AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

104th Congress, 1st Session – – – – – – – – – – – House Document 104–71

PROPOSED LEGISLATION: "ANTITERRORISM AMENDMENTS ACT OF 1995"

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A DRAFT OF PROPOSED LEGISLATION ENTITLED, "ANTITERRORISM AMENDMENTS ACT OF 1995"

MAY 9, 1995.—Message and accompanying papers referred to the Committees on the Judiciary, Banking and Financial Services, and Commerce and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
99–011 WASHINGTON : 1995

To the Congress of the United States:

Today I am transmitting for your immediate consideration and enactment the "Antiterrorism Amendments Act of 1995." This comprehensive Act, together with the "Omnibus Counterterrorism Act of 1995," which I transmitted to the Congress on February 9, 1995, are critically important components of my Administration's effort to combat domestic and international terrorism.

The tragic bombing of the Murrah Federal Building in Oklahoma City on April 19th stands as a challenge to all Americans to preserve a safe society. In the wake of this cowardly attack on innocent men, women, and children, following other terrorist incidents at home and abroad over the past several years, we must ensure that law enforcement authorities have the legal tools and resources they need to fight terrorism. The Antiterrorism Amendments Act of 1995 will help us to prevent terrorism through vigorous and effective investigation and prosecution. Major provisions of this Act would:

- Permit law enforcement agencies to gain access to financial and credit reports in antiterrorism cases, as is currently permitted with bank records. This would allow such agencies to track the source and use of funds by suspected terrorists.
- Apply the same legal standard in national security cases that is currently used in other criminal cases for obtaining permission to track telephone traffic with "pen registers" and "trap and trace" devices.
- Enable law enforcement agencies to utilize the national security letter process to obtain records critical to terrorism investigations from hotels, motels, common carriers, storage facilities, and vehicle rental facilities.
- Expand the authority of law enforcement agencies to conduct electronic surveillance, within constitutional safeguards. Examples of this increased authority include additions to the list of felonies that can be used as the basis for a surveillance order, and enhancement of law enforcement's ability to keep pace with telecommunications technology by obtaining multiple point wiretaps where it is impractical to specify the number of the phone to be tapped (such as the use of a series of cellular phones).
- Require the Department of the Treasury's Bureau of Alcohol, Tobacco, and Firearms to study the inclusion of taggants (microscopic particles) in standard explosive device raw materials to permit tracing the source of those materials after an explosion; whether common chemicals used to manufacture explosives can be rendered inert; and whether controls can be imposed on certain basic chemicals used to manufacture other explosives.

- Require the inclusion of taggants in standard explosive device raw materials after the publication of implementing regulations by the Secretary of the Treasury.
- Enable law enforcement agencies to call on the special expertise of the Department of Defense in addressing offenses involving chemical and biological weapons.
- Make mandatory at least a 10-year penalty for transferring firearms or explosives with knowledge that they will be used to commit a crime of violence and criminalize the possession of stolen explosives.
- Impose enhanced penalties for terrorist attacks against current and former Federal employees, and their families, when the crime is committed because of the employee's official duties.
- Provide a source of funds for the digital telephony bill, which I signed into law last year, ensuring court-authorized law enforcement access to electronic surveillance of digitized communications.

These proposals are described in more detail in the enclosed section-by-section analysis.

The Administration is prepared to work immediately with the Congress to enact antiterrorism legislation. My legislation will provide an effective and comprehensive response to the threat of terrorism, while also protecting our precious civil liberties. I urge the prompt and favorable consideration of the Administration's legislative proposals by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 3, 1995.*

SECTION-BY-SECTION ANALYSIS

TITLE I - SUBSTANTIVE INVESTIGATIVE ENHANCEMENTS

SEC. 101. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM INVESTIGATIONS

Section 101 permits the FBI to use pen register and trap and trace device statutes - already available in routine criminal cases -in foreign counterintelligence investigations. Pen registers are devices which record signals pulsed or toned - simply put, the number dialed, while trap and trace devices record the number from which a call originates, simply put, Caller ID. Neither device permits the monitoring of the actual conversation taking place.

