLE 18, UNITED STATES CODE, OF CERTAIN PROCEDURAL AND RELATED PROVISIONS.**

Part II of title 18, United States Code, is amended—

(1) by inserting after chapter 205 the following:

“**CHAPTER 205A—PROCEDURAL AND RELATED PROVISIONS PERTAINING TO INTERCEPTION OF COMMUNICATIONS**

Sec 3119. Prohibition of use as evidence of intercepted wire or oral communications

Sec 3119A. Authorization for interception of wire, oral, or electronic communications

Sec 3119B. Authorization for disclosure and use of intercepted wire, oral, or electronic communications

Sec 3119C. Procedure for interception of wire, oral, or electronic communications
“§ 3119. Prohibition of use as evidence of intercepted wire or oral communications

Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.

“§ 3119A. Authorization for interception of wire, oral, or electronic communications

“(a) FEDERAL PROSECUTORS.—The Attorney General, Deputy Attorney General, Associate Attorney General, or any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General or acting Deputy Assistant Attorney General in the Criminal Division specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 3119C an order authorizing or
approving the interception of wire or oral communications
by the Federal Bureau of Investigation, or a Federal agen-

cy having responsibility for the investigation of the offense
as to which the application is made, when such intercep-
tion may provide or has provided evidence of—

“(1) any felony offense under section 272 (re-
lating to atomic weapons), section 783 (relating to
fraud and related activity in connection with identi-
fication documents, authentication features, and in-
formation), section 787 (relating to fraud and re-
lated activity in connection with computers), sub-
chapter C of chapter 10 (relating to kidnapping),
subchapter A of chapter 15 (relating to treason),
subchapter E of chapter 15 (relating to espionage),
subchapter E of chapter 21 (relating to biological
weapons), subchapter N of chapter 29 (relating to
malicious mischief), subchapter A of chapter 31 (re-
lating to piracy), subchapter E of chapter 33, or
subchapter C of chapter 35 (relating to protection of
trade secrets) of this title, or section 236 of the
Atomic Energy Act of 1954;

“(2) a violation of section 186 or section 501(c)
of title 29, (dealing with restrictions on payments
and loans to labor organizations), or any offense
which involves murder, kidnapping, robbery, or extortion, and which is punishable under this title;

“(3) any offense which is punishable under paragraph (2), (4), (6), or (7) of section 102 (relating to Federally punishable homicides), section 112 (relating to individuals Federally protected from assault) if the victim is an individual whose killing is an offense under paragraph (6) or (7) of section 102, section 121 (relating to kidnapping) if the victim is an individual whose killing is an offense under paragraph (6) or (7) of section 102, section 123 (relating to hostage taking), section 131 (relating to threats against officers or employees of the United States, and other specially protected persons), subchapter B of chapter 13 (relating to transport for illegal sexual activity), section 221 (relating to sexual exploitation of children), section 222 (relating to selling or buying of children), section 223 (certain activities relating to materials involving the sexual exploitation of children and child pornography), section 311 (relating to false statement in application and use of passport), section 312 (relating to forgery or false use of passport), section 313 (relating to misuse of passport), section 314 (relating to fraud and misuse of visas, permits, and other documents),
section 315 (relating to procurement of citizenship or nationalization unlawfully), section 316 (relating to the sale of naturalization or citizenship papers), section 501 (interference with commerce by threats or violence), section 502 (interstate and foreign travel or transportation in aid of racketeering enterprises), 504 (offer, acceptance, or solicitation to influence operations of employee benefit plan), section 505 (prohibition of illegal gambling businesses), section 506 (relating to use of interstate commerce facilities in the commission of murder for hire), section 507 (relating to violent crimes in aid of racketeering activity), section 513 (relating to criminal penalties with respect to racketeer influenced and corrupt organizations), section 571 (relating to arson within special maritime and territorial jurisdiction), section 593 (relating to possession of firearms and dangerous weapons in Federal facilities), section 601 (relating to prohibited transactions involving nuclear materials), subsection (d), (e), (f), (g), (h), or (i) of section 614 (relating to penalties with respect to unlawful use of explosives), section 621 (relating to prohibitions with respect to biological weapons), section 624 (relating to variola virus), section 647 (relating to interstate or foreign ship-
ments by carrier; state prosecutions), section 651 (theft or embezzlement from employee benefit plan), section 671 (relating to transportation of stolen vehicles), section 672 (relating to sale or receipt of stolen vehicles), section 673 (relating to transportation of stolen goods, securities, moneys, fraudulent State tax stamps, or articles used in counterfeiting), section 674 (relating to sale or receipt of stolen goods, securities, moneys, or fraudulent State tax stamps), section 681 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 779 (relating to loan and credit applications generally; renewals and discounts; crop insurance), section 786 (relating to fraud and related activity in connection with access devices), section 789 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), section 801 (relating to mail fraud), section 803 (fraud by wire, radio, or television), section 804 (relating to bank fraud), section 924 (relating to conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country), section 991 (relating to bribery of public officials and witnesses), section 1003 (relating to receipt of commissions or gifts for procuring loans), section 1007 (bribery in sporting con-
tests), section 1071 (relating to prisoners in custody of institution or officer), section 1132 (relating to influencing or injuring officer or juror generally), section 1135 (relating to obstruction of criminal investigations), section 1136 (relating to obstruction of State or local law enforcement with regard to illegal gambling business), section 1137 (relating to tampering with a witness, victim, or an informant), section 1138 (relating to retaliating against a witness, victim, or an informant), section 1265 (sex trafficking of children by force, fraud, or coercion), section 1291 (relating to torture), section 1301 (relating to destruction of aircraft or aircraft facilities), section 1302 (relating to destruction of motor vehicles or motor vehicle facilities), section 1305 (relating to violence at international airports), section 1306 (relating to fraud involving aircraft or space vehicle parts in interstate or foreign commerce), section 1302 (relating to destruction of motor vehicles or motor vehicle facilities), section 1331 (relating to terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air), section 1373 (relating to force, violence, and threats involving animal enterprises), section 1381 (relating to transmission
of wagering information; penalties), section 1445
(relating to obscene visual representations of the
sexual abuse of children), section 1451 (relating to
laundering of monetary instruments), section 1452
(relating to engaging in monetary transactions in
property derived from specified unlawful activity),
section 3146 (relating to penalty for failure to ap-
pear), subsection (b)(3) of section 3521 (relating to
witness relocation and protection), or section 868
(relating to border tunnels and passages);

