One of the things that has been frustrating to me as a freshman, and I have only been here 11 months now, but I came from a legislature that had its share of partisanship. But we had partisanship on 10 or 12 issues, maybe. You would have 10 or 12 issues that the two parties and the members of the two parties would duke it out to the end. Both sides would go to their respective corners and you knew on those issues we would not find common ground and that was that.

But on other issues, and I am talking about other issues related to health insurance and property insurance and tax relief, and not little itty bitty issues, not the small stuff but some really big things, that if everybody on both sides of the aisle, all the interested parties are willing to sit down at the table and use another C word. Because we are really big on C words, I want a good C word, notcronyism, not corruption, not a lack of competence, I want compromise. That is the C word I would like to see used here. In my 11 months here, I have not seen a whole lot of interest in compromise. It is my-way-or-the-highway type of politics here, and that is really sad.

Mr. RYAN of Ohio. And the agenda the gentlewoman has been articulating over the past 20 minutes or so I think separates us from even how our party used to be. Everybody has their crosses to bear, and I think we had been labeled many times as just a tax-and-spend party who never came up, at least in the last few years, with any really great ideas.

Most of the Democrats over here voted yesterday for the alternative minimum tax, to make sure that average people will get a tax cut and they will not be burdened. So I think we are moving away from that. And I would say most of us have voted for middle class tax relief on a variety of occasions. What we are saying here is that this is the broadband and the engineering. And our approach to this thing, research and development, tax credits, our approach to this is a new approach that neither party has had, but we have it now.

The Democratic party is offering a new approach to this. And it is, in many ways, having broadband penetration for every single student and for every household in the next 5 years is an economic job-creation program. These kids who live in poverty, we need to help them with heating oil and we do need to make sure these kids have the proper diet and the proper nutrition and all that. That is stuff that still needs to happen. But if that kid is caught in the digital divide, caught at the wrong end of the digital divide, that kid will never have an opportunity to hook up to any kind of economic growth that we may have because of this.

That is why it is so important to get it everywhere. And what we are saying is we want that kid, who is somewhere in rural America or somewhere in some inner city, to have access to this. Because with a quality education, access to the technology and the proper community support, that kid will become a wealth creator. They will be creating wealth and paying taxes, instead of asking where can I find a job for the earned income tax credit, am I going to be on Medicaid, or what do I need?

We want to propel people. And America needs to be a country of opportunity again, Debbie. It needs to be a country where people can say. I can be anything I want, I can do whatever I want because the proper infrastructure was in place when I was a kid to help propel me into a bright future. Mr. WASSERMAN-SCHULTZ. So as we close out, Mr. Speaker, and I think Mr. Ryan is going to put the board up that shows our 30-Something Web site, I have one wish. I have a wish for the holiday season; that we shift from the cronyism, from the corruption, from the lack of competence. And my wish for the holiday season and the new year is that we adopt a more positive C word; come together and find some common ground and some compromise.

That seems to have been elusive, elusive mostly because it does not appear the Republican leadership has had any interest in finding some ground and compromise. So that is my wish for the holiday season.

We want to thank the Democratic leader for the time spending some time on the floor discussing our views, and I yield to my colleague to give out the Web site.

Mr. RYAN of Ohio. Yes, this is the 30 Something Working Group. Send us an e-mail at 30somethingdems@mail.house.gov.

Thirty, the number, somethingdems@mail.house.gov.

CONFERENCE REPORT ON H.R. 3199, USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005

Mr. SENENBRENNER (during the special order of Mr. KING of Iowa) submitted the following conference report and statement on the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:

CONFERENCE REPORT (H. Rept. 109-333)

The conference committee of the committee on the disagreeing vote of the two Houses on the amendment to the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:

CONFERENCE REPORT (H. Rept. 109-333)

The conference committee on the disagreeing vote of the two Houses on the amendment to the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:

CONFERENCE REPORT (H. Rept. 109-333)

The conference committee of the committee on the disagreeing vote of the two Houses on the amendment to the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:--
Subtitle B—Federal Death Penalty Procedures
Sec. 221. Elimination of procedures applicable only to certain Controlled Substance Act cases.
Sec. 222. Consent for financially unable defendants.

TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA’S SEAPORTS
Sec. 301. Short title.
Sec. 302. Entry by false pretenses to any seaport.
Sec. 303. Criminal sanctions for failure to heave a vessel or maritime facility.
Sec. 304. Criminal sanctions for violence against maritime navigation.
Sec. 305. Transportation of dangerous materials and terrorists.
Sec. 306. Destruction of, or interference with, vessels or maritime facilities.
Sec. 307. Theft of interstate or foreign shipments or vessels.
Sec. 308. Stowaways on vessels or aircraft.
Sec. 309. Bribery affecting port security.
Sec. 310. Penalties for smuggling goods into the United States.
Sec. 311. Smuggling goods from the United States.

TITLE IV—COMBATING TERRORISM AND FINANCING
Sec. 401. Short title.
Sec. 402. Increased penalties for terrorism financing.
Sec. 403. Terrorism-related specified activities and money laundering.
Sec. 404. Assets of persons committing terrorist acts against foreign countries or international organizations.
Sec. 405. Money laundering through hasedas.
Sec. 406. Technical and conforming amendments relating to the USA PATRIOT Act.
Sec. 407. Cross reference correction.
Sec. 408. Amendment to amendatory language.
Sec. 409. Denial of additional money laundering predicate.
Sec. 410. Uniform procedures for criminal forfeiture.

TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Residence of United States attorneys and assistant United States attorneys.
Sec. 502. Involuntary appointment of United States Attorneys.
Sec. 503. Secretary of Homeland Security in Presidential line of succession.
Sec. 504. Bureau of Alcohol, Tobacco and Firearms to the Department of Justice.
Sec. 505. Qualifications of United States Marshals.
Sec. 506. Department of Justice intelligence matters.
Sec. 507. Review by Attorney General.

TITLE VI—SECRET SERVICE
Sec. 601. Short title.
Sec. 602. Interference with national special security events.
Sec. 603. False credentials to national special security events.
Sec. 604. Forensic and investigatory support of missing and exploited children cases.
Sec. 605. The Uniformed Division, United States Secret Service.
Sec. 606. Savings provisions.
Sec. 607. Maintenance as distinct entity.
Sec. 608. Exemptions from the Federal Advisory Committee Act.

TITLE VII—COMBATING METHAMPHETAMINE EPIDEMIC ACT OF 2005
Sec. 701. Short title.
Subtitle A—Domestic regulation of precursor chemicals
Sec. 711. Scheduled listed chemical products; restrictions on sales quantity, behind-the-counter access, and other safeguards.
(2) by adding at the end the following:

“(3) In the case of an application for an order requiring the production of library circulation records, library patron lists, book sales records, book inventory lists, firearms sales records, tax return records, educational records, or medical records containing information that would identify a person, the Director of the Federal Bureau of Investigation of any tangible things to be produced pursuant to paragraph (1) shall, in accordance with subsection (a)(2) to obtain foreign intelligence information:

(A) those persons to whom disclosure is necessary to comply with a section 501(f) order; or

(B) an attorney to obtain legal advice or assistance with respect to the production of things in response to the order; or

(C) other persons submitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

(2) A person upon whom disclosure is made pursuant to paragraph (1) shall be subject to the nondisclosure requirements applicable to a person to whom an order is issued under this section in the same person.

(3) A person who discloses to a person described in subparagraphs (A), (B), or (C) of paragraph (1) that the Federal Bureau of Investigation has sought or obtained tangible things pursuant to an order under this section shall notify such person of the nondisclosure requirements of this subsection.

(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 consistent with the protection of national security, publish procedures for the review of petitions filed pursuant to section 501(f)(1) with the panel established under paragraph (1). Such procedures may include procedures that a petition shall be conducted in camera and shall also provide for the designation of an acting presiding judge.”.

(f) ADDITIONAL PROTECTIONS.—Subsection (c)(1) of such section is amended to read as follows:

“(1) A petition for review of a decision to affirm, modify, or set aside an order by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall provide for the record a written statement of the reasons for its decision and, on petition of the aggrieved party, order the production of things, to minimize the retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information.

“(2) Defined.—In this section, the term ‘minimization procedures’ means—

(A) specific procedures that are reasonably designed in light of the purpose and technique of an order for the production of tangible things, to minimize the retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information.

(B) procedures that require that nonpublicly available information, which is not foreign intelligence information, be filed under seal. In any proceedings under subsection (a), the court shall, upon request of the government, evidence or in camera any government submission, or portions thereof, with respect to include classified information.

(g) MINIMIZATION PROCEDURES AND USE OF INFORMATION.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is further amended by adding at the end the following new subsection:

“(1) Upon an application made pursuant to subsection (a) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, such things being presumptively relevant to an authorized investigation, the court of the United States directing the production of records, educational records, or medical records containing information that would identify a person, the Director of the Federal Bureau of Investigation may delegate the authority described in subsection (a)(2) to obtain foreign intelligence information:

(A) a statement of facts showing that there is probable cause to believe that the tangible things are relevant to an authorized investigation; or

(B) an enumeration of the minimization procedures adopted by the Attorney General under section 501(f), which will be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such de-
(h) ENHANCED OVERSIGHT.—Section 502 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended—
(1) in subsection (a)—
(A) by striking “semiannual basis” and inserting “annual basis” and;
(B) by inserting “and the Committee on the Judiciary and the Select Committee on Intelligence”;
(2) in subsection (b)—
(A) by striking “On a semiannual basis” and all that follows through “the preceding period” and inserting “In April of each year, the Attorney General shall submit to the House and Senate Committees on the Judiciary and the House and Senate Committees on Intelligence and the Senate Select Committee on Intelligence a report setting forth with respect to the preceding calendar year”;
(B) in paragraph (1), by striking “and” and at the end;
(C) in paragraph (2), by striking the period at the end and inserting “;” and;
(D) by adding at the end the following new paragraph:
“(3) the number of such orders either granted, modified, or denied for the production of each of the following:
(A) Library circulation records, library patron lists, book sales records, or book customer lists;
(B) Firearms sales records;
(C) Tax return records;
(D) Nonperiodical publications reports;
(E) Medical records containing information that would identify a person;” and
(3) by adding at the end the following new subsection:
“(c)(1) In April of each year, the Attorney General shall submit to Congress a report setting forth with respect to the preceding calendar year
(A) the total number of applications made for orders approving requests for the production of tangible things under section 501; and
(B) the total number of such orders either granted, modified, or denied.
(2) Each report under this subsection shall be submitted in unclassified form.

SECTION 108. AUDIT ON “SECRET TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES.

(a) AUDIT.—The Inspector General of the Department of Justice shall perform a comprehensive audit of the effectiveness and use, including any improper or illegal use, of the investigative authorities of the Federal Bureau of Investigation under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861 et seq.).

(b) REQUIREMENTS.—The audit required under subsection (a) shall include—
(1) an examination of each instance in which the Attorney General, any other officer, employee, or agent of the Department of Justice, the Director of the Federal Bureau of Investigation, or a designee of the Director, submitted an application to the Foreign Intelligence Surveillance Court under section 301(3) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1821(3)) for an order under section 501 of such Act during the calendar years 2005 and 2006, including—
(A) whether the Federal Bureau of Investigation requested that the Department of Justice submit an application and the request was not submitted to the court (including an examination of the basis for not submitting the application);
(B) whether the court granted, modified, or denied the application (including an examination of the basis for any modification or denial);
(2) the justification for the failure of the Attorney General, or a designee implementing procedures governing requests for the production of tangible things under such section in a timely fashion, including whether such delay harmed national security;
(3) whether bureaucratic or procedural impediments to the use of such requests for production prevent the Federal Bureau of Investigation from taking full advantage of the authorities provided under section 501 of such Act;
(4) any noteworthy facts or circumstances relating to obtaining such information, including any improper or illegal use of the authority provided under such section; and
(5) an examination of the effectiveness of such section as an investigative tool, including—
(A) the categories of records obtained and the importance of the information acquired to the intelligence activities of the Federal Bureau of Investigation or any other Department or agency of the Federal Government;
(B) the manner in which such information is collected, retained, analyzed, and disseminated by the Federal Bureau of Investigation, including any direct access to such information (such as access “raw data”) provided to any other Department, agency, or instrumentality of Federal, State, local, or tribal governments or any private sector entity;
(C) with respect to calendar year 2006, an examination of the minimization procedures adopted by the Attorney General under section 501(g) of such Act and whether such minimization procedures protect the constitutional rights of United States persons;
(D) whether, and how often, the Federal Bureau of Investigation or any other Department or agency pursuant to an order under section 501 of such Act to produce an analytical intelligence product for distribution within the Federal Bureau of Investigation utilized information acquired by the Federal Bureau of Investigation or any other Department or agency pursuant to such order for any improper or illegal use;
(E) the investigation pertaining to those disclosures under subsection (b)(8) were made to the Department of Justice; and
(F) the investigation pertaining to those disclosures was closed without the filing of criminal charges.

SEC. 107. ENHANCED OVERSIGHT OF GOOD-FAITH EMERGENCY DISCLOSURES UNDER SECTION 212 OF THE USA PATRIOT ACT.

(a) ENHANCED OVERSIGHT.—Section 202 of title 18, United States Code, is amended by adding at the end the following:
“(D) REPORTING OF EMERGENCY DISCLOSURES.—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives 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 disclosures under subsection (b)(6) or (c)
(2) a summary of the basis for disclosure in those instances where—
(A) voluntary disclosures under subsection (b)(6) were made to the Department of Justice; and
(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.”;

(b) TECHNICAL AMENDMENTS TO CONFORM COMMUNICATIONS AND CUSTOMER RECORDS EXCEPTIONS.

(1) VOLUNTARY DISCLOSURES.—Section 202 of title 18, United States Code, is amended—
(A) in subsection (b)(8), by striking “Federal, State, or local” and inserting “or Federal, State, or local”;
(B) by striking paragraph (4) of subsection (c) and inserting the following:
“(4) to a governmental entity, if the provider, in good faith, believes the government is conducting an investigation involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency.”;
“Definitions.—Section 212 of title 18, United States Code, is amended—
(A) in paragraph (2), by striking “and” and at the end;
(B) in paragraph (3), by striking the period at the end and inserting “;” and;
(C) by adding at the end the following:
“(4) the term ‘governmental entity’ means a department or agency of the United States or any State or political subdivision thereof.”;
“ADDITIONAL EXCEPTION.—Section 202(a) of title 18, United States Code, is amended by inserting “or (c)” after “Except as provided in subsection (b)”.

SEC. 108. MULTIPURPOSE ELECTRONIC SURVEILLANCE UNDER SECTION 212 OF THE USA PATRIOT ACT.

(a) INCLUSION OF SPECIFIC FACTS IN APPLICATION.

(1) APPLICATION.—Section 104(a)(3) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804(a)(3)) is amended by inserting “specifice” after “description of the”.

(b) ORDER.—Section 105 of title 18 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) is amended—
(A) in paragraph (1)(A) by striking “target of the electronic surveillance under this section shall specify” and inserting “specifie target of the electronic surveillance identifie or described in the application pursuant to section 104(a)(5)”;
(B) by striking paragraph (2)(B), by striking “where the Court finds” and inserting “where the Court finds, based on specific facts provided in the application.”;
“DIRECTIONS.—Such subsection is further amended—
(1) by striking “An order approving” and all that follows through “specifie target of the electronic surveillance under this section shall specify”;
(2) in paragraph (1)(F), by striking “;” and “and” and inserting a period;
(3) in paragraph (2), by striking “direct” and inserting “DIRECTIONS.—An order approving an electronic surveillance under this section shall direct”;
(4) by adding at the end the following new paragraph:

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“(3) SPECIAL DIRECTIONS FOR CERTAIN ORDERS.—An order approving an electronic surveillance under this section in circumstances where the nature and location of each of the facilities, equipment or places at which the surveillance will be directed is unknown shall direct the applicant to provide notice to the court within ten days after the date on which surveillance begins to be directed at any new facility or place, unless the court finds good cause to justify a longer period of up to 60 days, of—

(A) the nature and location of each new facility, equipment or place at which the electronic surveillance is directed;

(B) the facts and circumstances relied upon by the applicant to justify the applicant’s belief that evidence of an offense that could not have occurred if the electronic surveillance is directed is or was being used, or is about to be used, by the target of the surveillance;

(C) a statement of any proposed minimization procedures that differ from those contained in the original application or order, that may be necessitated by a change in the facility or place at which the electronic surveillance is directed; and

(D) the total number of electronic surveil-

—

ance facilities, equipment or places

under the authority of the order."

(c) ENHANCED OVERSIGHT.—

(1) REPORT TO CONGRESS.—Section 108(a)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)(1)) is amended by inserting “,” and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intel- ligence,”

(2) MODIFICATION OF SEMIANNUAL REPORT REQUIREMENT ON ACTIVITIES UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Paragraph (2) of section 108(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1808(a)) is amended to read as follows:

“(2) the total number of emergency employ-

ments of electronic surveillance under section 103(f) and the total number of subsequent orders approving or denying such electronic surveil-

ance."

SEC. 109. ENHANCED CONGRESSIONAL OVER-

SIGHT.

(a) EMERGENCY PHYSICAL SEARCHES.—Section 306 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1826) is amended—

(1) in the first sentence, by inserting “, and the Committee on the Judiciary of the Senate,” after “Senate”;

(2) in the second sentence, by striking “and the Committee on the Judiciary of the House of Representa-

tives and the Senate” and inserting “and the Committee on the Judiciary of the Senate”;

(3) in paragraph (2), by striking “and the Committee on the Judiciary of the House of Representa-

tives”;

(4) in paragraph (3), by striking the period at the end and inserting “;” and “;”;

(5) by adding at the end the following:

“(b) EMERGENCY PEN REGISTERS AND TRAP AND TRACK DEVICES.—Section 406(b) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1846(b)) is amended—

(1) in paragraph (1), by striking “and” at the end;
(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, or attempted on a conveyance of a mass transportation provider, or a railroad carrier engaged in interstate or foreign commerce.

(2) Any person travels or communicates across state lines in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

(3) The term ‘biological agent’ has the meaning given to that term in section 178(1).

(4) The term ‘dangerous substance’ means a material, including any biological agent, backwards, animate or inanimate, that is used for, in aid of the commission of the offense.

(5) The term ‘dangerous material’ has the meaning given to that term in section 195.

(6) The term ‘high-level radioactive waste’ means a radioactive waste in excess of the quantities defined under section 101 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(2)).

(7) The term ‘mass transportation system’ means a means of transportation on land, on water, or through the air.

(8) The term ‘motor carrier’ means a person who, for hire, transports passengers or property by motor vehicle on a common carrier basis.

(9) The term ‘on-track equipment’ means a railroad rolling stock, including any auxiliary or cargo container, that is being used to transport a hazardous substance or hazardous material.

(10) The term ‘railroad’ has the meaning given to that term in chapter 21 of title 49.

(11) The term ‘railroad carrier’ has the meaning given to that term in chapter 21 of title 49.

(12) The term ‘serious bodily injury’ has the meaning given to that term in section 1365.

(13) The term ‘nuclear fuel’ has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(2)).

(14) The term ‘State’ has the meaning given to that term in section 2266;

(15) The term ‘toxin’ has the meaning given to that term in section 178(2); and

(16) The term ‘vehicle’ means any conveyance or other contrivance, used as a means of transportation on land, on water, or through the air.

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

97. Railroad carriers and mass transportation systems on land, on water, or through the air—

(3) Title 18, United States Code, is amended—

(a) in section 2332(b)(5)(B)(i), by striking “1992 (relating to wrecking trains),” 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),” and inserting “1992 (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),”

(b) in section 2339A, by striking “1993,” and

(c) in section 2516(1)(c) by striking “1992 (relating to wrecking trains),”

SEC. 111. FOREFRUIT.