SEC. 102. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR FOREIGN COUNTERINTELLIGENCE PURPOSES

Section 102 permits the FBI to obtain access to consumer credit reports in foreign counterintelligence matters. These are the same reports available on request to car salesmen and real estate agents and to the FBI, by grand jury subpoena, in routine criminal cases. Without the information in these reports, the FBI cannot determine where terrorists hold their assets and accordingly a major part of investigations is lost. The grand jury subpoena process is not available in foreign counterintelligence matters because these are not necessarily criminal in nature.

SEC. 103. STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES

Section 103 requires The Department of the Treasury to study the addition of taggants - microscopic particles which will survive combustion and which are unique by manufacture and date and which therefore will serve to identify the source of an explosive - as well as whether it is possible to render certain chemicals inert and whether certain explosives precursors can be controlled. The study must be completed within one year of enactment.

The provision also requires Treasury to promulgate regulations regarding the addition of these taggants by private manufacturers and criminalizes possession, transfer and other conduct respecting explosives not containing taggants. The criminal provision does not become effective until 90 days after the promulgation of the regulation requiring the taggant addition.

SEC. 104. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES

Section 104 permits the FBI access to the same records already available to the DEA by administrative subpoena in routine narcotics investigations and which are available to the FBI and all other law enforcement agencies in criminal cases where a grand jury subpoena may properly be obtained.

Hotels and motels, storage facilities, airlines, trains and vehicle rental companies all provide services and maintain records which are often of extraordinary value to law enforcement - no less in foreign counterintelligence and counterterrorism cases.

Records would be produced pursuant to a special written request which would be signed by a person with a title no lower than Assistant Special Agent In Charge. Such an individual is generally a senior person considered middle-management within the FBI structure.

SEC. 105. LIMITATION OF STATUTORY EXCLUSIONARY RULE.

Section 105 would simply extend to warrants issued to conduct electronic surveillance, the same "good faith" standard which already exists by Supreme Court decision as to routine search warrants. There is no policy basis to apply a different standard to electronic surveillance warrants than is applied to other warrants.

SEC. 106. AUTHORITY FOR WIRETAPS IN ANY TERRORISM-RELATED OR EXPLOSIVES FELONY

Section 106 would expand the circumstances under which electronic surveillance orders for oral and/or wire intercepts could be issued by a court, to include any felony when an appropriate high-ranking Department of Justice official certifies that the "felony involves or may involve domestic or international terrorism." While most such felonies are already covered in the Electronic Communications Privacy Act of 1986 (ECPA), 18 U.S.C. §2510, et seq., there are occasions when those engaged in terrorism may have violated statutes which are not enumerated. In such instances, although the statute may not ordinarily merit status as a predicate under ECPA, the specific actions of the target(s) may raise the seriousness of the statute to a level where an ECPA order is appropriate.

Section 106 would also expand the list of predicate crimes to include felony explosives violations. Such violations are key to terrorism and violent crime prosecutions and accordingly a key predicate to ECPA orders which may be required in such cases.

SEC. 107. TEMPORARY EMERGENCY WIRETAP AUTHORITY INVOLVING TERRORISTIC CRIMES

Section 107 would simply permit the issuance of emergency wiretap orders - already available in organized crime cases - to situations involving domestic or international terrorism. Such orders are only valid for 48 hours but are essential because this period of time is sufficient to permit the FBI to obtain a court-ordered warrant, a process which may take as long as the 48 hours permitted.

SEC. 108. EXPANDED AUTHORITY FOR ROVING WIRETAPS

Section 108 removes a needless impediment to the issuance of roving wiretaps - wiretaps which protect individual rights because the "tap" follows the target from phone to phone rather than remaining on one phone which others may use - by deleting the requirement that the government, which must show that the target is using multiple phones lines, is doing so in order to avoid routine surveillance.