“(4) any offense involving counterfeiting pun-
ishable under section 692, 693, or 694;

“(5) any offense involving fraud connected with
a case under title 11 or the manufacture, importa-
tion, receiving, concealment, buying, selling, or oth-
erwise dealing in narcotic drugs, marihuana, or
other dangerous drugs, punishable under any law of
the United States;

“(6) any offense including extortionate credit
transactions under section 155, 156, or 157;

“(7) a violation of section 1453 (relating to
structuring transactions to evade reporting require-
ment prohibited) of this title or section 5322 (relat-
ing to the reporting of currency transactions) of title
31;
“(8) any felony violation of sections 1492 and 1493 (relating to interception and disclosure of certain communications and to certain intercepting devices);

“(9) any felony violation of subchapter F of chapter 35 (relating to obscenity);

“(10) any violation of section 1307 (relating to aircraft piracy), the second sentence of section 1308 (relating to assault on a flight crew with dangerous weapon), or subsection (b)(3) or (c) of section 1309 (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft) of this title, or section 60123(b) (relating to destruction of a natural gas pipeline) of title 49;

“(11) any criminal violation of section 2778 of title 22 (relating to the Arms Export Control Act);

“(12) the location of any fugitive from justice from an offense described in this section;

“(13) a violation of section 318 (relating to bringing in and harboring certain aliens), section 321 (relating to reentry of removed alien) of this title or section 278 of the Immigration and Nationality Act;
“(14) any felony violation of sections 582 and
584;
“(15) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms);
“(16) a felony violation of section 311 (relating to false statements in passport applications), section
314 (relating to fraud and misuse of visas, permits, and other documents), section 318 (relating to bringing in and harboring certain aliens), section
321 (relating to reentry of removed alien), section
783 (relating to production of false identification documents), or section 784 (relating to aggravated identity theft) of this title or a violation of section
278 of the Immigration and Nationality Act;
“(17) any criminal violation of section 631 (relating to chemical weapons); or sections 271, 273,
274, 275, 276, 277, 278, 279, 280, or 281 (relating to terrorism);
“(18) any violation of section 657 (relating to theft of medical products);
“(19) any criminal violation of section 1 (relating to illegal restraints of trade or commerce), 2 (relating to illegal monopolizing of trade or commerce), or 3 (relating to illegal restraints of trade or com-
merce in territories or the District of Columbia) of
the Sherman Act; or
“(20) any conspiracy to commit any offense de-
scribed in any paragraph of this subsection.
“(b) State Prosecutors.—The principal pros-
secuting attorney of any State, or the principal prosecuting
attorney of any political subdivision thereof, if such attor-
ney is authorized by a statute of that State to make appli-
cation to a State court judge of competent jurisdiction for
an order authorizing or approving the interception of wire,
oral, or electronic communications, may apply to such
judge for, and such judge may grant in conformity with
section 3119C and with the applicable State statute an
order authorizing, or approving the interception of wire,
oral, or electronic communications by investigative or law
enforcement officers having responsibility for the inves-
tigation of the offense as to which the application is made,
when such interception may provide or has provided evi-
dence of the commission of the offense of murder, kidnap-
ning, gambling, robbery, bribery, extortion, or dealing in
narcotic drugs, marihuana or other dangerous drugs, or
other crime dangerous to life, limb, or property, and pun-
ishable by imprisonment for more than one year, des-
ignated in any applicable State statute authorizing such
interception, or any conspiracy to commit any of the foregoing offenses.

“(c) INTERCEPTION FOR EVIDENCE OF FEDERAL FELONIES.—Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 3119C, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.

“§ 3119B. Authorization for disclosure and use of intercepted wire, oral, or electronic communications

“(a) DISCLOSURE TO INVESTIGATIVE OR LAW ENFORCEMENT OFFICERS.—Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance
of the official duties of the officer making or receiving the disclosure.

“(b) Use of Contents in Performance of Duties.—Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

“(c) Use of Contents in Testimony.—Any person who has received, by any means authorized by this chapter, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom intercepted in accordance with this chapter may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding held under the authority of the United States or of any State or political subdivision thereof.

“(d) Privileged Character.—No otherwise privileged wire, oral, or electronic communication intercepted in accordance with, or in violation of, this chapter shall lose its privileged character.

“(e) Offenses Other Than Those Specified in the Order.—When an investigative or law enforcement officer, while engaged in intercepting wire, oral, or elec-
tronic communications in the manner authorized herein, intercepts wire, oral, or electronic communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (a) and (b). Such contents and any evidence derived therefrom may be used under subsection (c) when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with this chapter. Such application shall be made as soon as practicable.

“(f) DOMESTIC USE OF INTELLIGENCE AND COUNTERINTELLIGENCE INFORMATION.—Any investigative or law enforcement officer, or attorney for the Government, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to any other Federal law enforcement, intelligence, protective, immigration, national defense, or national security official to the extent that such contents include foreign intelligence or counterintelligence (as defined in section 3 of the National Security Act of 1947), or foreign intelligence information (as defined in section 1491), to assist the official who is to receive that
information in the performance of his official duties. Any
Federal official who receives information pursuant to this
provision may use that information only as necessary in
the conduct of that person’s official duties subject to any
limitations on the unauthorized disclosure of such infor-
mation.

“(g) FOREIGN USE OF INTELLIGENCE AND COUN-
TERINTELLIGENCE INFORMATION.—Any investigative or
law enforcement officer, or other Federal official in car-
rying out official duties as such Federal official, who by
any means authorized by this chapter, has obtained knowl-
edge of the contents of any wire, oral, or electronic com-
munication, or evidence derived therefrom, may disclose
such contents or derivative evidence to a foreign investiga-
tive or law enforcement officer to the extent that such dis-
closure is appropriate to the proper performance of the
official duties of the officer making or receiving the disclo-
sure, and foreign investigative or law enforcement officers
may use or disclose such contents or derivative evidence
to the extent such use or disclosure is appropriate to the
proper performance of their official duties.