Section 981(a)(1)(B)(i) of title 18, United States Code, is amended by inserting “trafficking in nuclear, chemical, biological, or radiological weapons technology or material,” after “involves.”

SEC. 112. SECTION 2332B(g)(5)(B) MODIFICATIONS TO THE DEFINITION OF FEDERA LAI RELATING TO C RIME V ANDS OF TERRORISM.

(a) ADDITIONAL OFFENSES.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i), by inserting “, 2339D (relating to military-type training from a foreign terrorist organization)” before “, or 2340A”;

(2) in clause (ii), by striking “or” after the semicolon;

(3) in clause (iii), by striking the period and inserting “;”;

(4) by inserting after clause (iii) the following: “(iv) section 1010A of the Controlled Substances Import and Export Act (relating to narco-terrorism).”;

(b) CLERICAL CORRECTION.—Section 2332b(g)(5) of title 18, United States Code, is amended by inserting “;” after “2339C”.

SEC. 113. AMENDMENTS TO SECTION 2516(1) OF TITLE 18, UNITED STATES CODE.

(a) PARAGRAPH (a) AMENDMENT.—Section 2516(1)(a) of title 18, United States Code, is amended by inserting “chapter 10 (relating to illegal monopolizing of trade or commerce),” after “title 18,”

(b) LIMITATION ON AUTHORITY TO DELAY SEARCH WARRANTS.—Section 2516(1)(b) of title 18, United States Code, is amended—

(1) by striking “or” before “2339C”;

(2) by striking “or” before “2339C”;

(3) by inserting “section 2516(c)(1)(B) (relating to delayed notice search warrants),” after “section 2516(b)(1);”

(c) REPORTS.—Section 2516(1)(d) of title 18, United States Code, is amended—

(1) in subparagraph (d)(1), by striking “section 2332b(c)(7) of title 18,”

(2) in subparagraph (d)(2), by striking “section 2332b(c)(7) of title 18,”

SEC. 114. DELAYED NOTICE SEARCH WARRANTS.

(a) LIMITATION ON REASONABLE PERIOD FOR DELAY.—Section 3103a of title 18, United States Code, is amended by adding the following:

“(1) the warrant provides for the giving of such notice within a reasonable period not to exceed 10 days after the issuance of the warrant, or on a later date certain if the facts of the case justify a longer period of delay.”

(b) by adding at the end the following:

“(2) the extension of the period of delay authorized by this section may be extended by the court for good cause shown, subject to the condition that extensions should only be granted upon an updated showing of the need for further delay and that each additional delay should be limited to periods of 90 days or less, unless the facts of the case justify a longer period of delay.”

(c) LIMITATION ON AUTHORITY TO DELAY NOTICE.—Section 3103a(b)(1) of title 18, United States Code, is amended by inserting “except if the adverse results consist only of unduly delaying a trial” after “2765”.

(d) ENHANCED OVERSIGHT.—Section 3103a of title 18, United States Code, is further amended by adding at the end the following:

“(4) REPORTS.—

(a) REPORT TO JUDGE.—Not later than 30 days after the expiration of a warrant authorizing delayed notice (including any extension thereof) entered under this section, or the denial of such a warrant (or request for such extension), the issuing or denying judge shall report to the Administrative Office of the United States Courts—

(1) the fact that a warrant was applied for;”

(2) the fact that a 90-day extension thereof was granted for applied for, was modified, or was denied;
shall be treated as conclusive unless the court
the Department of Justice, the head or deputy
Federal Bureau of Investigation, or in the case
ney General, Deputy Attorney General, an As-
Assistant Attorney General, or the Director of the
Federal Bureau of Investigation has sought or obtained the identity of financial institutions or
or entities under section 2709(b) of this title, the
Court may modify or set aside the request if com-
clude in the record that disclosure may endanger the national security of the United
nerfer with diplomatic relations, or danger to the life
or physical safety of any person, with wire or
electronic communications service provider, or
officer, employee, or agent thereof, shall disclose
to any person (other than those to whom such
disclosure was made prior to the request or an
attorney to obtain legal advice or legal assistance
with respect to the request) that the Federal
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 non-
disclosure 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 assist-
ance with respect to the request, shall inform
such person of any applicable nondisclosure re-
quirement. Any person who receives a disclosure
under this subsection shall be subject to the same prohibitions on disclosure under para-
graph (1).

(4) At the request of 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, certifies that otherwise there may result a dan-
ger to the national security of the United States, interfere with a criminal, counterterrorism,
counterintelligence investigation, interference with diplomatic relations, or danger to the life
or physical safety of any person, with wire or
electronic communications service provider, or
officer, employee, or agent thereof, shall disclose
to any person (other than those to whom such
disclosure was made prior to the request or an
attorney to obtain legal advice or legal assistance
with respect to the request) that the Federal
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 non-
disclosure 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 assist-
ance with respect to the request, shall inform
such person of any applicable nondisclosure re-
quirement. Any person who receives a disclosure
under this subsection shall be subject to the same prohibitions on disclosure under para-
graph (1).

(4) At the request of 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, certifies that otherwise there may result a dan-
ger to the national security of the United States, interfere with a criminal, counterterrorism,
counterintelligence investigation, interference with diplomatic relations, or danger to the life
or physical safety of any person, with wire or
electronic communications service provider, or
officer, employee, or agent thereof, shall disclose
to any person (other than those to whom such
disclosure was made prior to the request or an
attorney to obtain legal advice or legal assistance
with respect to the request) that the Federal
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 non-
disclosure 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 assist-
ance with respect to the request, shall inform
such person of any applicable nondisclosure re-
quirement. Any person who receives a disclosure
under this subsection shall be subject to the same prohibitions on disclosure under para-
graph (1).

(4) At the request of 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, certifies that otherwise there may result a dan-
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entity to whom the request is directed of the non-
disclosure requirement under paragraph (1).

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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, certifies that otherwise there may result a dan-
ergy, interference with a criminal, counterterrorism,
counterintelligence investigation, interference with diplomatic relations, or danger to the life
or physical safety of any person, with wire or
electronic communications service provider, or
officer, employee, or agent thereof, shall disclose
to any person (other than those to whom such
disclosure was made prior to the request or an
attorney to obtain legal advice or legal assistance
with respect to the request) that the Federal
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 non-
disclosure 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 assist-
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such person of any applicable nondisclosure re-
quirement. Any person who receives a disclosure
under this subsection shall be subject to the same prohibitions on disclosure under para-
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(4) At the request of 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, certifies that otherwise there may result a dan-
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counterintelligence investigation, interference with diplomatic relations, or danger to the life
or physical safety of any person, with wire or
electronic communications service provider, or
officer, employee, or agent thereof, shall disclose
to any person (other than those to whom such
disclosure was made prior to the request or an
attorney to obtain legal advice or legal assistance
with respect to the request) that the Federal
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 non-
disclosure 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 assist-
ance with respect to the request, shall inform
such person of any applicable nondisclosure re-
quirement. Any person who receives a disclosure
under this subsection shall be subject to the same prohibitions on disclosure under para-
graph (1).

(4) At the request of 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, certifies that otherwise there may result a dan-
ger to the national security of the United States, interfere with a criminal, counterterrorism,
counterintelligence investigation, interference with diplomatic relations, or danger to the life
or physical safety of any person, with wire or
electronic communications service provider, or
officer, employee, or agent thereof, shall disclose
to any person (other than those to whom such
disclosure was made prior to the request or an
attorney to obtain legal advice or legal assistance
with respect to the request) that the Federal
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 non-
disclosure 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 assist-
ance with respect to the request, shall inform
such person of any applicable nondisclosure re-
quirement. Any person who receives a disclosure
under this subsection shall be subject to the same prohibitions on disclosure under para-
graph (1).

(4) At the request of 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, certifies that otherwise there may result a dan-
“(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 persons 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 notify 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, that in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.

(c) Section 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)) is amended to read:

“(c) CONFIDENTIALITY—

(1) If the head of a government agency authorizes to conduct investigations of intelligence or counterintelligence activities or analyses related to international terrorism, or his designee, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request), or specify in any consumer report, that a government agency or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

(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 any attorney to obtain legal advice or legal assistance with respect to the request shall inform such persons 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 notify 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, and in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.

(e) Section 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(D)) is amended to read:

“(D) PROHIBITION OF CERTAIN DISCLOSURE.—

(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than the Assistant Director of the United States Secret Service, 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 investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to a customer’s financial records.

(ii) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under clause (i).

(iii) 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 persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under clause (i).

(iv) 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 notify the Director of such designee the person to whom such disclosure will be made or to whom such disclosure was made prior to the request, and in no circumstance shall a person be required to inform the Director or such designee that the person intends to consult an attorney to obtain legal advice or legal assistance.

(f) Section 626(d) of the Fair Credit Reporting Act (12 U.S.C. 1681v(d)) is amended by adding at the end the following:

“(4) At the request of the Director of the Federal Bureau of Investigation, or his designee in a position not lower than the Assistant Director of the United States Secret Service, 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 investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such consumer reporting agency, or officer, employee, or agent of such consumer reporting agency, shall disclose to any person (other than those to whom such disclosure is necessary to comply with the request or an attorney to obtain legal advice or legal assistance with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to a customer’s financial records.

(g) Section 1114(a)(5)(D)(ii), or section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 436(b)(1)), as amended by the Intelligence Reform and Terrorism Prevention Act of 2004, is amended by striking ‘‘in paragraph (1)’’ and inserting ‘‘in paragraph (2)’’.

(h) Section 118. REPORTS ON NATIONAL SECURITY LETTERS.

(a) EXISTING REPORTS.—Any report made to a committee of Congress regarding national security letters under section 202(c)(1) of title 18, United States Code, sections 626(d) or 627(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(d) or 1681v(c)), section 1114(a)(3)(A) or 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3)(A) or 3414(a)(5)(D)(ii)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) shall also be made available to the Permanent Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

(b) ENHANCED OVERSIGHT OF FAIR CREDIT REPORTING ACT COUNTERTEERRORISM NATIONAL SECURITY LETTER.—Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)) is amended by adding at the end the following:

‘‘(3) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).’’

SEC. 117. VIGNETTES OF NONDISCLOSURE PROVISIONS OF NATIONAL SECURITY LETTERS.

Section 1510 of title 18, United States Code, is amended by adding at the end the following:

‘‘(c) Whenever, having been notified of the applicable disclosure prohibitions or confidentiality requirements provided in this title, section 626(d)(1) or 627(c)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681v(d)(1) or 1681v(c)(1)), section 1114(a)(3)(A) or 1114(a)(5)(D)(ii), or section 802(b)(1) of the National Security Act of 1947 (50 U.S.C. 436(b)), knowingly and with the intent to obstruct an investigation or judicial proceeding violates such prohibitions or requirements applicable by reason of the grants of authority (or not more than five years, fined under this title, or both.’’

SEC. 118. REPORTS ON NATIONAL SECURITY LETTERS.

(a) REPORTS TO CONGRESS.—(1) On a semiannual basis, the Attorney General shall fully inform the Committee on the Judiciary, the Committee on Financial Services, and the Permanent Select Committees on Intelligence of the House of Representatives and the Senate concerning all reports made pursuant to subsection (a).

(b) ENHANCED OVERSIGHT OF FAIR CREDIT REPORTING ACT COUNTERTEERRORISM NATIONAL SECURITY LETTER.

In April of each year, the Attorney General shall submit to Congress an
aggregates report setting forth with respect to the preceding year the total number of requests made by the Department of Justice for information concerning different United States persons under—

(a) section 2709 of title 18, United States Code (to access certain communication service provider records), excluding the number of requests for subhuman intelligence community (as such term is defined in section 2332b(g)(5) of title 18, United States Code); —

(b) section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A)) to obtain financial institution records; —

(c) section 802 of the National Security Act of 1947 (50 U.S.C. 436) (to obtain financial information, records, and consumer reports); —

(d) section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (to obtain credit agency consumer records for counterterrorism investigations); —

(2) UNCLASSIFIED FORM.—The report under this section shall be submitted in unclassified form.

(d) NATIONAL SECURITY LETTER DEFINED.—In this section, the term ‘national security letter’ means a request for information under one of the following provisions of law:

(1) Section 2709(a) of title 18, United States Code (to access certain communication service provider records), —

(2) Section 1114a(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution records); —

(3) Section 802 of the National Security Act of 1947 (50 U.S.C. 436) (to obtain financial information, records, and consumer reports); —

(4) Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681a) (to obtain credit agency consumer records for counterterrorism investigations). —

SEC. 119. AUDIT OF USE OF NATIONAL SECURITY LETTERS.

(a) AUDIT.—The Inspector General of the Department of Justice shall perform an audit of the effectiveness and use, including any improper or illegal use, of national security letters issued by the Department of Justice.

(b) REQUIREMENTS.—The audit required under subsection (a) shall include—

(1) an examination of the use of national security letters by the Department of Justice during calendar years 2003 through 2006;

(2) a description of any noteworthy facts or circumstances relating to such use, including any improper or illegal use of such authority; and

(3) an examination of the effectiveness of national security letters as an investigative tool, including—

(A) the importance of the information acquired by the Department of Justice to the intelligence activities of the Department of Justice or to any other department or agency of the Federal Government;

(B) the manner in which such information is collected, retained, analyzed, and disseminated by the Department of Justice, including any direct access to such information (such as access to ‘‘raw data’’) provided to any other department, agency, or instrumentality of Federal, State, local, or tribal governments or any private sector entity;

(C) the extent and how often, the Department of Justice utilized such information to produce an analytical intelligence product for distribution within the Department of Justice, to the intelligence community (as such term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4))), or to other Federal, State, local, or tribal government departments, agencies, or instrumentality;

(D) whether, and how often, the Department of Justice provided such information to law enforcement authorities for use in criminal proceedings; —

(E) with respect to national security letters issued following the date of the enactment of this Act, the number of occurrences in which the Department of Justice, or an officer or employee of the Department of Justice, issued a national security letter without the written or oral consent of the individual to whom such letter was addressed, and the extent to which such letters complied with the nondisclosure and confidentiality requirements potentially applicable under law; and

(F) the electronic communications and transactional information obtained through requests for information under section 2709 of title 18, United States Code, in the context of national security letters issued following the date of the enactment of this Act, or the number of requests for access to such information, and the extent to which such requests complied with the nondisclosure and confidentiality requirements potentially applicable under law; and

(F) the effectiveness and use, including any improper or illegal use of such authority; —

(G) whether, and how often, the Department of Justice uses if consumer information is obtained through the use of such authority.

(c) SUBMISSION DATES.—

(1) PRIOR YEARS.—Not later than one year after the date of the enactment of this Act, or upon completion of the audit under this section for calendar years 2003 and 2004, whichever is earlier, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this subsection for calendar years 2003 and 2004.

(2) CALENDAR YEARS 2005 AND 2006.—Not later than one year after the submission of the audit under this subsection for calendar years 2005 and 2006, whichever is earlier, the Inspector General of the Department of Justice shall submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report containing the results of the audit conducted under this subsection for calendar years 2005 and 2006.

(d) PRIOR NOTICE TO ATTORNEY GENERAL AND DIRECTOR OF NATIONAL INTELLIGENCE; COMMENTS.—

(1) NOTICE.—Not less than 30 days before the submission of a report under subsections (c)(1) or (c)(2), the Inspector General of the Department of Justice shall provide such report to the Attorney General and the Director of National Intelligence.

(2) COMMENTS.—The Attorney General or the Director of National Intelligence may provide comments to be included in the reports submitted under subsections (c)(1) or (c)(2) as the Attorney General or the Director of National Intelligence may consider necessary.

(e) UNCLASSIFIED FORM.—The reports submitted under subsections (c)(1) or (c)(2) and any comments included under subsection (d)(2) shall be in unclassified form, but may include a classified annex.

(f) MINIMIZATION PROCEDURES FEASIBILITY.—

Not later than February 1, 2007, or upon completion of review of the report submitted under subsection (c)(1), whichever is earlier, the Attorney General and the Director of National Intelligence shall jointly submit to the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on the Judiciary and the Select Committee on Intelligence of the Senate a report on the feasibility of applying minimization procedures in the context of national security letters to ensure the protection of the constitution rights of United States persons.

(g) UNCLASSIFIED FORM.—In this section, the term ‘national security letter’ means a request for information under one of the following provisions of law:

(1) Section 2709(a) of title 18, United States Code (to access certain communication service provider records);

(2) Section 1114(a)(5)(A) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution customer records).

(h) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.

(1) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND CIGARETTES.—Section 2341(2) of title 18, United States Code, is amended by striking ‘‘60,000 cigarettes’’ and inserting ‘‘10,000 cigarettes’’.

(2) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND SMOKELESS TOBACCO.—Section 2341 of that title is amended—

(A) in subsection (a), by striking ‘‘60,000’’ and inserting ‘‘70,000’’; —

(B) in subsection (b), by striking ‘‘60,000’’ and inserting ‘‘70,000’’;

(C) in subsection (c), by striking ‘‘60,000’’ and inserting ‘‘70,000’’.

(i) PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.

(1) Threshold Quantity for Treatment as Contraband Cigarettes.—Section 2341(2) of title 18, United States Code, is amended by striking ‘‘60,000’’ and inserting ‘‘10,000’’.

(2) Threshold Quantity for Treatment as Contraband Smokeless Tobacco.—Section 2341 of that title is amended—

(a) in paragraph (4), by striking ‘‘and’’ at the end;

(b) in paragraph (5), by striking the period at the end and inserting a semicolon; —

(c) by adding at the end the following new paragraphs:

(7) 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;

(8) 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 Title 19 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or authority, or under section 430(b) of the Tariff Act of 1930 (19 U.S.C. 1311, 1313) or under section 603(e) of the Tariff Act of 1930 (19 U.S.C. 1313, 1555); —

(C) a person who—

(g) 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

(h) complies with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or —

(i) 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;’’.
(2) Section 2342(a) of that title is amended by inserting “or contraband smokeless tobacco” after “contraband cigarettes”.

(3) Section 2343(a) of that title is amended by inserting “any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages,” before “in a single transaction.”

(4) Section 2344(c) of that title is amended by inserting “or contraband smokeless tobacco” after “contraband cigarettes”.

(5) Section 2345 of that title is amended by inserting “or contraband smokeless tobacco” after “cigarettes” each place it appears.

(6) Section 2341 of that title is further amended in subsection (a)(1) of this section, in the matter preceding subparagraph (A), by striking “State cigarette taxes in the State where such cigarettes are found to be sold or distributed or the local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government”.

(c) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by this section, is further amended—

(1) in subsection (a),

(A) in the matter preceding paragraph (1), by striking “only”—and inserting “such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—”;

(B) in the flush following paragraph (1), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

“(b) Any person or an entity organized under the laws of the United States, even if the conduct required to be proscribed under this chapter occurs in whole or in part outside of the United States, or the conduct occurs in any other place where the person or entity is subject to the jurisdiction of the United States; and

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

“(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administration officials of the States from which the shipments, deliveries, or distributions both originated and concluded.

“(e) 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.

“(f) In this section, the term ‘interstate commerce’ means commerce between a State and any place outside the State, or commerce between points in the same State but through any place outside the State.”;

(d) DISPOSAL OR USE OF FORFEITED CIGARETTES AND SMOKELESS TOBACCO.—Section 2344(c) of that title, as amended by this section, is further amended by striking “seizure and forfeiture,” and all that follows and inserting “seizure and forfeiture of chapter 46 of title 18 relating to civil forfeitures shall extend to any seizure or civil forfeiture under this section. Any cigarettes or smokeless tobacco so seized and forfeited shall be—”;

“(1) destroyed and not resold; or

“(2) used for undercover investigative operations of the administration of State or other law, and then destroyed and not resold.”.