This is a hard standard to meet and bears no direct relevance to whether the roving wiretap ought to be authorized by a court. Although roving wiretaps have been authorized since at least 1986, the additional requirement of proof of motive has foiled several major investigations.

SEC. 109. ENHANCED ACCESS TO TELEPHONE BILLING RECORDS

Section 109 would allow the FBI to obtain telephone billing information already available in routine cases by way of grand jury subpoena. Although toll records are already available, information such as address, length of service and local calling information is essential in many investigations and the very same information is used by many telephone companies for routine marketing and sales promotion programs.

SEC. 110. REQUIREMENT TO PRESERVE EVIDENCE

Section 110 would require telephone companies to preserve their records on demand, for at least 90 days, possibly more, until a court order to preserve records can be obtained. Although most mainstream phone companies already preserve their records for more

than this period of time, the growth of small companies in the industry has resulted in services which discard records after very short periods of time. Such information is of critical importance in a wide variety of investigations.

SEC. 111. PERMISSION TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING CHEMICAL AND BIOLOGICAL WEAPONS

Section 111 would permit the Attorney General to request military assistance in cases involving chemical and biological weapons. New subsections enacted by section 111 and codified at §§175(c) and 2332b(c) would provide a limited exception to the Posse Comitatus Act to permit the military to provide technical assistance to federal law enforcement officials in enforcing these subsections. Technical assistance could include assistance in investigations, in conducting searches, in evidence collection, and in disarming and disabling individuals but would not include authority to arrest. Further, these subsections do not authorize any intelligence agency to engage in any activity that is not otherwise authorized by law or executive order.

Section 111 would also amend current law concerning chemical weapons to include all chemical weapons, whether in gaseous form or not. Under existing law, chemical weapons are covered, only if in gaseous form. Accordingly, an individual who poisoned a city's water supply with a pellet of dioxin would not be chargeable under current law because the pellet was not in gaseous form until it was dropped into the water.

SEC. 112. GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL

Section 112 would remove the existing $500,000 cap on the Attorney General's reward authority and would also permit the Attorney General to receive funds from other agencies so as to permit "pooled" awards when multiple agencies are involved. The Administration intends to submit complementary appropriations language on this subject.

TITLE II - SUBSTANTIVE PROSECUTIVE ENHANCEMENTS

SEC. 201. POSSESSION OF STOLEN EXPLOSIVES

Section 201 would expand federal statutes which already criminalize the knowing possession of stolen firearms to include stolen explosive materials.

SEC. 202. PROTECTION OF FEDERAL EMPLOYEES ON ACCOUNT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

Section 202 would expand federal criminal murder and assault jurisdiction to include all federal employees and their immediate families. The provision would also include the uniformed services of the military. Under existing federal law, only certain enumerated federal employees are protected under federal law and as federal employees become targets - not only as the result of their specific job titles, but merely because they are federal employees - the need for federal protection grows.

TITLE III - CRIMINAL PENALTIES

SEC. 301. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE

Section 301 would increase from a maximum to a minimum of 10 years, the sentence of imprisonment which must be imposed when an individual transfers a firearm knowing that the firearm material will be used to commit a crime of violence or a drug trafficking crime. Because such knowledge makes the crime more serious, there is a greater need for punishment.

SEC. 302. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE

Section 302 would create a parallel offense to that involving firearms when an individual transfers explosives material knowing that the material will be used to commit a crime of violence or a drug trafficking crime.

SEC. 303. INCREASED PERIOD OF LIMITATIONS FOR NATIONAL FIREARMS ACT

Section 303 would extend the current three-year statute of limitations which applies to certain serious weapons offenses, to five years, the same statute of limitations as applies to virtually all other felony offenses under federal criminal law. Some of the offenses covered include the possession of machineguns, sawed-off shotguns, silencers and explosive devices.

TITLE IV - FUNDING

SEC. 401. CIVIL MONETARY PENALTY SURCHARGE AND TELECOMMUNICATIONS CARRIER COMPLIANCE PAYMENTS

Section 401 creates a mechanism to pay for the costs of implementing digital telephony programs. Subject to appropriations action, a surcharge of 40 percent is added to each civil monetary penalty at the time it is assessed by the United States or an agency thereof. The Administration intends to submit complementary appropriations language on this subject.