“(h) DISCLOSURE FOR PUBLIC SAFETY Pur-
poses.—Any investigative or law enforcement officer, or
other Federal official in carrying out official duties as such
Federal official, who by any means authorized by this
chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person’s official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.
§ 3119C. Procedure for interception of wire, oral, or electronic communications

“(a) APPLICATION.—Each application for an order authorizing or approving the interception of a wire, oral, or electronic communication under this chapter shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant’s authority to make such application. Each application shall include the following information:

“(1) The identity of the investigative or law enforcement officer making the application, and the officer authorizing the application.

“(2) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (A) details as to the particular offense that has been, is being, or is about to be committed, (B) except as provided in subsection (k), a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (C) a particular description of the type of communications sought to be intercepted, (D) the identity of the person, if known, committing the offense and whose communications are to be intercepted.
“(3) A full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

“(4) A statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter.

“(5) A full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire, oral, or electronic communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application.

“(6) Where the application is for the extension of an order, a statement setting forth the results
thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results.

“(b) ADDITIONAL TESTIMONY OR DOCUMENTARY EVIDENCE.—The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

“(c) EX PARTE ORDER.—Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire, oral, or electronic communications within the territorial jurisdiction of the court in which the judge is sitting (and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction), if the judge determines on the basis of the facts submitted by the applicant that—

“(1) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 3119A;

“(2) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;
“(3) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous; and

“(4) except as provided in subsection (k), there is probable cause for belief that the facilities from which, or the place where, the wire, oral, or electronic communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

“(d) CONTENTS OF ORDER.—Each order authorizing or approving the interception of any wire, oral, or electronic communication under this chapter shall specify—

“(1) the identity of the person, if known, whose communications are to be intercepted;

“(2) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

“(3) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

“(4) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and
“(5) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

An order authorizing the interception of a wire, oral, or electronic communication under this chapter shall, upon request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian or other person shall furnish the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that such service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. Any provider of wire or electronic communication service, landlord, custodian or other person furnishing such facilities or technical assistance shall be compensated therefor by the applicant for reasonable expenses incurred in providing such facilities or assistance. Pursuant to section 3119G, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.

“(e) LIMITATIONS ON ORDERS.—No order entered under this section may authorize or approve the intercep-
tion of any wire, oral, or electronic communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (a) of this section and the court making the findings required by subsection (c) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An intercep-

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tion under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.

“(f) REPORTS TO ISSUING JUDGE.—Whenever an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objective and the need for continued interception. Such reports shall be made at such intervals as the judge may require.

“(g) EMERGENCY SITUATIONS.—Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

“(1) an emergency situation exists that involves——

“(A) immediate danger of death or serious physical injury to any person,

“(B) conspiratorial activities threatening the national security interest, or
“(C) conspiratorial activities characteristic of organized crime,
that requires a wire, oral, or electronic communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and
“(2) there are grounds upon which an order could be entered under this chapter to authorize such interception,
may intercept such wire, oral, or electronic communication if an application for an order approving the interception is made in accordance with this section within forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire, oral, or electronic communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (d) of this section on the person named in the application.
“(h) RECORDING OF INTERCEPTION.—(1) The contents of any wire, oral, or electronic communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire, oral, or electronic communication under this subsection shall be done in such a way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to subsections (a) and (b) of section 3119B for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire, oral, or electronic communication or evidence derived therefrom under subsection (c) of section 3119B.

“(2) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge di-
rects. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

“(3) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

“(4) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 3119C(f)(2) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of—

“(A) the fact of the entry of the order or the application;

“(B) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and
“(C) the fact that during the period wire, oral, or electronic communications were or were not intercepted.

The judge, upon the filing of a motion, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications, applications and orders as the judge determines to be in the interest of justice. On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

“(i) EXCLUSION AS EVIDENCE.—The contents of any wire, oral, or electronic communication intercepted pursuant to this chapter or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order, and accompanying application, under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.
“(j) MOVE TO SUPPRESS.—(1) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any wire or oral communication intercepted pursuant to this chapter, or evidence derived therefrom, on the grounds that—

“(A) the communication was unlawfully intercepted;

“(B) the order of authorization or approval under which it was intercepted is insufficient on its face; or

“(C) the interception was not made in conformity with the order of authorization or approval. Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for
inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

“(2) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (1), or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

“(3) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.

“(k) Exception to Specification of Facility Requirements.—The requirements of subsections (a)(2)(B) and (c)(4) relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

“(1) in the case of an application with respect to the interception of an oral communication—
“(A) the application is by a Federal investiga-
tive or law enforcement officer and is ap-
proved by the Attorney General, the Deputy At-
torney General, the Associate Attorney General,
an Assistant Attorney General, or an acting As-
sistant Attorney General;

“(B) the application contains a full and
complete statement as to why such specification
is not practical and identifies the person com-
mitting the offense and whose communications
are to be intercepted; and

“(C) the judge finds that such specification
is not practical; and

“(2) in the case of an application with respect
to a wire or electronic communication—

“(A) the application is by a Federal inves-
tigative or law enforcement officer and is ap-
proved by the Attorney General, the Deputy At-
torney General, the Associate Attorney General,
an Assistant Attorney General, or an acting As-
sistant Attorney General;

“(B) the application identifies the person
believed to be committing the offense and whose
communications are to be intercepted and the
applicant makes a showing that there is prob-
able cause to believe that the person’s actions could have the effect of thwarting interception from a specified facility;

“(C) the judge finds that such showing has been adequately made; and

“(D) the order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which such communication will be or was transmitted.

“(l) BEGINNING OF CERTAIN INTERCEPTIONS.—An interception of a communication under an order with respect to which the requirements of subsections (a)(2)(B) and (e)(4) of this section do not apply by reason of subsection (k)(1) shall not begin until the place where the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in subsection (k)(2) may move the court to modify or quash the order on the ground that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court,
upon notice to the government, shall decide such a motion expeditiously.