(e) EFFECT ON STATE AND LOCAL LAW.—Section 2345 of that title is amended—

(1) in subsection (a), by striking “a State to enact and enforce” and inserting “a State or local government to enact and enforce its own”;

(2) in subsection (b), by striking “of States, through interstate compact or otherwise, to provide for the administration of State and local government”.

(f) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting “(a)” before “The Attorney General”; and

(2) by adding at the end the following new subsection:

“(b)(1) A State, through its attorney general, or 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 any violation of this chapter 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 bring an action against a State or local government.

“(2) No civil action may be commenced under this paragraph against an Indian tribe or an Indian in Indian country (as defined in section 1151).

“(3) A State, through its attorney general, or a local government, through its chief law enforcement officer (or a designee thereof), may in a civil action under this paragraph (1) obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, monetary damages, and injunctive or other equitable relief. Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government under any other law.

“(4) An action in the United States district court to prevent any violation of this chapter by an Indian tribe or an Indian in Indian country may be brought only by the Secretary of the Treasury, or the Attorney General, or the Indian tribe, under section 841(b)(1), and not more than three years in addition to such term of imprisonment.

“(g) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

“CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES AND SMOKELESS TOBACCO”.

SEC. 122. PROHIBITION OF NARCO-TERRORISM.

Part A of the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) is amended by inserting after section 1201 the following:

“FOREIGN TERRORIST ORGANIZATIONS, TERRORIST PERSONS AND GROUPS—

“Prohibited Acts

“Sec. 10104. (a) Whoever engages in conduct that would be punishable under section 841(a) of this title if committed within the jurisdiction of the United States, or attempts or conspires to do so, 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, as amended, and section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1998 and 1999), shall be sentenced to a term of imprisonment of not less than 20 years, and not more than life, a fine in accordance with the provisions of title 18, United States Code, or both. Notwithstanding subsection (a) of section 841(b)(1), and not more than three years in addition to such term of imprisonment.

“(b) There is jurisdiction over an offense under this section 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) the offense involves anything of pecuniary value for a terrorist offense that causes or is designed 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, territories, possessions) 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 perpetrator 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 (including any of its States, districts, commonwealths, territories, or possessions);

“(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 of the United States.

“(c) To violate subsection (a), a person must have knowledge that the person or organization
removal of civil liability bar.

SEC. 126. REPORT ON DATA-MINING ACTIVITIES.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit to Congress a report on any initiative of the Department of Justice that uses or is intended to develop pattern-based data-mining technology, including, for each such initiative, information:

(1) A thorough description of the pattern-based data-mining technology consistent with the protection of existing patents, proprietary business processes, trade secrets, and intelligence sources and methods.

(b) THOROUGH DISCUSSION OF THE PLANS FOR THE USE OF SUCH TECHNOLOGY AND THE TARGET DATES FOR THE DEPLOYMENT OF THE PATTERN-BASED DATA-MINING TECHNOLOGY.

(c) AN ASSESSMENT OF THE LIKELY EFFICACY OF THE PATTERN-BASED DATA-MINING TECHNOLOGY QUALITY ASSURANCE CONTROLS TO BE USED IN PROVIDING ACCURATE AND VALUABLE INFORMATION CONSISTENT WITH THE STATED PLANS FOR THE USE OF THE TECHNOLOGY.

(d) AN ASSESSMENT OF THE LIKELY IMPACT OF THE IMPLEMENTATION OF THE PATTERN-BASED DATA-MINING TECHNOLOGY ON PRIVACY AND CIVIL LIBERTIES.

(e) A LIST AND ANALYSIS OF THE LAWS AND REGULATIONS THAT GOVERN THE APPLICATION OF THE PATTERN-BASED DATA-MINING TECHNOLOGY TO THE INFORMATION TO BE COLLECTED, REVIEWED, GATHERED, AND ANALYZED WITH THE PATTERN-BASED DATA-MINING TECHNOLOGY.

(f) A THOROUGH DISCUSSION OF THE POLICIES, PROCEDURES, AND GUIDELINES OF THE DEPARTMENT OF JUSTICE THAT ARE TO BE DEVELOPED AND APPLIED IN THE USE OF SUCH TECHNOLOGY FOR PATTERN-BASED DATA-MINING TECHNOLOGY IN ORDER TO—

(A) PROTECT THE PRIVACY AND DUE PROCESS RIGHTS OF INDIVIDUALS; AND

(B) ENSURE THAT ONLY ACCURATE INFORMATION IS COLLECTED AND USED OR ACCOUNT FOR THE POSSIBILITY OF INACCURACY IN THAT INFORMATION AND GUARD AGAINST HARMFUL CONSEQUENCES OF POTENTIAL INACCURACIES.

(g) ANY NECESSARY CLASSIFIED INFORMATION IN AN ANNEX THAT SHALL BE AVAILABLE CONSISTENT WITH NATIONAL SECURITY TO THE COMMITTEE ON THE JUDICIARY OF BOTH THE SENATE AND THE HOUSE OF REPRESENTATIVES.

(h) DEFINITIONS.—In this section:

(1) PERSON.—The term ‘‘person’’ includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ‘‘fire control or rescue equipment’’ includes any fire vehicle, fire fighting tool, communication equipment, protective gear, fire hose, or breathing apparatus.

(3) QUALIFIED FIRE CONTROL OR RESCUE EQUIPMENT.—The term ‘‘qualified fire control or rescue equipment’’ means fire control or rescue equipment that has been certified by an authorized technician as meeting the manufacturer’s specifications.

(4) AUTHORIZED TECHNICIAN.—The term ‘‘authorized technician’’ means a technician who has been certified by the manufacturer of fire control or fire rescue equipment to inspect such equipment.

(5) VOLUNTEER FIRE COMPANY.—The term ‘‘volunteer fire company’’ means an association of individuals who provide fire protection and/or fire rescue services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in similar employment with an entry level full-time paid individual.

(6) AUTHORIZED TECHNICIAN.—The term ‘‘authorized technician’’ means a technician who has been certified by the manufacturer of fire control or fire rescue equipment to inspect such equipment. The technician need not be employed by the State or local agency administering the distribution of the fire control or fire rescue equipment.

(7) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this section.

SEC. 127. CONGRESS.

It is the sense of Congress that under section 981 of title 18, United States Code, victims of terrorist attacks should have access to the assets forfeited to the United States in connection with those attacks.

SEC. 128. USA PATRIOT ACT SECTION 214; AUTHORITY FOR DISCLOSURE OF ADDITIONAL INFORMATION IN CONNECTION WITH REGISTRY AND TRAP AND TRACE AUTHORITY UNDER FISA.

(a) RECORDS.—Section 406(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1842(d)(2)) is amended—

(1) in subparagraph (A) of clause (ii), by adding ‘‘and’’; and

(2) in clause (ii), by adding ‘‘and’’.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person—

(1) whose act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct;

(2) the manufacture or alteration of the qualified fire control or rescue equipment;

(3) the person or agency modified or altered the equipment after it had been recertified by an authorized technician as meeting the manufacturer’s specifications.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from or remains under the control of a non-Federal governmental or other entity.

(d) AUTHORIZED TECHNICIAN.—The term ‘‘authorized technician’’ means an association with an entry level full-time paid individual.

(e) VOLUNTEER FIRE COMPANY.—The term ‘‘volunteer fire company’’ means an association.

(f) AUTHORIZED TECHNICIAN.—The term ‘‘authorized technician’’ means a technician who has been certified by the manufacturer of fire control or fire rescue equipment to inspect such equipment. The technician need not be employed by the State or local agency administering the distribution of the fire control or fire rescue equipment.

(g) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this section.

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(g) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this section.

SEC. 129. CONGRESS.

It is the sense of Congress that under section 981 of title 18, United States Code, victims of terrorist attacks should have access to the assets forfeited to the United States in connection with those attacks.
§3599. Counsel for financially unable defendants

(a)(1) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punished as a capital offense, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services at any time either—

(A) before judgment; or

(B) after the entry of a judgment imposing a sentence of death but before the execution of that judgment, shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with subsections (b) through (f).

(2) In any post conviction proceeding under section 2254 or 2255 of title 28, United States Code, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with subsections (b) through (f).

(b) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

(c) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

(d) With respect to subsections (b) and (c), the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

(e) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon the court's motion if the court determines, in its discretion, that replacement is in the interest of justice, counsel appointed under this subparagraph shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, including appeals, applications for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process, together with applications for appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

(f) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant. If the defendant is authorized, the court shall order the payment of fees and expenses therefor under subsection (g). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available upon request by a court.

(g)(1) Compensation shall be paid to attorneys appointed under this subsection at a rate of not more than $25 per hour for in-court and $17 per hour for out-of-court services. Compensation is authorized to raise the maximum for hourly payment specified in the paragraph up to the aggregate of the overall average percentages of the adjustments in the rates of pay for the General Schedule made pursuant to section 5905 of title 5 or after such date. After the rates are raised under the preceding sentence, such hourly range may be raised at intervals of not less than one year, up to the aggregate of the overall average percentages of such adjustments made since the last raise under this paragraph.

(2) Fees and expenses paid for investigative, expert, and other reasonably necessary services authorized under subsection (f) shall not exceed $7,500 in any case, unless payment in excess of that limit is certified by the court, or by the United States magistrate judge, if the services were rendered in connection with the case disposed of entirely before such magistrate judge, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

The amounts paid under this paragraph for services in any case shall be disclosed to the public, after the disposition of the petition.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of this Act is amended by inserting after the item relating to section 3358 the following new item:

“§3599. Counsel for financially unable defendants.”

(c) REPEAL.—Subsection (q) of section 408 of the Controlled Substances Act is amended by striking paragraphs (4) and (5). The amounts paid under this paragraph for services in any case shall be disclosed to the public, after the disposition of the petition.

§1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(B) after the disposition of the petition.

(2) in subsection (b), by striking “or” at the end:

(B) by redesignating paragraph (3) as paragraph (4), and

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

“(3) any secure or restricted area of any seaport designated as security zone pursuant to a security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section; or

(2) in subsection (b), by striking “5 years” and inserting “10 years”; and

(3) in subsection (c)(1), by inserting “, captain of the seaport,” after “the United States”, and

(4) by striking the section heading and inserting the following:

“§1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.”

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

“§1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.”

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“§26. Definition of seaport

As used in this title, the term ‘seaport’ means all piers, wharves, docks, and similar structures, adjacent to any waters subject to the jurisdiction of the United States, to which a vessel may be secured, including areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and
(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18, as amended by inserting after the matter relating to section 25 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.

"(a)(1) It shall be unlawful for any master, operator, person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of a United States or a vessel subject to the jurisdiction of the United States, to:

"(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest or order.

"(B) Materially false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(b) Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

"(c) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1591), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telegraph, telex, or other similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(2) The term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(3) The term 'heave to' means to cause a vessel to stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding.

"(4) The term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and

"(5) The term 'United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903)."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information."

SEC. 304. CRIMINAL SANCTIONS FOR VIOLATION OF PROVISIONS OF LAW ENFORCED OR ADMINISTERED BY MERCHANT MARINE—PLACEMENT OF DESTRUCTIVE DEVICES.

(a) PLACEMENT OF DESTRUCTIVE DEVICES.—Chapter 111 of title 18, United States Code, as amended by subsection (a), is further amended by adding at the end the following:

"§2292A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.

"(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or dangerous substance which is likely to destroy or damage a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce (such as by damaging or destroying marine terminals, facilities, properties, or any structure or, or device 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 fined under this title and imprisoned for any term of years, or for life; or both.

"(b) A person who causes the death of any person by engaging in conduct prohibited under subsection (a) may be punished by death.

"(c) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.

"(d) 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.

"(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.''.

"(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsection (b), is further amended by adding at the end the following:

"2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.

"(b) A person who intentionally violates this section shall be fined under this title or imprisoned for any term of years, or for life; or both.

"(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.''.

"(3) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsection (b), is further amended by adding at the end the following:

"2282B. Violence against aids to maritime navigation.

"(1) IN GENERAL.—Chapter 111 of title 18, United States Code as amended by subsections (a) and (c), is further amended by adding at the end the following:

"§2292B. Violence against aids to maritime navigation.

"(a) A person who intentionally destroys, seriously damages, alters, moves, or tampers with any aid to navigation, to aeronautics, or maritime aids to navigation, to aeronautics, or maritime or ocean aids to navigation; or

"(b) A person who causes the death of any person by committing an offense under this section shall be fined under this title or imprisoned for any term of years, or for life; or both.

"(2) The term 'aid to navigation' means any navigational equipment, including those that are lawfully maintained under authority of the United States, under the authority of the United States, or under the authority of any State and on the high seas or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title and imprisoned for any term of years, or for life, or both.

"(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 2332b(g)(5)(B).

(b) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by section 305, is further amended by adding at the end the following:

"2283. Transportation of explosive, biological, or chemical weapon.

"(a) IN GENERAL.— Whoever knowingly transports a vessel or maritime facilities, 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 an explosive or incendiary device, or any biological, chemical, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title and imprisoned for any term of years, or for life, or both.

"(b) CAUSING DEATH.—Any person who 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 178).

"(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 (42 U.S.C. 2014(c)).

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 2291.

"(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 2292 and includes explosive materials, as that term is defined in section 841(c) and explosive as defined in section 8441.

"(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(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;

"(D) All refined isotopes of radium;

"(E) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(c)).

"(9) 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 (42 U.S.C. 2014(aa)).

"2284. 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 fined under this title and imprisoned for any term of years, or for life, or both.

"(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 2332b(g)(5)(B).

"(c) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by section 305, is further amended by adding at the end the following:

"2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.

"2284. Transportation of terrorists.

SEC. 306. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

"CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

"§2290. Jurisdiction and scope.

"§2291. Destruction of vessel or maritime facility.
“2292. Impersonating or conveying false information.

§2290. Jurisdiction and scope.

(a) Jurisdiction.—There is jurisdiction, including extraterritorial jurisdiction, over an offense under this chapter if the prohibited activity takes place—

(1) within the United States and within waters subject to the jurisdiction of the United States;

(2) outside United States and—

(A) an offender or a victim is a national of the United States (as that term is defined under section 1365, including any subsequent or present successor system, by no later than December 31, 2006).

(b) Scope.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

§2291. Destruction of vessel or maritime facility.

(a) Offense.—Whoever knowingly—

(1) sets fire to, damages, destroys, disables, or denies access to any vessel;

(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or an explosive substance, as defined in section 844(a), 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, as defined in section 1365(h)(3), 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;

(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; or

(9) attempts or conspires to do anything prohibited under paragraphs (1) through (8) shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Limitation.—Subsection (a) shall not apply to conduct that is engaged in or 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 fined or imprisoned under subsection (a) as a result of an act involving the use of one of the following—

(1) a vessel, or any part 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;

(2) an explosive substance, as defined in section 921(a)(4), destruc- tive substance, as defined in section 31(a)(3), or a device, as defined in section 921(a)(4), designed to cause or is likely to cause serious bodily injury; or

(3) a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or explosive substance, as defined in section 844(a), 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;

(d) Penalty when death results.—Whoever is convicted of any crime prohibited by subsection (a) and intended to cause death by the use of a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or explosive substance, as defined in section 844(a), shall be fined under this title, imprisoned for a term up to life, or both.

(e) Threats.—Whoever knowingly and intentionally imparts or conveys any threat to do an act which would violate this chapter, with intent to cause death by the use of a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or explosive substance, as defined in section 844(a), shall be fined under this title or imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

§2292. Impersonating or conveying false information.

(a) In general.—Whoever imparts or conveys or causes to be imparted or conveyed false information to the military, to any person that causes or is likely to cause serious bodily injury, as defined in section 1365(h)(3), 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 aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Jurisdiction.—There is jurisdiction, including extraterritorial jurisdiction, over an offense under this chapter if the prohibited conduct, if the conduct occurred in the United States, shall be fined under this title or imprisoned not more than 5 years, or both; and

(c) by inserting ‘‘motor vehicle’’, ‘‘aircraft’’, and ‘‘vessel’’.

(d) Bar to prosecution.—Whoever knowingly and intentionally imparts or conveys any threat to do an act which would violate this chapter, with intent to cause death by the use of any explosive substance, as defined in section 844(a), shall be fined under this title or imprisoned not more than 10 years, or both, but if the amount or value of such money, baggage, goods, or chattels is less than $1,000, shall be fined under this title or imprisoned for not more than 3 years, or both; and

(e) by inserting ‘‘or, from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,’’ after ‘‘air navigation facility’’.

(b) Limitation.—Subsection (a) shall not apply to conduct that is engaged in or otherwise lawful activity, such as normal repair and salvage activities, and the transportation of goods to or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility, including a facility described in section 9106 of title 49.

(c) Definition.—In this section—

(1) the term ‘‘vessel’’ means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water;

(2) the term ‘‘transportation’’ means—

(A) transportation, and all that follows, as a new undesignated paragraph:

‘‘Vessel’’ means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.

(b) Transportation and sale of stolen vessels.

(1) In general.—Section 2311 of title 18, United States Code, is amended by adding at the end the following, as a new undesignated paragraph:

‘‘(1) the term ‘‘vessel’’ means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.’’

(2) Transportation.—Section 2311 of title 18, United States Code, is amended by striking ‘‘motor vehicle or aircraft’’ and inserting ‘‘motor vehicle, vessel, or aircraft’’.

(c) Reporting of cargo theft.

(1) In general.—Section 2311(a) of title 18, United States Code, is amended, by striking ‘‘motor vehicle or aircraft’’ and inserting ‘‘motor vehicle, vessel, or aircraft’’.

(2) Valex shipping guidelines.

(a) In general.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(b) Reporting of cargo theft.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2006.

SEC. 208. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking ‘‘shall be fined under this title or imprisoned not more than one year, or both.’’ and inserting the following:

‘‘(1) shall be fined under this title, imprisoned not more than 5 years, or both; and

(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs as a result of such conduct, the defendant shall be fined under this title or imprisoned not more than 20 years, or both.’’
United States, would violate section 2241 or 2242 to any person other than a participant as a result of a violation of this section, shall be fined under this title or imprisoned not more than 20 years, or both.

“(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of the commission of the act, such individual shall be fined under this title, imprisoned not for any number of years or for life, or both.

SEC. 310. PENALTIES FOR SMUGGLING GOODS.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“§3226. Bribery affecting port security.

“(a) In general.—Whoever knowingly—

“(1) directly, corruptly, through bribery, 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 2331), 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 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 accept, anything of value, personally or for any other person or entity in return for—

“(A) influence any official action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of fraud, affecting any secure or restricted area or seaport; or

“(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism, shall be fined under this title or imprisoned not more than 15 years, or both.

“(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 required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section.

“(c) Conforming Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

“226. Bribery affecting port security.”

SEC. 311. SMUGGLING GOODS FROM THE UNITED STATES.

(a) In general.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§544. Smuggling goods from the United States.

“(a) In general.—Whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send 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 fined not more than $5,000, or imprisoned not more than 10 years, or both.

“(b) Definition.—In this section, the term ‘United States’ has the meaning given that term in section 2401.

“(c) Conforming Amendment.—The chapter analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

“§544. Smuggling goods from the United States.

“(a) In general.—Whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send 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 fined not more than $5,000, or imprisoned not more than 10 years, or both.

“(b) Definition.—In this section, the term ‘United States’ has the meaning given that term in section 2401.

“(c) Additional Provisions.—The sixth undesignated paragraph of section 984 of title 18, United States Code, is amended by adding at the end the following:

“(e) Violations of this section may be investigated by such components of the Department 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, and, with respect to offenses over which the Department of Justice has jurisdiction, by the Postal Service.

“(f) Violations of this section involving offenses described in paragraph (2) each time it appears; and

“(g) By inserting at the end the following:


“(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 terrorists, may contest the confiscation by filing a petition in the United States District Court for the District of Columbia within 30 days of receipt of notice by registered mail or return receipt from the Attorney General.