A BILL

To combat domestic and international terrorism.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antiterrorism Amendments Act of 1995".

SEC. 2. TABLE OF CONTENTS

The following is the table of contents for this Act:

SEC. 1. SHORT TITLE
SEC. 2. TABLE OF CONTENTS

TITLE I - SUBSTANTIVE INVESTIGATIVE ENHANCEMENTS

SEC. 101. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM INVESTIGATIONS
SEC. 102. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR FOREIGN COUNTERINTELLIGENCE PURPOSES
SEC. 103. STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES
SEC. 104. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES
SEC. 105. LIMITATION OF STATUTORY EXCLUSIONARY RULE
SEC. 106. AUTHORITY FOR WIRETAPS IN ANY TERRORISM-RELATED OR EXPLOSIVES FELONY
SEC. 107. TEMPORARY EMERGENCY WIRETAP AUTHORITY INVOLVING TERRORISTIC CRIMES
SEC. 108. EXPANDED AUTHORITY FOR ROVING WIRETAPS
SEC. 109. ENHANCED ACCESS TO TELEPHONE BILLING RECORDS
SEC. 110. REQUIREMENT TO PRESERVE EVIDENCE
SEC. 111. PERMISSION TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING CHEMICAL AND BIOLOGICAL WEAPONS
SEC. 112. GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL

TITLE II - SUBSTANTIVE PROSECUTIVE ENHANCEMENTS

SEC. 201. POSSESSION OF STOLEN EXPLOSIVES
SEC. 202. PROTECTION OF FEDERAL EMPLOYEES ON ACCOUNT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES

TITLE III - CRIMINAL PENALTIES

SEC. 301. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE
SEC. 302. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE
SEC. 303. INCREASE PERIOD OF LIMITATIONS FOR NATIONAL FIREARMS ACT

TITLE IV - FUNDING

SEC. 401. CIVIL MONETARY PENALTY SURCHARGE AND TELECOMMUNICATIONS CARRIER COMPLIANCE PAYMENTS

TITLE I - SUBSTANTIVE INVESTIGATIVE ENHANCEMENTS

Sec. 101. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM INVESTIGATIONS

(a) Chapter 206, Title 18, United States Code, is amended--

(1) by redesignating section 3127 as section 3128; and

(2) by adding the following new section 3127:

Pen register or a trap and trace device in foreign counterintelligence and counterterrorism investigations

(a) Notwithstanding any other law, the provisions of this chapter shall be applicable to foreign counterintelligence and international terrorism investigations conducted by the Federal Bureau of Investigation.

(b) An application under this section for an order or an extension of an order under section 3123 of this title shall include--

(1) the identity of the attorney for the Government and the fact that the investigation is being conducted by the Federal Bureau of Investigation; and

(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign counterintelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation.

(c) All applications and orders under this section shall be maintained by the Federal Bureau of Investigation.

(b) Clerical Amendment.--The table of sections at the beginning of Chapter 206 is amended

(1) to renumber section 3128 as redesignated; and

(2) by adding after the item relating to section 3126 the following:

"3127. Pen register or a trap and trace device in foreign counterintelligence and counterterrorism investigations."

SEC. 102. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR FOREIGN COUNTERINTELLIGENCE PURPOSES

(a) IN GENERAL.--The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

§ 624. Disclosures to FBI for foreign counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.--Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which the consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee (who shall be an individual with the rank and title of Deputy Assistant Director or above), which certifies compliance with this section. The Director

or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that-

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer-

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined by 18 U.S.C. §2331) or clandestine intelligence activities that involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.--Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with written request, signed by Director or the Director's authorized designee, which certifies compliance with this subsection. The Director or the Director's authorized designee may make such a certification only if the Director or the Director's authorized designee has determined in writing that--

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801)).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.--Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or authorized designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that--

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought--

"(A) is an agent of a foreign power; and

"(B) is engaging or has engaged in international terrorism (as that term is defined in 18 U.S.C. §2331) or clandestine intelligence activities that involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a foreign counterintelligence investigation.