§ 3119D. Reports concerning intercepted wire, oral, or electronic communications

“(a) 30 DAYS AFTER EXPIRATION OF ORDER.—In January of each year, any judge who has issued an order (or an extension thereof) under section 3119C that expired during the preceding year, or who has denied approval of an interception during that year, shall report to the Administrative Office of the United States Courts—

“(1) the fact that an order or extension was applied for;

“(2) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 3119C(a)(2)(B) and 3119(c)(4) did not apply by reason of section 3119C(k));

“(3) the fact that the order or extension was granted as applied for, was modified, or was denied;

“(4) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

“(5) the offense specified in the order or application, or extension of an order;
“(6) the identity of the applying investigative or
law enforcement officer and agency making the ap-
plication and the person authorizing the application;
and
“(7) the nature of the facilities from which or
the place where communications were to be inter-
cepted.
“(b) Annual Justice Department Report.—In
March of each year the Attorney General, an Assistant
Attorney General specially designated by the Attorney
General, or the principal prosecuting attorney of a State,
or the principal prosecuting attorney for any political sub-
division of a State, shall report to the Administrative Of-
office of the United States Courts—
“(1) the information required by paragraphs
(1) through (7) of subsection (a) of this section with
respect to each application for an order or extension
made during the preceding calendar year;
“(2) a general description of the interceptions
made under such order or extension, including (i)
the approximate nature and frequency of incrimi-
nating communications intercepted, (ii) the approxi-
mate nature and frequency of other communications
intercepted, (iii) the approximate number of persons
whose communications were intercepted, (iv) the
number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

“(3) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

“(4) the number of trials resulting from such interceptions;

“(5) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

“(6) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

“(7) the information required by paragraphs (2) through (6) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

“(c) REPORT TO CONGRESS.—In June of each year the Director of the Administrative Office of the United
States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications pursuant to this chapter and the number of orders and extensions granted or denied pursuant to this chapter during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (a) and (b) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (a) and (b).

“§ 3119E. Recovery of civil damages authorized

“(a) IN GENERAL.—Except as provided in section 1492(b)(1)(B), any person whose wire, oral, or electronic communication is intercepted, disclosed, or intentionally used in violation of subchapter B of chapter 37 may in a civil action recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.

“(b) RELIEF.—In an action under this section, appropriate relief includes—

“(1) such preliminary and other equitable or declaratory relief as may be appropriate;
“(2) damages under subsection (c) and punitive damages in appropriate cases; and

“(3) a reasonable attorney’s fee and other litigation costs reasonably incurred.

“(c) COMPUTATION OF DAMAGES.—(1) In an action under this section, if the conduct in violation of this chapter is the private viewing of a private satellite video communication that is not scrambled or encrypted or if the communication is a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission that is not scrambled or encrypted and the conduct is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the court shall assess damages as follows:

“(A) If the person who engaged in that conduct has not previously been enjoined under section 1492, and has not been found liable in a prior civil action under this section, the court shall assess the greater of the sum of actual damages suffered by the plaintiff, or statutory damages of not less than $50 and not more than $500.

“(B) If, on one prior occasion, the person who engaged in that conduct has been enjoined under
section 1492 or has been found liable in a civil ac-
tion under this section, the court shall assess the
greater of the sum of actual damages suffered by
the plaintiff, or statutory damages of not less than
$100 and not more than $1000.

“(2) In any other action under this section, the court
may assess as damages whichever is the greater of—

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

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

“(d) DEFENSE.—A good faith reliance on—

“(1) a court warrant or order, a grand jury
subpoena, a legislative authorization, or a statutory
authorization;

“(2) a request of an investigative or law en-
forcement officer under section 3119C(g); or

“(3) a good faith determination that section
1492(c) or 1492(b)(1) permitted the conduct com-
plained of,

is a complete defense against any civil or criminal action
brought under this chapter or any other law.
“(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

“(f) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect to the violation, the department or agency shall, upon receipt of a true and correct copy of the decision and findings of the court or appropriate department or agency promptly initiate a proceeding to determine whether disciplinary action against the officer or employee is warranted. If the head of the department or agency involved determines that disciplinary action is not warranted, he or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

“(g) IMPROPER DISCLOSURE IS VIOLATION.—Any willful disclosure or use by an investigative or law enforce-
ment officer or governmental entity of information beyond
the extent permitted by section 3119B is a violation of
this chapter for purposes of subsection (a).

“§ 3119F. Injunction against illegal interception

“Whenever it shall appear that any person is engaged
or is about to engage in any act which constitutes or will
constitute a felony violation of this chapter, the Attorney
General may initiate a civil action in a district court of
the United States to enjoin such violation. The court shall
proceed as soon as practicable to the hearing and deter-
mination of such an action, and may, at any time before
final determination, enter such a restraining order or pro-
hibition, or take such other action, as is warranted to pre-
vent a continuing and substantial injury to the United
States or to any person or class of persons for whose pro-
tection the action is brought. A proceeding under this sec-
tion is governed by the Federal Rules of Civil Procedure,
except that, if an indictment has been returned against
the respondent, discovery is governed by the Federal Rules
of Criminal Procedure.

“§ 3119G. Enforcement of the Communications Assist-
ance for Law Enforcement Act

“(a) ENFORCEMENT BY COURT ISSUING SURVEIL-
LANCE ORDER.—If a court authorizing an interception
under this chapter, a State statute, or the Foreign Intel-
intelligence Surveillance Act of 1978 or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements of the Communications Assistance for Law Enforcement Act, the court may, in accordance with section 108 of such Act, direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier’s transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

“(b) Enforcement upon Application by Attorney General.—The Attorney General may, in a civil action in the appropriate United States district court, obtain an order, in accordance with section 108 of the Communications Assistance for Law Enforcement Act, directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with such Act.

“(c) Civil Penalty.—

“(1) In general.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of
telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

“(2) CONSIDERATIONS.—In determining whether to impose a civil penalty and in determining its amount, the court shall take into account—

“(A) the nature, circumstances, and extent of the violation;

“(B) the violator’s ability to pay, the violator’s good faith efforts to comply in a timely manner, any effect on the violator’s ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

“(C) such other matters as justice may require.

“(d) DEFINITIONS.—As used in this section, the terms defined in section 102 of the Communications Assistance for Law Enforcement Act have the meanings provided, respectively, in such section.