“(b) Grounds for relief.—The petition may be granted if the court finds—

“(1) the property is not subject to confiscation under such provision of law; or

“(2) any other ground that the court deems appropriate.
“(2) the innocent owner provisions of section 983(d) of title 18, United States Code, apply to the case.

(b) EVIDENCE.—In considering a claim filed under this section of a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is relevant, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

(c) CLARIFICATIONS.—

“(1) General Principles of Rights.—The exclusion of certain provisions of Federal law from the definition of the term ‘civil forfeiture statute’ in section 983(i) of title 18, United States Code, shall not be construed to deny 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, United States Code (commonly known as the ‘Administrative Procedure Act’).

“(2) SAVINGS CLAUSE.—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under this title, United States Code, or any other provision of law.”;

(2) Subsections (a), (b), and (c) of section 316 of Public Law 107–56 are repealed.

(c) REFORMING AMENDMENTS CONCERNING CONSPIRACIES.—

(1) Section 33(a) of title 18, United States Code is amended by inserting “or conspiracies” before “to do any of the aforesaid acts”;

(2) Section 1366(a) of title 18, United States Code, is amended—

(a) by striking “attempts” each time it appears and inserting “attempts or conspiracies”;

and

(b) by inserting “, or if the object of the conspiracy had been achieved, after the attempted offense had been completed”.

SEC. 407. CROSS REFERENCE CORRECTION.

Section 5318(b)(4)(A) of title 31, United States Code, is amended by striking “National Intelligence Reform Act of 2004” and inserting “National Intelligence Reform and Terrorism Prevention Act of 2004”.

SEC. 408. AMENDMENT TO AMENDATORY LANGUAGE.

Section 6604 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended (effective on the date of the enactment of that Act)—

(1) by striking “Section 2339(c)(2)” and inserting “Section 2339C(c)(2)”;

and

(2) by striking “Section 2339(c)” and inserting “Section 2339C(e)”.

SEC. 409. DESIGNATION OF ADDITIONAL MONEY LAUNDERING PREDICATE.

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

(1) by inserting “; section 2339C (relating to financial terrorism), or section 2339D (relating to receiving military-type training from a foreign terrorist organization)” after “section 2339A”;

and

(2) by striking “or” before “section 2339A or 2339B”.

SEC. 410. UNIFORM PROCEDURES FOR CRIMINAL FORFEITURE.

Section 2461(c) of title 28, United States Code, is amended to read as follows:

“(c) When a person is charged in a criminal case with a violation of an Act of Congress for which the civil or criminal forfeiture of property is authorized, the Government may include notice of the forfeiture in the indictment or information pursuant to the Federal Rules of Criminal Procedure. If the defendant is convicted of the offense giving rise to the forfeiture, the court shall order a forfeiture of the property as part of the sentence in the criminal case pursuant to the Federal Rules of Criminal Procedure and section 3554 of title 18, United States Code. The procedures in section 413 of the Controlled Substances Act (21 U.S.C. 853) apply to all stages of a criminal forfeiture proceeding, except that such subsection shall apply only in cases in which the defendant is convicted of a violation of such Act.”;

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. RESIDENCE OF UNITED STATES ATTORNEYS GENERALLY.

(a) In general.—Subsection (a) of section 545 of title 28, United States Code, is amended by adding at the end the following new sentence: “Pursuant to an order from the Attorney General or his designee, a United States attorney or an assistant United States attorney may be assigned dual or additional responsibilities that exempt such officer from the residency requirement in this subsection for a specific period as established by the order and subject to renewal.”;

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of February 1, 2005.

SEC. 502. INTERIM APPOINTMENT OF UNITED STATES ATTORNEYS.

Section 545 of title 28, United States Code, is amended by striking subsections (c) and (d) and inserting the following new subsection:

“(c) A person appointed as United States attorney or assistant United States attorney may serve until the qualification of a United States Attorney for such district appointed by the President under section 541 of this title.”;

SEC. 503. QUALIFICATIONS OF UNITED STATES MARRIALS.

Section 561 of title 28, United States Code, is amended by adding after the following new subsection:

“(i) Each marshal appointed under this section shall have—

(1) a minimum of 4 years of command-level law enforcement management duties, including personnel, budget, and accountable property issues, in a police department, sheriff’s office or Federal law enforcement agency;

(2) experience in coordinating with other law enforcement agencies, particularly at the State and local level;

(3) college-level academic experience; and

(4) experience in or with county, State, and Federal court systems or experience with protection of courthouses, judges, and witnesses.”;

SEC. 506. DEPARTMENT OF JUSTICE INTELLIGENCE MATTERS.

(a) ASSISTANT ATTORNEY GENERAL FOR NATIONAL SECURITY.

(1) In general.—Chapter 31 of title 28, United States Code, is amended by inserting after section 507 the following new section:

“§ 507A. Assistant Attorney General for National Security.

(a) Of the Assistant Attorneys General appointed under section 506, one shall serve, upon the designation of the President, as the Assistant Attorney General for National Security.

(b) The Assistant Attorney General for National Security shall—

(1) serve as the head of the National Security Division of the Department of Justice under section 509A of this title;”;

“(2) serve as primary liaison to the Director of National Intelligence for the Department of Justice; and

“(3) perform such other duties as the Attorney General may prescribe.”;

(2) ADDITIONAL ASSISTANT ATTORNEY GENERAL.—Section 506 of title 28, United States Code, is amended by striking “ten” and inserting “ten and”;

(3) EXECUTIVE SCHEDULE MATTERS.—Section 5315 of title 5, United States Code, is amended by striking the matter relating to Assistant Attorneys General and inserting the following: “Assistant Attorneys General (11).”;

(4) CONSULTATION WITH DIRECTOR OF NATIONAL INTELLIGENCE.—Subsection 106(c)(2) of the National Security Act of 1947 (50 U.S.C. 803–6(c)(2)) is amended by adding at the end the following new subparagraph:

“(C) the Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28, United States Code.”;

(5) AUTHORITY TO ACT FOR ATTORNEY GENERAL UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Section 101(g) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1010(g)) is amended by striking “or the Deputy Attorney General” and inserting “, the Deputy Attorney General, or, upon the designation of the Attorney General, the Assistant Attorney General designated as the Assistant Attorney General for National Security under section 507A of title 28, United States Code.”;

(6) AUTHORIZATION FOR INTERCEPTION OF COMMUNICATIONS.—Section 101(g) of title 18, United States Code, is amended by inserting “or National Security Division” after “the Criminal Division”;

(7) AUTHORITY TO ACT FOR ATTORNEY GENERAL IN MATTERS INVOLVING WITNESS RELOCATION OR PROTECTION.—Section 3521(d)(3) of title 18, United States Code, is amended to read: “to the Assistant Attorney General in charge of the Criminal Division of the Department of Justice and inserting “to any Assistant Attorney General in charge of the Criminal Division or National Security Division of the Department of Justice”;

(8) PROSECUTION OF CASES INVOLVING CLASSIFIED INFORMATION.—Section 946(a) of the Classified Information Procedures Act (18 U.S.C. App.) is amended by inserting “or the Assistant Attorney General for National Security, as appointed, after ‘Assistant Attorney General for the Criminal Division’.”;

(9) INTELLIGENCE AND NATIONAL SECURITY ASPECTS OF ESPIONAGE PROSECUTION.—Section 3142(h) of the Intelligence Authorization Act for Fiscal Year 2004 (28 U.S.C. 519 note) is amended by striking “acting through the Office of Intelligence Policy and Review of the Department of Justice” and inserting “acting through the Assistant Attorney General for National Security”;

(10) CERTIFICATIONS FOR CERTAIN UNDERCOVER FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE INVESTIGATIONS.—Section 102(b)(1) of Public Law 102–355 (28 U.S.C. 533 note) is amended by striking “Counsel for Intelligence Policy” and inserting “Assistant Attorney General for National Security”;

(11) INCLUSION IN FEDERAL LAW ENFORCEMENT COMMUNITY FOR EMERGENCY FEDERAL LAW ENFORCEMENTS ASSISTANCE PURPOSES.—Section 605(2) of the Justice Assistance Act of 1984 (42 U.S.C. 1505(2)) is amended—

(A) by redesignating subparagraphs (L) and (M) as subparagraphs (L) and (N), respectively; and

(B) by inserting after subparagraph (K) the following new subparagraph (L):

“(L) the National Security Division of the Department of Justice.”;

(b) NATIONAL SECURITY DIVISION OF DEPARTMENT OF JUSTICE.—Chapter 31 of title 28, United States Code, is further amended by inserting after section 509 the following new section:
§509A. National Security Division

(a) There is a National Security Division of the Department of Justice.

(b) The National Security Division shall consist of such number of persons as the Attorney General, or the Deputy Attorney General, shall designate for the purpose of providing counsel in postconviction proceedings as provided in section 2625; and

(c) counsel was appointed pursuant to that mechanism and such counsel represented the petitioner, or the petitioner was represented by any other attorney, the Attorney General shall order the appointment of counsel to represent the petitioner, to the extent the Attorney General determines that such an appointment is appropriate.

SEC. 509A. National Security Division.

(a) There is a National Security Division of the Department of Justice.

(b) The National Security Division shall consist of such number of persons as the Attorney General, or the Deputy Attorney General, shall designate for the purpose of providing counsel in postconviction proceedings as provided in section 2625; and

(c) counsel was appointed pursuant to that mechanism and such counsel represented the petitioner, or the petitioner was represented by any other attorney, the Attorney General shall order the appointment of counsel to represent the petitioner, to the extent the Attorney General determines that such an appointment is appropriate.

§5265. Certification and judicial review

(a) CERTIFICATION.—

(A) In general.—If requested by an appointee of the Attorney General, the Attorney General shall certify that a State has established and implemented a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of counsel in postconviction proceedings brought by indigent prisoners who have been sentenced to death.

(B) the date on which the mechanism described in subparagraph (A) was established; and

(C) whether the State provides standards of competency for the appointment of counsel in proceedings described in subparagraph (A).

(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

(c) REVIEW OF CERTIFICATION.—

(A) In general.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

(B) Paragraph (A) is amended by striking the item related to section 2265 and inserting the following:

2265. Certification and judicial review.

(a) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—This section and the amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this section establish a time limit for filing a petition for a writ of habeas corpus, the period of such time limit shall begin on the date of enactment of this Act, and the date of enactment of this Act shall be the effective date of the certification.

(b) CLERICAL AMENDMENT.—The table of sections of chapter 154 of title 28, United States Code, is amended by striking section 2265 and inserting the following:

2265. Certification and judicial review.

(a) APPLICATION TO PENDING CASES.—

(1) IN GENERAL.—This section and the amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this section establish a time limit for filing a petition for a writ of habeas corpus, the period of such time limit shall begin on the date of enactment of this Act, and the date of enactment of this Act shall be the effective date of the certification.

§601. SHORT TITLE

This title may be cited as the “Secret Service Authorization and Technical Modification Act of 2006.”

§602. INTERFERENCE WITH NATIONAL SPECIAL SECURITY EVENTS.

(a) IN GENERAL.—Section 1752 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking “willfully and knowingly enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds so restricted in conjunction with an event designated as a special event of national significance.”

(b) the date on which the application is filed, or 60 days after the date on which the application is filed.

(c) the date on which the application is filed, or 60 days after the date on which the application is filed.

(d) the date on which the application is filed, or 60 days after the date on which the application is filed.

§1752. Restricted building or grounds.

(2) APPLICATION FOR APPOINTMENT OF COUNSEL.—If a State prisoner sentenced to death applies for appointment of counsel pursuant to section 3596(g)(2) of title 18 in a court that would have jurisdiction to entertain a habeas corpus application regarding that sentence, the court may stay execution of the sentence of death, but such stay shall terminate not later than 90 days after counsel is appointed or the application for appointment of counsel is withdrawn or denied.

TITLE V—SECRET SERVICE

SEC. 601. SHORT TITLE.

This title may be cited as the “Secret Service Authorization and Technical Modification Act of 2006.”

SEC. 602. INTERFERENCE WITH NATIONAL SPECIAL SECURITY EVENTS.

(a) IN GENERAL.—Section 1752 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking “willfully and knowingly enter or remain in any posted, cordoned off, or otherwise restricted area of a building or grounds so restricted in conjunction with an event designated as a special event of national significance.”

(b) the date on which the application is filed, or 60 days after the date on which the application is filed.

(c) the date on which the application is filed, or 60 days after the date on which the application is filed.

(d) the date on which the application is filed, or 60 days after the date on which the application is filed.

§1752. Restricted building or grounds.

(2) APPLICATION FOR APPOINTMENT OF COUNSEL.—If a State prisoner sentenced to death applies for appointment of counsel pursuant to section 3596(g)(2) of title 18 in a court that would have jurisdiction to entertain a habeas corpus application regarding that sentence, the court may stay execution of the sentence of death, but such stay shall terminate not later than 90 days after counsel is appointed or the application for appointment of counsel is withdrawn or denied.
SEC. 603. FALSE CREDENTIALS TO NATIONAL SPECIAL SECURITY EVENTS.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(6), by inserting “or a sponsoring entity of an event designated as a special event of national significance” after “State”;

(2) in subsection (c)(4), by inserting “or a sponsoring entity of an event designated as a special event of national significance” after “State”;

(3) in subsection (d)(3), by inserting “a sponsoring entity of an event designated as a special event of national significance,” after “political subdivision of a State;” and

(4) in each of subsections (d)(4)(B) and (d)(6)(B), by inserting “a sponsoring entity of an event designated as a special event of national significance,” after “State”.

SEC. 604. FORENSIC AND INVESTIGATIVE SUPPORT FOR MISSING AND EXPLOITED CHILDREN CASES.

Section 3056(f) of title 18, United States Code, is amended by striking “officials and agents of the Secret Service” and inserting “the Secret Service is”.

SEC. 605. THE UNIFIED DIVISION, UNITED STATES SECRET SERVICE.

(a) In chapter 203 of title 18, United States Code, is amended by inserting after section 3056 the following:

"3056A. Powers, authorities, and duties of United States Secret Service Unified Division"

“(a) There is hereby created and established a permanent police force, to be known as the ‘United States Secret Service Unified Division’. Subject to the supervision of the Secretary of Homeland Security, the United States Secret Service Unified Division shall perform such duties as the Director, United States Secret Service, may prescribe in connection with the protection of the following:


“(2) Any building in which Presidential offices are located.

“(3) The Treasury Building and grounds.

“(4) The President, the Vice President (or other officer next in the order of succession to the Office of President), the President-elect, the Vice President-elect, and their immediate families.

“(5) Foreign diplomatic missions located in the metropolitan area of the District of Columbia.

“(6) The temporary official residence of the Vice President and grounds in the District of Columbia.

“(7) Foreign diplomatic missions located in metropolitan areas (other than the District of Columbia) in the United States where there are significant concentrations of foreign diplomats.

“(8) The United States Secret Service shall be furnished with uniforms and other necessary equipment.

“(9) In carrying out the functions pursuant to paragraphs (1) through (8) of subsection (a), the Secretary of Homeland Security may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of other agencies.

“(10) The United States Secret Service, the Domestic生动犯罪任务组, and the Secret Service Uniformed Division are authorized to—

“(A) carry firearms;

“(B) make warrants and search and seizure orders; and

“(C) perform such other functions and duties as are authorized by law.

“(b) Members of the United States Secret Service Unified Division shall be furnished with uniforms and other necessary equipment.

“(c) Members of the United States Secret Service Unified Division shall be furnished with uniforms and other necessary equipment.

“(d) In carrying out the functions pursuant to paragraphs (1) through (8) of subsection (a), the Secretary of Homeland Security may utilize, with their consent, on a reimbursable basis, the services, personnel, equipment, and facilities of other agencies.

“(e) The United States Secret Service shall be maintained as a distinct entity within the Department of Homeland Security and shall not be merged with any other Department function. No personnel and operational elements of the United States Secret Service shall report to an individual other than the Director of the United States Secret Service, which shall be appointed directly by the Secretary of Homeland Security without being required to report through any other official of the Department.

SEC. 606. SAVINGS PROVISIONS.

(a) This title does not affect the retirement benefits of current employees or annuitants that existed on the day before the effective date of this Act.

(b) This title does not affect any Executive Order transferring to the Secretary of State the authority of section 202 of title 18 (now section 3056(d)(10) of title 18) in effect on the day before the effective date of this Act.

SEC. 607. MAINTENANCE AS DISTINCT ENTITY.

Section 3056 of title 18 is amended by adding at the end of the section:

“(e) ADDITIONAL CONFORMING AMENDMENTS.

“(A) in the first sentence of section 37(c) (22 U.S.C. 2709(c)), by striking “section 202 of title 3, United States Code, or section 3056 of title 18, United States Code” and inserting “section 3056 or 3056A of title 18, United States Code”; and

“(B) in section 204(e) (22 U.S.C. 2430(e)), by striking “section 202 of title 3, United States Code” and inserting “section 3056 of title 18, United States Code”.

SEC. 608. EXEMPTIONS FROM THE FEDERAL ADVISORY COMMITTEE ACT.

(a) ADVISORY COMMITTEE REGARDING PROTECTION OF MAJOR PRESIDENTIAL AND VICE PRESIDENTIAL CANDIDATES—Section 3056A(a)(7) of title 18, United States Code, is amended by inserting “The Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.)” after “sections 202 and 208 of title 3, United States Code”.

(b) ELECTRONIC CRIMES TASK FORCES—Section 193 of Public Law 107–56 (18 U.S.C. 3056) is amended by inserting “The electronic crimes task forces shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2)” after “financial payment systems.”.

TITLE VII—COMBAT METHAMPHETAMINE EPIDEMIC ACT OF 2005

SEC. 701. SHORT TITLE.

This title may be cited as the “Combat Methamphetamine Epidemic Act of 2005”.

Subtitle A—Domestic Regulation of Precursor Chemicals

SEC. 711. SCHEDULED LISTED CHEMICAL PRODUCTS: RESTRICTIONS ON SALES QUANTITY, BEHIND-THE-COUNTER SELLERS.

(a) SCHEDULED LISTED CHEMICAL PRODUCTS.
(1) In general.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(A) by redesignating paragraph (46) as paragraph (49); and

(B) by inserting after paragraph (44) the following paragraphs:

‘‘(45) The term ‘scheduled listed chemical product’ means, subject to subparagraph (B), a product that—

‘‘(i) contains ephedrine, pseudoephedrine, or phenylpropanolamine; and

‘‘(ii) is not distributed in a manner that, unless, in addition to provisions regarding the training of individuals referred to in such subparagraph, the certification includes a statement that the seller understands each of the requirements that apply under this paragraph and subsection (d) and agrees to comply with the requirements.

(2) TRAINING OF SALES PERSONNEL; PRIVACY PROTECTIONS.—

‘‘(a) The term ‘scheduled listed chemical product’ means a product that is—

‘‘(i) not scheduled under the Controlled Substances Act; and

‘‘(ii) not otherwise controlled under Federal, State, or local law.

‘‘(b) The term ‘scheduled listed chemical product’ does not include a product described in subparagraph (A) if the product contains a chemical specified in such subparagraph that the Attorney General has under section 201(a) added to any of the schedules under section 202(c). In the absence of such scheduling by the Attorney General, a chemical specified in such subparagraph may not be considered to be a controlled substance by reason of such subparagraph.

‘‘(c) The term ‘commercially available’ means a retail product at retail that is—

‘‘(i) accessible to the public, unless, in addition to provisions regarding the training of individuals referred to in such subparagraph, a separate certification is required for each place of business at which a regulated seller sells scheduled listed chemical products at retail; and

‘‘(d) The term ‘registry’ means a computerized database of scheduled listed chemical products that is maintained by the Attorney General.

‘‘(e) The term ‘chemist’ means an individual who—

‘‘(i) is engaged in the production, sale, or distribution of pharmaceutical products;

‘‘(ii) is not licensed or regulated under Federal, State, or local law; and

‘‘(iii) is not an employee of the Federal Government or a State or local government.