"(d) CONFIDENTIALITY.--No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c) and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.--The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to a consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.--The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice,to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.--Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.--On a semiannual basis, the Attorney General of the United State shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.--Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of--

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.--If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD FAITH EXCEPTION.--Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be

liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.--Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.--In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered."

(b) CLERICAL AMENDMENT.--The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following:

§624. Disclosures to FBI for foreign counterintelligence purposes."

SEC. 103. STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES

(a) The Secretary of the Treasury shall conduct a study and make recommendations concerning --

(1) the tagging of explosive materials for purposes of detection and identification;

(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

In conducting the study, the Secretary shall consult with other Federal, state and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be complete within 12 months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(b) There are authorized to be appropriated for the study and recommendations contained in paragraph (a) such sums as may be necessary.

(c) Section 842, of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:

"(l) it shall be unlawful for any person to manufacture, import, ship, transport, receive, possess, transfer, or distribute any explosive material that does not contain a tracer element as prescribed by the Secretary pursuant to regulation, knowing or having reasonable cause to believe that the explosive material does not contain the required tracer element."

(d) Section 844, of title 18, United States Code, is amended by inserting after "(a) through (i)" the phrase "and (l)".

(e) Section 846, of title 18, United States Code, is amended by designating the present section as "(a)," and by adding a new subsection (b) reading as follows: "(b) to facilitate the enforcement of this chapter, the Secretary may provide by regulation for the addition of tracer elements to explosive materials manufactured in or imported into the United States. Tracer elements to be added to explosive materials under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not substantially impair the quality of the explosive materials for their intended lawful use, be unreasonably unsafe, or have a substantially adverse effect on the environment."

(f) The penalties provided for herein, shall not take effect until the later of one year from the date of enactment of this act or 90 days from the date of promulgation of the regulations provided for herein.

SEC. 104. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES

Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

"CHAPTER 122 -- ACCESS TO CERTAIN RECORDS
"Sec. 2720. Access to records of common carriers, public accommodation facilities, physical storage facilities and

vehicle rental facilities in counterintelligence and counterterrorism cases.

"(a) Any common carrier, public accommodation facility, physical storage facility or vehicle rental facility shall comply with a request for records in its possession made pursuant to this section by the Federal Bureau of Investigation when the Director or designee (whose rank shall be no lower than Assistant Special Agent in Charge) certifies in writing to the common carrier, public accommodation facility, physical storage facility or vehicle rental facility that such records are sought for foreign counterintelligence purposes and that there are specific and articulable facts giving reason to believe that the person to whom the records sought pertain, is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801).

"(b) No common carrier, public accommodation facility, physical storage facility or vehicle rental facility or any officer, employee or agent of such common carrier, public accommodation facility, physical storage facility or vehicle rental facility shall disclose to any person, other than those officers, agents or employees of the common carrier, public accommodation facility, physical storage facility or vehicle rental facility necessary to fulfill the requirement to disclose the information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the records requested.

"(c) As used in this chapter--

"(1) the term 'common carrier' means a locomotive, a rail carrier, a bus carrying passengers, a water common carrier, an air common carrier, or a private commercial interstate carrier for the delivery of packages and other objects;

"(2) the term 'public accommodation facility' means any inn, hotel, motel or other establishment which provides lodging to transient guests;

"(3) the term "physical storage facility" means any business or entity which provides space for the storage of goods or materials, or services related to the storage of goods or materials to the public or any segment thereof; and

"(4) the term "vehicle rental facility" means any person or entity which provides vehicles for rent, lease, loan or other similar use, to the public or any segment thereof.".

SEC. 105. LIMITATION OF STATUTORY EXCLUSIONARY RULE.