“§3119H. Definitions

“Unless otherwise provided, a term defined for the purposes of subchapter B of chapter 37 shall have the same meaning for the purposes of this chapter.
1 “CHAPTER 205B—PROCEDURAL AND RELATED PROVISIONS PERTAINING TO STORED COMMUNICATIONS

2 “Sec
3 "3120. Voluntary disclosure of customer communications or records
4 "3120A. Required disclosure of customer communications or records
5 "3120B. Backup preservation
6 "3120C. Delayed notice
7 "3120D. Cost reimbursement
8 "3120E. Civil action
9 "3120F. Exclusivity of remedies
10 "3120G. Counterintelligence access to telephone toll and transactional records
11 "3120H. Wrongful disclosure of video tape rental or sale records
12 "3120I. Definitions for chapter
13 "3120J. Civil actions against the United States

4 “§ 3120. Voluntary disclosure of customer communications or records
5 "(a) PROHIBITIONS.—Except as provided in subsection (b) or (c)—
6 “(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and
7 “(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—
8 “(A) on behalf of, and received by means of electronic transmission from (or created by
means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service;

“(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing; and

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

“(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—A provider described in subsection (a) may divulge the contents of a communication—

“(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;
“(2) as otherwise authorized in section 3119B, 1492, or 3120A;

“(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

“(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

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

“(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 6 of the Criminal Code Modernization and Simplification Act of 2011;

“(7) to a law enforcement agency if the contents—

“(A) were inadvertently obtained by the service provider; and

“(B) appear to pertain to the commission of a crime; and

“(8) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any
person requires disclosure without delay of communications relating to the emergency.

“(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

“(1) as otherwise authorized in section 3120A;

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

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

“(4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency;

“(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 6 of the Criminal Code Modernization and Simplification Act of 2011; or

“(6) to any person other than a governmental entity.
“(d) REPORTING OF EMERGENCY DISCLOSURES.—

On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representa-
tives and the Committee on the Judiciary of the Senate a report containing

“(1) the number of accounts from which the Department of Justice has received voluntary disclo-
sures under subsection (b)(8); and

“(2) a summary of the basis for disclosure in those instances where—

“(A) voluntary disclosures under sub-
section (b)(8) were made to the Department of Justice; and

“(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.

“§ 3120A. Required disclosure of customer commu-

nications or records

“(a) CONTENTS OF WIRE OR ELECTRONIC COMMU-
nications in Electronic Storage.—A governmental entity may require the disclosure by a provider of elec-
tronic communication service of the contents of a wire or electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued
using the procedures described in the Federal Rules of
Criminal Procedure (or, in the case of a State court,
issued using State warrant procedures) by a court of com-
petent jurisdiction. A governmental entity may require the
disclosure by a provider of electronic communications serv-
ces of the contents of a wire or electronic communication
that has been in electronic storage in an electronic commu-
nications system for more than one hundred and eighty
days by the means available under subsection (b) of this
section.

“(b) Contents of Wire or Electronic Commu-
nications in a Remote Computing Service.—(1) A
governmental entity may require a provider of remote
computing service to disclose the contents of any wire or
electronic communication to which this paragraph is made
applicable by paragraph (2) of this subsection—

“(A) without required notice to the subscriber
or customer, if the governmental entity obtains a
warrant issued using the procedures described in the
Federal Rules of Criminal Procedure (or, in the case
of a State court, issued using State warrant proce-
dures) by a court of competent jurisdiction; or

“(B) with prior notice from the governmental
entity to the subscriber or customer if the govern-
mental entity—
“(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena; or

“(ii) obtains a court order for such disclosure under subsection (d) of this section; except that delayed notice may be given pursuant to section 3120C.

“(2) Paragraph (1) is applicable with respect to any wire or electronic communication that is held or maintained on that service—

“(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

“(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

“(c) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE.—

(1) A governmental entity may require a provider of electronic communication service or remote computing service
to disclose a record or other information pertaining to a
subscriber to or customer of such service (not including
the contents of communications) only when the govern-
mental entity—

“(A) obtains a warrant issued using the proce-
dures described in the Federal Rules of Criminal
Procedure (or, in the case of a State court, issued
using State warrant procedures) by a court of com-
petent jurisdiction;

“(B) obtains a court order for such disclosure
under subsection (d) of this section;

“(C) has the consent of the subscriber or cus-
tomer to such disclosure;

“(D) submits a formal written request relevant
to a law enforcement investigation concerning tele-
marketing fraud for the name, address, and place of
business of a subscriber or customer of such pro-
vider, which subscriber or customer is engaged in
telemarketing; or

“(E) seeks information under paragraph (2).

“(2) A provider of electronic communication service
or remote computing service shall disclose to a govern-
mental entity the—

“(A) name;

“(B) address;
“(C) local and long distance telephone connection records, or records of session times and durations;

“(D) length of service (including start date) and types of service utilized;

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

“(F) means and source of payment for such service (including any credit card or bank account number),

of a subscriber to or customer of such service when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under paragraph (1).

“(3) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.

“(4) As used in this subsection, the term ‘telemarketing’—

“(A) means a plan, program, promotion, or campaign that is conducted to induce—

“(i) purchases of goods or services;
“(ii) participation in a contest or sweepstakes; or

“(iii) a charitable contribution, donation, or gift of money or any other thing of value, by use of 1 or more interstate telephone calls initiated either by a person who is conducting the plan, program, promotion, or campaign or by a prospective purchaser or contest or sweepstakes participant or charitable contributor, or donor; but

“(B) does not include the solicitation of sales through the mailing of a catalog that—

“(i) contains a written description or illustration of the goods or services offered for sale;

“(ii) includes the business address of the seller;

“(iii) includes multiple pages of written material or illustration; and

“(iv) has been issued not less frequently than once a year,

if the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders without further solicitation.

“(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) may be
issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

“(e) No Cause of Action Against a Provider Disclosing Information Under This Chapter.—No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, statutory authorization, or certification under this chapter.

“(f) Requirement To Preserve Evidence.—

“(1) In General.—A provider of wire or electronic communication services or a remote com-
puting service, upon the request of a governmental
entity, shall take all necessary steps to preserve
records and other evidence in its possession pending
the issuance of a court order or other process.

“(2) Period of retention.—Records referred
to in paragraph (1) shall be retained for a period of
90 days, which shall be extended for an additional
90-day period upon a renewed request by the gov-
ernmental entity.