‘‘(f) The term ‘registered pharmacist’ means a pharmacist who, under State law, is authorized to engage in the practice of pharmacy and is licensed by the State to dispense prescribed drugs and medications.

‘‘(g) The term ‘prescription drug’ means a drug that is dispensed under prescription and is covered by Medicare.

‘‘(h) The term ‘prescription’ means a written order containing medical directions prescribed by a physician.

‘‘(i) The term ‘controlled substance’ means a drug or medicinal substance that is controlled under Federal, State, or local law.

‘‘(j) The term ‘special registration’ means the registration of a pharmacist in accordance with section 303A of the Controlled Substances Act (21 U.S.C. 825).

‘‘(k) The term ‘special registration’ is used for purposes of section 192 of the Controlled Substances Act (21 U.S.C. 852).
“(F) INAPPLICABILITY OF REQUIREMENTS TO CERTAIN SALES.—Subparagraph (A) does not apply to the sale at retail of a scheduled listed chemical product if a report on the sales transaction is submitted to the Attorney General under subsection (b)(3).

“(G) CERTAIN MEASURES REGARDING THEFT AND DIVERSION.—A regulated seller may take reasonable measures to guard against employing individuals who may present a risk with respect to the theft and diversion of scheduled listed chemical products, which may include, notwithstanding section 401(a)(2) of the Controlled Substances Act, asking applicants for employment whether they have been convicted of any crime involving or related to such products or controlled substances.

(2) REDIRECTION.—With respect to subsections (d) and (e)(1) of section 310 of the Controlled Substances Act, as added by paragraph (1) of this subsection:

(A) such subsection (d) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(B) Such subsection (e)(1) applies on and after September 30, 2006.

(c) MAIL-ORDER REGULATING.—(1) IN GENERAL.—Section 310(e) of the Controlled Substances Act, as added by subsection (b)(1) of this section, is amended by adding at the end the following:

“(2) MAIL-ORDER REGULATING: VERIFICATION OF IDENTITY OF PURCHASER; 30-DAY RESTRICTION ON QUANTITIES FOR INDIVIDUAL PURCHASERS.—Each regulated person who makes a sale at retail of a scheduled listed chemical product and is required by paragraph (1)(b)(1) to submit a report under subsection (d)(3) of section 310 of the Controlled Substances Act, as added by subsection (b)(1) of this section, is subject to the following:

“(A) The person shall, prior to shipping the product, confirm the identity of the purchaser in accordance with procedures established by the Attorney General. The Attorney General shall establish and regulate such procedures as the Attorney General determines that the product cannot be used in the illicit manufacture of methamphetamine.


(3) INAPPLICABILITY OF REQUIREMENTS TO CERTAIN PRODUCTS.—Upon the application of a manufacturer of a scheduled listed chemical product, the Attorney General may by regulation provide that the product is exempt from the provisions of subsections (d) and (e) of section 310 of the Controlled Substances Act if the Attorney General determines that the product cannot be used in the illicit manufacture of methamphetamine.

(e) RESTRICTIONS ON QUANTITY PURCHASED DURING 30-DAY PERIOD.—(1) IN GENERAL.—Section 404(a) of the Controlled Substances Act (21 U.S.C. 834(a)) is amended by inserting after the second sentence the following: “: It shall be unlawful for any person to knowingly or intentionally purchase at retail during a 30-day period more than 9 grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in a scheduled listed chemical product, except that, of such 9 grams, not more than 7.5 grams may be imported by means of shipping through any private or commercial cargo, freight, or express service.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies on and after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(f) ENFORCEMENT OF REQUIREMENTS FOR RETAIL SALES.—(1) CIVIL AND CRIMINAL PENALTIES.—(A) IN GENERAL.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended by inserting at the end the following:

“(i) in paragraph (10), by striking ‘or’ after the semicolon;

(ii) in paragraph (11), by striking the period at the end and inserting a semicolon, and

(iii) by inserting after paragraph (11) the following paragraphs:

‘‘(12) who is a regulated seller, or a distributor required to submit reports under subsection (b)(3) of section 310 of such section, knowingly or recklessly sell at retail a scheduled listed chemical product in violation of subsection (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 such section;

‘‘(14) who is a regulated seller or an employee of such seller to disclose, in violation of regulations under subparagraph (C) of section 303(e)(1), information 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.’’

(B) CONFORMING AMENDMENT.—Section 401(h)(1) of the Controlled Substances Act (21 U.S.C. 841(h)(1)) is amended by inserting after ‘‘shall’’ the following: ‘‘, except to the extent that paragraph (12), (13), or (14) of section 404(a) applies.’’

(2) AUTHORITY TO PROHIBIT SALES BY VIOLATORS.—Section 402(c) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended by adding at the end the following paragraph:

“(4) A regulated seller, or a distributor required to submit reports under section 303(h)(4), violates paragraph (12) of subsection (a) of such section, or if a regulated seller violates paragraph (13) of such subsection, the Attorney General may by order prohibit such seller or distributor (as the case may be) from selling or transferring retail, or performing any drug-related or diversion-related act in respect to such scheduled listed chemical product, except to the extent that the Attorney General has determined in a written order that paragraph (12), (13), or (14) of such subsection applies.

(g) EACH REFERENCE IN THIS SECTION TO EPHEDRINE, PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE.—(1) In subsection (a), by inserting ‘‘and for ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘controlled substances’’:

(2) by inserting ‘‘or for ephedrine, pseudoephedrine, and phenylpropoanaline’’ after ‘‘for the basic classes of controlled substances in schedules I and II’’;

(3) in subsection (c), by inserting ‘‘and for ephedrine, pseudoephedrine, and phenylpropoanaline’’ after ‘‘for the basic classes of controlled substances in schedules I and II’’;

(4) in subsection (d), by inserting ‘‘or ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘that basic class of controlled substance’’;

(5) in subsection (e), by inserting ‘‘or for ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘for a basic class of controlled substance in schedule I or II’’;

(6) in subsection (f), by inserting ‘‘or ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘manufactured or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act, subject to clause (e), unless:

‘‘(D) the Attorney General has determined under subsection 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

‘‘(II) the quantity of the listed chemical contained in the drug included in the transaction or intended to be distributed lawfully in the United States exceeds the threshold established for that chemical by the Attorney General’’;

‘‘(ii) by redesignating clause (v) as clause (vi); and

‘‘(iii) by inserting after clause (vi) the following clause:

‘‘(v) any transaction in a scheduled listed chemical product that is a sale at retail by a regulated seller or a distributor required to submit reports under section 303(b)(3);’’; and

‘‘(B) by striking the paragraph (4) of such section that relates to the term ‘ordinary over-the-counter pseudoephedrine or phenylpropoanaline product’’;

(2) in section 204, by striking subsection (e); and

(3) in section 303(h), in the second sentence, by striking ‘‘section 102(39)(A)’’ and inserting ‘‘clause (ii) or (vi) of section 102(39)(A)’’.

(b) PUBLIC LAW 104–237.—Section 401 of the Comprehensive Methamphetamine Control Act of 1996 (21 U.S.C. 802 note) (Public Law 104–237) is amended by striking subsections (d), (e), and (f).

SEC. 713. AUTHORITY TO ESTABLISH PRODUCTION QUOTAS.

Section 396 of the Controlled Substances Act (21 U.S.C. 846) is amended—

(1) in subsection (a), by inserting ‘‘and for ephedrine, pseudoephedrine, and phenylpropoanaline’’ after ‘‘for a basic class of controlled substances in schedules I and II’’;

(2) in subsection (b), by inserting ‘‘or for ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘for each basic class of controlled substance in schedule I or II’’;

(3) in subsection (c), in the first sentence, by inserting ‘‘and for ephedrine, pseudoephedrine, and phenylpropoanaline’’ after ‘‘for the basic classes of controlled substances in schedules I and II’’;

(4) in subsection (d), by inserting ‘‘or ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘that basic class of controlled substance’’;

(5) in subsection (e), by inserting ‘‘or for ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘for a basic class of controlled substance in schedule I or II’’;

(6) in subsection (f), by inserting ‘‘or ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘the manufacture of a controlled substance’’; and

(7) by adding at the end the following subsection:

‘‘(g) Each reference in this section to ephedrine, pseudoephedrine, or phenylpropoanaline includes each of the salts, optical isomers, and salts of optical isomers of such basic class.”

SEC. 714. PENALTIES; AUTHORITY FOR MANUFACTURING QUOTA.

Section 401(a) of the Controlled Substances Act (21 U.S.C. 841(a)) is amended by inserting after ‘‘manufacture a controlled substance in schedule I or II’’ the following: ‘‘, or ephedrine, pseudoephedrine, or phenylpropoanaline’’ after ‘‘for the basic classes of controlled substances’’.

SEC. 715. RESTRICTIONS ON IMPORTATION; AUTHORITY TO PERMIT IMPORTS FOR MEDICAL, SCIENTIFIC, OR OTHER LEGITIMATE PURPOSES.

Section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended—

(1) in subsection (a)—
General notifies the registrant in writing that approval remains in effect until the Attorney or deny the application before the expiration of which the approval is in effect, or shall provide money General shall specify the period of time for legitimate purposes regarding the chemical. General may approve the application if the Attorney (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, "after "coca leaves"; and (b) by adding at the end the following subsection: (d)(1) With respect to a registrant under section 1009 who is authorized under subsection (a)(1) to import ephedrine, pseudoephedrine, or phenylpropanolamine, subject to the Attorney General ordering such suspension before the expiration of the 15-day period referred to in paragraph (1) is concerned: (A) The Attorney General in accordance with the same procedures as apply under subsection (c)(2)—(i) may order the suspension of the transfer of the listed chemical by the importer or exporter involved, except for a transfer to a regular customer, the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance (without regard to the form of the chemicals that may be diverted, including the diversion of a finished drug product to manufacture an unlawful mixture or preparation), subject to the Attorney General ordering such suspension before the expiration of the 15-day period referred to in paragraph (1) with respect to the importation or exportation of such a chemical, including sales. (ii) For purposes of clause (i) and paragraph (1), disqualify a regular customer on such ground. (B) From and after the time when the Attorney General provides written notice of the order under subparagraph (A) (including a statement of the legal and factual basis for the order) to the importer or exporter, the importer or exporter may not carry out the transfer. (2) For purposes of subsection (a) and (b) (i) The term 'importer' and 'exporter' mean a regulated person who imports or exports a listed chemical, respectively. (ii) The term 'transfer', with respect to a listed chemical, includes the sale of the chemical. (iii) The term 'transferee' means a person to whom an importer or exporter transfers a listed chemical. (iv) By adding at the end the following subsection: (y) Within 30 days after a transaction covered by this section, the importer shall send the Attorney General a return declaration containing particulars of the transaction, including the date, quantity, chemical, container, name of transferees, and such other information as the Attorney General may require. For importers, a single return declaration may include the particulars of both the importation and distribution. If the importer has not distributed all chemicals imported by the end of the initial 30-day period, the importer shall file supplemental return declarations at 30-day intervals from the date of any further distribution, until the distribution or other disposition of all chemicals imported pursuant to the import notification or any update are accounted for. (b) CONFORMING AMENDMENTS.— (1) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 212(c) of the Controlled Substances Act (21 U.S.C. 832(c)) is amended by adding at the end the following subsection: (A) A separate section that contains the following: (i) An identification of the five countries that exported the largest amount of pseudoephedrine, ephedrine, and phenylpropanolamine (including the salts, optical isomers, or salts of optical isomers of such chemicals, also including any products or substances containing such chemicals) during the preceding calendar year.
“(ii) An identification of the five countries that imported the largest amount of the chemicals described in clause (i) during the preceding calendar year and have the highest rate of diversion for use in the illicit production of methamphetamine (either in that country or in another country).

“(iii) An economic analysis of the total worldwide production of chemicals described in clause (i) as compared to the legitimate demand for such chemicals worldwide.

“(B) The identification of countries that imported the largest amount of chemicals under subparagraph (A)(ii) shall be based on the following:

“(I) An economic analysis that estimates the legitimate demand for such chemicals in such countries as compared to the actual or estimated amount of such chemicals that is imported into such countries.

“(II) The best available data and other information regarding the production of methamphetamine in such countries and the diversion of such chemicals for use in the production of methamphetamine.”.

(b) ANNUAL CERTIFICATION PROCEDURES.—

Section 490(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2281(a)) is amended—

(1) in paragraph (1), by striking “major illicit drug producing country or major drug-transit country” and inserting “major illicit drug producing country, drug-transit country, or country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of this Act”; and

(2) in paragraph (2), by inserting after “as determined in section (A)” the following: “or country identified pursuant to clause (i) or (ii) of section 489(a)(8)(A) of this Act”;

(c) CONFORMING AMENDMENT.—Section 706 of the Foreign Relations Authorization Act, Fiscal Year 2003 (22 U.S.C. 2291) is amended in paragraph (5) by adding at the end the following:

“(2) The information referred to in subparagraph (A) through (F) shall be submitted by the sentencing court in a format approved and required by the United States Sentencing Commission after consultation with the Judicial Conference and approved by the Judicial Conference and the Supreme Court of the United States.”.

(d) PLAN TO ADDRESS DIVERSION OF PRECURSOR CHEMICALS.—In the case of each country identified pursuant to section (a) or (ii) of section 489(a)(8)(A) of the Foreign Assistance Act of 1961,”.

SEC. 731. SMUGGLING METHAMPHETAMINE OR METHAMPHETAMINE PRECURSOR CHEMICALS INTO THE UNITED STATES WHILE USING FACILITY CHEMICALS INTO THE UNITED STATES FROM MEXICO.

“(s) SPECIAL PROVISION FOR METHAMPHETAMINE OR METHAMPHETAMINE PRECURSOR CHEMICALS INTO THE UNITED STATES WHILE USING FACILITY CHEMICALS INTO THE UNITED STATES FROM MEXICO.

“(A) Seizure of precursor chemicals.—The Secretary of State, acting through the Assistant Secretary of State for Narcotics and Law Enforcement Affairs, shall prevent the smuggling of precursor chemicals into the United States from Mexico.

“(B) Scheduling.—The Attorney General shall, after consultation with the Attorney General, the Secretary of State, the Administrator of the Drug Enforcement Administration, and any other appropriate Federal law enforcement authorities, schedule any precursor chemicals imported into the United States that are used to produce methamphetamine.

“(C) Special provisions.—The Attorney General shall, not later than one year after the enactment of this Act, and annually thereafter, submit to the appropriate congressional committees a report on the implementation of this section for the prior year.

“(D) Authorization of appropriations.—There are authorized to be appropriated to the Secretary to carry out this section $4,000,000 for each of the fiscal years 2006 and 2007.

Subtitle C—Enhanced Criminal Penalties for Methamphetamine Production and Trafficking

SEC. 731. SMUGGLING METHAMPHETAMINE OR METHAMPHETAMINE PRECURSOR CHEMICALS INTO THE UNITED STATES WHILE USING FACILITATING ENTRY PROGRAMS.

“(a) Enhanced Prison Sentence.—The sentence of imprisonment for a person convicted of an offense under the Controlled Substances Act (21 U.S.C. 801 et seq. or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), involving methamphetamine or any listed chemical that is defined in section 202(c)(2) of the Controlled Substances Act (21 U.S.C. 802(c)(2)), shall, if the offense is committed under the circumstances described in subsection (b), be increased by a consecutive term of imprisonment of not more than 15 years.

“(b) Convictions.—For purposes of subsection (a), the circumstance described in subsection (a) is that the offense described in subsection (a) was committed by a person who—

“(1) was involved in, or who was acting on behalf of any person or entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered or approved by the Federal Government for use in entering the United States; and

“(2) committed the offense while entering the United States, using such lane, system, or program.

“(c) Permanent Ineligibility.—Any person whose term of imprisonment is increased under subsection (b) is permanently and irrevocably barred from being eligible for or using any lane, system, or program described in subsection (b)(1).

SEC. 732. MANUFACTURING CONTROLLED SUBSTANCES ON FEDERAL PROPERTY.

“(A) Seizure of precursor chemicals.—The Attorney General shall—

“(1) in the House of Representatives, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Government Reform; and

“(2) in the Senate, the Committee on the Judiciary, the Committee on Commerce, Science, and Transportation, and the Caucus on International Narcotics Control.

“SEC. 734. NEW CHILD-PROTECTION CRIMINAL ENHANCEMENTS.

“(A) In general.—The Controlled Substances Act is amended by inserting after section 419 (21 U.S.C. 860) the following:

“SEC. 735. AMENDMENTS TO CERTAIN SENTENCING COURT REPORTING REQUIREMENTS.

“Section 994(a) of title 28, United States Code, is amended—

“(1) in paragraph (1)—

“(B) seek to work with Mexican law enforcement authorities to improve the ability of such authorities to identify and track the diversion of methamphetamine, including by providing equipment and technical assistance, as appropriate; and

“(c) REPORT.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the appropriate congressional committees a report on the implementation of this section for the prior year.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $4,000,000 for each of the fiscal years 2006 and 2007.

Subtitle C—Enhanced Criminal Penalties for Methamphetamine Production and Trafficking

SEC. 731. SMUGGLING METHAMPHETAMINE OR METHAMPHETAMINE PRECURSOR CHEMICALS INTO THE UNITED STATES WHILE USING FACILITATING ENTRY PROGRAMS.

“(a) Enhanced Prison Sentence.—The sentence of imprisonment for a person convicted of an offense under the Controlled Substances Act (21 U.S.C. 801 et seq. or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), involving methamphetamine or any listed chemical that is defined in section 202(c)(2) of the Controlled Substances Act (21 U.S.C. 802(c)(2)), shall, if the offense is committed under the circumstances described in subsection (b), be increased by a consecutive term of imprisonment of not more than 15 years.

“(b) Convictions.—For purposes of subsection (a), the circumstance described in subsection (a) is that the offense described in subsection (a) was committed by a person who—

“(1) was involved in, or who was acting on behalf of any person or entity enrolled in, any dedicated commuter lane, alternative or accelerated inspection system, or other facilitated entry program administered or approved by the Federal Government for use in entering the United States; and

“(2) committed the offense while entering the United States, using such lane, system, or program.

“(c) Permanent Ineligibility.—Any person whose term of imprisonment is increased under subsection (b) is permanently and irrevocably barred from being eligible for or using any lane, system, or program described in subsection (b)(1).

SEC. 732. MANUFACTURING CONTROLLED SUBSTANCES ON FEDERAL PROPERTY.

“(A) Seizure of precursor chemicals.—The Attorney General shall—

“(1) in the House of Representatives, the Committee on the Judiciary, the Committee on Energy and Commerce, and the Committee on Government Reform; and

“(2) in the Senate, the Committee on the Judiciary, the Committee on Commerce, Science, and Transportation, and the Caucus on International Narcotics Control.
Subtitle D—Enhanced Environmental Regulation of Methamphetamine Byproducts

SEC. 741. BIENNAIL REPORT TO CONGRESS ON AGENCY DESIGNATIONS OF BIOPRODUCTS MANUFACTURED BY LABORATORIES AS HAZARDOUS MATERIALS.

Section 5001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

"(d) BIENNAIL REPORT.—The Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation a biennial report providing information on whether the Secretary has designated as hazardous materials for purposes of chapter 11 of such title all by-products of the methamphetamine-production process that are known by the Secretary to pose or present a reasonable risk to health and safety or property when transported in commerce in a particular amount and form.".

SEC. 742. METHAMPHETAMINE PRODUCTION REPORT.

Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

"(i) METHAMPHETAMINE PRODUCTION.—Not later than every 24 months, the Administrator shall submit to the Committee on Energy and Commerce of Representatives and the Committee on Environment and Public Works of the Senate a report setting forth information collected by the Administrator from law enforcement agencies, States, and other relevant stakeholders to identify the byproducts of the methamphetamine production process and whether the Administrator considers each of the byproducts to be a hazardous waste pursuant to this section and relevant regulations.".