Section 2515 of title 18, United States Code, is amended by adding at the end the following: "This section shall not apply to the disclosure by the United States in a criminal trial or hearing or before a grand jury of the contents of a wire or oral communication, or evidence derived therefrom, unless the violation of this chapter involved bad faith by law enforcement."

SEC. 106. AUTHORITY FOR WIRETAPS IN ANY TERRORISM-RELATED OR EXPLOSIVES FELONY

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

(1) by inserting after the words "section 224 (bribery in sporting contests)", the words "section 842 (relating to explosives violations)".

(2) by striking "and" at the end of paragraph (n);

(3) by striking the period at the end of paragraph (o) and inserting "; and"; and

(4) by adding a new paragraph (p) as follows:

"(p) any other felony under the laws of the United States if the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division (or an official acting in any such capacity) certifies to the court under seal that there is reason to believe the felony involves or may involve domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. §2331)."

Section 2510(12) of title 18, United States Code, is amended --

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

(2) by inserting "or" at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

"(D) information stored in a communications system used for the electronic storage and transfer of funds;"

Section 2510(16) of title 18, United States Code, is amended --

(1) by inserting "or" at the end of subparagraph (D);

(2) by striking "or" at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 107. TEMPORARY EMERGENCY WIRETAP AUTHORITY INVOLVING TERRORISTIC CRIMES

(1) Section 2518(7)(a)(iii) of title 18, United States Code, is amended by inserting "or domestic terrorism or international terrorism (as those terms are defined in 18 U.S.C. §2331)" after "organized crime".

(2) Section 2331 of title 18, United States Code, is amended by inserting the following words after subsection (4)--

"(5) the term 'domestic terrorism' means any activities that involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State and which appear to be intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping."

SEC. 108. EXPANDED AUTHORITY FOR ROVING WIRETAPS

Section 2518(11) of title 18, United States Code, is amended to read as follows:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of facilities from which or the place where the communication is to be intercepted do not apply if in the case of an application with respect to the interception of wire, oral or electronic communications -

(a) the application is by a federal investigative or law enforcement officer, and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or an Assistant Attorney General (or an official acting in any such capacity);

(b) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

(c) the judge finds that such specification is not practical.

SEC. 109. ENHANCED ACCESS TO TELEPHONE BILLING RECORDS

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

(1) in subparagraph 1(A), by inserting "local and long distance" before "toll billing records"; and

(2) by adding at the end a new paragraph (3), as follows:

"(3) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized domestic terrorism (as that term is defined in Section 107 of this Act) investigation.".

(b) Section 2703(c)(1)(C) of title 18, United States Code, is amended by inserting "local and long distance" before "telephone toll billing records".

SEC. 110. REQUIREMENT TO PRESERVE EVIDENCE

Section 2703 of title 18, United States Code, is amended by adding a new subsection (f), as follows:

"(f) Requirement to preserve evidence. -- A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity."

SEC. 111. PERMISSION TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING CHEMICAL AND BIOLOGICAL WEAPONS

(a) Section 175 of title 18, United States Code, is amended by adding a new subsection (c), as follows:

"(c) (1) Military assistance. -- Notwithstanding any other provision of law, the Attorney General may request that the Secretary of Defense provide technical assistance in support of Department of Justice activities relating to the enforcement of this section in situations involving biological weapon emergencies. Department of Defense resources, including civilian personnel and members of the uniformed services, may be used to provide such technical assistance if:

"(A) The Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

"(B) The Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation' means a circumstance--

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which--

"(i) enforcement of the law would be seriously impaired if the assistance were not provided;

"(ii) military technical assistance and expertise is needed to counter the threat posed by the biological agent involved; and

"(iii) civilian law enforcement expertise is not available to provide the required technical assistance.

"(3) As used in this section, 'technical assistance' means the provision of equipment and technical expertise to law enforcement officials in the investigation of violations of this section, such as technical assistance in conducting searches that seek evidence or instrumentalities of violations of this section, technical assistance in taking and collecting evidence related to violations of this section, and technical assistance in disarming and disabling individuals in possession of contraband under this section. It does not include authority to apprehend or arrest.