“(g) Presence of officer not required.—Not-
withstanding section 3105, the presence of an officer shall
not be required for service or execution of a search war-
rant issued in accordance with this chapter requiring dis-
closure by a provider of electronic communications service
or remote computing service of the contents of commu-
ications or records or other information pertaining to a
subscriber to or customer of such service.

§ 3120B. Backup preservation

“(a) Backup preservation.—(1) A governmental
entity acting under section 3120A(b)(2) may include in
its subpoena or court order a requirement that the service
provider to whom the request is directed create a backup
copy of the contents of the electronic communications
sought in order to preserve those communications. With-
out notifying the subscriber or customer of such subpoena
or court order, such service provider shall create such
backup copy as soon as practicable consistent with its reg-
ular business practices and shall confirm to the govern-
mental entity that such backup copy has been made. Such
backup copy shall be created within two business days
after receipt by the service provider of the subpoena or
court order.

“(2) Notice to the subscriber or customer shall be
made by the governmental entity within three days after
receipt of such confirmation, unless such notice is delayed
pursuant to section 3120C(a).

“(3) The service provider shall not destroy such
backup copy until the later of—

“(A) the delivery of the information; or

“(B) the resolution of any proceedings (includ-
ing appeals of any proceeding) concerning the gov-
ernment’s subpoena or court order.

“(4) The service provider shall release such backup
copy to the requesting governmental entity no sooner than
fourteen days after the governmental entity’s notice to the
subscriber or customer if such service provider—

“(A) has not received notice from the sub-
scriber or customer that the subscriber or customer
has challenged the governmental entity’s request; and
“(B) has not initiated proceedings to challenge the request of the governmental entity.

“(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 3120A of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

“(b) Customer Challenges.—(1) Within 14 days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

“(A) stating that the applicant is a customer or subscriber to the service from which the contents of
electronic communications maintained for him have been sought; and

“(B) stating the applicant’s reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

“(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term ‘delivery’ has the meaning given that term in the Federal Rules of Civil Procedure.

“(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties’ initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the
motion or application decided as soon as practicable after the filing of the governmental entity’s response.

“(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

“(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

“§ 3120C. Delayed notice

“(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 3120A(b) may—

“(A) where a court order is sought, include in the application a request, which the court shall
grant, for an order delaying the notification required
under section 3120A(b) for a period not to exceed
ninety days, if the court determines that there is
reason to believe that notification of the existence of
the court order may have an adverse result described
in paragraph (2) of this subsection; or

“(B) where an administrative subpoena author-
ized by a Federal or State statute or a Federal or
State grand jury subpoena is obtained, delay the no-
tification required under section 3120A(b) for a pe-
riod not to exceed ninety days upon the execution of
a written certification of a supervisory official that
there is reason to believe that notification of the ex-
istence of the subpoena may have an adverse result
described in paragraph (2) of this subsection.

“(2) An adverse result for the purposes of paragraph
(1) of this subsection is—

“(A) endangering the life or physical safety of
an individual;

“(B) flight from prosecution;

“(C) destruction of or tampering with evidence;

“(D) intimidation of potential witnesses; or

“(E) otherwise seriously jeopardizing an inves-
tigation or unduly delaying a trial.
“(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

“(4) Extensions of the delay of notification provided in section 3120A of up to ninety days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) of this section.

“(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first-class mail to, the customer or subscriber a copy of the process or request together with notice that—

“(A) states with reasonable specificity the nature of the law enforcement inquiry; and

“(B) informs such customer or subscriber—

“(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

“(ii) that notification of such customer or subscriber was delayed;
“(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

“(iv) which provision of this chapter allowed such delay.

“(6) As used in this subsection, the term ‘supervisory official’ means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency’s headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney’s headquarters or regional office.

“(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 3120A, when it is not required to notify the subscriber or customer under section 3120A(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the exist-
ence of the warrant, subpoena, or court order will result in—

“(1) endangering the life or physical safety of an individual;

“(2) flight from prosecution;

“(3) destruction of or tampering with evidence;

“(4) intimidation of potential witnesses; or

“(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

“§ 3120D. Cost reimbursement

“(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 3120, 3120A, or 3120B shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

“(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the infor-
information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

“(c) EXCEPTION.—The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 3120A. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

§ 3120E. Civil action

“(a) CAUSE OF ACTION.—Except as provided in section 3120A(e), any provider of electronic communication service, subscriber, or other person aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity, other than the United States, which engaged in that violation such relief as may be appropriate.
'“(b) RELIEF.—In a civil action under this section, appropriate relief includes—

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

“(2) damages under subsection (c); and

“(3) a reasonable attorney’s fee and other litigation costs reasonably incurred.

“(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000. If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.

“(d) ADMINISTRATIVE DISCIPLINE.—If a court or appropriate department or agency determines that the United States or any of its departments or agencies has violated any provision of this chapter, and the court or appropriate department or agency finds that the circumstances surrounding the violation raise serious questions about whether or not an officer or employee of the United States acted willfully or intentionally with respect
to the violation, the department or agency shall, upon re-
ceipt of a true and correct copy of the decision and find-
ings of the court or appropriate department or agency
promptly initiate a proceeding to determine whether dis-
ciplinary action against the officer or employee is war-
ranted. If the head of the department or agency involved
determines that disciplinary action is not warranted, he
or she shall notify the Inspector General with jurisdiction
over the department or agency concerned and shall provide
the Inspector General with the reasons for such deter-
mination.

“(e) DEFENSE.—A good faith reliance on—

“(1) a court warrant or order, a grand jury
subpoena, a legislative authorization, or a statutory
authorization (including a request of a governmental
entity under section 3120A(f));

“(2) a request of an investigative or law en-
forcement officer under section 3119C(g); or

“(3) a good faith determination that section
1492(c) permitted the conduct complained of;

is a complete defense to any civil or criminal action
brought under this chapter or any other law.

“(f) LIMITATION.—A civil action under this section
may not be commenced later than two years after the date
upon which the claimant first discovered or had a reason-
able opportunity to discover the violation.