SEC. 743. CLEANUP COSTS.

(a) In General.—Section 413(q) of the Controlled Substances Act (21 U.S.C. 853(q)) is amended—

(1) in the matter preceding paragraph (1), by inserting "; the possession, or the possession with intent to distribute, after "manufacture"; and"

(2) in paragraph (2), by inserting "or on premises or in property that the defendant owns, resides, or does business in" after "by the defendant";

(b) SAYINGS CLAUSE.—Nothing in this section shall be interpreted to construe amendments, alter, abrogate, enforce the obligations and liabilities and other responsibilities of any person under any Federal or State environmental laws.

Subtitle E—Additional Programs and Activities

SEC. 751. IMPROVEMENTS TO DEPARTMENT OF JUSTICE DRUG COURT GRANT PROGRAM.

Section 2951 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771a) is amended by adding at the end the following new subsection:

"(e) MANDATORY DRUG TESTING AND MANDATORY SANCTIONS.—

(1) MANDATORY TESTING.—Grant amounts under this part may be used for a drug court only if the drug court has a mandatory drug testing as described in subsection (a)(3)(A). The Attorney General shall, by prescribing guidelines or regulations, specify standards for the timing and manner of complying with such requirements. The standards—

(A) shall ensure that—

(i) each participant is tested for every controlled substance the participant has been known to abuse, and for any other controlled substance the Attorney General or the court may require; and

(ii) the testing is accurate and practicable; and

(B) may require approval of the drug testing regimen to a description of how the applicant will work jointly with the State criminal justice and child welfare agencies needs associated with the

(2) MANDATORY SANCTIONS.—The Attorney General shall, by prescribing guidelines or regulations, specify that grant amounts under this part may be used for a drug court only if the drug court imposes graduated sanctions that increase punitive measures, therapeutic measures, or both, for violations of a drug test. Such sanctions and measures may include, but are not limited to, one or more of the following:

(A) Incarceration,

(B) Deterioration treatment,

(C) Residential treatment,

(D) Increased time in program,

(E) Termination from the program,

(F) Increased drug screening requirements,

(G) Increased court appearances,

(H) Increased counseling,

(I) Increased supervision,

(J) Electronic monitoring,

(K) In-home monitoring,

(L) Community service,

(M) Family counseling,

(N) Anger management classes.

SEC. 752. DRUG COURTS FUNDING.

Section 1001(25)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731(25)(A)) is amended by adding at the end the following:

"(v) $70,000,000 for fiscal year 2006;"

SEC. 753. FEASIBILITY STUDY ON FEDERAL DRUG COURTS.

The Attorney General shall, conduct a feasibility study on the desirability of a drug court program for Federal offenders who are addicted to controlled substances. The Attorney General lower-level, non-violate report the results of that study Congress not later than June 30, 2006.

SEC. 754. GRANTS TO MAKE GRANTS TO AGENCY DESIGNATIONS OF BYPRODUCTS OF METHAMPHETAMINE.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART II—CONFRONTING USE OF METHAMPHETAMINE

SEC. 2996. AUTHORITY TO MAKE GRANTS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND a GRANTS PROGRAM.

(a) PURPOSE AND PROGRAM AUTHORITY.—

(1) GRANT AUTHORIZATION.—The Attorney General may award competitive grants to address the use of methamphetamine among pregnant and parenting women offenders to promote public safety, public health, family permanence and being sober.

(b) PURPOSES AND PROGRAM AUTHORITY.—Grants awarded under this section shall be used to facilitate or enhance collaboration between the criminal justice, child welfare, and State substance abuse systems in order to carry out programs to address the use of methamphetamine drugs by pregnant and parenting women offenders.

(c) DEFINITIONS.—In this section, the following definitions shall apply:

(1) CHILD WELFARE AGENCY.—The term "child welfare agency" means the State agency responsible for child and/or family services and welfare.

(2) CRIMINAL JUSTICE AGENCY.—The term "criminal justice agency" means an agency of the State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, and sentencing, incarceration, probation, parole, and parole-related responsibilities.

SEC. 755. GRANTS FOR PROGRAMS FOR DRUG-ENDANGERING ENVIRONMENTS.

(a) In General.—The Attorney General shall make grants to States for the purpose of carrying out programs to provide comprehensive services to aid children who are living in a home in which methamphetamine or another controlled substances are unlawfully manufactured, distributed, dispensed, or used.

(b) CERTAIN REQUIREMENTS.—The Attorney General shall ensure that the services carried out with grants under subsection (a) include the following:

(1) Coordination among law enforcement agencies, prosecutors, child protective services, social services, health care services, and any other agencies determined to be appropriate by the Attorney General to provide assistance regarding the problems of children described in subsection (a).

(2) Transition of children from toxic or drug-endangering environments to appropriate residential environments.

SEC. 756. AUTHORITY TO AWARD COMPETITIVE GRANTS TO ADDRESS METHAMPHETAMINE USE BY PREGNANT AND PARENTING WOMEN OFFENDERS.

(a) PURPOSE AND PROGRAM AUTHORITY.—

(1) GRANT AUTHORIZATION.—The Attorney General may award competitive grants to address the use of methamphetamine among pregnant and parenting women offenders to promote public safety, public health, family permanence and being sober.

(b) PURPOSES AND PROGRAM AUTHORITY.—Grants awarded under this section shall be used to facilitate or enhance collaboration between the criminal justice, child welfare, and State substance abuse systems in order to carry out programs to address the use of methamphetamine drugs by pregnant and parenting women offenders.

(c) APPLICATIONS.—In this section, the following definitions shall apply:

(1) IN GENERAL.—No grant may be awarded under this section unless an application has been submitted to, and approved by, the Attorney General.

(2) APPLICATION.—An application for a grant under this section shall be submitted in such form, and contain such information, as the Attorney General may prescribe by regulation or guidelines.

(3) ELIGIBLE ENTITIES.—The Attorney General shall make grants to States and Indian Tribes. Applicants must demonstrate extensive collaboration with the State criminal justice agency and child welfare agency in the planning and implementation of the program.

(4) CONTENTS.—In accordance with the regulations or guidelines established by the Attorney General in consultation with the Secretary of Health and Human Services, each application for a grant under this section shall contain a plan to expand the State's services for pregnant and parenting women offenders who are pregnant and parenting women and for children of the use of methamphetamine or methamphetamine and other drugs and include the following in the plan:

(a) A description of how the applicant will work jointly with the State criminal justice and child welfare agencies needs associated with the
use of methamphetamine or methamphetamine and other drugs by pregnant and parenting women offenders to promote family stability and permanence. 

(b) A description of the nature and the extent of the problem of methamphetamine use by pregnant and parenting women offenders.

(c) For each year the State has involved counties and other units of local government, when appropriate, in the development, expansion, modification, operation or improvement of proposed programs to address the use, manufacture, or sale of methamphetamine.

(d) A certification that funds received under this section will be used to supplement, not supplant, existing State, local, and Federal funds.

(e) A description of clinically appropriate practices and procedures to—

(i) screen and assess pregnant and parenting women offenders for addiction to methamphetamine and other drugs;

(ii) when clinically appropriate for both the women and children, provide family treatment for pregnant and parenting women offenders, with clinically appropriate services in the same location to promote family permanence and self-sufficiency; and

(iii) provide for a process to enhance or ensure the abilities of the child welfare agency, criminal justice agency, State substance abuse agency to work together to re-unite families when appropriate in the case where family treatment is not provided.

(f) PERIOD OF GRANT.—The grant shall be a three-year grant. Successful applicants may re-apply for only one additional three-year funding cycle and the Attorney General may approve such applications.

(g) PERFORMANCE ACCOUNTABILITY; REPORTS AND EVALUATIONS.

(1) REPORTS.—Successful applicants shall submit to the Attorney General a report on the activities carried out under the grant at the end of each fiscal year.

(2) EVALUATIONS.—Not later than 12 months at the end of the 3 year funding cycle under this section, the Attorney General shall submit a report to the appropriate committees of jurisdiction that summarizes the results of the evaluations conducted by recipients and recommendations for further legislative action.

(h) APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications agreed to by conference:

F. JAMES SENSENBRENNER, Jr.,

H. ROBERT COHILL,

LAMAR SMITH,

ELTON GALLAGHER,

STEVE CHABOT,

WILLIAM L. JENKINS,

DANNY R. LUNGREN,

From the Permanent Select Committee on Intelligence, for consideration sections 103, 107, 108, 109, and 122 of the House bill, and sections 203, 207, 208, 209, 210, and 213 of the Senate amendment, and modifications agreed to by conference:

PETE HOEKSTRA,

HEATHER WILSON,

From the Committee on Energy and Commerce, for consideration sections 124 and 231 of the House bill, and modifications committed to conference:

CHARLIE NORWOOD,

JOHN SHADDOCK,

From the Committee on Financial Services, for consideration section 117 of the House bill, and modifications committed to conference:

MICHAEL G. Oxley,

SPENCER HACUS,

From the Committee on Homeland Security, for consideration sections 127-129 of the House
Section 108. Multipoint electronic surveillance under section 206 of the USA PATRIOT Act
Section 108 of the conference report is a compromise between section 109 of the House bill and section 2 of the Senate amendment. The House bill did not provide for the expanded authority to conduct multipoint surveillance under the Foreign Intelligence Surveillance Act (FISA) and requires promulgation and application of minimization procedures governing the retention and dissemination by the FBI of any tangible things obtained under this order. The provision requires restrictions on the use of information obtained with an order under this section.

In addition, section 108 directs the Attorney General to draft minimization procedures that apply to information obtained under a FISA “business records” order. In the conference report, the requirement is limited to electronic communications, as well as subsections (b)(2)(B), (c)(1), and (h) that relate to the adoption of minimization procedures will be viewed as improper, but not preclude the use of section 501 to acquire tangible things.

Sec. 106A. Audit on access to certain business records for foreign intelligence purposes
Section 106A of the conference report is a new provision. This section requires that the Department of Justice Inspector General conduct an audit on the effectiveness and use of section 215 and submit an unclassified report of the audit to the House and Senate Committees on the Judiciary and Intelligence.

Section 107. Enhanced oversight of good-faith emergency disclosures under section 212 of the Act
Section 107 of the conference report is virtually identical to section 4 of the Senate amendment, but includes some technical corrections to title 18 of the United States Code. The Senate amendment, the House bill is substantively similar. Section 107 of the conference report amends 18 U.S.C. §2702 as amended by section 212 of the USA PATRIOT Act. Section 212 allows Internet service providers to disclose voluntarily the contents of electronic communications, as well as subscriber information, in emergencies involving imminent death or serious physical injury. To address concerns that this authority, in certain circumstances, is not subject to adequate congressional, judicial, or executive oversight (particularly since provisions where the authority is used but criminal charges do not result) the conference report requires the Attorney General to report annually to the Judiciary Committees of the House and Senate and to set forth the number of accounts subject to section 212 disclosures. The report also must summarize the basis for all requests for Internet communications. The Conference believes this will strengthen oversight on the use of this authority without undermining important law enforcement provisions. The House bill is similar to the Senate bill, but simultaneously preserving the vitality of this life-saving authority.

Section 110. Attacks against railroad carriers and mass transportation systems
The conference report is substantively similar to section 110 of the Senate amendment, the House bill is substantively similar to section 110 of the conference report is substantively similar to section 110 of the Senate amendment. Section 110 of the conference report creates a new civil forfeiture provision under chapter 23 of title 18, United States Code, “wiretap predicates” under 18 U.S.C. §2516, which relates to crimes of terrorism. Those predicates include 18 U.S.C. §§37 (violence at international airports); 43 (animal enterprise terrorism); 81 (arson within special maritime and territorial jurisdiction); 175b (biological agents); 382 (nuclear and weapons of mass destruction threats); 842 (explosive materials); 930 (possessions of weapons in Federal facilities); 466 (conspiracy to harm persons or property overseas); 1028A (aggravated identity theft); 1111 (arson with intent to impede transportation); 1116 (killing certain foreign officials); 1993 (attacks of mass transit); 2340A (torture); 2339 (harboring terrorists); 2339D (terrorism result in violence). The provision requires, the government to seek such orders only in connection with the investigation of the criminal offenses enumerated in 18 U.S.C. §2339A and for which the Attorney General determines that the information is needed to protect against terrorist attacks and other acts of violence against mass transportation systems. However, current law does not cover the planning for such attacks. The conference report closes this loophole to make it a crime to “seek, surveil, photograph, video-record, or electronically transmit information with the intent to plan or assist in planning any of the acts described” in paragraphs (1)-(5) of section 939(a). It also harmonizes section 993 with 18 U.S.C. §1992 (which criminalizes the “wrecking of trains”), in order to eliminate the inconsistencies in the language in the mass transportation statute and the intent standard in the wrecking trains statute. It also strengthens the protections of mass transportation and railroads systems by expanding the types of railroad property and equipment that are explicitly protected by Federal law; updating the definition of “dangerous weapons” to cover box cutters and other previously unrecognized weapons; and expanding the types of prohibited attacks to include those using the hazardous material, a biological agent, or toxin near the property of a railroad carrier or mass transportation system. The conference report restricts the death penalty against inchoate offenses, but retains the death penalty for aggravated offenses. The section also expands coverage of the criminal offense to include terrorist vessels (as defined in 46 U.S.C. §2103)).

Section 111. Forfeiture
Section 111 of the conference report is identical to section 111 of the House bill. The House bill is substantively similar to section 111 of the Senate amendment. The USA PATRIOT Act amended 18 U.S.C. §961 to expressly provide that any property used to commit or facilitate the commission of a crime of terrorism is subject to forfeiture without a judicial finding. The conference report, in addition to the USA PATRIOT Act, only the “proceeds” of a crime of terrorism were subject to civil forfeiture provisions. This section extends forfeiture provisions to include property derived from “trafficking in nuclear, chemical, biological, or radiological weapons technology or material.”

Section 112. Section 2122b(g)(5)(B) amendments relating to the definition of Federal crime of terrorism
Section 112 of the conference report is substantively similar to section 112 of the House bill, which relates to crimes of terrorism. Those predicates include 18 U.S.C. §§37 (violence at international airports); 43 (animal enterprise terrorism); 81 (arson within special maritime and territorial jurisdiction); 175b (biological agents); 382 (nuclear and weapons of mass destruction threats); 842 (explosive materials); 930 (possessions of weapons in Federal facilities); 466 (conspiracy to harm persons or property overseas); 1028A (aggravated identity theft); 1111 (arson with intent to impede transportation); 1116 (killing certain foreign officials); 1993 (attacks of mass transit); 2340A (torture); 2339 (harboring terrorists); 2339D (terrorism result in violence). The provision requires, the government to seek such orders only in connection with the investigation of the criminal offenses enumerated in 18 U.S.C. §2339A and for which the Attorney General determines that the information is needed to protect against terrorist attacks and other acts of violence against mass transportation systems. However, current law does not cover the planning for such attacks. The conference report closes this loophole to make it a crime to “seek, surveil, photograph, video-record, or electronically transmit information with the intent to plan or assist in planning any of the acts described” in paragraphs (1)-(5) of section 939(a). It also harmonizes section 993 with 18 U.S.C. §1992 (which criminalizes the “wrecking of trains”), in order to eliminate the inconsistencies in the language in the mass transportation statute and the intent standard in the wrecking trains statute. It also strengthens the protections of mass transportation and railroads systems by expanding the types of railroad property and equipment that are explicitly protected by Federal law; updating the definition of “dangerous weapons” to cover box cutters and other previously unrecognized weapons; and expanding the types of prohibited attacks to include those using the hazardous material, a biological agent, or toxin near the property of a railroad carrier or mass transportation system. The conference report restricts the death penalty against inchoate offenses, but retains the death penalty for aggravated offenses. The section also expands coverage of the criminal offense to include terrorist vessels (as defined in 46 U.S.C. §2103)).
Section 116. Confidentiality of national security letters

Section 116 of the conference report is substantively similar to section 117 of the House bill and section 116 of the Senate amendment. This section provides that upon certification by an individual authorized to issue an NSL, should the disclosure endanger any individual or the United States with respect to a diplomatic relations or a criminal or intelligence investigation, then the disclosure of the NSL is prohibited. This section allows the Director of the Federal Bureau of Investigation to comply with an NSL or obtain legal advice or assistance with respect to an NSL. If the recipient does not make the necessary disclosure as authorized by law, the recipient must then notify the person or persons of all applicable nondisclosure requirements. At the request of the Director, the conference report includes language that allows the Director of the Federal Bureau of Investigation, or the designee of the Director, to request the recipient of an NSL disclose the name of an attorney to whom such disclosure has already been made. The conference report clarifies that a recipient of an NSL may challenge any nondisclosure requirement in court. If a petition is filed within 1 year of issuance of an NSL, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that the national security, interfere with criminal, counterintelligence, or counterterrorism investigations; interfere with diplomatic relations; or endanger the life or physical safety of a person. If, upon filing the petition, a high-ranking official certifies that disclosure may endanger national security or interfere with diplomatic relations, the court may defer the consideration of the matter. The conference report reflects a compromise between the House provision to define a reasonable delay as up to 30 days for an initial request, or on a later date certain if the facts justify, and extensions of up to 90 days unless the facts justify longer. The conference report enacts a compromise between the House provision to define a reasonable delay as up to 30 days for an initial request, or on a later date certain if the facts justify, and extensions of up to 90 days unless the facts justify longer.

Section 117. Violations of nondisclosure provisions of national security letters

This section of the conference report is similar to section 118 of the House bill. There is no comparable provision in the Senate amendment. This section provides for a felony charge against an individual who was notified of an applicable nondisclosure requirement and did not meet the requirement or produced a false statement with intent to obstruct an investigation or judicial proceeding, violates that nondisclosure order. The criminal penalties under 18 U.S.C. § 1001 include up to 5 years imprisonment, a fine, or both. Current law contains no penalties for such violations.

Section 118. Reports on national security letters

Section 118 of the conference report is similar to section 119 of the House bill, with some additional reporting requirements that are similar to provisions contained in the Senate amendment. The conference report amends the law to require the Director of the Federal Bureau of Investigation to prepare an annual report to the Senate and House Committees on the Judiciary Committees on all NSLs, similar to reporting requirements contained in the Senate amendment. The conference report also requires the Attorney General to submit an annual report to Congress concerning the use of NSLs.

Section 119. Enhanced oversight of national security letters

This section is a new section that requires the Inspector General of DOJ to conduct an audit of the effectiveness and the use of the NSL authority. The report will detail the specific functions and particular characteristics of the NSLs issued and comment on the necessity of this law enforcement tool. This report will be submitted to the House and Senate Committees on the Judiciary one year after the enactment of the conference report.

Section 120. Definition for forfeiture provisions under section 806 of the USA PATRIOT Act

Section 120 of the conference report is substantively similar to section 120 of the House bill. There is no comparable provision in the Senate amendment. This provision replaces the reference to the broad definition under 18 U.S.C. § 2331 with the definition of a Federal crime of terrorism for asset forfeiture under 18 U.S.C. § 981(a)(1)(G).

Section 121. Penalties provisions regarding trafficking in contraband cigarettes or smokeless tobacco

Section 121 of the conference report is substantively similar to section 121 of the House bill. There is no comparable provision in the Senate amendment. This section of the conference report amends the Contraband Cigarette Trafficking Act (CCTA), 18 U.S.C. §§ 2341 et seq., which makes it unlawful for any person knowingly to ship, possess, sell, distribute or purchase contraband cigarettes. This section amends the CCTA by: (1) extending the provisions to cover contraband smokeless tobacco; (2) reducing the number of cigarettes that trigger application of the CCTA from 60,000 to 10,000; (3) imposing reporting requirements on the Office of Tribal Governments, who engage in delivery sales of more than 10,000 cigarettes or 500 single-unit cans or packages of smokeless tobacco to the single marijuana dealer for tribes who import smokeless tobacco permits, to bring causes of action against violators of the CCTA. It also amends section 234(a), the contraband cigarette smuggling prevention program, to expand the definition of “contraband smokeless tobacco” to items subject to forfeiture and by removing the reference to items subject to forfeiture and enforcement.
to the Internal Revenue Code, which became outdated after the enactment of the Civil Asset Forfeiture Reform Act of 2000.