"(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

"(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.".

(b) Chapter 113B of title 18, United States Code, is amended by adding after section 2332a the following new section:

"§2332b. Use of chemical weapons

"(a) Offense.--A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon--

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

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

"(b) Definitions.--For purposes of this section--

"(1) the term "national of the United States" has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) the term "chemical weapon" means any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

"(c) (1) Military assistance. -- Notwithstanding any other provision of law, the Attorney General may request that the Secretary of Defense provide technical assistance in support of Department of Justice activities relating to the enforcement of this section in situations involving chemical weapon emergencies. Department of Defense resources, including civilian personnel and members of the uniformed services, may be used to provide such technical assistance if:

"(A) The Secretary of Defense and the Attorney General determine that an emergency situation involving chemical weapons of mass destruction exists; and

"(B) The Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

"(2) As used in this section, 'emergency situation' means a circumstance--

"(A) that poses a serious threat to the interests of the United States; and

"(B) in which--

"(i) enforcement of the law would be seriously impaired if the assistance were not provided;

"(ii) military technical assistance and expertise is needed to counter the threat posed by the chemical agent involved; and

"(iii) civilian law enforcement expertise is not available to provide the required technical assistance.

"(3) As used in this section, 'technical assistance' means the provision of equipment and technical expertise to law enforcement officials in the investigation of violations of this section, such as technical assistance in conducting searches that seek evidence or instrumentalities of violations of this section, technical assistance in taking and collecting evidence related to violations of this section, and technical assistance in disarming and disabling individuals in possession of contraband under this section. It does not include authority to apprehend or arrest.

"(4) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

"(5) The Attorney General may delegate the Attorney General's function under this subsection only to a Deputy, Associate, or Assistant Attorney General.".

(c) CLERICAL AMENDMENT.--The chapter analysis for chapter 113B of title 18, United States Code, is amended by adding after the item relating to section 2332a the following:

"§2332b. Use of chemical weapons".

(d) Section 2332a of title 18, United States Code, is amended by inserting between the words "A person who" and "uses, or attempts", the words "without lawful authority", at the beginning of subsection (a).

SEC. 112. GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL

Section 3059B of title 18, United States Code, is hereby amended by adding the following section:

(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency, funds for the payment of rewards under this section, to any individual who assists the Department of Justice in performing its functions.

(b) If the reward exceeds $100,000, the Attorney General, within thirty (30) days of having authorized the payment of such a reward, shall give notice to the respective Chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the amount of any reward authorized shall be final and conclusive, and no court shall have power or jurisdiction to review it.

TITLE II - SUBSTANTIVE PROSECUTIVE ENHANCEMENT

SEC. 201. POSSESSION OF STOLEN EXPLOSIVES

Section 842(h) of title 18, United States Code, is amended to read as follows:

"(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen."

SEC. 202. PROTECTION OF FEDERAL EMPLOYEES ON ACCOUNT OF THE PERFORMANCE OF THEIR OFFICIAL DUTIES.

(a) Section 1114 of title 18, United States Code, is amended to read as follows:

"§1114. Protection of officers and employees of the United States.

"(a) Whoever kills or attempts to kill any United States official, United States judge, Federal law enforcement officer, or member of the uniformed services, or any other officer or employee of the United States or any agency of the executive, legislative, or judicial branch thereof, while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an official, judge, officer, or employee in, or on account of the person's assistance in, the performance of such duties shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) As used in this section, the terms "United States official", "United States judge", and "Federal law enforcement officer" have the meanings prescribed in section 115 of this title.".

(c) Section 115(a)(2) of title 18, United States Code, is amended by inserting ", or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or" after "assaults, kidnaps, or murders, or attempts to kidnap or murder".

TITLE III - CRIMINAL PENALTIES

SEC. 301. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE

Section 924(h) of title 18, United States Code, is amended by--

(1) inserting "or having reasonable cause to believe" after "knowing", and

(2) striking "not more than" and inserting "not less than".