“(g) IMPROPER DISCLOSURE.—Any willful disclosure
of a ‘record’, as that term is defined in section 552a(a)
of title 5, obtained by an investigative or law enforcement
officer, or a governmental entity, pursuant to section
3120A, or from a device installed pursuant to section
3123 or 3125, that is not a disclosure made in the proper
performance of the official functions of the officer or gov-
ernmental entity making the disclosure, is a violation of
this chapter. This subsection does not apply to informa-
tion previously lawfully disclosed (prior to the commence-
ment of any civil or administrative proceeding under this
chapter) to the public by a Federal, State, or local govern-
mental entity or by the plaintiff in a civil action under
this chapter.

“§ 3120F. Exclusivity of remedies

“The remedies and sanctions described in this chap-
ter are the only judicial remedies and sanctions for non-
constitutional violations of this chapter.

“§ 3120G. Counterintelligence access to telephone toll
and transactional records

“(a) DUTY TO PROVIDE.—A wire or electronic com-
munication service provider shall comply with a request
for subscriber information and toll billing records informa-
tion, or electronic communication transactional records in
its custody or possession made by the Director of the Fed-
eral Bureau of Investigation under subsection (b) of this
section.

“(b) REQUIRED CERTIFICATION.—The Director of
the Federal Bureau of Investigation, or his designee in
a position not lower than Deputy Assistant Director at
Bureau headquarters or a Special Agent in Charge in a
Bureau field office designated by the Director, may—

“(1) request the name, address, length of serv-
ice, and local and long distance toll billing records
of a person or entity if the Director (or his designee)
certifies in writing to the wire or electronic commu-
ication service provider to which the request is
made that the name, address, length of service, and
toll billing records sought are relevant to an author-
ized investigation to protect against international
terrorism or clandestine intelligence activities, pro-
vided that such an investigation of a United States
person is not conducted solely on the basis of activi-
ties protected by the first amendment to the Con-
stitution of the United States; and

“(2) request the name, address, and length of
service of a person or entity if the Director (or his
designee) certifies in writing to the wire or electronic
communication service provider to which the request
is made that the information sought is relevant to
an authorized investigation to protect against inter-
national terrorism or clandestine intelligence activi-
ties, provided that such an investigation of a United
States person is not conducted solely upon the basis
of activities protected by the first amendment to the
Constitution of the United States.

“(c) PROHIBITION OF CERTAIN DISCLOSURE.—

“(1) If the Director of the Federal Bureau of
Investigation, or his designee in a position not lower
than Deputy Assistant Director at Bureau head-
quar ters or a Special Agent in Charge in a Bureau
field office designated by the Director, certifies that
otherwise there may result a danger to the national
security of the United States, interference with a
criminal, counterterrorism, or counterintelligence in-
vestigation, interference with diplomatic relations, or
danger to the life or physical safety of any person,
no wire or electronic communications service pro-
der, or officer, employee, or agent thereof, shall
disclose to any person (other than those to whom
such disclosure is necessary to comply with the re-
quest or an attorney to obtain legal advice or legal
assistance with respect to the request) that the Fed-
eral Bureau of Investigation has sought or obtained access to information or records under this section.

“(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

“(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice or legal assistance with respect to the request shall inform such person of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

“(4) At the request of the Director of the Federal Bureau of Investigation or the designee of the Director, any person making or intending to make a disclosure under this section shall identify to the Director or such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, except that nothing in this section requires a person to inform the Director or such designee of the identity of an attorney to whom disclosure was made or will be made to obtain legal advice or legal assistance with respect to the request under subsection (a).
“(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

“(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, concerning all requests made under subsection (b) of this section.

“(f) LIBRARIES.—A library (as that term is defined in section 213(1) of the Library Services and Technology Act), the services of which include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally by patrons for their use, review, examination, or circulation, is not a wire or electronic communication service provider for
purposes of this section, unless the library is providing the
services defined in section 1491 (‘electronic communica-
tion service’).

§ 3120H. Wrongful disclosure of video tape rental or
sale records

(a) DEFINITIONS.—For purposes of this section—

(1) the term ‘consumer’ means any renter,
purchaser, or subscriber of goods or services from a
video tape service provider;

(2) the term ‘ordinary course of business’
means only debt collection activities, order fulfill-
ment, request processing, and the transfer of owner-
ship;

(3) the term ‘personally identifiable informa-
tion’ includes information which identifies a person
as having requested or obtained specific video mate-
rials or services from a video tape service provider;
and

(4) the term ‘video tape service provider’
means any person, engaged in the business, in or af-
flecting interstate or foreign commerce, of rental,
sale, or delivery of prerecorded video cassette tapes
or similar audio visual materials, or any person or
other entity to whom a disclosure is made under
subparagraph (D) or (E) of subsection (b)(2), but
only with respect to the information contained in the
disclosure.

“(b) Video Tape Rental and Sale Records.—

(1) A video tape service provider who knowingly discloses,
to any person, personally identifiable information con-
cerning any consumer of such provider shall be liable to
the aggrieved person for the relief provided in subsection
(d).

“(2) A video tape service provider may disclose per-
sonally identifiable information concerning any con-
sumer—

“(A) to the consumer;

“(B) to any person with the informed, written
consent (including through an electronic means
using the Internet) of the consumer that—

“(i) is in a form distinct and separate from
any form setting forth other legal or financial
obligations of the consumer;

“(ii) at the election of the consumer—

“(I) is given at the time the disclosure
is sought; or

“(II) is given in advance for a set pe-
riod of time, not to exceed 2 years or until
consent is withdrawn by the consumer,
whichever is sooner; and
“(iii) the video tape service provider has provided an opportunity, in a clear and conspicuous manner, for the consumer to withdraw on a case-by-case basis or to withdraw from ongoing disclosures, at the consumer’s election;

“(C) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a grand jury subpoena, or a court order;

“(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

“(i) the video tape service provider has provided the consumer with the opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

“(ii) the disclosure does not identify the title, description, or subject matter of any video tapes or other audio visual material; however, the subject matter of such materials may be disclosed if the disclosure is for the exclusive use of marketing goods and services directly to the consumer;

“(E) to any person if the disclosure is incident to the ordinary course of business of the video tape service provider; or
“(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

“(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

“(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

“(3) Court orders authorizing disclosure under subparagraph (C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that the records or other information sought are relevant to a legitimate law enforcement inquiry. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the video tape service provider, may quash or modify such order if the information or records requested are unrea-
sonably voluminous in nature or if compliance with such
order otherwise would cause an unreasonable burden on
such provider.