Section 122. Prohibition of narco-terrorism

Section 122 of the conference report is substantively similar to section 124 of the House bill. This is the comparable provision in the Senate amendment. This section adds new section 1019A to Part A of the Controlled Substance Import and Export Act, (21 U.S.C. §851 et seq.) to provide that a Federal crime to engage in drug trafficking to benefit terrorists. The conference report changes the mandatory minimum penalty from 20 years provided in the House bill to simply twice the minimum under 21 U.S.C. §841(b).

Finally, the conference report modifies the proof requirements of the House-passed bill to clarify that a person must have knowledge that the person or organization has engaged or engaged in terrorist activity or terrorism.

Section 123. Interfering with the operation of an aircraft

Section 123 of the conference report is substantively similar to section 126 of the House bill. There is no comparable provision in the Senate amendment. This section adds § 841(d) to the Controlled Substances Act, which makes it a Federal crime to use a laser device to interfere with the operation of an aircraft or aircraft facilities, to address the increasing number of reports to the Federal Aviation Administration of the improper aiming of lasers into airplane cockpits. The amendment makes it illegal to interfere with or disable a pilot or air navigation facility or equipment with the intent to endanger the safety of any person or with reckless disregard for the safety of human life.

Section 124. Sense of Congress relating to lawful political activity

Section 124 of the conference report is substantively similar to section 127 of the House bill. There is no comparable provision in the Senate amendment. This section articulates that no American citizen should be constitutionally enforced. Over the years, there has been absolutely no evidence that the American people and their elected representatives support the use of such devices.

Section 125. Removal of civil liability barriers to the donation of fire equipment to volunteer fire companies

Section 125 of the conference report is substantially similar to section 131 of the House bill. There is no comparable provision in the Senate amendment. This section establishes an immunity from civil liability (other than for gross negligence or intentional misconduct) for anyone other than a fire equipment manufacturer using the device; and (2) the Attorney General to fully inform the House and Senate Judiciary Committees regarding the use of such devices.

Title II—Terrorist Death Penalty Enhancement

Section 201. Short title

The short title is the “Terrorist Death Penalty Enhancement Act of 2005.” Section 201 of the conference report is identical to section 201 of the House bill. There is no comparable provision in the Senate amendment.

Subtitle A—Terrorist Penalties Enforcement Act

Section 201. Death penalty procedures for certain air piracy cases occurring before enactment of the Federal Death Penalty Act of 1994

This section is the same as section 213 of the House bill except for the addition of a severability clause. There is no comparable provision in the Senate amendment. Section 212 of the conference report provides procedure for death penalty prosecutions for air piracy crimes occurring before the 1994 Federal Death Penalty Act, provided that the government could not seek the death penalty for offenses under section 211 of the conference report is substantially similar to that of the Senate version, making it illegal to interfere with or disable a pilot or air navigation facility or equipment with the intent to endanger the safety of any person or with reckless disregard for the safety of human life.

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could avert the 10-year parole hearing require-requirement, the current position of the Bu-reau of Prisons is that a prisoner is eligible for a parole hearing after serving ten years of a life sentence or more if parole is denied on that first occasion, such prisoners are enti- tled to have regularly scheduled parole hear- ings every two years thereafter. Moreover, in additional to the eligibility after ten years, the old sentencing and parole laws incor- porated a presumption that even persons sentenced to life imprisonment would be re- leased after 30 years.

In the context of the individuals responsi- ble for the hijacking incidents described above, most of the perpetrators were no older than 25 at the time when they com-mitted their crimes. The imposition of a pre- Guidelines sentence of life imprisonment for these defendants means that many, if not all of the post-sentence to be expected to be released from prison well within their lifetime. Given the gravity of these offenses, coupled with the longstanding Congressional intent to have a death penalty available for the of- fense of air piracy resulting in death, such a result would be at odds with the clear direc- tive of Congress.

Section 211 includes a severability clause that would establish that if any provision of the Act or the application thereof to any person or circumstance is held invalid by a court of the United States, the application of such provision to other persons or circumstances shall not be affected by that declaration of invalidity. The inclusion of this severability clause means that the unaffected portions of the law would remain operable.

Section 212. Postrelease supervision of terrorists

This section is substantively similar to section 237 of the House bill. There is no comparable provision in the Senate amendment. Section 212 of the conference report expands the scope of the individuals covered by the post-release supervision provisions for terrorists.

SUBTITLE B—FEDERAL DEATH PENALTY PROCEDURES

Section 221. Elimination of procedures applicable only to certain Controlled Substances Act cases

This section retains a portion of section 231 of the House bill. There is no comparable provision in the Senate amendment. The conference report eliminates duplicative death procedures under title 21 of the United States Code, and consolidates procedures governing all Federal death penalty prosecu-tions under title 21 of the United States Code, thereby eliminating confusing require-ments that trial courts provide two separate sets of jury instructions in certain Federal death penalty prosecutions.

Section 222. Counsel for financially unable de-fendants

Section 222 of the conference report is a new provision. This section transfers exist-ing state death penalty procedures contained in title 21 of the United States Code to the death penalty procedures in title 18 of the United States Code. This section requires that any death-penalty eligi-bles defendant who is or becomes finan-cially unable to obtain adequate representa-tion or investigative, expert, or other rea-sonable services will be entitled to counsel to the appointment of one or more attorneys and the furnishing of such other services.

TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

Section 301. Reduction in detention for incorrigible offenders

This section designates the short title as the “Reducing Crime and Terrorism at America’s Seaports Act of 2005.” Section 301 of the conference report is identical to section 301 of the House bill. There is no com-parable provision in the Senate amendment, but this section is similar to S. 378, the “Re-ducing Crime and Terrorism at America’s Seaports Act of 2005,” which was reported favorably by the Senate Committee on the Judici-ary on April 21, 2005.

Section 302. Entry by false pretenses to any sea-port

Section 302 of the conference report is sub-stantively similar to section 302 of the House bill and the parallel section in S. 378. There is no comparable provision in the Senate amendment. According to the Report of the Interagency Commission on Crime and Secu-rity at U.S. Seaports (hereinafter “Interagency Commission” or “the Commission”), access to the seaport or sensitive areas within the seaport is often lacking.” Such unau-thorized access is especially problematic, be-cause it may result in the theft of cargo and, more dangerously, un-detected admission of terrorists. In addition to establishing appropriate physical, proce-dural, and administrative controls, this section expands the scope of the current law to include seaports and waterways within its scope, and increases the penalties for vio-lating these provisions from a maximum of 5 years to 10 years.

Section 303. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

Section 303 of the conference report is sub-stantively similar to section 303 of the House bill and the parallel section in S. 378. A core function of the United States Coast Guard is law enforcement at sea, especially in the Gulf of Mexico, from September 11, 2001. While the Coast Guard has authority to use whatever force is reasonably neces-sary to require a vessel to stop or be boarded, “refusal to stop,” by itself, is not currently a crime. This section amends title 18 of the United States Code to make it a crime: (1) for a vessel operator knowingly to fail to stop or allow a vessel to come to a stop, thereby endangering maritime safety, or interfere with maritime navigation, or interfere with maritime navigation (theft of interstate or foreign shipments) to a civil penalty up to $5,000. In ad-dition, knowingly conveying false informa-tion concerning an attempted violation of this section or of chapter 11 of title 18 will be punishable by a prison term of not more than 20 years and a fine of not more than $250,000.

Section 304. Criminal sanctions for violence against maritime navigation, placement of blockades

Section 304 of the conference report is sub-stantively similar to section 304 of the House bill, and excludes the malicious dumping provisions contained in S. 378. The Conference report expands the scope of this section or of chapter 11 of title 18 will be punishable by a prison term of not more than 20 years and a fine of not more than $250,000.

Section 305. Transportation of dangerous mate-rials or vessels

This section is similar to section 305 of the House bill and the parallel provision in S. 378. This section expands the scope of sections 404 and 405 of the House bill to Title 21 of the United States Code, and increases the penalties for vio-lating these provisions from a maximum of 5 years to 10 years. Any violation of this section will be punishable by a fine and/or imprisonment for a maximum of 20 years, if death results, the of-fender could be punished by the death sentence. Interagency Commission

Section 306. Destruction of, or interference with, vessels or maritime facilities

This section is similar to section 306 of the House bill and the parallel provision in S. 378. This section expands the scope of sections 404 and 405 of the House bill to Title 21 of the United States Code, and increases the penalties for vio-lating these provisions from a maximum of 5 years to 10 years. Any violation of this section will be punishable by a fine and/or imprisonment for a maximum of 20 years, if death results, the of-fender could be punished by the death sentence.

Section 307. Theft of interstate or foreign ship-ments or vessels

This section is similar to section 307 of the House bill and the parallel provision in S. 378. This section expands the scope of sections 404 and 405 of the House bill to Title 21 of the United States Code, and increases the penalties for vio-lating these provisions from a maximum of 5 years to 10 years. Any violation of this section will be punishable by a fine and/or imprisonment for a maximum of 20 years, if death results, the of-fender could be punished by the death sentence.
18 U.S.C. §659, the determination of whether goods are "moving as an interstate or foreign shipment" is made by considering the entire cargo route, regardless of any temporary stop between the point of origin and final destination. Finally, the section requires an annual report of law enforcement activities relating to cargo theft and requires collection and reporting by the FHL of cargo theft crimes.

Section 308. Stowaways on vessels or aircraft
Section 308 of the conference report is similar to section 310 of the House bill. It is similar to the House provision in that, although the conference report includes a death penalty that was not part of the Senate amendment. The section increases the maximum term of imprisonment to a maximum of 20 years imprisonment. If death results, it will be punishable by death or life imprisonment.

Section 309. Bribery affecting port security
This section is substantively similar to section 311 of the House bill and the parallel provision of S. 378. Section 309 of the conference report is a crime of bribery affecting port security, and with the intent to commit serious bodily injury and serious bodily injury occurs, it will be punishable by a fine and a maximum of 20 years imprisonment. If death results, it will be punishable by death or life imprisonment.

Section 310. Penalties for smuggling goods into the United States
Section 310 of the conference report is substantively identical to section 312 of the House bill. There is no comparable provision in the Senate amendment. This section increases the penalty for violations of 18 U.S.C. §545 (smuggling) from imprisonment for not more than 5 years to imprisonment for not more than 20 years.

Section 311. Smuggling goods from the United States
Section 311 of the conference report is substantively identical to section 313 of the House bill. There is no comparable provision in the Senate amendment. This section creates a new criminal offense for illegally smuggling goods from the United States and establishes a maximum penalty of 10 years imprisonment.

TITLE IV—COMBATTING TERRORISM FINANCING

Section 401. Short title
The short title is "Combatting Terrorism Financing Act." Section 401 of the conference report is identical to section 401 of the House bill. There is no comparable provision in the Senate amendment.

Section 402. Increased penalties for terrorism finan-
cing
Section 402 of the conference report is substantively similar to section 402 of the House bill. There is no comparable provision in the Senate amendment. Currently, penalties for violating the International Emergency Economic Powers Act (IEEPA) are not commensurate with terrorist financing violations. This section (section 306 of the House bill, 18 U.S.C. §1705) to increase the civil penalty from $10,000 to $50,000 per violation and to increase the criminal penalty from 10 years imprisonment for violation of 18 U.S.C. §1956 to the maximum criminal fine remaining the same.

Section 403. Terrorism-related specified activities for money laundering
Section 403 of the conference report is substantively similar to section 403 of the House bill. There is no comparable provision in the Senate amendments. Section 305 of the conference report increases the number of activities that terrorist financiers undertake are not predicates for purposes of the Federal money laundering statute, 18 U.S.C. §1956. Terrorist financing activity is operating an illegal money transmitting business, including "hawala" networks, which terrorists and their sympathizers often use to move illicit funds to terrorist organizations abroad. This section adds three terrorism-related provisions to the list of specified unlawful activities that serve as predicate offenses for the money laundering statute. Subsection (a) adds as a RICO predicate the offense in 18 U.S.C. §1960 (relating to illegal money transmitting businesses), which has the effect of making this offense a money laundering predicate through the cross-reference in 18 U.S.C. §1960(c)(7)(A). Subsection (b) directly adds as money laundering predicates the new terrorist-financing offense in 18 U.S.C. §2393C.

Sec. 404. Assets of persons committing terrorist acts against foreign countries or internation-
al organizations
Section 404 of the conference report is substantively similar to section 404 of the House bill. There is no comparable provision in the Senate amendment. The USA PATRIOT Act made explicit that assets of any person planning or perpetrating an act of terrorism against the United States or its citizens that involves terrorist-related activities are preventable by a maximum term of 15 years imprisonment.

Sec. 405. Money laundering through hawalas
Section 405 of the conference report is substantively similar to section 405 of the House bill. There is no comparable provision in the Senate amendment. This section outlines any "dependent transactions" relating to a money laundering transaction. Terrorist financing activity is an activity that can be mutually exclusive, but many times they go hand-in-hand. As reported in the National Money Laundering Strategy (NMLS), "both depend on the lack of transparency and visibility in the financial system. Money laundering requires the existence of an underlying crime, while terrorist financing does not. Methods for raising funds to support terrorist activities may be legal or illegal. Also, the objective of money laundering investigations is prosecution and forfeiture. Terrorist financ-
ing investigations have these objectives; however, the ultimate goal is to identify, disrupt, and cut off the flow of funds to ter-

Many steps have been taken by Congress, law enforcement, and the private sector to address the issue of terrorist financing. The USA PATRIOT Act codified money laun-
dering statutes and provided authority improving the flow of financial information re-
garding terrorist financing. The Bank Sec-
curity Act (BSA) requires financial institu-
tions to report suspicious activities. Enforce-
ment and enhanced regulations make it more difficult for terrorist organiza-
tions to benefit from the financial sys-
ternative financing systems and foreign banking systems that lack sufficient standards and regulations.

Alternative remittance systems are utilized by terrorists to move and launder large amounts of money around the globe quickly and secretly. These remittance systems, also referred to as "hawala" networks, are used throughout the world, including the Middle East, Europe, North America and South Asia. These systems are desirable to crimi-
nals and non-criminals alike for the anonymity, low cost, efficiency, and access to underdeveloped regions. The United States has taken steps to combat the "hawala" networks, including identifying money transmitters, informal or formal, to register as money services businesses.

Under current Federal law, a financial transaction constitutes a money laundering offense only if the funds involved in the transaction represent the proceeds of some criminal offense. See 18 U.S.C. §1956(a)(1) ("represents the proceeds of some form of unlawful activity"); and 18 U.S.C. §1957(f)(2) ("property constituting, or derived from, proceeds obtained from a criminal offense"). There is some uncertainty, however, as to whether the "proceeds element" is satisfied with regard to each transaction in a money laundering scheme that involves multiple transactions conducted in parallel, only one of which directly makes use of the proceeds from unlawful activity. For example, consider the following transaction: A sends drug proceeds to B, who deposits the money in Bank Account 1. Simultaneously or subse-

Sec. 406. Technical and conforming amendments
Section 406 of the conference report is intended to remove all uncertainty on this point by providing that all constituent parts of a set of transactions are preventable if any transaction involves criminal proceeds if one such transaction does so. The conference report modifies the hawala provision to require that it be part of parallel or dependent transactions.

Subsection (a) makes technical corrections to various provisions of the USA PATRIOT Act, money laundering or asset forfeiture. While essentially technical in nature, these corrections are critical because typographical and other errors in the USA PATRIOT Act may be legal or illegal. Also, the objective of money laundering investigations is prosecution and forfeiture. Terrorist financ-
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tions to benefit from the financial sys-
ternative financing systems and foreign banking systems that lack sufficient standards and regulations.

Alternative remittance systems are utilized by terrorists to move and launder large amounts of money around the globe quickly and secretly. These remittance systems, also referred to as "hawala" networks, are used throughout the world, including the Middle East, Europe, North America and South Asia. These systems are desirable to crimi-
nals and non-criminals alike for the anonymity, low cost, efficiency, and access to underdeveloped regions. The United States has taken steps to combat the "hawala" networks, including identifying money transmitters, informal or formal, to register as money services businesses.

Under current Federal law, a financial transaction constitutes a money laundering offense only if the funds involved in the transaction represent the proceeds of some criminal offense. See 18 U.S.C. §1956(a)(1) ("represents the proceeds of some form of unlawful activity"); and 18 U.S.C. §1957(f)(2) ("property constituting, or derived from, proceeds obtained from a criminal offense"). There is some uncertainty, however, as to whether the "proceeds element" is satisfied with regard to each transaction in a money laundering scheme that involves multiple transactions conducted in parallel, only one of which directly makes use of the proceeds from unlawful activity. For example, consider the following transaction: A sends drug proceeds to B, who deposits the money in Bank Account 1. Simultaneously or subsequently, B takes an equal amount of money from Bank Account 2 and transfers it to or to a person designated by A. The first trans-

Sec. 406. Technical and conforming amendments
Section 406 of the conference report is intended to remove all uncertainty on this point by providing that all constituent parts of a set of transactions are preventable if any transaction involves criminal proceeds if one such transaction does so. The conference report modifies the hawala provision to require that it be part of parallel or dependent transactions.

Subsection (a) makes technical corrections to various provisions of the USA PATRIOT Act, money laundering or asset forfeiture. While essentially technical in nature, these corrections are critical because typographical and other errors in the USA PATRIOT Act may be legal or illegal. Also, the objective of money laundering investigations is prosecution and forfeiture. Terrorist financ-
ing investigations have these objectives; however, the ultimate goal is to identify, disrupt, and cut off the flow of funds to ter-

Many steps have been taken by Congress, law enforcement, and the private sector to address the issue of terrorist financing. The USA PATRIOT Act codified money laun-
dering statutes and provided authority improving the flow of financial information re-
garding terrorist financing. The Bank Sec-
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nals and non-criminals alike for the anonymity, low cost, efficiency, and access to underdeveloped regions. The United States has taken steps to combat the "hawala" networks, including identifying money transmitters, informal or formal, to register as money services businesses.
Section 407. Cross reference correction
Section 407 of the conference report is substantively identical to section 408 of the House bill. There is no comparable provision in the Senate amendment. This section corrects a cross-reference, replacing the “National Intelligence Reform Act of 2004” with the correct title, the “Intelligence Reform and Terrorism Prevention Act of 2004.”

Section 408. Amendment to amendatory language
Section 408 of the conference report is substantively identical to section 409 of the House bill. There is no comparable provision in the Senate amendment. This section amends an incorrect citation.

Section 409. Designation of additional money laundering predicate
Section 409 of the conference report is substantively identical to section 410 of the House bill. There is no comparable provision in the Senate amendment. This section adds 18 U.S.C. §333B(D) (relating to receiving military-residential-type training from a foreign terrorist organization) as a money laundering predicate.

TITLE V—MISCELLANEOUS

Section 501. Residence of United States Attorneys and Assistant United States Attorneys
Section 501 of the conference report provides that the Attorney General can order that residency requirements be waived when a United States Attorney or Assistant United States Attorney is assigned dual or additional responsibilities. This provision will enable activities such as participation by United States Attorneys in legal activities in Iraq.

Section 502. Interim appointment of United States Attorneys
Section 502 is a new section and addresses an inconsistency in the appointment process of United States Attorneys.

Section 503. Secretary of Homeland Security in Prevention Act
Section 503 of the conference report is a new section and fills a gap in the Presidential line of succession by including the Secretary of Homeland Security.