SEC. 302. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE

Section 844 of title 18, United States Code, is amended by adding at the end, the following--

"(n) Whoever knowingly transfers an explosive material, knowing or having reasonable cause to believe that such explosive material will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be imprisoned for not less than 10 years, fined in accordance with this title, or both.

SEC. 303. INCREASED PERIOD OF LIMITATIONS FOR NATIONAL FIREARMS ACT

(a) Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. §6531) is amended by amending the matter preceding paragraph (1) to read as follows:

"No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation--

(a) shall be 5 years for offenses described in section 58612 (relating to firearms and other devices); and

(b) shall be 6 years--."

TITLE IV - FUNDING

SEC. 401. CIVIL MONETARY PENALTY SURCHARGE AND TELECOMMUNICATIONS CARRIER COMPLIANCE PAYMENTS

Pub. L. 103-414, October 25, 1994, 108 Stat. 4279, is amended by inserting at its conclusion a new title IV, as follows:

"TITLE IV -- CIVIL MONETARY PENALTY SURCHARGE AND TELECOMMUNICATIONS CARRIER COMPLIANCE PAYMENTS

"SEC. 401. CIVIL MONETARY PENALTY SURCHARGE.

"(a) Imposition.-- Notwithstanding any other provision of law, and subject to section 402(c) of this title, a surcharge of 40 percent of the principal amount of a civil monetary penalty shall be added to each civil monetary penalty at the time it is assessed by the United States or an agency thereof.

"(b) Application of Payments.-- Payments relating to a civil monetary penalty shall be applied in the following order: (1) to costs; (2) to principal; (3) to surcharges required by subsection (a) of this section; and (4) to interest.

"(c) Effective Dates.-- (1) A surcharge under subsection (a) of this section shall be added to all civil monetary penalties assessed on or after October 1, 1995, or the date of enactment of this title, whichever is later.

"(2) The authority to add a surcharge under this section shall terminate on October 1, 1998.

"(d) Limitation. -- The provisions of this section shall not apply to any civil monetary penalty assessed under title 26, United States Code.

"SEC. 402. DEPARTMENT OF JUSTICE TELECOMMUNICATIONS CARRIER COMPLIANCE FUND.

"(a) Establishment of Fund. -- There is hereby established in the United States Treasury a fund to be known as the Department of Justice Telecommunications Carrier Compliance Fund (hereinafter referred to as 'the Fund'), which shall be available to the Attorney General to the extent and in the amounts authorized by subsection (c) of this section to make payments to telecommunications carriers, as authorized by section 109 of the Communications Assistance for Law Enforcement Act.

"(b) Offsetting Collections. -- Notwithstanding 31 U.S.C. § 3302, the Attorney General may credit surcharges added pursuant to section 401 of this title to the Fund as offsetting collections.

"(c) Requirements for Appropriations Offset. -- (1) Surcharges added pursuant to section 401 of this title are authorized only to the extent and in the amounts provided for in advance in appropriations acts.

"(2)(A) Collections credited to the Fund are authorized to be appropriated in such amounts as may be necessary, but not to exceed $100,000,000 in fiscal year 1996, $305,000,000 in fiscal year 1997, and $80,000,000 in fiscal year 1998.

"(B) Amounts described in subparagraph (A) of this paragraph are authorized to be appropriated without fiscal year limitation.

"(d) Termination.-- (1) The Attorney General may terminate the Fund at such time as the Attorney General determines that the Fund is no longer necessary.

"(2) Any balance in the Fund at the time of its termination shall be deposited in the general fund of the Treasury.

"(3) A decision of the Attorney General to terminate the Fund shall not be subject to judicial review.

"SEC. 403. DEFINITIONS.

"For purposes of this title, the terms 'agency' and 'civil monetary penalty' have the meanings given to them by section 3 of the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410, Oct.5, 1990, 104 Stat. 890 (28 U.S.C. § 2461 note).".

○