“(c) CIVIL ACTION.—(1) Any person aggrieved by
any act of a person in violation of this section may bring
a civil action in a United States district court.

“(2) The court may award—

“(A) actual damages but not less than liq-
uidated damages in an amount of $2,500;

“(B) punitive damages;

“(C) reasonable attorneys’ fees and other litiga-
tion costs reasonably incurred; and

“(D) such other preliminary and equitable relief
as the court determines to be appropriate.

“(3) No action may be brought under this subsection
unless such action is begun within 2 years from the date
of the act complained of or the date of discovery.

“(4) No liability shall result from lawful disclosure
permitted by this section.

“(d) PERSONALLY IDENTIFIABLE INFORMATION.—
Personally identifiable information obtained in any man-
ner other than as provided in this section shall not be re-
ceived in evidence in any trial, hearing, arbitration, or
other proceeding in or before any court, grand jury, de-
partment, officer, agency, regulatory body, legislative com-
mittee, or other authority of the United States, a State, or a political subdivision of a State.

“(e) **DESTRUCTION OF OLD RECORDS.**—A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (b)(2) or (e)(2) or pursuant to a court order.

§ 3120I. **Definitions for chapter**

“As used in this chapter—

“(1) unless otherwise provided, a term defined in section 1491 has the same meaning given that term in that section;

“(2) the term ‘remote computing service’ means the provision to the public of computer storage or processing services by means of an electronic communications system;

“(3) the term ‘court of competent jurisdiction’ includes—

“(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—
“(i) has jurisdiction over the offense being investigated;

“(ii) is in or for a district in which the provider of a wire or electronic communication service is located or in which the wire or electronic communications, records, or other information are stored; or

“(iii) is acting on a request for foreign assistance pursuant to section 3512; or

“(B) a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants; and

“(4) the term ‘governmental entity’ means a department or agency of the United States or any State or political subdivision thereof.

§ 3120J. Civil actions against the United States

“(a) IN GENERAL.—Any person who is aggrieved by any willful violation of subchapter B or C of chapter 37 or of sections 106(a), 305(a), or 405(a) of the Foreign Intelligence Surveillance Act of 1978 may commence an action in United States District Court against the United States to recover money damages. In any such action, if a person who is aggrieved successfully establishes such a violation of subchapter B or C of chapter 37 or of the
above specified provisions of title 50, the Court may assess as damages—

“(1) actual damages, but not less than $10,000, whichever amount is greater; and

“(2) litigation costs, reasonably incurred.

“(b) PROCEDURES.—(1) Any action against the United States under this section may be commenced only after a claim is presented to the appropriate department or agency under the procedures of the Federal Tort Claims Act, as set forth in title 28.

“(2) Any action against the United States under this section shall be forever barred unless it is presented in writing to the appropriate Federal agency within 2 years after such claim accrues or unless action is begun within 6 months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the agency to which it was presented. The claim shall accrue on the date upon which the claimant first has a reasonable opportunity to discover the violation.

“(3) Any action under this section shall be tried to the court without a jury.

“(4) Notwithstanding any other provision of law, the procedures set forth in section 106(f), 305(g), or 405(f) of the Foreign Intelligence Surveillance Act of 1978 shall
be the exclusive means by which materials governed by
those sections may be reviewed.

“(5) An amount equal to any award against the
United States under this section shall be reimbursed by
the department or agency concerned to the fund described
in section 1304 of title 31, out of any appropriation, fund,
or other account (excluding any part of such appropria-
tion, fund, or account that is available for the enforcement
of any Federal law) that is available for the operating ex-
penses of the department or agency concerned.

“(c) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
propriate department or agency determines that the
United States or any of its departments or agencies has
violated any provision of this chapter, and the court or
appropriate department or agency finds that the cir-
cumstances surrounding the violation raise serious ques-
tions about whether or not an officer or employee of the
United States acted willfully or intentionally with respect
to the violation, the department or agency shall, upon re-
ceipt of a true and correct copy of the decision and find-
ings of the court or appropriate department or agency
promptly initiate a proceeding to determine whether dis-
ciplinary action against the officer or employee is war-
ranted. If the head of the department or agency involved
determines that disciplinary action is not warranted, he
or she shall notify the Inspector General with jurisdiction over the department or agency concerned and shall provide the Inspector General with the reasons for such determination.

“(d) EXCLUSIVE REMEDY.—Any action against the United States under this subsection shall be the exclusive remedy against the United States for any claims within the purview of this section.

“(e) STAY OF PROCEEDINGS.—(1) Upon the motion of the United States, the court shall stay any action commenced under this section if the court determines that civil discovery will adversely affect the ability of the Government to conduct a related investigation or the prosecution of a related criminal case. Such a stay shall toll the limitations periods of paragraph (2) of subsection (b).

“(2) In this subsection, the terms ‘related criminal case’ and ‘related investigation’ mean an actual prosecution or investigation in progress at the time at which the request for the stay or any subsequent motion to lift the stay is made. In determining whether an investigation or a criminal case is related to an action commenced under this section, the court shall consider the degree of similarity between the parties, witnesses, facts, and circumstances involved in the 2 proceedings, without requiring that any one or more factors be identical.
“(3) In requesting a stay under paragraph (1), the
Government may, in appropriate cases, submit evidence ex
parte in order to avoid disclosing any matter that may
adversely affect a related investigation or a related crimi-
nal case. If the Government makes such an ex parte sub-
mission, the plaintiff shall be given an opportunity to
make a submission to the court, not ex parte, and the
court may, in its discretion, request further information
from either party.”; and

(2) by inserting at the end of chapter 213 the
following:

§ 3301. Hate crime acts

“(a) Offenses Not Resulting in Death.—Ex-
cept as provided in paragraph (2), no person shall be pros-
eced, tried, or punished for any offense under section
901 unless the indictment for such offense is found, or
the information for such offense is instituted, not later
than 7 years after the date on which the offense was com-
mited.

“(b) Death Resulting Offenses.—An indictment
or information alleging that an offense under section 901
resulted in death may be found or instituted at any time
without limitation.”.