Section 504. Bureau of Alcohol, Tobacco, and Firearms
Section 504 of the conference report is a new section. This provision modifies the appointment procedure for the Director of the Bureau of Alcohol, Tobacco, and Firearms, thereby providing that the President, with the advice and consent of the Senate, shall appoint the Director.

Section 505. Qualifications of United States Marshals
Section 505 of the conference report is a new section. This section clarifies the qualifications individuals should have before joining the United States Marshals.

Section 506. Department of Justice intelligence matters
Section 506 is a new section that establishes a National Security Division (NSD) within the DOJ, headed by an Assistant Attorney General for National Security (AAGNS). This section is consistent with a recommendation by the WMD Commission that the “Department of Justice’s primary national security elements—the Office of Intelligence Policy and Review, and the Counterterrorism and Counterproliferation sections—should be placed under a new Assistant Attorney General for National Security.” A version of this section was included in S. 1803, the “Intelligence Reauthorization bill for fiscal year 2006,” which was reported favorably by the Senate Select Committee on Intelligence on September 29, 2005.

Section 507. Review by Attorney General
Section 507 is a new section. It modifies the procedures in Section 506 to the expedited habeas procedures for capital cases under chapter 154 of title 28 of the United States Code by shifting responsibility to the Attorney General for certifying when a State has qualified. This section also allows for de novo review in the U.S. Court of Appeals for the District of Columbia Circuit of the Attorney General’s decision. It also makes the time constraints imposed on judges for deciding habeas cases under chapter 154. This section also clarifies when a habeas proceeding is exempt from 18 U.S.C. §2251, which controls the circumstances under which a federal court hearing a habeas petition may stay a State court action. Overruling McFarland v. Scott, 512 U.S. 849 (1994), this section provides that a habeas proceeding is not ‘‘pending’’ until the habeas application itself is filed. For prisoners who have applied for counsel pursuant to 18 U.S.C. §3599(a)(2), there is a limited exception allowing the court to stay execution of a death sentence until after the attorney has been appointed or the application withdrawn or denied.

TITLE VI—SECRET SERVICE

Section 601. Short title

Section 602. Interference with national special security events
Section 602 of the conference report is a new section. 18 U.S.C. §1752 authorizes the Secret Service to charge individuals who breach established security perimeters or engage in other disruptive or potentially dangerous conduct at National Special Security Events (NSSEs) if a Secret Service protector is attending the designated event. Section 602 of the conference report expands 18 U.S.C. §1752 to criminalize such security breaches at NSSEs that occur when the Secret Service protector is not in attendance. Additionally, it doubles the statutory penalties (from 6 months to 1 year) for violations of §1752, to make the penalty consistent with the prescribed penalty under 18 U.S.C. §3565(d) (interference with Secret Service law enforcement personnel generally). The conference report makes punishable by up to 10 years the thwarting of security procedures by individuals in possession of dangerous or deadly weapons.

Section 603. False credentials to national special security events
Section 603 of the conference report is a new section. This section amends 18 U.S.C. §1752 to make it a crime to knowingly produce, possess, or transfer a false identification document that could be used to gain unlawful and unauthorized access to any restricted area, as grounds in conjunction with a NSSE. Such actions were a problem during the 2002 Winter Olympics, and the conference report will allow for Federal prosecution of such criminal violations at future NSSEs.

Section 604. Forensic and investigative support of missing and exploited children cases
Section 604 of the conference report is a new section. On March 31, 2003, President Bush signed into law the Child Abduction Prevention Act (Pub. Law No. 108-21), which authorizes the Secret Service to provide, upon request, forensic investigative assistance to the National Center for Missing and Exploited Children or local law enforcement agencies. The current statute states that ‘‘officers and agents’’ of the Secret Service may provide this assistance. Section 604 of the conference report clarifies that officers of other civilian providers, such as fingerprint specialists, polygraph examiners, and handwriting analysts, are authorized to provide such assistance.

Section 605. The unified division, United States Secret Service
Section 605 of the conference report is a new section. This section provides a clear operational and organizational framework for the Secret Service that maintains the Secret Service as a distinct component of the Department of Homeland Security, providing the Service with necessary operational latitude. It allows for the Director of the Secret Service to report directly to the Secretary of the Department of Homeland Security. Finally, the conference report provides that the agents, officers, and other personnel of the Secret Service shall remain at all times under the command and control of the Director.

Section 606. Savings provisions
Section 606 of the conference report is a new section. This section makes clear that the transfer of the Uniformed Division from title 3 of the United States Code to title 18 of the United States Code shall have no impact on the retirement benefits of current employees or annuitants, other than the necessity to reimburse State and local government organizations for support provided in connection with a visit of a foreign government official.

Section 607. Maintenance as distinct entity
Section 607 of the conference report is a new section. This section exempts the functions of the Secret Service’s Electronic Crimes Research and Forensics and the Combat Methamphetamine Epidemic Act of 2005.

Section 608. Exemptions from the Federal Advisory Committee Act
Section 608 of the conference report is a new section. This section exempts the functions of the Secret Service’s Electronic Crimes Research and Forensics and the Combat Methamphetamine Epidemic Act of 2005 from the Federal Advisory Committee Act (5 U.S.C. App. 2), which imposes a series of requirements on committees established or utilized by Federal agencies to provide advice or recommendations to any agency or Federal officer. Committees that wholly consist of full-time officers or employees of the Federal Government are not covered by the Act. If the advisory committee is subject to the Act, it must, among other requirements, open its meetings to the public, publish notice of its meetings in the Federal Register, and make its minutes available to the public. There are current exemptions from these requirements, such as committees established by the CIA and the Federal Reserve. This amendment eliminates any doubt and confirms that the Act does not apply to the Electronic Crime Task Forces or the candidate protection committee.

TITLE VII—COMBAT M ETHAMPHETAMINE EPIDEMIC ACT OF 2005

Section 701. Short title
The short title is the “Combat Methamphetamine Epidemic Act of 2005.” Section 701 of the conference report is a new section.
Section 711. Scheduled listed chemical products; restrictions on sale, quantity, behind-the-counter access, and other safeguards

This section of the conference report is new. Section 711 reclassifies pseudocode, phenylpropanolamine, and ephedrine as Schedule Listed Chemicals; reduces the amount of transaction reporting for SLCs from 9 grams to 3.6 grams (the amount recently proposed by the Administration); requires behind-the-counter storage or locking for SLCs; requires that regulated sellers (retail distributors and pharmacies) maintain a written log of purchases; restricts monthly sales to no more than 80% of the estimated average daily need; imposes similar requirements on Internet sellers and mobile retail vendors; and requires each regulated seller to submit a certification that it is in compliance with these requirements, that its employees have been trained as to these requirements, and that records relating to such training are maintained at the retailers location. Such certifications are to be made available by the Attorney General to State and local law enforcement.

Section 712. Regulated transactions

This section of the conference report is new and extends the Attorney General’s authority to set production quotas for these chemicals, and clarifies the law to include derivatives of each of these chemicals. It makes conforming amendments to the current law, to accommodate the new sales restrictions, and makes another technical correction to make it clear that these sales limitations apply to drug combinations containing methamphetamine, ephedrine, or phenylpropanolamine.

Section 713. Authority to establish production quotas

This section of the conference report is new and extends the Attorney General’s existing authority to set production quotas for certain controlled substances (see 21 U.S.C. §836) to pseudocode, ephedrine, and phenylpropanolamine. Currently, domestic production of these chemicals is not very large, as most of our country’s supply is imported. With the adoption of the import quotas required by this Act (see below), however, the Attorney General would require corresponding authority within the U.S. if domestic production were to increase. Current law would allow manufacturers to apply for increases in their production quotas (see 21 U.S.C. §836(e)).

Section 714. Penalties; authority for manufacturing

This section of the conference report is new and expands the existing penalty for illegal production beyond established quotas (see 21 U.S.C. §842(b)) to include into account the Attorney General’s new authority to set quotas for methamphetamine precursors.

Section 715. Restrictions on importation; authority to permit imports for medical, scientific, or other legitimate purposes

Section 715 of the conference report is a new provision and extends the Attorney General’s existing authority to set import quotas for controlled substances (see 21 U.S.C. §842(b)) to pseudocode, ephedrine, and phenylpropanolamine. This section allows regulated importers to apply for temporary or permanent increases in a quota to meet legitimate needs. The Attorney General is required to act on all such applications within 60 days.

Section 716. Notice of importation or exportation; approval of sale or transfer by importer or exporter

Section 716 of the conference report is new and closes a loophole in the current regulatory system for imports and exports of precursor chemicals for methamphetamine and other synthetic drugs. Under current law, a company that wants to import or export pseudoephedrine or similar precursor chemical must either: (1) Notify the Department of Justice 15 days in advance of the import or export; or (2) be a company that has previously owned a precursor and is proposing to sell the chemicals to a customer with whom the company has previously dealt. (See 21 U.S.C. §971(a), (b)). A problem can arise, however, when the sale that the importer or exporter originally planned falls through. When this happens, the importer or exporter must quickly find a new buyer for the remaining precursor, which is at times called the “spot market”—a wholesale market.

This section extends the current reporting requirements and the current exemption for regular importers and customers—to post-import or export transactions. If an importer or exporter originally proposed to file an initial advance notice with the Department of Justice 15 days before the shipment of chemicals, and the originally planned sale fell through, the importer or exporter would be required to file a second advance notice with DOJ identifying the new proposed purchaser. DOJ would then have 15 days to review the new transaction and decide whether it presents enough of a risk of diversion to warrant suspension. As is the case under existing law, a suspension can be appealed through an administrative process. (See 21 U.S.C. §971(c)(2)).

If, however, the new proposed purchaser qualifies as a “regular” customer under existing law, the importer or exporter would not be required to file a second advance notice. (Note that under current law, DOJ does receive a record of these transactions after the fact, see 21 U.S.C. §971(b)(1)).

Section 717. Enforcement of restrictions on importation and of requirement of notice of transfer

This section of the conference report is new and amends the current law to extend existing penalties for illegal imports or exports to the new regulatory requirements added by sections 715 and 716 of the conference report.

Section 718. Coordination with United States Trade Representative

This section of the conference report is new and requires coordination by the Attorney General with the United States Trade Representative.

Subtitle B—International regulation of precursor chemicals

Section 721. Information of foreign chain of distribution; review of certain SLCs

This section of the conference report is new and further amends the reporting requirements for importers of meth precursor chemicals. The new provision requires importers to file with Federal regulators the detailed information about the chain of distribution of imported chemicals (from the manufacturer to the customer) that will assist U.S. law enforcement agencies to better track where meth precursors come from, and how they get to the U.S. At present, very little information about the international “chain of distribution” for these chemicals, hindering effective controls.

Section 722. Requirements relating to the largest exporting and importing countries of certain precursor chemicals

This section of the conference report is new, and was originally introduced by Rep. Mark Kirk (R-Ill.) and was adopted by the House as part of the State Department reauthorization legislation for FY 2006-07 (H.R. 3001). It mandates a separate section on Mexican foreign policy with respect to major drug producing and transit countries (see 22 U.S.C. 2291h), identifying the five largest exporters of major methamphetamine precursor chemicals, and the largest importers that also have the highest rate of methamphetamine production or diversion. More importantly, this section extends the Attorney General’s authority to set production quotas for methamphetamine precursor chemicals. If any of those countries was not fully cooperating with U.S. law enforcement in implementing their responsibilities under international drug control treaties, there would be consequences for their eligibility for U.S. aid, similar to those faced by the major drug trafficking nations under current law.

The conference report adds a provision clarifying the original intent of this amendment, to apply the “fully cooperates” standard (and not the lesser-see below, separate provision of law). The provision also includes an authorization of one million dollars for implementation.

Section 723. Prevention of smuggling of methamphetamine into the United States from Mexico

This section of the conference report is new and requires the State Department’s Bureau for International Narcotics and Law Enforcement Affairs (INL) to provide assistance to Mexico to prevent the production of methamphetamine in that country, and to encourage Mexico to stop the illegal diversion of methamphetamine precursor chemicals. This $1 million could be derived from that amount.

Section 722, as described above.)

Subtitle C—Enhanced Criminal Penalties for Methamphetamine Production and Tracking

Section 721. Smuggling methamphetamine or methamphetamine precursor chemicals into the United States while using facilitated entry programs

This section of the conference report is new. Even as more methamphetamine is being smuggled across the border, increased legitimate international traffic has forced the bureau of Customs and Border Protection (CBP) to rely on facilitated entry programs—so-called “fastpass” systems like SENTRI (for passenger traffic on the Southwestern border), FAST (for commercial truck traffic), and NEXUS (for passenger traffic on the Northern border). These systems allow pre-screened individuals to use dedicated lanes at border crossings, subject only to occasional searches to test compliance with customs and immigration laws. This section of the conference report creates an added deterrent for anyone who misuses a facilitated entry program to smuggle methamphetamine or its precursor chemicals. An additional penalty of up to 15 years, imprisonment is added to the Cigarette smuggling legislation, an individual would also be permanently barred from using a fastpass system.
Section 732. Manufacturing controlled substances on federal property

This section of the conference report is new. This section clarifies that current penalties for cultivating illegal drugs on Federal property also apply to manufacturing synthetic drugs (such as methamphetamine). Methamphetamine “cooks” frequently move their operations to parks, national forests, and other areas causing serious environmental damage. This criminal penalty can help deter such destructive conduct.

Section 733. Increased punishment for methamphetamine kingpins

This provision of the conference report is new, and allows for easier application of the enhanced penalties of the “continuing criminal enterprise” section of the Controlled Substances Act (21 U.S.C. § 848). That section (commonly referred to as the “kingpin” statute) imposes life imprisonment on a leader of a drug trafficking organization convicted of trafficking in very large quantities of a drug, and receiving very large profits from that activity. This new provision reduces the threshold amount of methamphetamine (from 300 to 200 times the threshold for base violations) and profits from methamphetamine (from $10 million to $2 million), while still applying the life imprisonment penalty only for leaders of the “kingpin”—the ring leaders of methamphetamine trafficking organizations.

Section 734. New child-protection criminal enhancement

This provision of the conference report, which is new, punishes an offender who manufactures methamphetamine at a location where a child resides or is present, and imposes a consecutive sentence of up to an additional 20 years imprisonment.

Section 735. Amendments to certain sentencing court reporting requirements

This provision of the conference report is new and authorizes the United States Sentencing Commission to establish a form to be used by United States District Judges when imposing criminal sentences in order to facilitate data gathering and reporting by the Sentencing Commission.

Section 736. Semiannual reports to congress

This provision, which is new to the conference report, requires the Attorney General to report to Congress on investigations and prosecutions relating to methamphetamine production.

Subtitle D—Enhanced Environmental Regulation of Methamphetamine Byproducts

Section 741. Biennial report to congress on agencys of the Department of Justice and DEA’s actions to control methamphetamine laboratories as hazardous materials

This provision of the conference report is new, and requires the Environmental Protection Agency (EPA) to report to Congress every two years whether then-existing statutes and regulations cover methamphetamine by-products as hazardous materials.

Section 742. Methamphetamine production report

This provision of the conference report is new, and requires the Department of Transportation to report to Congress every two years whether then-existing statutes and regulations cover methamphetamine by-products as hazardous materials.

Section 743. Cleanup costs

This provision of the conference report is new, and clarifies existing law imposing the obligation of restitution for environmental cleanup costs on persons involved in meth production and trafficking. The recent decision of the United States Court of Appeals in United States v. Lachowski (406 F3d 896, 8th Cir. 2005) has undermined the ability of the Federal government to seek cleanup costs, from methamphetamine traffickers who are convicted only of methamphetamine possession—even when the methamphetamine lab is the ringleader of the defendant’s own property. This provision would ensure that any person convicted of a methamphetamine-related offense can be held liable for clean-up costs for remediation that took place on the defendant’s own property, or in his or her place of business or residency.

Subtitle E—Additional Programs and Activities

Section 751. Improvements to Department of Justice Drug Courts program

This section of the conference report is new, and revises the Drug Court program statute to clarify the requirement for periodic testing, graduated sanctions when an offender tests positive, and a list of potential sanctions when a positive test occurs.

Section 752. Drug Courts funding

This provision of the conference report is new and authorizes appropriations for drug courts.

Section 753. Feasibility study on Federal Drug Courts

This provision of the conference report, which is new, directs the Attorney General to conduct a study on the feasibility of Federal drug courts.

Section 754. Grants to hot spot areas to reduce availability of methamphetamine

This section, which is new to the conference report, authorizes $99 million for fiscal years 2006 to 2010 for grants to State and local law enforcement agencies to assist in the investigation of methamphetamine trafficking, and to reimburse the DEA for assistance in cleaning up methamphetamine laboratories.

Section 755. Grants for programs for drug-endangered children

This section of the conference report, which is new, authorizes grants to States to assist in treatment of children who have been exposed by living at a residence where methamphetamine has been manufactured or distributed.

Section 756. Authority to award competitive grants to address methamphetamine use by pregnant and parenting offenders

This provision is new and authorizes 2006, and revises the Drug Court program statute to establish a form to be used by United States District Judges when imposing criminal sentences in order to facilitate data gathering and reporting by the Sentencing Commission.

This provision, which is new to the conference report, requires the Attorney General to award grants to States to promote public safety, public health, family permanence and well being.

From the Committee on the Judiciary, for consideration of the House bill (except sec. 132) and the Senate amendment, and modifications committed to conference:

P. James Sensenbrenner, Jr.,
Edward Cole,
Lamar Smith,
Elton Gallegly,
Steve Chabot,
William L. Jenkins,
Daniel Lungren,
From the Permanent Select Committee on Intelligence, for consideration of sec. 102, 103, 106, 107, 109, and 132 of the House bill, and secs. 2, 3, 6, 7, 9, and 10 of the Senate amendment, and modifications committed to conference:

Peter Hoekstra,
Heather Wilson,
From the Committee on Energy and Commerce, for consideration of secs. 124 and 231 of the House bill, and modifications committed to conference:

Charlie Norwood,
From the Committee on Financial Services, for consideration of sec. 117 of the House bill, and modifications committed to conference: Michael G. Oxley,
From the Committee on Homeland Security, for consideration of secs. 127-129 of the House bill, and modifications committed to conference:

Peter T. King,
Curt Weldon,
Managers on the Part of the House

Aylen Specter,
Orrin Hatch,
Jon Kyl,
Mike DeWine,
Jerry McNerney,
Pat Roberts,
Managers on the Part of the Senate.

Important Issues to the Country

The SPEAKER pro tempore (Mr. POE). Under the Speaker’s announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, I appreciate the privilege to be recognized on the floor of the United States Congress, and have this opportunity to address you on the issues that I think are important to this great country, this great country that all of us on the floor of this Chamber, all 435 of us, love so much and so desperately try to do our best to represent.

Just a reflection upon the conclusion of the remarks made by the folks ahead of me in the previous hour and seeking to go to the new C words of cooperation and coming together. It is quite incongruous for me to try to understand how that would be when 1 or 2 hours a night there can be a relentless drumbat challenging the motives, the integrity, the character and the intelligence, the planning and the convictions of the entire team over here on the Republican side of the aisle.

In fact, I said Republican here, and that is the first time that word has been said on this floor in over an hour that did not sound like a word that was based on some type of profane term.

This has gone on day after day, hour after hour, week after week, again relentlessly trying to undermine the hard work being done by the people here in the trenches, doing the work out on the floor, in committee, and behind the scenes.

There is an awful lot that goes on behind every one of those office doors in Congress. Many, many things are happening behind those doors; the staff that multiplies the efforts of the Member, the grapevine that is out here feeding this information; the network; the information-gathering process, the analysis of that; the input that comes from our constituents, and the trips back home of many of us every weekend to get out from among the ground and look our constituents in the eye and listen to them to hear what they have to say.